


Your right to know

UNCLASSIFIED

Government Secrecy

in an Information Age

A Report on Open & Secretive Public Institutions in southern Africa



*"Public bodies hold information not for
themselves but as custodians of the public good and
everyone has the right to access information..."*

African Charter on Human & Peoples Rights

The African Platform on Access to Information

www.windhoekplus20.org



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A faint, light gray outline map of Southern Africa serves as a background for the page. It shows the borders of Botswana, Lesotho, Malawi, Mozambique, Namibia, Swaziland, Tanzania, and Zambia. The word 'CONTENT' is printed in white, uppercase letters on a dark red rectangular background, positioned over the map.

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REGIONAL OVERVIEW

Southern Africa is home to some of the most secretive government and public institutions in the world. The continued existence of archaic colonial legislations such as Official Secrets Acts, the failure to repeal the Access to Information & Privacy Protection Act in Zimbabwe, the introduction of the Protection of Information Bill currently under Parliament in South Africa, the deletion from the Zambian Draft Constitution the right for citizens to access Government held information by the National Constitutional Conference and the ultimate failure of the entire region to pass legislation guaranteeing citizens the right to information in the last ten years testifies the thriving environment in which secrecy prevails.

The findings of this research conducted between June and August 2010 across nine countries reveal non-transparent and overly secretive public institutions, making it difficult for citizens to access information in their possession and under their control. These findings are not particularly different from a similar study done in 2009 in which secrecy shrouded the operations, budgets and activities of governments in southern Africa.

For millions of citizens in southern Africa, the right to know largely remains a dream notwithstanding the different regional and international protocols and instruments including Article 9 of the African Commission on Human and Peoples Rights states that "every person has the right to information and that "Public bodies hold information not for themselves but as custodians of the public good and everyone has the right to access this information."

Using international standards and principles on Access to Information, no more than four of 61 institutions surveyed in this research qualified as open and transparent including the National Assembly of Mozambique one of the most secretive and non-transparent institutions in southern Africa. The research could not identify or name any institution as open in five of eight countries.

Lesotho by far hosts the most secretive Government in Southern Africa followed by Swaziland. None of the 13 institutions surveyed in Lesotho and Swaziland responded to written requests for information. While other governments have embraced the use of information communication technology to provide information to citizens, this cannot be said of Lesotho where half of the institutions surveyed had no websites. This effectively means that citizens cannot access information electronically or physically from among

others, the Ministry of Home Affairs, which neither has a website nor responds to written requests.

The findings of this study, which sought to measure the level of openness and secrecy in Government institutions in the region is testimony that unless the legislative landscape changes, this indeed is a dark continent and will continue to be so. For as long as secrecy and anti access to information laws exist in statutory books, Government secrecy will remain unchallenged and unchecked for many years to come in southern Africa.

eGovernments

Notwithstanding the bad legislative environment which has entrenched the secrecy culture that government institutions thrive on, this research stumbled on some interesting if not positive developments, after all this is an information age and some institutions value and care about transparency for which information provision is at the core.

In the 2009 study for instance, none but one government institution in three countries Namibia, Malawi and Mozambique responded to written requests, while that number has gone up to 11 in this study.

The most remarkable development has been the increase in the use of technology by many governments across the region. From 61 institutions surveyed, 49 had functional websites representing 80%. All Government Ministries and Institutions surveyed in Botswana, Namibia, Tanzania, Swaziland, and Zambia had functional and accessible websites.

Mozambique and Lesotho are lagging behind with half of the institutions surveyed having no websites including the Central Office for the Fight of Corruption in Mozambique.

Generally most websites were of average standard in content, currency and user-friendliness, others were of poor quality containing outdated or near irrelevant information. A few websites were outstanding among them the Ministry of Lands and Housing in Botswana, the Ministry of Water and Irrigation in Tanzania and the Electoral Commission of Zambia. The former spotted a clean, structured look, a one-stop shop for all information and downloadable forms pertaining to land in Botswana. The Water and Irrigation website was highly informative and the only website containing signed contracts including Figures and amounts involved.

The Electoral Commission of Zambia's website was the best in the region among similar bodies, containing a breakdown of all Parliamentary and Presidential Elections for the last 20 years to the smallest detail of number of votes, constituency and party. This website sets a standard for the region, including embracing other social networking forums such as facebook and twitter to reach Zambian citizens.

While the use of ICTs is commendable by many Government Institutions, most have failed to maximize them to their fullest potential. Most websites contained 'obvious' than relevant, critical information that would help citizens make informed decisions or participate in the affairs of Government. For instance, not one of the 49 websites surveyed across the region had information on their budgets and expenditure, while most of them had no information on procurement procedures or signed contracts.

Moreover, the provision of information cannot end at having a website. Most institutions who did not respond to information requests were the ones with websites as if to suggest that all information was provided electronically. Not only was critical, relevant information absent from many websites, Internet penetration in the region (although growing exponentially) is very low, with Malawi and Mozambique representing the lowest at 1.0% and 0.9% respectively as of March 2009 (ITU 2009). This means that 99% of the population in these countries must find other means to access the information held by public institutions including through sending written requests or proactive disclosure on the part of the institutions.

The realization and enjoyment of other rights; of health, education, employment, inherently depend on the availability of information. Viewed as the cornerstone of all freedoms, one cannot fully enjoy or exercise the right to vote or to a clean and healthy environment or make informed choices, without the information that would make those rights and choices worthwhile.

The Right to Information, freedom of information or the right to know, is not merely a call for government records, but a call for transparency and accountability in the governance process.

The Right to Information must be guaranteed by law and in accordance with international principles and best practice.

An Access to Information law guarantees every citizen the right to access information and the duty on the part of government to make information available.

MISA hopes that this annual survey which beams on secrecy and honors open public institutions will help take southern Africa towards open and transparent governments where information is a right and a necessary product for enjoying other social and economic rights for the people in southern Africa.

Sampa Kangwa-Wilkie
Program Specialist: Freedom of Expression &
Media Law Policy

MISA Regional, September 2010

RESEARCH METHODOLOGY

RATIONALE

The duty to enable access to information rests with government and public institutions and encompasses two key aspects: enabling citizens to access information upon request; and proactively disseminating important information.

Between June and August 2010 MISA conducted a research in nine countries to assess the level of access to information in government and public institutions in the region. The countries are Botswana, Malawi, Mozambique, Namibia, Lesotho, Swaziland, Tanzania, Zambia and Zimbabwe. The Zimbabwe report was not ready at the time of publication but can be accessed from the MISA website.

AIM OF STUDY

The purpose of the study was to assess the level of transparency in government and public institutions around the region to help MISA's advocacy backed by empirical evidence. The results of the survey will be used to lobby for the enactment of Access to Information laws in the respective countries and to repeal all laws impacting on the public's right to access information. Furthermore the research sought to engage the broader civil society and citizens on access to information, a right and subject that is forming current discourse around the region.

OBJECTIVES OF STUDY

- To assess the level of transparency in government and public institutions against international standards and principals on Access to Information
- To influence the adoption of practices, laws and a culture that promotes transparency and openness in government and public institutions.
- To inform advocacy and interventions by MISA and civil society across the region
- To encourage citizens to exercise their fundamental right to access information generated, held and under the control of government institutions necessary for accessing other social economic rights.

LIMITATIONS OF STUDY

The research was limited to ten government and public institutions per country. A broader sampling to include more ministries and public institutions would better reflect the national and regional profile.

THE RESEARCH DESIGN

The research adopted the qualitative and quantitative methods of data collection. Written requests were sent to all selected institutions. The first category entailed assessing the websites for the selected government and public institutions to find out which among them had the most useful, relevant information and well or poorly organised websites.

The second category entailed sending letters to request information from the selected institutions seeking specific information.

DATA ANALYSIS

Under **category 1** (websites) [n = 10] (with the exception of the Electoral bodies that had an extra requirement to be met], a score of 0-4 represents absence of or poorly organized website; 5 – 6 represents a fairly organized website; and 7 – 9 represents a well organized website with most or all relevant information that is of interest to the public

In **category 2** (physical requests) [n = 9], a score of 0-4 in the evaluation criteria represents secrecy or access denied; 5 – 6 represents fair openness; and 7 – 9 represents openness. In addition, a response on requested information within 2 weeks constitutes openness whilst a response after 30 days or never constitutes a denial.

A map of the African continent is shown in a dark red color. The country of Botswana is highlighted in white, making it stand out from the rest of the map. The map shows the outlines of the continents and the borders of the countries.

BOTSWANA

2010 REPORT ON THE MOST OPEN & SECRETIVE GOVERNMENT INSTITUTIONS IN BOTSWANA

A MISA Botswana Study, September 2010
Researcher: Romang Mogapi

INTRODUCTION

The international image of Botswana as a consolidated democracy has benefited the country over the years, whether this image is an illusion is arguable, but freedom of expression has been one of the indicators of Botswana's political freedoms. It must be noted that this image was assumed at a time when many African countries were under colonial and dictatorial regimes.

Things changed since 1990 when other countries like South Africa and Namibia became independent and as new liberal democracies emerged around the continent. South Africa developed what is still regarded as among the best Constitutions in the world, while Botswana remained stuck in the glory days of the past. A contrast between the countries showed glaring differences, among them, the Freedom of Information Law in South Africa and its absence in Botswana.

Despite having a constitutional recognition in section 12 (1) under the Protection of Freedom of Expression, access to information in Botswana remains unguaranteed. The Botswana Constitution simply states that; no person shall be hindered in the enjoyment of his or her freedom to receive ideas and information without interference. Under normal circumstances this one liner would have been supported by an enactment detailing how people living in Botswana could go about realising this freedom.

Even in practice, Botswana began to show unfamiliar symptoms. When African countries agreed on the peer review mechanism (APRM), Botswana declined, bragging that it was "okay". The APRM contained nothing monstrous as they depicted an Africa that was eager to clean itself up. Botswana lost heavily because by refusing to open itself to others it was basically saying that there was something to hide.

Botswana is also among the countries that are yet to sign the African Charter on Democracy, Elections and Governance. Among the objectives of this Charter is to promote the establishment of the necessary conditions that foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs.

Inside the country, Botswana's ruling party has been frustrating the need for a law on declaration of assets and liabilities by national leaders. A decade ago, Parliament had agreed on the motion to establish the Act but the motion never saw the light of day. Former Minister and Member of Parliament Joy Phumaphi brought the motion to Parliament. Recently a Member of Parliament, Dumelang Saleshando, was not allowed to bring Private Members

Bill on the issue. One of the reasons advanced by the Vice President in Parliament was that the opposition member wanted to steal the ruling party's limelight.

The declaration of assets cannot be divorced from the broader issue of access to information and transparency, neither can it be isolated from the fight against corruption, which is being frustrated by the lack of an access to information law.

Despite advocacy on the issue over the years by MISA Botswana and gradually across civil society, including Government itself, not much has happened. The Ombudsman and the Directorate on Corruption and Economic Crime (DCEC) have since explicitly called for the act in various gatherings. In fact, the Ombudsman's Office documented this call in its annual report of 2008.

Civil society had actually raised the issue in 1998, when the country's 50 year Vision 2016 captured its aspiration to have a Freedom of Information Act. The vision further recognises the need for an open Government and democratic society. The absence of an access to information law affects all sectors of society including Government. A workshop organized by Central Statistics Office (CSO), some years ago, expressed a general concern that even Government officials found it difficult to access information in other Government departments. The CSO, for instance, needs timely and accurate information to reconcile Government statistics.

On the other hand, the political leadership has been explicit in their lack of interest on the issue. In 2007, a Minister representing the Minister of Communication Science and Technology answered a question in Parliament, indicating that a Freedom of Information Act was not Government priority. They argued that the Government had established other structures like Public Relations Officers to mitigate the gap.

Proponents of a Freedom of Information Act and the general access to information campaign got a relief when, in the 2010 July Parliament session, opposition Member of Parliament, Dumelang Saleshando, was given a go ahead to frame the FOI Private Members Bill. Although it is too early to celebrate, since its opponents could subsequently reject it, it is regarded as a boost to the campaign.

MISA Botswana has since publicly shown support to the MP including providing technical expertise to draft the Bill.

RATIONALE AND RESEARCH PARAMETERS

The research was conducted between June and August with a purpose to measure which government and public institutions in Botswana had the most and least efficiency mechanisms for the provision of public information. Even though the following institutions were chosen at random, attention was paid to the roles they played in the lives of the citizens of Botswana.

DATA ANALYSIS

Under category 1 (websites) [n = 10], a score of 0-4 represents absence of or poorly organized website; 5 – 6 represents a fairly organized website; and 7 – 10 represents a well organized website with most or all relevant information that is of interest to the public

In category 2 (physical requests) [n = 9], a score of 0-4 in the evaluation criteria represents secrecy or access denied; 5 – 6 represents fair openness; and 7 – 9 represents openness. In addition, a response with requested information within 2 weeks constitutes openness whilst a response after 30 days or never constitutes a denial.

The following Government and public institutions were surveyed;

1. Independent Electoral Commission (IEC)
2. Ministry of Labour and Home Affairs
3. Ministry of Health
4. Ministry of Lands and Housing
5. Ministry of Youth, Sports and Culture
6. Ministry of State President
7. Directorate on Corruption and Economic Crime (DCEC)
8. Ministry of Education & Skills Development

RESEARCH METHODOLOGY

The research adopted qualitative and quantitative methods of data collection. Written requests were sent to all selected institutions. The first category entailed assessing the websites for the selected government ministries and public institutions to find out which among them had a website with the most useful, relevant and well or poorly organised content.

The second category entailed sending letters to request information from the selected institutions seeking specific information.

SUMMARY OF KEY FINDINGS

- Of the eight Government and public institutions surveyed, four had their own websites, while the other four had webpages under the Government of Botswana's website.
- Overall, all websites and webpages contained updated information. None of the institutions, except for the Independent Electoral Commission (IEC), published their organisational structures, Laws, Acts and responsibilities.
- None of the institutions' websites, except for the IEC listed audited reports for 2009.
- None of the websites published information on its budgets, expenditure, signed contracts, and procurement procedures.
- The webpage of the Ministry of State President was the worst, containing little and near irrelevant information and a poor design.
- The IEC's website did not list election results for the last ten years by party, candidate or constituency.

ACCESS DENIED

- Six of the eight institutions surveyed did not respond to written request for information.
- Only two public institutions responded; the DCEC and the IEC, while no Government Ministry responded, notwithstanding that all Ministries and Public Institutions have Public Relations Officers or Information Officers responsible for public queries.
- Named at the end of this report are the most secretive and open institutions in Botswana in 2010.

DETAILED FINDINGS

1. Independent Electoral Commission (IEC)

CATEGORY 1 - WEBSITE

www.iec.gov.bw

The IEC's website contained updated information including current news on upcoming constituency by-elections. The information was relevant and informative including lists of acts and policies. The website also contained employment opportunities and an electronic reply form which was tested and was functional.

However the IEC failed to publish results of the past elections for over ten years as if no elections ever took place in that period. Furthermore, even though the website had a facility that allowed for queries to be electronically posted, no response was received by the researcher when this facility was tested.

n = 11

	Yes	Not quite	No
1. Does the website contain updated information?	●		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.		●	
b) A list of Acts, laws issued within the scope of its powers;	●		
c) Reports, policies, programs	●		
d) Budget and expenditure	Audit report no budget		
e) Information about the procurement procedures, signed contracts		●	
f) Vacancies and employment procedures	●		
g) The name, the address, the telephone number and the working hours of the respective institution?	●		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	● No name		
i) Does the institution reply to electronic requests/ provide requested information electronically?	●		
j) In the case of the electoral commission does the website have information on election results for the last ten years by party, candidate, constituency etc?			●

Total Score: 7/11

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the IEC:

1. In the 2009 national elections, how many people registered and how many voted?
2. How much budget was required for the 2009 national elections and how much was eventually spent?
3. How much influence does the IEC have on the use of state media especially during the election period?
4. Who have made the large quota in voting, were it men, women, youth and at what percentage?

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		●	
2. How long did it take for institutions to provide you with information?	●		
3. Did the institution respond orally or in writing to information requests?		● Writing	
4. In what format was the information given, if given (hardcopy, softcopy).		● Soft & hard copy	
5. If information was not given, did public institution give a written/oral reason?			N/a
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?		●	
7. If information is not given within 30 days consider it a refusal.			N/a
8. Did institution ask for reason why information is being sought?			N/a
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)		● Helpful efficient	

Total Score: 9/9

2. Ministry of Labour and Home Affairs (MLHA)

CATEGORY 1 - WEBSITE

<http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Labour--Home-Affairs-MLHA/>

Please note, the Ministry of Labour and Home Affairs did not have its own website but a webpage under the Government of Botswana's website.

