Using the UNCAC for advocacy: Access to Information

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What do we mean with freedom of information?
What do we mean with freedom of information?

• Everybody has the right to request information and documents held by State bodies

• Terms and abbreviations commonly used
  • RTI = Right to Information
  • FOI = Freedom of Information
  • FOIA = Freedom of Information Act
  • ATI = Access to Information
Who of you has filed a freedom of information request?
UNCAC: Article 5

Preventive anti-corruption policies and practices

„1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.“
UNCAC: Article 10

Public Reporting

• (a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

• (b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

• (c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.”
UNCAC: Article 13

Participation and Society

“.... participation should be strengthened by such measures as:

• (b) Ensuring that the public has affective access to information

• (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption.

The freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

(i) For respect of the rights or reputations of others;

(ii) For the protection of national security or ordre public or of public health or morals.”
International Covenant on Civil and Political Rights

Article 19

“2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

UNCACCoalition.org

http://indicators.ohchr.org
“Article 19, paragraph 2 embraces a right of access to information held by public bodies. Such information includes records held by a public body, regardless of the form in which the information is stored, its source and the date of production. (...) The designation of such bodies may also include other entities when such entities are carrying out public functions.”

https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf
“States parties should **proactively put in the public domain** Government information of public interest.

States parties should make every effort to **ensure easy, prompt, effective and practical access** to such information.

States parties should also **enact the necessary procedures**, whereby one may gain access to information, such as by means of freedom of information legislation.”

[Human Rights Committee](https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf)

General comment No. 34

Article 19: Freedoms of opinion and expression
The procedures should provide for the **timely processing** of requests for information according to clear rules that are compatible with the Covenant.

**Fees** for requests for information should not be such as to constitute an **unreasonable impediment to access to information**. Authorities should provide **reasons for any refusal** to provide access to information. Arrangements should be put in place for **appeals** (...)

https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf
African Charter on Human and Peoples' Rights

Article 9

1. Every individual shall have the right to receive information.

1. Every individual shall have the right to express and disseminate his opinions within the law.
What are aspects of a strong RTI Act?
What are aspects of a strong RTI Act?

• Covers all branches of government (executive, legislative, judiciary), state-owned companies and entities with an important public role

• Access to documents (in all formats)

• Exemptions are clearly defined by law, protect interests and are necessary in a democratic society
  • “Harm test“ for each exemption
  • “Public interest test“

• Partial access to information (redaction of sensitive information in a document)
What are aspects of a strong RTI Act?

- **Timely** response
- **No costs** for applicant
- Accessible, effective and timely **appeals process**
- **Independent Information commissioner** to monitor compliance, promote transparency, assist citizens and civil service to ensure easy and timely access
How can we advocate for a strong RTI?

What advocacy approaches have you tried?
UNCAC Review

Use the 2nd cycle of the UNCAC implementation review

- Contribute to the self-assessment checklist
- Engage country reviewers
- Produce a Parallel Report
  - Demand the adoption of RTI legislation
  - Highlight gaps in existing legislation
  - Document weaknesses in the implementation
MAKING UNCAC WORK: COALITION STATEMENT
TO THE 7th SESSION OF THE UNCAC CONFERENCE OF STATES PARTIES

On prevention

5. Remind States Parties that, as recognised in CoSP Resolution 5/4, effective public access to information is essential for corruption prevention and call on them to adopt and implement comprehensive access to information legislation, ensure proactive publication of information, including on anti-corruption efforts and release data in open format on public spending (UNCAC Chapter II, especially Articles 5(1), 9, 10 and 13)).

6. Call on States Parties to increase efforts towards transparency of their procurement processes, ensuring that there is full public access to information about all contracts and agreements, and through the implementation of the

RTI Rating

• Scores the quality of the world's access to information laws
• Currently 123 laws (9 yet to review, including Sudan)
• Methodology provides best practice on provisions of RTI laws
• Highlights which countries in the region have strong laws
• Can be used to compare own law to others
• Does not evaluate implementation
Global Right to Information Rating Map

https://www.rti-rating.org/

UNCACCoalition.org
## Country Rating Results

### Top 10

<table>
<thead>
<tr>
<th>Country</th>
<th>Rating</th>
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<tbody>
<tr>
<td>Afghanistan</td>
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<tr>
<td>Mexico</td>
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<td>Serbia</td>
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<td>Liberia</td>
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<td>El Salvador</td>
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### Bottom 10