The MLHA fared well in terms of up to date and relevant information including organisation structures and functions. The website listed current information on the changes in the immigration system. All guidelines and information on how to apply for new passports were available. For example, clicking on the marriage registration revealed procedures and guidelines to follow. The organisational structure, and functions were also included. However no budget or expenditure of the ministry could be found on the website.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	●		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	●		
b) A list of Acts, laws issued within the scope of its powers;	●		
c) Reports, policies, programs	●		
d) Budget and expenditure			●
e) Information about the procurement procedures, signed contracts		●	
f) Vacancies and employment procedures	●		
g) The name, the address, the telephone number and the working hours of the respective institution?	● No working hours		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	● No name		
i) Does the institution reply to electronic requests/ provide requested information electronically?	●		

Total Score: 8/10

CATEGORY 2- WRITTEN REQUESTS

The following were sent to the Ministry of Labour and Home Affairs

1. There is a new travel document, the e-passport. We would like to know how many people have so far been issued the e-passports?
2. Some people have since applied for the previous type of passport and may be in need of refund. How do you contact such people to get their refunds?
3. Isn't the cost of replacing passports too prohibitive and an obstacle to freedom of movement?
4. What kind of an emergency will be allowed to issuance of emergency travel document besides paying for express services?

Information Denied – Total Score: 0/9

3. Ministry of Health

CATEGORY 1 - WEBSITE

<http://www.moh.gov.bw>

The Ministry of Information website was neither bad nor good. Neither bad, because the design looked good and effort at providing information was evident. The Directory is a good feature as well as the list of hospitals including information on tenders and employment opportunities.

Not good because the information provided lacked detail. Key documents and strategies on HIV/AIDS, a disease affecting Botswana's development was glaringly missing. One would have thought that such a website would contain to the minute information and statistics on major health issues in particular HIV/AIDS. With exception of information on the AH1N1 influenza vaccination campaign, there was no other current news. The current news feed had old news suitable for the archive page. Six Ministry of Health Agencies were listed on the home page, however clicking on the National Aids Coordination Agency, led to nowhere. Like all other sites, this one too, had no information on the budget and expenditure of the Ministry.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.		•	
b) A list of Acts, laws issued within the scope of its powers;			•
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts		•	
f) Vacancies and employment procedures	•		
g) The name, the address, the telephone number and the working hours of the respective institution?		•	
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	phone numbers only		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 5/10

CATEGORY 2- WRITTEN REQUESTS

The following were sent to the Ministry of Health

1. Since the A H1N1 flu hit Botswana how many people have died from this and how many people were treated successfully?
2. There is currently a national campaign going on to vaccinate Botswana for A H1N1 flu, we would like to know if people are coming forth in large numbers?
3. Is there known case/s where someone has died after getting this vaccine?
4. How much budget has been kept aside for this national campaign?

Information Denied – Total Score: 0/9

4. Ministry of Lands and Housing

CATEGORY 1 - WEBSITE

<http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Land-and-Housing-MLH/>

Please note, the Ministry of Lands and Housing did not have its own website but a webpage under the Government of Botswana's website. This website by far was the best all of assessed in this study. It had a clean structured look with a simple but catchy design. It contained updated information that included Acts, reports, policies and organisational structure, and it was the only website with published procurement procedures. All information and forms pertaining to land application including deeds registry, land tribunal; appeal procedures were available and downloadable, including the sitting schedule of the Lands Board. The website was deemed user-friendly, highly informative and the sort of site that would guarantee many future visits.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	●		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	●		
b) A list of Acts, laws issued within the scope of its powers;	●		
c) Reports, policies, programs	●		
d) Budget and expenditure			●
e) Information about the procurement procedures, signed contracts	● No contracts		
f) Vacancies and employment procedures	●		
g) The name, the address, the telephone number and the working hours of the respective institution?	● No working hours		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	●		
i) Does the institution reply to electronic requests/ provide requested information electronically?	●		

Total Score: 9/10

CATEGORY 2- WRITTEN REQUESTS

The following were sent to the Ministry of Lands and Housing

1. If you have been allocated a plot and the time frame for it to get developed elapses, do you stand another chance to apply for one again?
2. How many people so far are on the waiting list for residential plots?
3. Why is it that people who have previously applied for plots are not allowed to apply again even though they were never allocated?
4. What is the minimum waiting period for residential plots in urban areas and rural areas?

Information Denied – Total Score: 0/9

5. Ministry of Youth, Sports and Culture

CATEGORY 1 - WEBSITE

<http://www.mysc.gov.bw/index.php/home>

Being the Ministry of Youth, one would expect energy at this website -- the design and overall look was dull with very little sign of life on the home page which only contained statements on its mission, vision and values. What would be the most current news and article on the news page was eight months old. On a positive note the Ministry listed the description of its powers, programs as well as its functions including a call for tenders and vacancy notices. Overall the website met most of the requirements sought in this research, but failed to provide information on its budget and expenditure.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?			●
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	●		
b) A list of Acts, laws issued within the scope of its powers;		●	
c) Reports, policies, programs	●		
d) Budget and expenditure		●	
e) Information about the procurement procedures, signed contracts	●		
f) Vacancies and employment procedures	●		
g) The name, the address, the telephone number and the working hours of the respective institution?	●		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	●		
i) Does the institution reply to electronic requests/ provide requested information electronically?	●		

Total Score: 7/10

CATEGORY 2- WRITTEN REQUESTS

The following were sent to the Ministry of Youth, Sports and Culture

1. What was the percentage of youth that was unemployed in 2008 compared to 2009?
2. How many young persons have benefited from available youth aid programmes, how many have been unsuccessful?
3. How much was the budget for Sports Department for the year 2008/9? And how much was used eventually?

Information Denied – Total Score: 0/9

6. Ministry of State President

CATEGORY 1 - WEBSITE

<http://www.gov.bw/en/Ministries—Authorities/Ministries/State-President/>

Please note, the Ministry of State President did not have its own website but a webpage under the Government of Botswana's website. The Ministry of State President was the poorest of all websites surveyed scoring only 2/10. It had very little if at all useful and outdated information. The functions, organisational structures or laws governing the Ministry were absent, as were reports, policies and programs. For example, the Botswana Defence Force is listed under this Ministry, yet the only information available was on the hiring of band services and its auditorium. However, even the links on where to hire the above services were deactivated. The website contained no contact information for officials in charge, neither did it have any information on procurement and employment procedures. No budgets and expenditure were available either. The website failed to meet the minimal requirements sought in this research and necessary for the provision of useful information to the public.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?			•
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.			•
b) A list of Acts, laws issued within the scope of its powers;			•
c) Reports, policies, programs		•	
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures	•		
g) The name, the address, the telephone number and the working hours of the respective institution?			•
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 2/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of State President

1. The broadcasting industry is aware of a three tier system as stated in the Broadcasting Act 2008, what is the Ministry's next step to ensure that the provisions for the act are met in terms of licensing Botswana public and Community Broadcasters?
2. If the Ministry were to keep the promise they made in 2007 that they will eventually license community radios according to Districts, how many districts would benefit? Nb. This was announced before the Ministry of State President took over the national media affairs.
3. How many expatriates are working for the state President Ministry?

Information Denied – Total Score: 0/9

7. Directorate on Corruption and Economic Crime (DCEC)

CATEGORY 1 - WEBSITE

<http://www.gov.bw/en/Ministries--Authorities/Ministries/State-President/Department-of-Corruption-and-Economic-Crime-DCEC/>

Please note, the Directorate on Corruption and Economic Crime does not have an individual website but a webpage under the Government of Botswana website.

The DCEC's website had relevant and up-to-date information including how they investigate cases. Furthermore, electronic inquiries could be done. However, it lacked information on lists of Acts and Laws issued within the scope of its powers to govern its operations. Information on procurement procedures, signed contracts, budgets and expenditure was equally missing.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	●		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	●		
b) A list of Acts, laws issued within the scope of its powers;			●
c) Reports, policies, programs		●	
d) Budget and expenditure			●
e) Information about the procurement procedures, signed contracts			●
f) Vacancies and employment procedures	●		
g) The name, the address, the telephone number and the working hours of the respective institution?	●		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	phone number and email		
i) Does the institution reply to electronic requests/ provide requested information electronically?	electronic enquiry form		

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the DCEC;

1. What are the three most common cases of corruption in the country?
2. How many corruption cases have you tackled in 2009/10?
3. What percentage of those cases tackled resulted in prosecution?

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		●	
2. How long did it take for institutions to provide you with information?	●		
3. Did the institution respond orally or in writing to information requests?	Writing		
4. In what format was the information given, if given (hardcopy, softcopy).		Hard Et soft	
5. If information was not given, did public institution give a written/oral reason?			N/a
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?			
7. If information is not given within 30 days consider it a refusal.			N/a
8. Did institution ask for reason why information is being sought?			N/a
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)	Helpful efficient		

Total Score: 9/9

8. Ministry of Education & Skills Development

CATEGORY 1 - WEBSITE

<http://www.moe.gov.bw>

The Ministry of Education contained up-to-date and somewhat relevant information, even though it missed most of the research requirements. Most of the links were dysfunctional and no information on organisational structures nor any activities and programs that the Ministry was undertaking. Information on budgets, expenditure and procurement procedures were not available

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	●		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.		●	
b) A list of Acts, laws issued within the scope of its powers;			●
c) Reports, policies, programs		●	
d) Budget and expenditure			●
e) Information about the procurement procedures, signed contracts			●
f) Vacancies and employment procedures	●		
g) The name, the address, the telephone number and the working hours of the respective institution?	●		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	● no names		
i) Does the institution reply to electronic requests/ provide requested information electronically?	●		

Total Score: 5/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Education & Skills Development;

1. How many students abroad have your Ministry discontinued sponsorship due to bad conduct in the year 2008/9?
2. What is the percentage of those who discontinued school as a result in terms of male versus female?
3. How many students have been given sponsorships to study for local medicine program in the year 2009?

Information Denied – Total Score: 0/9

RESEARCH CONCLUSIONS

While government and public institutions in Botswana fared very well regionally in terms of utilizing ICTs to provide information to the public, their handling of physical information requests was dismal and a threat to the people's right to know. A culture of secrecy dominates Government and Public Institutions in Botswana making it among the most secretive countries in southern Africa. The provision of information through websites is progressive and expected in an Information Society, but it cannot be the totality of information provision in a country, region and continent with negligible Internet access. How many Botswana have access to Internet? 5.1%(100,000 people) as of March 2009 according to research by internetworldstats.com. This effectively means that 95% of the citizens must use other means to access the information they need from Government and public institutions. The failure of six out of eight institutions to respond to written requests for information was deeply worrying and a bad sign for the country.

Botswana urgently requires an Access to Information regime to counter the prevailing culture of secrecy in public institutions.

MOST SECRETIVE PUBLIC INSTITUTION IN BOTSWANA

Three institutions surveyed, easily qualify as most secretive, namely, the Ministry of State President, Ministry of Education & Skills Development and the Ministry of Health for failing to respond to information requests and having websites that had little or nothing to offer. The worst of the three was the Ministry of State President.

The Ministry of State President represents the highest office in the land, this means that citizens expect nothing short of excellence in all aspects of its performance, but more so in its organisation and provision of information to the citizens. As the highest office in the land, responsible for key institutions such as the Media, the National AIDS Coordinating Agency (NACA), the Security Forces, the Disaster Department and the Department for People Leaving with Disabilities among others, citizens expect better from this Ministry.

Not only did the above Ministry fail to respond to the researcher's questions, their website was near irrelevant as it contained no substantive or useful information in the interest of the public. While other similar institutions in the region are utilising the Internet to inform and interact with citizens, unfortunately, this is not the case in this country.

With so much tension, rumours and misinformation in the country emanating from the curtailing of political freedoms and the chilling increase in the extra judicial killings, one would expect that this website would offer a perfect platform for the Presidency to inform, interact and reassure citizens.

There are so many questions needing answers and going by the findings of this research, the Presidency is not willing to engage or answer even the simplest of questions. There has lately been an increase in extra judicial killings by security forces. The host Ministry is, therefore, directly linked as citizens need answers on the killings and if prosecutions are taking place. Such questions cannot simply be wished away.

The security forces, especially the Botswana Defence Force and the Directorate on Intelligence and Security where it has become evident that money is recklessly spent without following stated procedures, reflect the major indication that the Presidency needs to be more open. A case in point involves the way the DIS was initially financed. It has since been exposed that proper procedures were overlooked in setting up the spy unit. The same applies to procurement procedures for departments in the Ministry. There was recently public outcry when the State Ministry admitted an administrative lapse when it spent BWP 45,000 (USD 6,600) purchasing a refrigerator for the Minister of Defence.

In the end, secrecy is a disaster not just for the citizens but for those in power too. It is safe to argue that if this Ministry and the Presidency lead by example, other public institutions will be open and transparent in their dealings. Sadly, other institutions are just as secretive. The Ministry of Health and the Ministry of Education are not the most transparent of institutions in this country. These two Ministries are too critical to the welfare and development of the citizens and should be at the forefront of proactively providing information to citizens using any available means possible including their websites. One would expect the Ministry of Health, the guardian of our health, to have available statistics and readily available information on the national state of health. With a high incidence rate of HIV/AIDS, information on Government strategies in prevention, management and mitigation should be readily available at least on its website. Unless the Ministry of Health can reflect on its weaknesses and inefficiency, they pose a threat to the right to health of every Citizen.

This research struggled to see anything educative about the Ministry of Education, except an institution with no clear direction and operating under a veil of secrecy.

THE MOST OPEN PUBLIC INSTITUTION IN BOTSWANA

Strictly speaking, none of the institutions surveyed would qualify as open. However, any institution that responds to requests for information leans toward openness. The two public institutions; IEC and the DCEC fall in this category.

Their websites were not the best or that informative; for instance the IEC website had no information on election results of the last ten years as if this country has never gone to polls. A comparison with similar institutions in the region such as the Electoral Commission of Zambia (ECZ), shows a huge discrepancy. The ECZ's website has a list of every single election held in that country for the last 20 years, both listed and broken down to the smallest detail.

However, the IEC and DCEC were the only two of eight institutions that responded and provided the information that was sought. They responded with great expedience, help and detail, offering a glimmer of hope for an otherwise secretive culture that are the public institutions in this country. We urge the two institutions to utilise their websites to their fullest potential in providing information and interacting with citizens.

The most current, user-friendly and informative website was by far the Ministry of Lands and Housing that almost got the perfect score of 10. This website was among the best not only in Botswana but the entire region, bent at making it easy for citizens to access the information they need.

The recipient of the 2010 Golden Key Award for the Most Open and Transparent Government Institution in Botswana is the Directorate on Corruption and Economic Crime. The runner up is the Independent Electoral Commission.

The Ministry of Lands and Housing is the recipient of the 2010 eGovernment Award for a best website.

RECOMMENDATIONS

1. There is need for a more comprehensive study on Access to Information in Botswana
2. MISA Botswana needs to enhance advocacy on the right to information including engaging with Government and offering technical support to draft the Access to Information Draft Bill.

A map of the African continent is shown in a dark red color. The country of Lesotho is highlighted in white, located in the southern part of the continent, surrounded by South Africa. The word "LESOTHO" is written in white capital letters on a dark red rectangular background, positioned below the map.

LESOTHO

2010 REPORT ON THE MOST OPEN & SECRETIVE GOVERNMENT INSTITUTIONS IN LESOTHO

A MISA Lesotho Study, September 2010
Researcher: Thabang Matjama

INTRODUCTION

The Lesotho Constitution has only Section 14 applying to the media, but the country has pieces of Legislation that are written in broad terms and are wide ranging, vague and to some extent provide for sweeping powers of secrecy to be exercised.

The Constitution itself has no provisions for Access to Information. The Access and Receipt of Information Bill of 2000, now in its tenth year has yet to become law.

In 2000, the Bill was presented to Parliament. The Bill would provide the public with access to Government held information but has languished without coming up for a vote and has since been shelved since 2005.

The country's legislation consists of such pieces of laws that render Access to Information efforts moribund.

The Official Secrets Act of 1967 has been largely seen as encouraging a culture of secrecy, especially in the civil service. This legislation makes it difficult to access official information and disseminate it for the public to play a watchdog role on Government business.

The Printing and Publications Act of 1967 and Internal Security Act of 1984 set out vague criteria for restricting media freedom and give blunt interpretation of secret information on grounds of internal security.

The Parliamentary Powers and Privileges Act of 1994 provides for no strangers to enter Parliament. In this Act, a stranger is defined as a person other than a Senator or Member of Parliament or an Officer of either House of Parliament. This Act confers powers to both the President of the Senate and the Speaker of the National Assembly to deny access to public debate in Parliament.

Generally, Parliamentary sessions are open to the public but under this Act the sessions can be closed.

MISA Lesotho's rights-based advocacy informed by the overall MISA regional advocacy strategy is geared towards among others lobbying the passing of the Access and Receipt of Information Bill of 2000 and reviewing of 14 pieces of Legislation (some of which are listed above) that all hamper media development in one way or another.

This advocacy was informed by regional studies undertaken including in Undue Restrictions: the Comparative Overview Media Law and Practices in Lesotho, Tanzania and the DR Congo, 'So this is Democracy?' and the African Media Barometer.

The challenge regarding this advocacy is that it has taken the Government too long to adopt the media policy as well as the 2000 Access and Receipt of Information Bill, which MISA with technical support from Commonwealth Human Rights Initiative (CHRI) reviewed and made submissions to Government.

In an attempt to address the challenge, MISA Lesotho at its Annual General Meeting resolved to strengthen and develop a new advocacy strategy.

RATIONALE & RESEARCH PARAMETERS

The research was conducted between June and August with a purpose of gauging the ease of accessing public information. Eight Public Institutions were randomly selected.

1. Lesotho Communications Authority (LCA)
2. Lesotho Law Reform Commission
3. Ministry of Education
4. Lesotho National Manpower Development
5. Independent Electoral Commission (IEC)
6. Ministry of Home Affairs
7. Directorate on Criminal and Economic Offences (DCEO)
8. Ministry of Health and Social Welfare

DATA ANALYSIS

Under **category 1** (websites) [n = 10], a score of 0-4 represents absence of or poorly organized website; 5 – 6 represents a fairly organized website; and 7 – 10 represents a well organized website with most or all relevant information that is of interest to the public

In **category 2** (physical requests) [n = 9], a score of 0-4 in the evaluation criteria represents secrecy or access denied; 5 – 6 represents fair openness; and 7 – 9 represents openness. In addition, a response with requested information within 2 weeks constitutes openness whilst a response after 30 days or never constitutes a denial.

SUMMARY OF KEY FINDINGS

CATEGORY 1

- Of the eight Government and public institutions surveyed, only four had websites.
- The websites were not regularly updated
- Four institutions did not have websites, some had their information hosted in the Government website which was not regularly updated.
- Generally, Government Ministries and Departments had no presence online to be able to make meaningful interaction with the general populace.
- Government Ministries were the least transparent and least positioned to disseminate information of all. Many of them do not have Public Relations Officers designated to give information to the public.

CATEGORY 2

- No Institution responded in writing to written requests as required by International Best Practices and Principles on Access to Information.
- Only one of the eight Ministries and Public Institutions surveyed, the Independent Electoral Commission, called back to seek clarity on one question, and addressed one question orally.
- Of these eight, only three (Ministry of Education, IEC, and LCA) had officers designated to handle public information requests.
- Named at the end of this report are the most secretive and open institutions in Lesotho in 2010.

DETAILED FINDINGS

1. Ministry of Health

CATEGORY 1 - WEBSITE

url address www.health.gov.ls

The site largely operates un-updated. The home page offered a direct link to information on HIV/AIDS, but given the importance of this information to the Ministry's mission (and the epidemic infection rates in the country), it was surprising that this link was not prominently highlighted with graphics and other attention-grabbers. Instead, graphics were reserved for links to reports and documents that promote the Ministry's track record and mission statement. In fact, following links requires some dexterity as the space for links is limited to a few characters instead of the entire headline. Aside from the HIV/AIDS information, most of the front page links were to reports and data that was fresh in 2008.

The HIV/AIDS information was mostly in pdf format. Pages on health services offered by the Ministry were text heavy, but did contain contact information for those that scroll to the bottom. Returning to the home page was difficult as no links to it were provided once one begins navigating the site. The home page also touted a 2004 demographic report. The section on international partners did not include links to these organizations' websites (organizations like the World Health Organization which maintain updated and vital health websites) and referred only to these organizations' contributions and programs during the 2004/05 fiscal year. Generally the site failed to meet the minimum basic requirements sought in this research scoring 2/10.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?			•
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;			•
c) Reports, policies, programs			
d) Budget and expenditure		•	•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?		•	
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?			•

Total Score: 2/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Health and Social Services

1. How many cases of dysentery were detected in 2008 and 2009?
2. How many people are HIV positive in Lesotho? Are these reported cases or a projection? If it is a projection, what is it based on?
3. How many individuals had HIV tests in 2009 and how many tests were conducted in total in 2009?
4. At what percentage of capacity were the beds in Butha-Buthe Hopital used in 2009?
5. How many surgeries were conducted at Queen Elizabeth II hospital in March 2010? How many in March 2009?
6. How many children under 10 years of age with symptoms of chronic malnutrition (including, but not limited to, distended bellies, deteriorating eyesight and stunted growth) were attended to at clinics and hospitals in 2009?
7. Who conducts independent audits of Ministry statistics and patient volumes?

Information Denied – Total Score: 0/9

2. Ministry of Education

CATEGORY 1 - WEBSITE

Url address www.education.gov.ls

The Ministry of Education's website was last updated in 2006, with the publishing of schools results the only exception. Even though the website was user friendly, it didn't provide as much information with regards to examination centres and examination dates for privately registered students. There was no section for frequently asked questions that makes online interaction with the Ministry easy. The website lost an opportunity to interact and get first-hand students grievances and problems they encountered with the syllabi and their registrations. Summarily, the website did not give up-to-date information that helps users to make a one-stop information search. Much of the information sought by the researcher was not available.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?		●	
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	●		
b) A list of Acts, laws issued within the scope of its powers;			●
c) Reports, policies, programs	●		
d) Budget and expenditure			●
e) Information about the procurement procedures, signed contracts		●	
f) Vacancies and employment procedures		●	
g) The name, the address, the telephone number and the working hours of the respective institution?		●	
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?		●	
i) Does the institution reply to electronic requests/ provide requested information electronically?			●

Total Score: 2/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Education

1. Has the Ministry received any public curricular review suggestions? If so, when and what has been done in response?
2. What percentage of the school-age population has access to formal education?
3. What percentage of the school-age population is enrolled in schools?
4. What percentage of students who began high school three years ago continue to attend high school classes?

Information Denied – Total Score: 0/9

3. Independent Electoral Commission (IEC)

CATEGORY 1 - WEBSITE

Url address www.iec.org.ls

By far the easiest to navigate and most up-to-date of the Government websites. It contained the most recent election results of by-elections held in late May 2010 as well as some historical results data. The contact data lists offices nationwide and not just those in the capital Maseru and had photos and brief biographies of the three commissioners who run the board. However, it also contained many links that led to pages that did not exist or were listed as "under construction." This included what could be the site's most useful tool, a page that was meant to help voters see if and where they were registered to vote. The "press release" section was not a full catalogue of releases issued by the board. There was also some information available in Sesotho. The design was agile and easy to read. The IEC is modernizing its operations ahead of the next general elections which are scheduled for 2012. Although up-to date and resourceful, the site did not have most of the information sought by this research including bylaws, organisational structure, budget and expenditure nor procurement procedures.

n = 11

	Yes	Not quite	No
1. Does the website contain updated information?	●		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	●		
b) A list of Acts, laws issued within the scope of its powers;			●
c) Reports, policies, programs		●	
d) Budget and expenditure			●
e) Information about the procurement procedures, signed contracts			●
f) Vacancies and employment procedures		●	
g) The name, the address, the telephone number and the working hours of the respective institution?	●		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	●		
i) Does the institution reply to electronic requests/ provide requested information electronically?		●	
j) In the case of the electoral commission does the website have information on election results for the last ten years by party, candidate, constituency etc?		●	

Total Score: 4/11

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the IEC;

1. How many people countrywide are registered to vote?
2. How many people of the voting age are not registered to vote?
3. How many people have registered to vote for the first time in the last twelve months?
4. What is the mathematical coefficient formula for the adjudication of proportional representation seats in the National Assembly?

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?		Oral	
4. In what format was the information given, if given (hardcopy, softcopy).		Oral	
5. If information was not given, did public institution give a written/oral reason?			•
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?			•
7. If information is not given within 30 days consider it a refusal.			
8. Did institution ask for reason why information is being sought?		•	
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)		not helpful inefficient	

Total Score: 3/9

4. Lesotho Communications Authority

CATEGORY 1 - WEBSITE

Url address www.lca.org.ls

The website was artistically-designed, but dense and required time to navigate around. The "request for proposals" and employment pages appeared to be up-to-date, although they required downloads to access the details of the announcements. The press releases and "orders and resolutions" pages had not been updated since early 2009, however that was the last time the LCA is believed to have issued anything relevant for those sections. Most documents could be downloaded as pdf files and were not available in html format. While the site offered general instructions on how to file a grievance, it did not provide for how to do so electronically nor the physical address where this could be done in person (the address was available elsewhere on the site). Generally, the site met some of the requirements sought in this research including Information on procurement procedures, vacancies, information on budgets and expenditure were not available.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		•
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			
f) Vacancies and employment procedures	•		
g) The name, the address, the telephone number and the working hours of the respective institution?		•	
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?		•	

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to Lesotho Communications Authority;

1. How many pending licenses for radio and television broadcasters are there?
2. How many have been pending for four months or more?
3. Why have they been pending?
4. How many radio licenses have been issued in the last decade?
5. How many television licenses are pending?

Information Denied – Total Score: 0/9

5. Directorate on Criminal and Economic Offences (DCEO)

The DCEO neither had a website nor responded to below written requests for information;

1. How many criminal cases has the Directorate instituted against civil servants since January 1, 2008?
2. How many of them were of a criminal nature?
3. How many of them were of an economic nature?
4. How many of these cases have gone to trial?
5. How many complaints of abuse of positions have the Directorate received from the general citizenry and how many of said complaints have been investigated fully?

Information Denied – Total Score: 0/19

6. Ministry of Home Affairs

The Ministry of Home Affairs neither had a website nor responded to below written requests for information;

1. How many passports have been issued since January 1, 2010?
2. How many passport applications have been received by the Ministry since January 1, 2010?
3. How many passports were issued between January 1, 2009, and June 30, 2009?
4. How many passport applications are pending at this time?
5. How many passport applications have been rejected since January 1, 2010, and have any judicial proceedings been brought forward against rejected applicants?
6. How many people have been deported from Lesotho since January 2009?
7. What percentage of deportees has been returned to countries other than their countries of origin?
8. How many asylum requests were received in 2009? How many were granted? How many were rejected? How many are still pending?

Information Denied – Total Score: 0/19

7. Lesotho National Manpower Development

The National Manpower Development neither had a website nor responded to below written requests for information;

1. How many students received scholarships in the past two years?
2. How much money was given to scholarship recipients over the past two years?
3. How are scholarship recipients selected and who conducts oversight reviews of these selections?
4. How many applications for scholarships were rejected over the last two years?

Information Denied – Total Score: 0/19

8. Law Reform Commission

The Law Reform Commission neither had a website nor responded to below written requests for information;

1. How many laws have been reviewed/reformed since January 2008?
2. How many laws were reviewed as a result of public complaints?
3. How many sessions of the Commission have been held in the last 12 months?
4. How many of these sessions were open to the public?
5. Of the Commission's sessions' minutes, how many are available for public review at this moment?

Information Denied – Total Score: 0/19

RESEARCH CONCLUSIONS

Lesotho runs the most secretive Government and Public Institutions in southern Africa. None of the institutions surveyed responded to requests for information, forget the incomplete verbal response from Independent Electoral Commission. Unfortunately for the citizens of Lesotho, much of public held information is not available physically or electronically.

While other Governments in the region are far from being open and transparent, attempts to make information available to the public is evident through the utilization of modern information technology and written responses. For instance, all institutions surveyed in Tanzania, Namibia and Botswana had functional websites, in Mozambique, those institutions without websites responded to written requests for information.

The scale of secrecy revealed in Lesotho is un-matched in this regional study.

It is hard to comprehend how key Government institutions like the Ministry of Home Affairs operate without a website in the information age. The Ministry is critical and at the centre of citizens ability to access other social and economic rights through the facilitation of identity documents.

Even those institutions with websites had average low scoring and in some cases irrelevant websites containing little or outdated information.

Lesotho urgently requires an Access to Information regime to counter the prevailing culture of secrecy in public institutions.

MOST SECRETIVE PUBLIC INSTITUTION IN LESOTHO

Not one single public institution surveyed could qualify as open in Lesotho. The four absolutely and highly secretive and non transparent institutions in Lesotho are the Law Reform Commission, National Manpower Development, Directorate on Criminal and Economic Offences and the Ministry of Home Affairs.

Considering the role the Ministry of Home Affairs plays in the lives of the Basotho, their secrecy has the greatest negative impact and poses a serious danger on their ability to lead full and complete lives as informed citizens.

For this they are recipients of the 2010 Golden Padlock Award for the most secretive public institution in Lesotho. In second place are the the Law Reform Commission, National Manpower Development and Directorate on Criminal and Economic Offences.

THE MOST OPEN PUBLIC INSTITUTION IN LESOTHO

Based on this report, there are no open public institutions in Lesotho in 2010.

RECOMMENDATIONS

It is time for the Lesotho Government to show leadership and pass the 2000 Bill on Access and Receipt of Information into law to counter the endemic secrecy and non transparency in public institutions.



MALAWI

2010 REPORT ON THE MOST OPEN & SECRETIVE GOVERNMENT INSTITUTIONS IN MALAWI

A MISA Malawi Study, September 2010
Researcher: Augustine Mulomole

INTRODUCTION

Malawians are guaranteed by Constitution to access information held by Government, but have been awaiting the passing of an Access to Information Act that would make this right practical.

Section 37 of the Malawian Constitution states that "Subject to an Act of Parliament, every person shall have the right of access to all information held by the State or any of its organs at any level of government in so far as such information is required for the exercise of his rights."

This provision, however, is subject to an Act of Parliament. The Access to Information (ATI) Bill was drafted in 2003 and a campaign to have the Bill enacted was launched in 2004 by MISA Malawi.

The Bill has undergone various reviews and an attempt was made to push the Bill to Parliament in 2006 with a view that it would be passed by June 2007, but political developments in the National Assembly proved unfavorable for the process.

Recently, the Ministry of Information and Civic Education told MISA that the Bill needed to be supported by a Policy on access to information, if it is to be tabled in parliament. MISA Malawi is mobilizing resources to support the process of formulating the policy.

Meanwhile, members of the Media and Communications Committee of Parliament have pledged their support to look into possibilities of negotiating for a waiver so that the ATI Bill is tabled in Parliament without a policy.

RESEARCH METHODOLOGY

The research adopted the qualitative and quantitative methods of data collection. Written requests were sent to all selected institutions. The first category entailed assessing the websites for the selected government ministries and public institutions to find out, which among them had the most useful, relevant information on their either well or poorly organised websites.

The second category entailed sending letters to request information from the selected institutions seeking specific information.

DATA ANALYSIS

Under **category 1** (websites) [$n = 10$], a score of 0-4 represents absence of or poorly organized website; 5 – 6 represents a fairly organized website; and 7 – 10 represents a well organized website with most or all relevant information that is of interest to the public

In **category 2** (physical requests) [$n = 9$], a score of 0-4 in the evaluation criteria represents secrecy or access denied; 5 – 6 represents fair openness; and 7 – 9 represents openness. In addition, a response with requested information within 2 weeks constitutes openness whilst a response after more than 21 days or never constitutes a denial.

The following institutions were chosen at random, but paying attention to the role they played in the lives of citizens and residents of Malawi;

1. The Anti-Corruption Bureau
2. The Electricity Supply Cooperation of Malawi
3. The Immigration Department
4. The Ministry of Agriculture
5. The Ministry of Education
6. The Ministry of Health
7. The Ministry of Information
8. The Office of the Administrator General
9. The Office of the Directorate of Public Prosecutions, and
10. The Road Traffic Department.

SUMMARY OF KEY FINDINGS

CATEGORY 1: WEBSITES

- Of the ten institutions surveyed, seven had websites, most, containing current and updated information.
- None of the websites contained any information on budgets and expenditure, while most of them contained no information on employment and procurement procedures.
- The three institutions that did not have websites were the Office of the Directorate of Public Prosecutions, the Office of the Administrator General and the Road Traffic Department.
- Of the institutions that had websites, the Immigration Department's was the most skeletal of the websites as it contained very little useful information.
- The Ministry of Health, which was crowned the most secretive institution of 2009, spotted an improved website that was both informative and updated compared to the near irrelevant state it was found in the 2009 research.