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<tbody>
<tr>
<td>Austria</td>
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<td>Jordan</td>
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<td>Taiwan</td>
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[https://www.rti-rating.org/](https://www.rti-rating.org/)
RTI Portals

- encourage journalists & citizens to ask
- guide citizens through the process of filing a request
- lower the barrier
- generate insights and statistics on how public bodies react to requests for information
RTI Portals

- shows that there is demand for access to information
- can help build momentum for State bodies to open up
- can highlight what information is kept secret from the public
- makes information available for a broader public
Your right to know

Every citizen has the right to access information held by public authorities. By law, they have to respond.

Browse 3,490 requests to 108 agencies

Who can I request information from?
Ask Your Government Uganda covers requests to 108 agencies, including:
- Uganda Revenue Authority (URA) 480 requests
- Ministry of Defence / Uganda People's Defence Forces (UPDF) 190 requests
- Uganda National Roads Authority (UNRA) 169 requests
- Civil Aviation Authority (CAA) 146 requests

What information has been released?
Ask Your Government Uganda users have made 3,490 requests, including:
- Uganda Registration Services Bureau (URSB) answered a request about Documents tracking about 9 hours ago

What information has been released?
Sobanik! You have made 198 requests, including:
- Ginag set an answer to a request about "Uganda's Impact on Aviation"
Your right to know

Every citizen has the right to access information held by public bodies. By law, they have to respond. Find out more about Freedom of Information.

Browse 106 requests to 45 authorities

Who can I request information from?

Ask Your Government Uganda covers requests made to the following Ministries, including:

- Uganda Revenue Authority (URA) 480 requests
- Ministry of Defence / Uganda People's Defence Force (UPDF) 41 requests
- Uganda National Roads Authority (UNRA) 106 requests
- Civil Aviation Authority (CAA) 146 requests

Make a request

Browse requests

View authorities

Help

Search

Want to know something?
Start your own request

Make a request »
Building Coalitions

• Many different groups can benefit from access to information
• Possibility to build coalitions...
  • Journalists, media
  • Human rights activists, corruption fighters, environmental activists, public health organizations,...
  • Academia, (retired) judges, officials, lawyers
  • Small- and medium sized enterprises
  • Community leaders
Creating momentum for reform

• Outline/draft of a strong Freedom of Information Act
  • Maybe some MPs are open to introducing it in Parliament?
• Gather signatures of support, so you can show and communicate that you represent a constituency
  • Opportunity for public debate
  • Politicians may have a hard time openly opposing transparency
• Keep reminding the government of its (UNCAC) commitments
Testing transparency

• To find out how transparent government bodies are, you could submit requests and evaluate how State entities react

• You can request information from many foreign governments and multinational bodies such as the EU

• Request information to support your research and advocacy
  • UNCAC-related documents (self-assessment, full country review, if not published by government)
  • Enforcement statistics, anti-corruption action plan, etc.
Awards

For...

• government agencies who are highly transparent and responsive

• those that are highly opaque

International Right to Know Day: Sept 28

• Opportunity for discussions, to raise awareness
Awards

Austrian ’Wall of Silence’ award and the ’Golden Information Filter’
Litigation – Taking your Government to court

• Fighting for access to information in court may help bring about new jurisprudence and

• may help to clarify unclear legal provisions

• Cases may take a long time to make the way through the courts

• May be costly

• There need to be relevant, applicable constitutional or legal provisions (or directly applicable regional standards)
SDG 16

16.10 Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

16.10.1 Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months

16.10.2 Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information

UNCACCoalition.org
Open Government Partnership (OGP)
Ressources

• UNCAC Coalition: Access to Information  
  http://uncaccoalition.org/en_US/learn-more/access-to-information/

• You can consult the indicators used by the RTI-rating  
  http://www.rti-rating.org/

• Model Law on Access to Information in Africa (African Commission on  
  Human Rights and Peoples' Rights)  

• Model Freedom of Information Law (Article 19)  

• Civil society resources:  
  http://foiadvocates.net/ (“FOIAnet“ email list),  
  www.freedominfo.org, www.right2info.org

• Africa Freedom of Information Centre – AFIC  
  https://africafoicentre.org/ati-cases-africa