CATEGORY 2: WRITTEN REQUESTS

- Of the ten Government and Public institutions surveyed, only three responded to written requests for specific information; The Office of the Administrator General, the Office of the Directorate of Public Prosecutions and the Ministry of Agriculture.
- Both the Administrator General and the DPP responded orally, on grounds that they wanted MISA Malawi to get adequate information through a face-to-face interview. The Ministry of Agriculture was the only Institution that responded through writing.
- The Ministry of Health, the most secretive institution in 2009 did not respond to written requests for information in this year's study either.

DETAILED FINDINGS

1. The Anti-Corruption Bureau (ACB)

CATEGORY 1 - WEBSITE

URL address: <http://www.anti-corruptionbureau.mw/>

At the time of research, the Anti-Corruption Bureau (ACB) website contained up to date information, updated on a daily basis. It had adequate information for anyone interested to know about the activities of the ACB. Content on the website was very easy to locate. The site however, did not contain information on budget and expenditure, procurement procedures and neither did it have information on vacancies and recruitment procedures. Furthermore the ACB's website lacked information on cases that were being pursued, prosecuted and the outcome of the prosecution. The website had a link on prosecution but critical information was not available. The link only stated the functions of the prosecution department.

On investigations, the bureau did not give details of what investigations had been carried out since its establishment and how they were conducted. Such information would have helped members of the public to appreciate and make informed judgment on the bureau's performance. The link only gives details of how one can report corruption, what to report and the means of reporting corruption.

Recently, the bureau had been conducting ratings of organizations and institutions that were deemed to be most corrupt. As part of these ratings, the Malawi Police Service was rated as the most corrupt institution. This information, however, was not available on the website.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 7/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Anti-Corruption Bureau (ACB):

1. There have been accusations from members of the public calling on the Anti-Corruption Bureau (ACB) to start prosecuting top government officials that are involved in corrupt practices. What action has the bureau taken on these accusations?
2. How many cases involving top government officials has the ACB successfully concluded?
3. The ACB has on several occasions been accused of not being independent from the government. How independent is the bureau from government intervention?
4. Is Malawi winning the battle against corruption? What interventions is the bureau putting in place to make sure the country is corrupt free?
5. Since the establishment of the ACB, what are some of its notable achievements?

Information Denied – Total Score: 0/9

2. The Electricity Supply Corporation of Malawi (ESCOM)

CATEGORY 1 - WEBSITE

URL address: <http://www.escommw.com/index.php>

At the time of research, ESCOM's website contained updated information regarding ESCOM's activities including load shedding schedules, application forms for new connections, how to check for and pay electricity bills online. Further adding to the website's user friendliness was the provision for customers to give feedback on the website as well as ask questions electronically.

However, ESCOM's website lacked information on budget and expenditure. Furthermore, the website did not have any information on vacancies and employment, recruitment and procurement procedures, nor did it include names, addresses, telephone numbers and the working hours of the institution.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?			•
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Electricity Supply Cooperation of Malawi (ESCOM):

1. Most parts of the country continue to experience power blackouts. When should consumers expect to have Power All Day Every Day?
2. Recently ESCOM succumbed to pressure and changed its slogan from 'power all day everyday' to 'towards power all day every day.' Was this change effected because ESCOM is failing to provide consistent power supply?
3. Consumers are complaining that ESCOM's tariffs are very high and do not match the services it provides. How does the company respond to these accusations?
4. Commentators have argued that the country should consider inviting other players to compete with ESCOM. Do you agree with this proposal?
5. What does ESCOM need to live up to its slogan of Power All Day Every Day?

Information Denied – Total Score: 0/9

3. The Immigration Department

CATEGORY 1 - WEBSITE

<http://www.malawi.gov.mw/Home%20Affairs/immigration/Home%20Immigration.htm>

The Immigration Department website, serviced by the Ministry of Information and Civic Education, contained updated information at the time of the research. The website was user friendly as it was easy to navigate and locate the necessary information. However, in addition to lacking information on budget and expenditure, the website did not contain information details on any contact persons at the Department or telephone numbers of how to contact the Department, let alone any information vacancies, and procurement recruitment procedures. Furthermore information that would be useful to the public regarding the changing of passports was not available on the website.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Immigration Department:

1. Recently government announced that new passports were being introduced bearing security marks. Passport holders are therefore being requested to have their travel documents changed at the Immigration Department. How has the response been like from members of the public following this change?
2. The general public is complaining that a fee of K15, 000 for the new passports is too high. How does the immigration department justify this fee?
3. Since the introduction of the new passports, how many people have applied for these new travel documents so far?
4. Media reports indicate that not many Malawians have passports. What plans does the Immigration Department have to make sure that a lot of Malawians have passports?
5. Media reports also indicate that non-Malawians are obtaining passports illegally. Is your office aware of this?

Information Denied – Total Score: 6/10

4. The Ministry of Agriculture

CATEGORY 1 - WEBSITE

<http://www.malawi.gov.mw/Agriculture/Home%20%20Agriculture.htm>

The Ministry of Agriculture's website, managed by the Ministry of Information and Civic Education contained updated and relevant information at the time of the research. The website was user friendly and information was easy to locate. However, the website lacked information on procurement procedures, vacancies and recruitment procedures as well as information on budget and expenditure.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 7/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Agriculture:

1. Malawi has been touted for its achievements on food security. There have been concerns however, regarding the sustainability of the fertilizer subsidy programme. Does your Ministry have an exit strategy in the event that funds are no longer available for the programme?
2. There have been concerns on how coupons for the fertilizer subsidy programme are distributed. What steps has the Ministry taken to array such fears?
3. Commentators have argued that crop estimated every growing season do not reflect what's on the ground. Does the country really have maize surplus this year? If yes, how much?
4. Is the Ministry satisfied with the budgetary allocation in the 2010-2011 fiscal year?
5. Recently the Ministry has been promoting the use of manure in addition to artificial fertilizers. Is the Ministry planning to phase out the use of artificial fertilizers?

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?	in writing		
4. In what format was the information given, if given (hardcopy, softcopy).	hard copy		
5. If information was not given, did public institution give a written/oral reason?			
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?		•	
7. If information is not given within 30 days consider it a refusal.			
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)			helpful

Total Score: 9/9

5. The Ministry of Education

CATEGORY 1 - WEBSITE

<http://www.malawi.gov.mw/Education/Home%20%20Education.htm>

The Ministry of Education's website contained updated information at the time of the research. The website had adequate information on the Ministry's structures as well as the education system in Malawi. Furthermore, the side menu bar made navigating the site easy, adding to the website's user friendliness.

However, the website lacked information on the Ministry's budget and expenditure. Additionally, no information on procurement procedures, signed contracts, and vacancies and employment procedures could be located from the site.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Education;

1. Commentators have argued that education standards in the country have gone down. Do you subscribe to this?
2. The Ministry of Education is now giving stipends to rural based primary school teachers, a development that has prompted teachers from urban areas to demand stipends as well. Is the Ministry going to consider urban-based teachers as well?
3. Is the Ministry satisfied with its budgetary allocation in the 2010-2011 financial year?
4. Media reports indicate that pupils in some parts of the country are learning under trees. Is your Ministry aware of this?
5. What plans has your Ministry put in place to ensure that the country achieves the education for all goal by 2015?

Information Denied – Total Score: 0/9

6. The Ministry of Health

CATEGORY 1 - WEBSITE

<http://www.malawi.gov.mw/Health/Home%20Health.htm>

The Ministry of Health's website contained updated and current information on the Ministry's organizational structure, functions, responsibilities and programmes. This was a remarkable improvement from the 2009 study in which the website was outdated with no relevant information. It met most of the basic requirements sought by this research including information on procurement procedures, but failed from being perfect with the absence of information on budget and expenditure as well as information on employment procedures.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts	•		
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 8/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Health;

- Members of the public have been complaining that most government hospitals have run out of drugs. What are the Ministry's plans to ensure that the hospitals are stocked with enough drugs?
- There have been reports claiming that government drugs are being sold at private hospitals. What is the Ministry doing to curb this malpractice?
- Most government hospitals, according to media reports, do not have enough medical personnel. What plans does the Ministry have to staff these hospitals with enough medical personnel?
- Is the Ministry satisfied with the budgetary allocation in the 2010-2011 national budget?
- Most parts of the country do not have health facilities, making it difficult for people to access medication. What is the Ministry doing to avert this problem?

Information Denied – Total Score: 0/9

7. The Ministry of Information & Civic Education

CATEGORY 1 - WEBSITE

<http://www.malawi.gov.mw/Information/Home%20Information.htm>

The Ministry of Information's website contained information on the Ministry's programmes, Government publications and achievements, had updated information whose content was very easy to locate, making it user friendly. However, just like all the aforementioned websites, the website did not provide information on the Ministry's budget and expenditure. Furthermore, it did not contain any information on vacancies, and procurement and recruitment procedures.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 7/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Information:

1. Is the Ministry satisfied with its budgetary allocation in the 2010-2011 financial year?
2. How do you describe the relationship between your Ministry and the media in the country?
3. What plans does your Ministry have for the media in the country?
4. The Ministry of Information and Civic Education has been conducting consultative meetings on government's plans to change the national flag. Some sectors of society, however, have complained that they were sidelined. What criteria did the Ministry use in choosing groups of people to be consulted?
5. Apart from the issue of change of the national flag, what other activities has the Ministry conducted on civic education?

Information Denied – Total Score: 0/9

8. The Office of the Administrator General

CATEGORY 1 - WEBSITE

At the time of the research, unfortunately for a public institution of such significance in the country, the Office of the Administrator General did not have a website.

Information Denied – Total Score: 0/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the office of the Administrator General:

1. For a long time, members of the public have been requesting the office of the Administrator General to open branches in Lilongwe, Central region and Mzuzu, Northern region for easy access. Does your office have plans to open these branches any time soon?
2. The office of the Administrator General has been accused of delaying in processing deceased estates. What causes the alleged delays?
3. Officers at the Administrator General's office have been accused by members of the public of mismanaging deceased estates. How does your office respond to these accusations?
4. Commentators have also argued that the office of the Administrator General is technologically challenged. What plans are there to ensure that documents at the office are computerized

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?		orally	
4. In what format was the information given, if given (hardcopy, softcopy).		verbally	
5. If information was not given, did public institution give a written/oral reason?			•
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?		•	
7. If information is not given within 30 days consider it a refusal.			
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)			helpful

Total Score: 8/9

9. The Office of the Director of Public Prosecutions (DPP)

CATEGORY 1 - WEBSITE

At the time of the research, unfortunately for a public institution of such significance in the country, the DPP did not have a website.

Information Denied – Total Score: 0/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the office of the Director of Public Prosecutions (DPP):

1. The office of the Directorate of Public Prosecutions (DPP) has on several occasions been accused of prosecuting people deemed to be enemies of the state. How do you respond to such assertions?
2. In executing his duties, the DPP is among other considerations, supposed to exercise his or her duties with regard to public interest. What evidence is there to show that cases the DPP has handled in the past had anything to do with public interest?
3. It would appear there is a thin line between the DPP and the police. How independent are the police from the office of the DPP?
4. It seems not much has been done in terms of sensitizing members of the public on the operations of the office of the DPP. What strategies has your office put in place to ensure that citizens appreciate the work of your office?
5. How many cases has your office handled involving complainants from members of the public?
6. Is the office of the DPP satisfied with its budgetary allocation for the year 2010-2011?

n = 9

	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?		orally	
4. In what format was the information given, if given (hardcopy, softcopy).			
5. If information was not given, did public institution give a written/oral reason?			
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?		•	
7. If information is not given within 30 days consider it a refusal.			
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)			very helpful & very open & very efficient

Total Score: 8/9

The Road Traffic Department (RTD)

CATEGORY 1 - WEBSITE

At the time of the research, unfortunately for a public institution of such significance and immense resources, the RTD had no website.

Information Denied – Total Score: 0/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Road Traffic Department (RTD):

1. The Road Traffic Department (RTD) was recently accused of indulging in corrupt practices. What steps has your office taken to clear the image of the RTD?
2. Media reports claim that driving licenses are being obtained at a fee of MK20, 000 without going through proper procedures. What is the RTD doing about this?
3. How credible are driving licenses possessed by Malawians?
4. What are the procedures for anybody to obtain a driver's license?
5. How much revenue does your department generate in a month through issuance of driving licenses?

RESEARCH CONCLUSIONS

Secrecy still prevails in Government and Public Institutions in Malawi. While an improvement has been noted from the 2009 study with three institutions responding to written requests compared to none last year, the response rate is still low at 30%. Furthermore, three key public institutions namely the Office of the Administrator General, the Office of the Director of Public Prosecutions and the Road Traffic Department had no websites. There is simply no justifiable reason for the Road Traffic Department to operate without a website with the vast amount of resources that it wallows in.

Although most institutions had websites that were both informative and updated, their failure to respond to written requests for information showed a tenet of secrecy than openness. While websites are indispensable, powerful tools for communication, internet penetration in Malawi is one of the lowest in the region at 1% (139,500) as in March 2009 according to research by internetworldstats.com. This effectively means that 99% of Malawians must look elsewhere to access the information they seek, either through written requests or proactive disclosure by public institutions.

The Ministry of Education was a major disappointment, contradicting the very purpose of education, which is to enlighten people with necessary and adequate information for them to be able to participate and contribute as enlightened members of the community. It is no wonder the education standards in Malawi have been under scrutiny and under question for far too long with no one to shed light on its present and future.

Ironically and alarmingly, there was nothing informative or educative about the Ministry of Information and Civic Education, which failed to respond to request for public information.

Most disturbing and worrying was the Anti Corruption Bureau (ACB), a body established on the principles of openness, to operate in shadows of darkness. Even though the ACB's website met the average standards sought in this research, their failure to respond to written requests, more than any organization, was totally unacceptable. Compared to similar bodies in the region also under survey, the ACB was found seriously wanting and need self-introspection on its role as a public body. Their silence left many questions unanswered.

The Office of the Administrator General and the Office of the Director of Public Prosecutions were among the three institutions that responded to written requests and provided the information sought expediently. If these two institutions had websites, they could have been among the

most open institutions in 2010, but, unfortunately, their lack of electronic presence to ensure a 24hour supply of information affected them immensely.

MOST SECRETIVE PUBLIC INSTITUTION IN MALAWI IN 2010

All Institutions that did not respond to written requests for information easily qualify as most secretive. But some of these institutions had their websites running with up to date information and this was taken into consideration and in their favour.

This leaves the Road Traffic Department, which neither responded to written requests for information, nor had a website, as the most secretive public institution for the year 2010.

The Road Traffic Department makes it close to impossible for members of the public to access information. This department is very critical to people's lives under its mandate and responsibility of issuing vehicle and driving licenses. Malawi continues to record escalating cases of road accidents, some of which involve un-roadworthy vehicles and inexperienced drivers. If unqualified people and un-roadworthy motor vehicles are issued driving licenses and motor vehicle certificates respectively, then the department is putting people's lives in danger. The chosen style of operations by the RTD of utter darkness is worrying and a signpost that points to accusations that the department was involved in underhand deals and therefore lacked transparency. The RTD has of late been accused of corrupt practices by members of the public. Newspaper reports recently indicated that driving licenses could be bought at prices ranging from MK15, 000 (US\$100) to MK25, 000 (US\$166).

Having a website running would have helped in answering questions from members of the public on the RTD's services and operations. The public would have had an opportunity to access information on procedures that are followed when it comes to obtaining a valid driving license, renewing vehicle licenses and vehicle insurance.

The RTD is a potential danger to the road user and citizens at large if its operations are shrouded in secrecy.

In second place is the Immigration Department. Failure by the Department to respond to written requests for information is in itself denial to give information to the public. The Immigration Department has a challenging task of processing identity documents including travel documents for both Malawians and non-Malawians.

The Department should in the first place have a website running given the resources but also to effectively respond to the traffic of questions from citizens. The Department recently introduced new systems of issuing passports, which have new security features. Members of the public are being asked to exchange old passports with new ones. This information, however, was missing on the immigration department's website. Furthermore, this institution should be efficient and very open to the public in responding to various queries such as accusations from various quarters claiming that the department issues passports even to non-Malawians. Media reports have also been indicating that some immigration officials indulge in corrupt practices when issuing passports.

THE MOST OPEN PUBLIC INSTITUTION IN MALAWI 2010

The Ministry of Agriculture is the most open and transparent Government Institution in Malawi in 2010, scoring a perfect score of 9/9 and 7/10 in the written and website categories respectively. Using international standards and principles on Access to Information as well as the criteria set for this research, the Ministry of Agriculture did very well with a total score of 16/19. It responded to the request within the time frame and provided a hard copy of the information sought. The Ministry's website was also running and contained updated information on its structures, laws and programmes.

Malawi is now touted for achieving food security and is being sought after by many countries wishing to learn how the country has managed to turn from food shortage to food surplus within a short period of time. This information is readily available on the Ministry's website and was provided in hardy copy too. The Ministry of Agriculture is therefore, the recipient of the 2010 Golden Key Award for the Most Open and Transparent Government Institution in Malawi. There is no run up.

RECOMMENDATIONS

There is need for a more comprehensive study on Access to Information in Malawi and how it affects citizens. This study will help to justify why Malawi needs legislation on ATI.

MISA Malawi needs to win the support of various Civil Society Organisations (CSOs) in advocating for the ATI Bill to be enacted into law.



MOZAMBIQUE

2010 REPORT ON THE MOST OPEN & SECRETIVE GOVERNMENT INSTITUTIONS IN MOZAMBIQUE

A MISA Malawi Study, September 2010
Researcher: Ericino de Salema

STATE OF ACCESS TO INFORMATION IN MOZAMBIQUE

Economist Joseph Stiglitz, who shared the 2001 Nobel Prize with George Akerlof and Michael Spence, says that there's a natural asymmetry of information between those who govern and those whom they are supposed to serve, much akin to the situation prevailing between company managers and shareholders.

In the same publication, entitled 'Transparency in Government', Stiglitz adds that such asymmetry of information also arise in connection with political processes and have important consequences in that realm. He underlines that just as such asymmetries give managers the discretion to pursue policies that are more in their own interest than in the interests of shareholders, so they allow government officials the discretion to pursue policies that are more in their interest than in the interest of the citizenry (Stiglitz 2002).

The above citation fits very well in what is happening in Mozambique, particularly in what refers to access to information regarding activities and businesses undertaken by Ministries and public institutions. Francis Bacon couldn't have been more correct when he wrote that "knowledge is power". Informed citizens are capable and ready to make good choices and participate in the management of their affairs while those who are ignorant and uninformed cannot.

The Constitution of the Republic of Mozambique, approved in November 2004, states in Article 48 (1), that all the citizens have the right to Freedom of Expression and the Right to Information. Despite this constitutional guarantee, there isn't a statutory regime on the Right to Information in Mozambique.

Access to information, as set out by regional, continental and international protocols, charters and conventions, is a fundamental human right and as such, Mozambique has a duty to respect, protect and fulfill this right. A proposal draft bill on the Right to Information was submitted by MISA to the Mozambican Parliament in late November 2005, but up to now it has not been tabled.

About 20 National Civil Society Organizations, led by MISA-Mozambique, are now developing coordinated advocacy to lobby Parliament to move the Bill forward. This National Coalition of civil society organizations was formalized in August 2010, and it is MISA's hope that with so many voices, policymakers will take heed.

RESEARCH METHODOLOGY

Between June 30th and August 30th 2010, MISA conducted a study to measure transparency and secrecy in Government and Public Institutions in Mozambique. Eight Institutions were measured against international best practice and Right to Information principles.

The research adopted the qualitative and quantitative methods of data collection. Written requests were sent to all selected institutions. The first category entailed assessing the websites for the selected Government Ministries and Public Institutions to find out which among them had the most useful, relevant information and well or poorly organised websites.

The second category entailed sending letters to request information from the selected Institutions seeking specific information.

DATA ANALYSIS

Under **category 1** (websites) [n = 10], a score of 0-4 represents absence of or poorly organized website; 5 – 6 represents a fairly organized website; and 7 – 10 represents a well organized website with most or all relevant information that is of interest to the public

In **category 2** (physical requests) [n = 9], a score of 0-4 in the evaluation criteria represents secrecy or access denied; 5 – 6 represents fair openness; and 7 – 9 represents openness. In addition, a response with requested information within 2 weeks constitutes openness whilst a response after 30 days or never constitutes a denial.

Public institutions surveyed were;

- Mozambique Revenue Authority;
- Ministry of Energy;
- Ministry of Fisheries;
- State Shares Management Agency (IGEPE);
- Central Office for the Fight of Corruption;
- Bank of Mozambique;
- Assembly of the Republic;
- National Prosecutions Authority.

SUMMARY OF KEY FINDINGS

WEBSITES

- Four of the eight institutions surveyed had no websites.
- The four websites were generally updated, detailed and informative with the exception of the Ministry of Energy whose website was very poor in content and design.
- Only two websites contained information on procurement and employment procedures, namely Mozambique Revenue Authority and Bank of Mozambique.

- None of the websites had information on annual budgets, signed contracts or expenditure.

WRITTEN REQUESTS: ACCESS DENIED

- Five out of eight of the Government and public institutions surveyed, did not respond to written requests for information.
- Like in the previous study, this research concludes that secrecy is a major problem in Government and Public Institutions in Mozambique.
- The most secretive and most open institutions for 2010 are named at the end of this report

DETAILED FINDINGS

1. Mozambique Revenue Authority

CATEGORY 1 - WEBSITE

<http://www.at.gov.mz>

The website of the Mozambique Revenue Authority was updated and contained useful information. It had information regarding legislation, organisational structure as well as programs, and reports relevant to this institution. It was also possible to contact the institution using its website. Information regarding contracts signed by the Revenue Authority with other institutions was also available in the website including name of the companies, designation of the contract, amount involved, etc; but this applies only for 2007 and 2008, as information on contracts signed in 2009 were not available including budgets, expenditure and employment procedures. Nevertheless, the website was user friendly.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts	•		
f) Vacancies and employment procedures	•		
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 8/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Mozambique Revenue Authority:

1. The names of businessmen whose behavior in 2009 can be held as exemplary;
2. The names of businessmen who were at the top in 2009 in terms of fiscal evasion.

Information Denied – Total Score: 0/9

2. The Office of the Director of Public Prosecutions (DPP)

CATEGORY 1 - WEBSITE

The Ministry of Fisheries did not have a website. During the 2009 the website existed on www.mozpescas.gov.mz which was evaluated as “simply poor. It was hardly updated and contains insufficient information about the sector.”

Information Denied – Total Score: 0/10

CATEGORY 2- WRITTEN REQUESTS

A request for information was sent to the Ministry of Fisheries on the following:

1. The money collected by the State on the exportations of prawns and lobster to Spain in 2008 and 2009.

n = 9

	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?			•
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?		in writing	
4. In what format was the information given, if given (hardcopy, softcopy).		hardcopy	
5. If information was not given, did public institution give a written/oral reason?			
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?			•
7. If information is not given within 30 days consider it a refusal.		info given	
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)		helpful	

Total Score: 7/9

3. Ministry of Energy

CATEGORY 1 - WEBSITE

URL address – <http://www.me.gov.mz>

This website was simply poor. It was outdated and nearly in the same state and with the same information as during the 2009 study. The welcome message was still the same that the Minister wrote in 2007 when the website was created. This was a poor website that failed to meet nearly all the requirements sought in this research.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?			•
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.			•
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs			•
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures		•	
g) The name, the address, the telephone number and the working hours of the respective institution?			•
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?			•

Total Score: 1/10

CATEGORY 2- WRITTEN REQUESTS

From this Ministry we wanted:

1. A copy of the Environmental Impact Assessment of the Mpanda Nkua Dam/Hydroelectric Generation Station that the Government intends to build.

Information Denied – Total Score: 0/9

4. State Shares Management Agency (IGEPE)

CATEGORY 1 - WEBSITE

The IGEPE did not have a website. Same as last year's evaluation.

Information Denied – Total Score: 0/10

CATEGORY 2- WRITTEN REQUESTS

A written request was sent to IGEPE;

1. Please provide us with information on the profits gained by the State for its shares on mCel in 2008 and 2009.

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?		written	
4. In what format was the information given, if given (hardcopy, softcopy).		hardcopy	
5. If information was not given, did public institution give a written/oral reason?		information given	
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?		•	
7. If information is not given within 30 days consider it a refusal.		given	
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)			helpful

Total Score: 9/9

5. CENTRAL OFFICE FOR THE FIGHT OF CORRUPTION

CATEGORY 1 - WEBSITE

The institution designated to fight corruption in the country had no website.

Information Denied – Total Score: 0/10

CATEGORY 2- WRITTEN REQUESTS

A written request was sent to the Central Office for Fight of Corruption seeking information on following;

1. Number of public servants/officials accused of corruption crimes in 2009.
2. Number of public servants/officials accused of corruption during the first quarter of 2010.

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?			•
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?		in writing	
4. In what format was the information given, if given (hardcopy, softcopy).		hardcopy	
5. If information was not given, did public institution give a written/oral reason?			
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?			•
7. If information is not given within 30 days consider it a refusal.		information given	
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)		helpful	

Total Score: 7/9

5. Bank of Mozambique (Central Bank)

CATEGORY 1 - WEBSITE

<http://www.bancomoc.mz/>

The Bank of Mozambique's website was very useful, as it contained almost all the information on what it does. For example, one can be informed on the exchange rates, markets, banks system, national system of payments, monetary policy of Mozambique, fiscal legislation as well as historical information about the Central Bank itself and the Mozambican currency, Metical.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts	•		
f) Vacancies and employment procedures	•		
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 8/10

CATEGORY 2- WRITTEN REQUESTS

A written request was sent to the Central Bank requesting;

1. Annual Report for Commercial Banks Supervision in 2009;
2. Information regarding the actual situation of Mercantile Bank of Mozambique.

Information Denied – Total Score: 0/9

6. Assembly of the Republic of Mozambique

CATEGORY 1 - WEBSITE

The Mozambican Parliament does not have a website, believe it or not.

Information Denied – Total Score: 0/10

CATEGORY 2- WRITTEN REQUESTS

A written request was sent to the Assembly of the Republic of Mozambique asking for:

1. Money spent by the Assembly of the Republic in the last legislature on buying cars for MPs;
2. Money spent by the Assembly of the Republic in the last legislature on medical care for MPs and their dependants.

Information Denied – Total Score: 0/9

7. National Prosecution Authority

CATEGORY 1 - WEBSITE

<http://www.bancomoc.mz/>

The National Prosecutions Authority spotted a good website, containing updated information and contacts of the Attorney-General and of the provincial public magistrates. Information on the powers and organizational structures was there, but not in a clear manner, as it could only be found in the relevant legislative pieces, listed in the website.

Information on budgets and expenditure, including procurement procedures was absent.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.		•	
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

We sent a written request to the National Prosecutions Authority, asking for:

1. Number of public prosecutors that have been fired in the last three years (2007-2009) for proven involvement in corruption.

Information Denied – Total Score: 0/9

RESEARCH CONCLUSIONS

Analyzing the findings of this study is a bit tricky. If a category of 'half open, half closed' institutions existed, at least six institutions would be named as such. But this study was not looking for lukewarm public institutions which were neither secretive, nor open. An organisation is either open or secretive, but not both.

This research was confronted with institutions which had no websites, but who responded expediently to all written questions and provided the information sought within the parameters of this research; these include the Central Office for the Fight of Corruption, State Shares Management Agency (IGEPE) and the Ministry of Fisheries. On the other side of the spectrum were institutions with very informative and current websites, but who failed dismally to answer to written requests or provide the information sought. These include the Bank of Mozambique, National Prosecution Office and the Mozambique Revenue Authority.

In its own league and breaking a record in secrecy and non-transparency was the Parliament, the Assembly of Mozambique, which neither had a website nor responded to written requests for information. Followed by the Ministry of Energy who failed to respond to written requests for information and whose website was so poor, outdated and utterly irrelevant that it would have been better if it didn't have one at all.

Once again, the research results show that Mozambique runs one of the most secretive Government and Public Institutions in southern Africa, making it almost impossible for citizens to know what their Government was upto. In comparison with Public Institutions in other SADC countries, Mozambican Government and Public Institutions are lagging far behind in terms of utilizing information technology for a better and efficient provision of information to its citizens. For instance all nine and eight institutions studied in Namibia, Zambia, Tanzania and Botswana respectively had functional websites.

It is simply unacceptable and deeply worrying for instance for the Central Office for the Fight of Corruption to operate without a website; a powerful tool for informing and interacting with citizens on how best to fight corruption. If it had a website, those public officials seeking to remain anonymous would whistle blow on corrupt officials and practices in public institutions, thus helping the office to investigate and potentially prosecute offenders more efficiently. If the Central Office for the Fight of Corruption is serious about fighting corruption using all platforms necessary, an interactive website would be the first place to start. The efficiency with which the office responded to written requests for information is commendable, yet their

failure to have a website has cast them in the half open, half closed category.

MOST SECRETIVE PUBLIC INSTITUTION IN MOZAMBIQUE

Without question, and most disturbing is that, the Assembly of the Republic of Mozambique is the most secretive and non transparent Institution in the country. It is difficult to take the Parliament of Mozambique seriously with this level of secrecy and inefficiency. The very nature of Parliament is transparency and openness, with a duty to facilitate the widest distribution and knowledge of laws it passes. What use is passing laws if citizens will never know of them, read, abide and exercise their rights? If not through information technology or the answering of citizen requests for information, how else does this highest policymaking institution plan to reach its citizens?

The secrecy of this Parliament is an embarrassment to the Mozambican nation and also poses serious danger to the citizens right to know the activities, operations and laws necessary for them to exercise their social economic rights which are dependant on access to this information.

The recipient of the Golden Padlock Award for the Most Secretive Public Institution is the Assembly of the Republic of Mozambique.

The runner up is the Ministry of Energy, whose absence of energy on its website and failure to answer the simplest request of providing the researcher a copy of the Environmental Impact Assessment of the Mpanda Nkua Dam/Hydroelectric Generation Station which Government intends to build. It is hard to understand how this Ministry operates if it can even fail to utilize a tool in its hands such as a website.

THE MOST OPEN PUBLIC INSTITUTION IN MOZAMBIQUE

Based on this research no one public institution in Mozambique can be deemed as open and transparent. However, several organisations showed signs of openness and are worth the mention.

Ministry of Fisheries, State Shares Management Agency (IGEPE), Central Office for the Fight of Corruption for responding to written requests within the parameters set in this research. Their failure to have websites affected them negatively.

The websites of the Mozambique Revenue Authority and Bank of Mozambique are worth the mention for their effort in providing current and relevant information, including procurement procedures. Information on budgets, signed contracts and expenditure would have gone a long way. Their failure to respond to written requests for information leans towards non-transparency. Internet penetration in Mozambique is the lowest in the region at 0.9% (200,000) as of March 2009 according to research by internetstats.com, this means that although their websites were good, they reached a negligible number of people.

RECOMMENDATION

The culture of secrecy prevails in public institutions and must be countered with an access to information regime. It is fair to recognize that the country's Constitution has a strong provision, but without a statutory legislation it is ineffective.



NAMIBIA

2010 REPORT ON THE MOST OPEN & SECRETIVE GOVERNMENT INSTITUTIONS IN NAMIBIA

A MISA Namibia Study, September 2010

Researcher: Anne Suess & Birbal Boniface Musoba

STATE OF ACCESS TO INFORMATION IN NAMIBIA

Namibia has no Access to Information law. The absence of such a law means that citizens cannot easily access information held by Government and Public Institutions. With no obligation to disclose information, Government operations remain a mystery and shrouded in secrecy.

At the 9th International Anti-Corruption Conference held in Durban, South Africa in 1999, Deputy Prosecutor General, L. H. Du Pisanni outlined a broad 'Anti-Corruption and Promotion of Ethics Initiative' that presented recommendations to Parliament, including "that an affirmative obligation be placed on Government as well as on other public institutions that operate on taxpayers money to disclose maximum information to citizens. A Freedom of Information Act should be passed and constitutionally safeguarded." These recommendations were carried forward in the form of the National Integrity Promotion Program (NIPP).

In the same year, the Office of the Prime Minister was directed to develop a Freedom of Information Bill, which 11 years later has yet to be delivered.

A draft Communication Policy of 2007 shows some renewed commitment, last seen by MISA in early 2008, the draft policy explicitly called for a law as well as a constitutional Right to Information. The draft has not been seen since.

RESEARCH METHODOLOGY

Between June and August 2010, MISA conducted a study to measure transparency and secrecy in Government and Public Institutions in Namibia. Nine institutions were measured against international best practice and Right to Information principles.

The research adopted the qualitative and quantitative methods of data collection. Written requests were sent to all selected institutions. The first category entailed assessing the websites for the selected Government and Public Institutions to find out which among them had the most useful, relevant information and well or poorly organised websites.

The second category entailed sending letters to request information from the selected Institutions seeking specific information.

DATA ANALYSIS

Under **category 1** (websites) [n = 10], a score of 0-4 represents absence of or poorly organized website; 5 – 6 represents a fairly organized website; and 7 – 10 represents a well organised website with most or all relevant information that is of interest to the public

In **category 2** (physical requests) [n = 9], a score of 0-4 in the evaluation criteria represents secrecy or access denied; 5 – 6 represents fair openness; and 7 – 9 represents openness. In addition, a response with requested information within 2 weeks constitutes openness whilst a response after 30 days or never constitutes a denial.

The Ministries and Public Institutions surveyed were;

1. The Ministry of Gender Equality and Child Welfare
2. The Ministry of Environment and Tourism
3. NAMFISA
4. The Ministry of Home Affairs and Immigration
5. The University of Namibia
6. The Anti-Corruption Commission
7. The Polytechnic of Namibia
8. The Ministry of Health and Social Services
9. The Ministry of Mines and Energy

SUMMARY OF FINDINGS

Although this study has revealed positive signs compared to the previous one, Namibia has a long way towards achieving openness and transparency in Government and Public Institutions. The current landscape for requesting public information feels like the futile attempt of shooting in the dark with near none chances of hitting the target. Without procedures of how the public can access information, silence is the tool being used to deny the public information as most written requests are literally ignored and go unanswered despite having officials designated to handle public information requests.

Secrecy still remains entrenched in Namibia's Government and Public Institutions.

Ironically, the Ministry of Health & Social Services has slipped from being the most open and winner of the 2009 Golden Key Award to among the most secretive in 2010 neither acknowledging receipt nor providing the information sought.

The failure by the Ministry of Health to respond to written requests yet again illustrates a deep-seated problem of secrecy than an isolated incidence as reasoned in 2009 research. Their website showed no sign of regular updating either.

Nothing has changed for the Ministry of Home Affairs the most secretive public institution in 2009. We had curbed expectations, but had hoped that lessons had been learnt and reflections made from receiving the negative padlock award in 2009, as it turns out bad habits are hard to shade.

KEY FINDINGS

- All nine Institutions surveyed had websites. Overall the websites were okay and contained some useful information, but most were not updated regularly and lacked critical information such as procurement procedures and elaborate description of the institution's powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.
- None of the website contained information on the Institutions' budgets and expenditure.
- The website for the Ministry of Gender Equality and Child welfare was the most poor and outdated, containing little or irrelevant information punctuated with spelling and grammatical errors.
- The Ministry of Mines and Energy website was the most informative scoring the highest at 8/10
- Secrecy still remains a problem although an improvement has been noted with four out of nine institutions responding to written information requests compared to none in the 2009 study.
- Silence was the main tool for refusal to give information.
- Only two institutions provided the information requested
- The most open and secretive Public Institutions in Namibia are named at the end of the report.

DETAILED FINDINGS

1. The Ministry of Environment and Tourism

CATEGORY 1 - WEBSITE

<http://www.met.gov.na>

The website was not bad, but was not good either. Updated information, if any, was not easily traced on <http://www.met.gov.na>. Furthermore, an elaborate description of the Ministry's powers as well as data on the organizational structure, the functions, and the responsibilities of the administration were missing. Budget and expenditure were not further explained while vacancies and employment procedures were not included. For a website promoting Namibia as a tourist destination, the site was unattractive and visually poor. For those who would like to ask questions electronically, only email addresses were provided, a direct response option did not exist. Although the website offered a clean overview, it lacked sufficient information and an attractive outer shell.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?			•
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.		•	
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts		•	
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?			•

Total Score: 4/10

CATEGORY 2- WRITTEN REQUESTS

Five questions were sent to the Ministry of Environment and Tourism seeking the following information:

1. The year 2010 is the International Year of Biodiversity, and the Ministry of Environment and Tourism is involved in staging activities to raise awareness regarding this topic. What measures are going to be put in place that will secure rising interest concerning the subject matter?
2. The World Cup fever 2010 has hit Namibia, and the tourism sector is positively affected, considering that the country will most likely benefit from the soccer event in South Africa. How is the Ministry going to ensure that international travelers will have a convenient voyage through Namibia, whilst the World Cup is taking place?
3. In August 2009, the Namibian Professional Hunting Association (NAPHA) had appealed to the Ministry of Environment and Tourism to suspend the issuing of Leopard and Cheetah trophy-hunting permits for 2010. However, a public follow-up has not yet been published. How is the Ministry responding to the ongoing appeal?
4. Already in 2006, Government declared it was going to spend N\$ 800 million on 31 priority development projects between April 2007 and March 2010. Seven of those priority projects belonged/ belong to the Ministry of Environment and Tourism. Please name these projects briefly and explain what they are about.
5. In March 2010, the people living in certain areas near Etosha National Park were complaining about elephants destroying their land and occasionally killing members of the community. What has been done thus far to address the concerns of these people?

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?		written response	
4. In what format was the information given, if given (hardcopy, softcopy).		soft copy	
5. If information was not given, did public institution give a written/oral reason?			•
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?			•
7. If information is not given within 30 days consider it a refusal.			
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)		helpful, yet inefficient	

Total Score: 6/9

2. The Ministry of Gender Equality and Child Welfare

CATEGORY 1 - WEBSITE

<http://www.mgecw.gov.na/>

The Ministry of Gender Equality and Child Welfare only scored 3/10 in the web research. Their website operated as a generally user-friendly, but grammatical error-driven page. Its focus was based on explanations and elaborations on various sectors of the Ministry. Furthermore, the website was outdated, and apart from sectors, the page only stated the functions of several programs within the Ministry. The URL lacked important information for the evaluation criteria such as the Acts and Laws, reports, budgets, as well as signed contracts.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?		•	
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;			•
c) Reports, policies, programs		•	
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?		•	
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 3/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Gender Equality and Child Welfare:

1. The MGECW held its annual planning workshop in February 2010. What are the main activities planned for this year?
2. Also, the workshop was held in line with the Ministry's Strategic Plan 2009- 2013. What are the main goals that are intended to be achieved by the end of 2013?
3. 2010 began with the implementation of a new cabinet in the Republic of Namibia. What new guidelines and policies have been introduced by honorable Minister Doreen Sioka to date?
4. A mammoth draft Bill on child care and protection was prepared in August 2009. When is it going to be put into practice by the Ministry of Gender Equality and Child Welfare?
5. Data, taken from various sources in Namibia (such as GTRP/ UNAM) indicate that gender work in Rural Northern Namibia is disaggregated at this point in time. Please explain briefly how a change could be made and how Namibia, in general, is striving towards a more gender-balanced society.

n = 9

	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?		partial written response	
4. In what format was the information given, if given (hardcopy, softcopy).		soft copy	
5. If information was not given, did public institution give a written/oral reason?			•
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?			•
7. If information is not given within 30 days consider it a refusal.			•
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)		helpful, inefficient	

Total Score: 6/9

3. MINISTRY OF HOME AFFAIRS AND IMMIGRATION

CATEGORY 1 - WEBSITE

<http://www.mha.gov.na/>

The Ministry of Home Affairs and Immigration did not provide sufficient information on their website. The list of Acts and Laws issued within the scope of its powers were lacking as much as reports, policies, programs, budget and expenditure. If the user was looking for information on procurements procedures or signed contracts on the website, they would have to contact the Ministry of Home Affairs and Immigration directly or via written request. But even contacting them physically might turn out to be more difficult than expected. At the time of the research, the Public Relations post had the name of an officer who had left the Ministry for quite some time.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?		●	
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	●		
b) A list of Acts, laws issued within the scope of its powers;			●
c) Reports, policies, programs		●	
d) Budget and expenditure			●
e) Information about the procurement procedures, signed contracts			●
f) Vacancies and employment procedures	●		
g) The name, the address, the telephone number and the working hours of the respective institution?	●		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	●		
i) Does the institution reply to electronic requests/ provide requested information electronically?			●

Total Score: 4/10

CATEGORY 2- WRITTEN REQUESTS

A written request was sent to the Ministry of Home Affairs and Immigration, seeking information on the following:

1. As the Ministry of Home Affairs announced in 2007, the automation of national documents, such as birth certificates, IDs and passports was going to be finalised during the course of this year (2010). We would like to ask, how far this vision has been realised?
2. Also, it was said that by the time of the introduction of these new electronic documents, they would all be linked to a secure satellite system for instantaneous reference. Can this objective be realised in Namibia?
3. Part of the reasoning for these new developments were the two soccer events in 2010 on African soil. (The African Nations Cup in Angola & The World Cup in South Africa). Will it be generally convenient for Namibians and foreigners to come and go into Namibia during the long and anticipated Cup? (Are travelling documents easily and quickly available?)
4. It was proclaimed in April 2009 that the Ministry of Home Affairs was planning to open additional border posts at the Omusati, Kunene, Kavango and Caprivi Regions to avoid increasingly illegal immigration in the region. How far is this development to date?
5. As revealed in February 2009, about 8000 refugees in Namibia, most of which are Angolans, would be affected as the UN High Commission for refugees moved to scale down its activities worldwide by 2010. The Ministry of Home Affairs was asked by the United Nations to assist in a resettling program for refugees. What measures have been taken to ensure that refugee matters are handled with enough care and humanity in the Republic?

Information denied – Total Score: 0/9

4. Namibia Financial Institutions Supervisory Agency (NAMFISA)

CATEGORY 1 - WEBSITE

<http://www.namfisa.com.na/>

NAMFISA scored 7/10 in the category which placed them rather high in this research. Not only did the website earn its points through the provision of relevant information, but also through their clean web appearance which made it easy for the user to receive a good overview. Budget and expenditure were not immediately found, which, for a financial institution was not optimal. Updated information only existed to a certain extent, latest dates back to 2009 and NAMFISA failed to provide names of the main officials as well as their contact details.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?		●	
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	●		
b) A list of Acts, laws issued within the scope of its powers;	●		
c) Reports, policies, programs	●		
d) Budget and expenditure		●	
e) Information about the procurement procedures, signed contracts	●		
f) Vacancies and employment procedures	●		
g) The name, the address, the telephone number and the working hours of the respective institution?	●		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?		●	
i) Does the institution reply to electronic requests/ provide requested information electronically?	●		

Total Score: 7/10

CATEGORY 2- WRITTEN REQUESTS

A written request was sent to Namibia Financial Institutions Supervisory Agency (NAMFISA), seeking information on the following:

1. Considering the Prowealth scandal, that NAMFISA is currently investigating on the public's behalf, how soon can findings of the forensic research be expected?
2. What measures have been taken to ensure, that an instance like the N\$ 49 million theft within Prowealth will not happen again?
3. How did the global financial crisis affect the local financial markets in Namibia?
4. Cabinet recently approved the Financial Institutions and Market Bill, which will replace the NAMFISA act and place all other Acts currently regulating the financial sector and administered by NAMFISA under one Act. How does NAMFISA intend to deal with this additional challenge?
5. On May 24 2010, NAMFISA raided FIS and left the public unaware of the reasons for this particular operation. Could you kindly elaborate?

Information denied – Total Score: 0/9

NAMFISA failed to respond to our written request for information. They did not elaborate on the Prowealth scandal, the global financial crisis nor any other topic.

NAMFISA regulates and supervises a broad range of institutions, which includes the pension and retirement Funds, long and short term Insurance, short-term Insurance, medical aid schemes, friendly societies, unit trust management schemes, the stock exchange, asset managers, participation bond schemes, public accountants' and auditors', micro lenders, and hire purchase outlets.

With such huge and broad scope of institutions under its control, NAMFISA owes the public information necessary in the exercise of their right to know in order make decisions on which institutions and schemes best suited them. Citizens have the right to know what mechanisms NAMFISA was putting in place to ensure that their investments were safe and protected against fraudulent service providers.

Furthermore, NAMFISA has a supervisory role to the Minister of Finance, therefore, citizens would want to know what suggestions are being made to improve the financial system in Namibia and the effects on tax, pension and medical aid. It is, therefore, essential for the public to be fully informed about the actions, events and procedures carried out by an organisation, which is so closely connected to the Ministry of finance.

5. The University of Namibia

CATEGORY 1 - WEBSITE

<http://www.unam.na/>

The University of Namibia's website contained a lot of sufficient information. Although the pages were crammed; information, options and pictures were available en masse. Though all types of information were accessible in one way or the other, UNAM's web appearance needed an urgent make-over into a more organised state. Furthermore, information on UNAM's annual budget, expenditure, signed contracts and procurement procedures was not available.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;		•	
c) Reports, policies, programs	•		
d) Budget and expenditure		•	
e) Information about the procurement procedures, signed contracts		•	
f) Vacancies and employment procedures	•		
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 7/10

CATEGORY 2- WRITTEN REQUESTS

A written request was sent to the University of Namibia, seeking information on the following:

1. At the beginning of this year, UNAM implemented an Academic English course for Post- Grad Students that caused discontent among scholars due to additional finances. What has been done to accommodate affected scholars?
2. Also, the beginning of 2010 marked the official start for the Faculty of Medicine. When will the public be informed about developments within the Faculty?
3. 2010 is the year of great investments in the educational sector of Namibia. Altogether, UNAM receives approximately. N\$ 147 million for new developments within the institution. We would like to know, which parts of the institution are going to be renovated, renewed or improved with the amount?
4. Recently, the Government transferred the Colleges of Education to the University of Namibia. Many people failed to understand this move, does the public actually benefit from it?
5. President Hifikepunye Pohamba declared "Kalimbeza" a national project. UNAM is broadly involved in the fight against hunger and poverty, the main obstacles "Kalimbeza" is attempting to overcome. What is the overall involvement of students in this project?

Information denied – Total Score: 0/9

Regrettably, the University of Namibia did not respond to written requests for information. And although the institution is equipped with a Public Relations department as well various positions created for the public flow of information, they failed even to acknowledge receipt of request for information. For a learning institution at this level, UNAM sets a bad example towards openness and transparency, which one would expect to be a core value being passed to its students.

The University of Namibia is one of the key institutions in the country and, therefore, has an obligation to not only offer information by request but also proactively disclose it. This is particularly important, considering that the University still needs development to continue as a leading national institution and as a major contributor to the 2030 Vision.

The University's services, expertise, skills, scholarly leadership, and facilities, need to be made accessible in as many ways as possible either; electronically or in hard copy. All of the above is only possible for the University of Namibia, if the public is aware of plans of action and programs, publicised through proactive and voluntary disclosure

6. The Anti-Corruption Commission

CATEGORY 1 - WEBSITE

www.accnamibia.org

The ACC's website was current and informative including information specific to the ACC's mission and provided useful, updated and adequate information on the Commission and its operations. The site's information was expressed in simple and clear grammar that, in addition to the site's numerous navigation tools which included a quick search tool and scroll menus, exemplified the site's user-friendliness. However, the site lacked information on the Commission's budget and expenditure, information about the procurement procedures, signed contracts, vacancies and employment procedures.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 7/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Anti-Corruption Commission;

1. How many cases of alleged corruption in public institutions has the Commission investigated between January 2010 and May 2010?
2. How do those figures compare with the figures from last year during the same time period, that is between January 2009 and May 2010?
3. How many cases did the Commission investigate in 2009 and of those investigated how many cases resulted in convictions?
4. In the absence of Whistleblowers legislation, how does the Commission ensure against the victimisation of whistleblowers?
5. What step is the commission taking in order to advocate for transparency in the decision-making processes in order to curb corruption?

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?		written response	
4. In what format was the information given, if given (hardcopy, softcopy).		hard copy	
5. If information was not given, did public institution give a written/oral reason?			
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?		•	
7. If information is not given within 30 days consider it a refusal.			
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)		helpful	

Total Score: 9/9

Based on its exceptional website and the urgency with which they responded to the researcher's request for information, the ACC not only exemplifies the qualities of an open public institution but is also among the most open public institutions in this year's research. The ACC not only provided the researcher with the requested information but gave extra information through reading materials. Also worth noting is that the request was handled at the highest level of the organisation attaching the importance to the request and its role in providing timely and accurate information to the public. This information was not only about the ACC's activities but also on how the average Namibian citizen could help in the fight against corruption.

7. The Ministry of Health & Social Services

CATEGORY 1 - WEBSITE

<http://www.healthnet.org.na>

The MHSS's website was neither updated nor did it include recent articles and press releases that could provide useful, relevant and adequate information on the Ministry and its operations. It is worthy noting though that the information on the site was expressed in simple and clear grammar that, in addition to the site's navigation tools such as a quick search tool and scroll menus, showed the site's user-friendliness. The website failed to provide information on the Ministries budget and expenditure or information about the procurement procedures and signed contracts so as to show the areas in which the Ministry was placing much effort.

However, the site did provide information on vacancies and employment procedures.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?			•
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;		•	
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures	•		
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Health and Social Services by the researcher under the capacity of MISA Regional Secretariat:

1. How much money did the Ministry of Health spend on ARVs between 2008 and 2009?
2. How many people are on the state ARV programme by gender and age group as of May 2010?
3. How much money has the Ministry set aside for the prevention of disability as is mandated in its objectives?
4. Of this amount, what is the percentage that will be allocated to the Hardap Region?
5. Following the Ministry's mandate to setup rehabilitation facilities across the country, what facilities has the Ministry built in the Hardap Region between January 2008 and December 2009?

Information denied – Total Score: 0/9

The MHSS easily qualifies as one of the most secretive public institutions in this year's research because, coupled with its poor website, it failed to respond to the researcher's request for information.

8. The Ministry of Mines & Energy

CATEGORY 1 - WEBSITE

<http://www.mme.gov.na>

Notching up a high score of 8/10, the MME had one of the preeminent websites among the researched Public Institutions that were. This was because, even though the website did not contain updated information in form of up-to-date articles and press releases that could have provided useful, relevant and adequate information on the Ministry and its operations, the site contained all the relevant information on reports, policies, programs, vacancies, and information about the procurement procedures. The site's various navigation tools such as a quick search tool and help tools like the site's map made it very user friendly, and the wealth of information provided ample reason for a return visit to the site.

However, the website fell short of attaining a perfect score because, and in part because of the lack of current information, the site did not provide information on the Ministry's budget and expenditure so as to highlight the areas in which the Ministry was spending the exorbitant returns it accumulates.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?		●	
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	●		
b) A list of Acts, laws issued within the scope of its powers;	●		
c) Reports, policies, programs	●		
d) Budget and expenditure			●
e) Information about the procurement procedures, signed contracts	●		
f) Vacancies and employment procedures	●		
g) The name, the address, the telephone number and the working hours of the respective institution?	●		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	●		
i) Does the institution reply to electronic requests/ provide requested information electronically?	●		

Total Score: 8/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Mines and Energy by the capacity of MISA Regional Secretariat:

1. What criteria does the Ministry use in issuing licenses for mineral exploration?
2. To what extent are tenders for mineral exploration advertised to ensure that citizens have an equal opportunity to bid?
3. How does the Ministry specifically redress inequalities in provision of energy supplies so as to ensure that all households have access to affordable and appropriate energy supplies, especially in light of the ever increasing electricity bills?

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?		written response	
4. In what format was the information given, if given (hardcopy, softcopy).		hard copy	
5. If information was not given, did public institution give a written/oral reason?			
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?			•
7. If information is not given within 30 days consider it a refusal.			
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)			helpful

Total Score: 9/9

9. The Polytechnic of Namibia

CATEGORY 1 - WEBSITE

<http://www.polytechnic.edu.na>

The Polytechnic of Namibia achieved a high score of 8/10, ensuring that its website was also one of the most preeminent sites among the researched Public Institutions. The website contained updated information in form of up-to-date articles and press releases that provided useful, relevant and adequate information on the Institution and its operations. It had all the relevant information on reports, policies, programs, vacancies, and information about procurement procedures. Furthermore, the site's various navigation tools such as drop down menus and a quick search tool and help tools like the site's map, enabled the site to be deemed user friendly, and the wealth of information provided ample reason for a return visit to the site. However, just like all Institutions, Polytech's website fell short of attaining a perfect score because the site did not provide information on the Institution's budget and expenditure. This information is important for such a Public Institution because it shows where the money is coming from and going to.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;			•
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts	•		
f) Vacancies and employment procedures	•		
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 8/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Polytechnic of Namibia by the researcher under the researcher's own capacity as a student:

1. Is the Institution taking any steps to implement the nonexistent gender policy?
2. How many applications for enrolment of study into the Institution did it receive for the academic year starting 2010?
3. Of the accepted applications, what was the gender breakdown?
4. Of the students that graduated in 2008, what percentages, for both males and females, have found employment?

Note: only responded to Questions 2 & 3

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		●	
2. How long did it take for institutions to provide you with information?	●		
3. Did the institution respond orally or in writing to information requests?		in writing, but on partial responses	
4. In what format was the information given, if given (hardcopy, softcopy).		soft copy	
5. If information was not given, did public institution give a written/oral reason?			
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?			●
7. If information is not given within 30 days consider it a refusal.			
8. Did institution ask for reason why information is being sought?		●	
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)		helpful but inefficient	

Total Score: 5/9

RESEARCH CONCLUSIONS

Whether it is secrecy or a question of ineffectiveness on the part of officials designated to provide the public with information is not known as many requests largely went unanswered. What is clear is that the public is not receiving the information they seek either through proactive disclosure or written requests. Silence is by far the biggest tool being used to deny the public information. When information is denied through silence the requester is left to guess why information is being denied. If the reason is not secrecy, but sloppy and ineffective officials then the latter should be brought to book. This also applies for officials designated to manage and update websites. While the power of modern information technology can never be emphasized as a tool for the provision of public information, technologies in themselves are useless without their effective application. A website which contains irrelevant and outdated information is as good as not having any at all. We urge institutions who are deemed secretive in this

research to make an internal audit if the reasons for non provision of information is not secrecy but inefficiency. The public deserves a better service from those paid through their taxes.

OPEN INSTITUTIONS IN 2010

Two institutions met and exceeded the requirements sought in this research to be deemed as open and transparent. Their websites were informative, updated, user friendly and met most of the standards sought in this research. Both institutions responded expediently and provided all information sought from them. This is a big step towards openness in Namibian Public and Government Institutions and a significant leap from the previous study in which all institutions surveyed failed to respond to information requested.

SECRETIVE PUBLIC INSTITUTIONS

The Ministry of Home Affairs and Immigration embodies state secrecy, lack of transparency and inefficiency opting to operate in utter darkness. For a Ministry at the core of citizens accessing their social economic and political rights, the Ministry of Home Affairs need restructuring.

We repeat our argument from the previous study that getting a job, a bank account, a school-place even a burial requires identification documents. Responsible with the issuance of critical identity and citizenship documents among them birth certificates, identity cards and passports, Home Affairs plays a central role in Namibian public life.

Noting the importance of identity cards, this public institution owes Namibian citizens an efficient and hassle free system to facilitate the acquiring of these critical documents with minimal disadvantage or hindrance in the enjoyment of other social and economic rights that are dependent on possession of these documents. As such the efficient provision of information by this Public Institution becomes critical.

Information on the operations and procedures of getting identification should be readily available to any citizen without having to physically go to Home Affairs to queue up for basic information and application forms. There is no reason why application forms should not be readily available including downloadable on the Internet. Progress on applications should be communicable using information technology like Short Message Service (sms), email or Internet. Instead, what we have, is a public institution which fails to utilise even its own information tools like its website and other public platforms to serve the public.

The biggest regret for this research is to witness the slip of the Ministry of Health & Social services from being most open in 2009, to being most secretive in 2010. It should be noted that the Ministry of Health was declared open, based on a website which had sufficient information and thus showing a sign of openness. When the Ministry did not respond to the written request, the research read it as perhaps an isolated incidence. Three months later we received a complaint from an institution contesting the openness award after the Ministry failed repeatedly to acknowledge or respond to their requests.

In this research, the Ministry yet again failed to acknowledge or respond to our requests for information.

The Ministry of Home Affairs is the recipient of the 2010 Golden Padlock Awards for the most secretive public institution. They share the award with the Ministry of Health & Social Services.

MOST OPEN PUBLIC INSTITUTIONS

The open institutions for 2010 and receivers of the Golden Key Awards are;

The Ministry of Mines and Energy and
The Anti Corruption Commission

Both Institutions play a critical role in the development and management of Namibia's economic resources and thereby improving the social economic standards of citizens as envisioned in the 2030 vision. These Institutions could do more in expanding spaces for citizens to be informed through proactive disclosure of its programs. This way the public can participate, question and support the process of policy making and implementation.

RECOMMENDATIONS

The Draft Media Policy of 2007 which calls for an access to information law should be finalized. Furthermore, Namibia needs an Access to Information law to facilitate the provision of Government held information to citizens.



SWAZILAND

2010 REPORT ON THE MOST OPEN & SECRETIVE
GOVERNMENT INSTITUTIONS IN SWAZILAND

A MISA Swaziland Study, September 2010
Researcher: **Michael Motsa & Mabuza Sonto**

EXECUTIVE SUMMARY

This research report presents the findings of a month-long survey of the Most Open and Secretive Government and Public Institutions in Swaziland. The aim of the study was to assess the level of transparency in Government and Public Institutions in as far as the public's right to access information held by Public Institutions is concerned. The study was a follow up to a similar one conducted by MISA Swaziland in September 2009.

The Right to Know or Freedom of Information (FOI) is a fundamental human right which is vital for both citizens and the media.

Article 19 of the Universal Declaration of Human Rights states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

The African Chapter on Human and Peoples Rights also affirms this right. Article 9 of the Chapter states: "Every individual shall have the right to receive information ..."

The Right to Know actually underpins all other human rights. For example, the Freedom of Expression and Thought inherently relies on the availability of adequate information to make informed opinions. Likewise, the realisation of the right to personal safety also requires that people have sufficient information to protect themselves.

The Right to Know holds within it the rights to seek information, as well as the duty to give information away, to store, organise and make it available, and to withhold it only when it is proven to be in the best of public's interest. Therefore, the practice of routinely withholding information from the public creates 'subject' rather than 'citizens' and is 'a violation of peoples' rights.'¹

In Swaziland, the National Constitution guarantees and protects the Right to Know. Article 24 (2) (b) states that a person has the "freedom to receive ideas and information without interference."

1. INTRODUCTION

This is a study on Access to Information in Swaziland. It is concerned with the level of transparency in Government and Public Institutions. A previous study by MISA Swaziland revealed that the Swaziland Government was one of the most secretive in Africa with a very low level of transparency in as far as the public's right to accessing information in the hands of Government and Public Institutions is concerned. Anecdotal evidence suggests this situation has not changed since the last survey by MISA Swaziland in 2009. This study, therefore, sought to investigate the current level of transparency in Government and Public Institutions since September 2009.

1.2 BACKGROUND OF STUDY

Swaziland's National Constitution guarantees and protects the right to information. Section 24 (2) (b) under Protection of Freedom of Expression, states that a person has a right to receive ideas and information without interference.

As a generic rule, the duty to enable access to information rests with Government and Public Institution and encompasses two key aspects: enabling citizens to access information upon requests; and proactively disseminating important information.

1.3 PROBLEM STATEMENT

Though Swaziland's Constitution guarantees and protects the right to information, the country does not have an Access to Information Legislation, resulting in a situation in which Government and Public Institutions are under no obligation to disclose any information they hold. Instead, the Official Secrets Act of 1961 makes it difficult for the citizens and the media to access information held by Government and Public Institutions.

Furthermore, there are no formal procedures for accessing information nor are there mechanisms in place to appeal against any Governmental decision not to disclose information. However, an attempt by Government to introduce a Freedom of Information (FOI) Bill in 2007 stalled for unexplained reasons.

¹ Looking for the Right to Information in the Commonwealth – A report of the Advisory Commission of the Commonwealth Human Rights Initiative – Chris's 2003 Report

1.4 AIM OF STUDY

The main intention of the study was to assess the level of transparency in Government and Public Institutions so as to inform and strengthen advocacy campaign activities by pressure groups such as MISA Swaziland in advocating for the enactment of the Freedom of Information Legislation in Swaziland and a repeal of all Laws impacting on the public's right to access information so as to ensure improved access to information by members of the public, particularly information held by Government and other Public Institutions.

1.5 OBJECTIVES OF STUDY

- To assess the level of transparency in Government and Public Institutions.
- To determine the level of compliance with the provisions of the National Constitution by Government and Public Institutions in as far as the public's right to information is concerned.
- To inform advocacy activities by MISA Swaziland around the campaign for the enactment of the Freedom of Information (FOI) Act by Government and the Parliament of Swaziland.
- To recommend the implementation of strategies that will help improve the level of transparency in Government.

1.6 RESEARCH QUESTIONS

- What is the level of transparency in Government and Public Institutions since September 2009?
- What is the level of compliance with Section 24 (2) of the Constitution of Swaziland by Government and Public Institutions?
- Do Government and Public Institutions have websites and, if so, how efficient and user friendly are they?

1.7 SIGNIFICANCE OF STUDY

The findings of this study have the potential to help inform future strategies of advocating for the enactment of the Freedom of Information (FOI) Act that will ensure improved transparency in Government and Public Institutions as well as improved access to information by members of the public. The study will also help inform future studies in the area of access to information as well as contribute to the general body of knowledge in this field.

1.8 LIMITATIONS OF STUDY

- The research was limited to three Government Ministries and two Public Institutions. A broader sampling to include more Ministries and Public Institutions would better reflect the national profile.
- The research period of four weeks was not enough to expand the study to include more Government Ministries and Public Institutions. However, all organisations were given enough time to respond to written requests.

2. RESEARCH METHODOLOGY

2.2 THE RESEARCH DESIGN

The study adopted both the qualitative and quantitative data collection methods. For the qualitative analysis, the Government and Public Institutions being surveyed were asked to respond to formal and written requests for information which were sent to them. A response with requested information within 2 weeks constituted openness whilst a response after 30 days or never constituted a denial.

The quantitative analysis entailed assessing the websites of the Government and Public Institutions being surveyed against a set of standards and rating each website on a scale of 0 – 10. A rating of 0-4 represented absence of or poorly organized and inefficient website whilst 5-6 represented a fairly organized website and 7-9 represented a well-organised and efficient website featuring most or all relevant information that is of interest to the public.

2.3 SAMPLE POPULATION

The following were Government Ministries and Public Institutions assessed:

- The Ministry of Education and Training
- Ministry of Agriculture
- Deputy Prime Minister's Office
- National Emergency Response on HIV/AIDS (NERCHA)
- Swaziland Electricity Company

These Ministries and Public Institutions were randomly picked, but particular attention was paid on the relevancy and the nature of information they hold.

In addition, the researchers assessed the websites of these institutions to establish the nature and relevancy of the information stored in their websites.

2.4 DATA COLLECTION AND SAMPLING PROCEDURE

The study was carried out between 9th July 2010 and 9th August 2010. It was categorized into two. Using clearly defined evaluation criteria, the first category (Category 1) entailed assessing the websites for the chosen Government Ministries and Public Institutions to establish which among them had the most or least efficiently organised provision of public information.

Category 2, entailed sending physical requests (letters and questionnaires) for information to the same Ministries and Public Institutions seeking specific information.

Under category 1 (websites) [n = 10], a score of 0-4 represents absence of or poorly organized website; 5-6 represents a fairly organized website; and 7-10 represents a well organized website with most or all relevant information that is of interest to the public.

In category 2 (physical requests) [n =9], a score of 0-4 in the evaluation criteria represents secrecy or access denied; 5-6 represents fair openness; and 7-9 represents openness.

SUMMARY OF FINDINGS

WEBSITES (CATEGORY 1)

- All the Government and Public Institutions surveyed had websites. Only one Public Institutions had updated information, well designed website and user-friendly, that is the Swaziland Electricity Company. Their budget and expenditure was not outlined in their website though.
- All the other websites had common characteristics: user-unfriendly, no updates, poorly designed, contained very shallow information that was irrelevant and almost useless to website viewers.
- The Ministry of Agriculture's webpage not only had little information but was the most outdated and non informative.
- None of the websites surveyed contained information on the Ministries or Parastatal's annual budget, expenditure, procurement procedures or employment procedures.
- The Deputy Prime Minister's Office was the most strict and reluctant Ministry to accept the physical requests letter and requested full details of the deliverer, time of delivery and reasons for seeking information.

- The Swaziland Electricity Company, some hours after receiving the letter, called and requested to know why the question were asked even though that was explained in the letter submitted, they promised to bring answers as soon as possible and never did.
- The Ministry of Education and Training's website contained 'irrelevant information' and did not have any information on issues such as the newly introduced Free Primary Education, neither is free Primary Education Act stated. Furthermore, the Government recently approved Education Policy, which was also not mentioned. Most amazingly was that there was no information that informed the public on the budget, expenditure and the difficulties faced by the Ministry on the issue of Free Primary Education
- The Deputy Prime Minister's website was the worst of all the Ministries and Institutions that had very shallow information, having a few paragraphs that had no trace of any contacts or addresses.

WRITTEN REQUESTS-(CATEGORY 2) ACCESS DENIED

- None of all the Government and Public Institution surveyed responded to written requests for information. The Swaziland Electricity Company only called and inquired why information was inquired and what criterion was used to ask the questions.
- None of all these organisation can be considered as being transparent because of their failure to respond to written request. None bothered to call and inquire besides the Swaziland Electricity Company which also ended up not responding.
- The National Emergency Response Counsel on HIV/AIDS (NERCHA) responded to electronic request saying they had an info-centre to which they referred all those who want information on HIV/AIDS and other information needed one needs to make an appointment and discuss the issues.
- Other Institutions did not respond to electronic messages while some did not have email addresses on their website.
- None of the Government and Public Institution scored above average of the criteria used in this research.
- After 30 days none of all these institutions had answered any questions.
- The most open and secretive institutions are named at the end of this report.

DETAILED FINDINGS

1. Ministry of Education and Training

CATEGORY 1 - WEBSITE

<http://www.gov.sz/home.asp?pid=57>.

The Ministry's webpage was found under the Government main website under the following URL address: <http://www.gov.sz/home.asp?pid=57>.

Most of the information contained in the Ministry's website was completely outdated. For instance the link to **'Questions and Answers from Parliament'** leads to questions and answers from MPs in the last Parliament (2005 – 2008). There are no questions and answers from the current Parliament (2008 – 2013)

Amongst its pages, the website also has a link to the Ministry's support programmes. But clicking on the link reveals an empty page. This means the Ministry's programmes are not featured.

The website also had a link to the Ministry's reports. Whilst this may appear to be well and good, the reports were outdated. For instance, the Performance Report featured in the page is for the 2003 – 2004 financial year, which means the report is six years old. This means that for anyone looking for the latest performance report of the Ministry, the website was unhelpful.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?			•
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.		•	
b) A list of Acts, laws issued within the scope of its powers;			•
c) Reports, policies, programs		•	
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?		•	
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?			•

Total Score: 1/10

CATEGORY 2- WRITTEN REQUESTS

The following information request was sent to the Ministry of Education and Training on 9 July 2010:

1. I read the newspaper that Government recently approved the education policy. To assist me in my study research, can I kindly request a copy of the policy?
2. After tertiary education, students who were given scholarships have to pay back the Government money. How does the Ministry ensure that all those awarded the scholarships, including those working outside the country, do pay back as expected?
3. Most school head-teachers complain that they have not been given tuition fees for pupils under the newly-introduced free primary education system. Those who have received the money have only received half of what they expected. What is the ministry doing to overcome this problem?
4. What is the ministry doing to ensure future of the OVCs?
5. What is the budget of the Ministry on Free Primary Education?
6. To further inform my research, I kindly request a copy of the Free Primary Education Act.
7. How much has the Ministry spent on buying and transporting mobile houses for schools?

The following were the findings on the information requested from the Ministry:

Total Score: 0/9

2. Ministry of Agriculture

CATEGORY 1 - WEBSITE

<http://www.gov.sz/home.asp?pid=55>

Like the Ministry of Education, the Ministry of Agriculture also had a webpage under the main Government website: <http://www.gov.sz/home.asp?pid=55>. This website was also unhelpful as it contained outdated information. For instance, the home page which sought to give a snap overview of agriculture in Swaziland had outdated information. The article that sought to give a background of agriculture in Swaziland was based on a 2003 report. Surely, the country's agricultural sector has improved since then but the site was not helpful in this regard.

In addition, the link to the Ministry's projects being implemented leads to projects carried out 10 years ago – that is projects implemented in the 2000 – 2001 financial year. Again, this is a sign that the Ministry's website is unhelpful.

The following is how the Ministry of Agriculture's website rated overall:

n = 10	Yes	Not quite	No
1. Does the website contain updated information?			●
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.		●	
b) A list of Acts, laws issued within the scope of its powers;			●
c) Reports, policies, programs			●
d) Budget and expenditure			●
e) Information about the procurement procedures, signed contracts			●
f) Vacancies and employment procedures			●
g) The name, the address, the telephone number and the working hours of the respective institution?		●	
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?		●	
i) Does the institution reply to electronic requests/ provide requested information electronically?			●

Total Score: 0/10

CATEGORY 2- WRITTEN REQUESTS

The following information request was sent to the Ministry of Agriculture on 9 July 2010:

1. How many people rely on food support in Swaziland?
2. How many tones of maize does Swaziland import compared to what we produce?
3. If low, what is the strategy used to assist farmers to improve crop production?
4. On your annual budget, how much money is spent helping HIV positive people in trying to improve their diet?
5. Of the donated bags of food into the country, how many reach the public, and how do you ensure that the food reaches the right people and is distributed to all communities?

Total Score: 0/9

3. Deputy Prime Minister's Office

CATEGORY 1 - WEBSITE

<http://www.gov.sz/home.asp?pid=5060>.

Like all Government Ministries, the DPM's office had a webpage under the Government's main website: <http://www.gov.sz/home.asp?pid=5060>. This was the worst webpage of the Government Ministries. The DPM's office website had only three links – About Us; Departments and News. These links led to very basic information which was largely unhelpful to any site visitor.

The following were the findings on the DPM's office's webpage:

n = 10	Yes	Not quite	No
1. Does the website contain updated information?			•
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.			•
b) A list of Acts, laws issued within the scope of its powers;			•
c) Reports, policies, programs			•
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?		•	
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?		•	
i) Does the institution reply to electronic requests/ provide requested information electronically?			•

Total Score: 0/10

CATEGORY 2- WRITTEN REQUESTS

The following information request was sent to the Deputy Prime Minister's Office on 9 July 2010:

1. The Orphaned and Vulnerable Children are faced with difficulties and problems of hunger, poverty and abuse by relatives and community members. What is this Ministry doing to try and solve this problem?
2. How many children have reported abused by their relatives and forced out of school this year?
3. How much money in your budget is aimed specifically for the Orphaned and Vulnerable Children?
4. Can the Orphaned and Vulnerable Children approach the office directly if they need help?
5. How much money has been spent on the issue of human trafficking this year?

Total Score: 0/9

4. National Emergency Response Council on HIVAIDS (NERCHA)

CATEGORY 1 - WEBSITE

<http://www.nercha.org.sz/>

NERCHA is a Government institution established to lead the national response to HIV/AIDS. The organisation had its own website. The site was largely informative and up-to-date though the recently produced National Strategic Framework for HIV/AIDS for 2009 – 2014 has still not been featured in the site. But overall, the site looked attractive, was user-friendly and had information which could help many researchers including periodic reports on the national response to HIV/AIDS.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?		•	
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;			•
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?		•	
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?		•	
i) Does the institution reply to electronic requests/ provide requested information electronically?		•	

Total Score: 2/10

CATEGORY 2- WRITTEN REQUESTS

The following information request was sent to NERCHA on 9 July 2010:

1. Swaziland is one of the countries with the highest rate of HIV /AIDS infection. How many people are on ARVs in Swaziland?
2. What are the main objectives of this organization and how has it affected the growth of HIV positive people?
3. There are many adverts on traditional doctors or faith healers who claim to cure HIV/ AIDS when it is a well-known fact that medicinally there is still no cure for HIV/AIDS, what has the organization done to deal with this problem?
4. Does NERCHA involve herself in the education of the orphaned vulnerable children?
5. What is NERCHAs' annual budget?

Total Score: 0/9

5. Swaziland Electricity Company

CATEGORY 1 - WEBSITE

<http://www.sec.co.sz/>

The Swaziland Electricity Company (SEC) is a Government parastatal generating power for the country. The company had its own website whose address was: <http://www.sec.co.sz/>

Like the NERCHA website, the SEC site looked quite attractive and was user friendly. The information contained was also up to date. For instance, the site contained the contact details of its newly-employed Corporate Communications Manager, Sifiso Dhlamini.

The following was an analysis of the company's website:

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;			
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?		•	

Total Score: 7/10

CATEGORY 2- WRITTEN REQUESTS

The following information request was sent to Swaziland Electricity Company on 9 July 2010:

1. The company had recently announced power shortage in the country which is also the case in South Africa, what is the update on power shortage in the country?
2. The company has introduced prepaid meter reading electricity, what is the geographic coverage that has been covered by the project up to far?
3. Has this prepaid meter reading electricity played a role in trying to stabilize power shortage in the country? If so at what rate has it reduced power shortage?
4. What is SECS' annual budget?
5. Some customers believe this prepaid meter electricity is expensive because of the E55.00 paid every month excluding the units you will buy. What is this money for and will there ever be an end to it?

Total Score: 0/9

RESEARCH CONCLUSIONS

Swaziland runs the most secretive Government and Public Institutions in Southern Africa after Lesotho. The study has further shown that the secretive nature of the Government of Swaziland underlines the urgent need of a Freedom of Information Act to enable citizens to access information held by Government and Public Institutions.

Nothing has changed from the 2009 study. Secrecy is the status quo, which even extends to public institutions such as NERCHA and the Swaziland Electricity Company.

For an organisation responsible for managing and responding to the HIV/AIDS pandemic, a disease that has ravaged this country, NERCHA is one of the biggest disappointments in this study. Their website was far from informative, nor was it a one stop shop for all information regarding HIV/AIDS as one would expect. In addition, the idea that one needed an appointment to seek and get information was outright bizarre and disturbing.

Having a website is a good start, but the real test is the relevancy and currency of the information provided on a website. Most Institutions surveyed had information on their websites that was irrelevant and non informative, at best.

The website of the Ministry of Education was as good as not being there, lacking all necessary information including its new critical policy on Free Primary Education. The Government recently approved a policy on Education in Swaziland but such information was also not available.

The Deputy Prime Minister's Office set its own standard of secrecy, where a request was treated as if an offence. The amount of detail needed from the requester was at the level required when police are taking crime details. Before reading what was entailed in the letter; they wanted full details of the person who delivered the letter and why the information was being sought.

The above situation testifies the urgent need in Swaziland for Access to Information Legislation, so that the impunity with which public officials deal with information requests could be checked.

MOST SECRETIVE PUBLIC INSTITUTION IN SWAZILAND

Although all Institutions proved secretive beyond reasonable doubt, the Deputy Prime Minister's office was unmatched as the most secretive of all, spotting a skeleton of a website

with irrelevant information and failing to respond to the written request, in fact it nearly refused to accept the request.

This study discovered that all institutions share the same characteristic of depriving the citizens of Swaziland their right to information.

The Deputy Prime Minister's Office and the Ministry of Agriculture are the recipients of the 2010 Golden Padlock Award of the Most Secretive Public Institution in Swaziland. Following closely is the Ministry of Education.

The most secretive institution for 2009 was the Ministry of Health and Social Welfare.

THE MOST OPEN PUBLIC INSTITUTION IN SWAZILAND

The study has shown that there is no Government and Public Institution in Swaziland that is open, transparent and has an adequately informative website.

However, recognition is due to institutions who are effectively utilising ICTs for better provision of information to the public.

The eGovernance Award for 2010 goes to the Swaziland Electricity Company. We hope with this award, SEC will improve its website to include missing information on budgets and expenditure.

RECOMMENDATIONS

1. There is an urgent need for Swazis to be taught about their constitutional Right to Know.
2. There must be a law written that will ensure that all public institutions release information to the public accordingly
3. There is a need to conduct a more comprehensive study on Freedom of Information in Swaziland.

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TANZANIA

2010 REPORT ON THE MOST OPEN & SECRETIVE GOVERNMENT INSTITUTIONS IN TANZANIA

A MISA Tanzania Study, September 2010
Researcher: Marko Gideon

BACKGROUND

Article 18 of The Constitution of The United Republic of Tanzania grants its people freedom of expression and the right to be informed. Sub Article (1) states that "every person has the right to freedom of opinion and expression, and to seek, receive and impart or disseminate information and ideas through any media regardless of national frontiers and also has the right of freedom from interference with his communications". Sub Article (1A), states that this right shall include (a) freedom of the press and all other media (b) freedom of artistic creativity, and (c) academic freedom and freedom of scientific research.

Despite this Constitutional guarantee, the Government is yet to pass the proposed Right to Information Bill 2007, which is expected to provide for Access to Information for citizens.

The absence of a legal basis for Access to Information makes it difficult for citizens and the media to retrieve information. Furthermore, it is rather problematic for citizens and the media to challenge decisions to withhold information, but instead encourages a culture of secrecy to persist.

Between June and August 2010, MISA-Tanzania conducted a study to measure transparency and secrecy in Government and Public Institutions in Tanzania. Eight Institutions were measured against international best practice and Right to Information principles.

The Ministries and Public Institutions surveyed were;

- Public Service Management
- Ministry of Education and Vocational Training
- Tanzania Revenue Authority
- Ministry of Lands, Housing and Human Settlement
- National Examination Council
- National Social Security Fund
- Parliament of the United Republic of Tanzania
- Ministry of Water and Irrigation

containing information which all other websites missed: procurement procedures, signed contracts (including amount of money spent in each signed contract).

- None of the eight websites contained information on their annual budgets and expenditures.

WRITTEN REQUESTS – (CATEGORY 2)

- Seven of the eight Government and Public Institutions surveyed did not respond to our request for information.
- The Department of Public Service Management at the President's Office responded in writing through a fax and mail within the accepted time frame.
- The Department answered to all five questions, giving clear data and statistics requested. Only the question of salary of the Minister responsible for Public Service Management was vaguely referred to. ("The issue of salary is an agreement between employer and employee".)
- The winner of the 2009 openness award, the Tanzania Revenue Authority, did not respond to the questions nor acknowledge in writing receipt of our request.
- The most open and secretive Public Institutions in Tanzania are named at the end of this report.

SUMMARY OF FINDINGS

WEBSITES (CATEGORY 1)

- All Government and Public Institutions surveyed had websites.
- All had updated, user-friendly websites, containing a wide and useful range of information relevant to the public.
- The best websites were those of the Ministry of Water and Irrigation and the Tanzania Revenue Authority,

DETAILED FINDINGS

1. President's Office- Public Service Management

CATEGORY 1 - WEBSITE

www.utumishi.go.tz

The website contains necessary information for citizens to access. The page is updated on a regular basis. The only disadvantage occurs due to the lack of information on procurement procedures, budget and expenditure as well as vacancies procedures. Despite having links to tenders and vacancies, once these are clicked on, attached documents do not open in this or any other window..

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure		•	
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?			

Total Score: 5/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the President's Office- Public Service Management

- When was the Public Service Management established?
- Do you have website?
- How many new employees were recruited under Public Service Management since 2005?
- How many Civil Servants retired from their services in 2008?
- What is the gross salary of the Minister responsible for Public Service Management?

n = 9

	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	20 days		
3. Did the institution respond orally or in writing to information requests?	written response		
4. In what format was the information given, if given (hardcopy, softcopy).	hard copy		
5. If information was not given, did public institution give a written/oral reason?			
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?			•
7. If information is not given within 30 days consider it a refusal.			
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)			helpful

Total Score: 9/9

2. Ministry of Education and Vocational Training

CATEGORY 1 - WEBSITE

<http://www.moe.go.tz/>

The website contains all necessary information, especially for students. These include examination results of secondary school students, which are updated regularly. Most of the useful information is found on the front page of the website. This provides the user with easy access. The only shortfall occurs due to a lack of information on procurement procedures, budget and expenditure as well as vacancies procedures.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?			

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Education and Vocational Training

1. How many primary school pupils dropped out of school since 2005?
2. What was the major reason for their drop out?
3. Is teenage pregnancy perhaps a major reason for secondary school dropouts?
4. How many secondary schools were built in 2008?
5. What is the gross salary of the Minister of Education and Vocational Training?

Information denied – Total Score: 0/9

3. Tanzania Revenue Authority (TRA)

CATEGORY 1 - WEBSITE

www.tra.go.tz/

The Tanzania Revenue Authority website is one of the most regularly updated websites among the surveyed institutions. The website is filled with all kinds of information required by users. The current tax rates, tax laws, tax forms and latest news allow this website to meet most of the criteria used in this survey. The information is organized in a way that can be accessed easily by ordinary citizens. Unlike many other institutions, it contains information about vacancies and procurement procedures. It also has information about signed contract and amounts from January to December 2009. It lacks only the information on budget and expenditure.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts	•		
f) Vacancies and employment procedures	•		
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?			•

Total Score: 8/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Tanzania Revenue Authority

1. When was the TRA established?
2. Under which law was the TRA established?
3. What was the Pay As You Earn (PAYE) revenue collection for the year 2009?
4. How many workers from the formal sector paid tax in 2009?
5. What is the salary (gross) of the Commissioner General of TRA?

Information denied – Total Score: 0/9

4. Ministry of Lands, Housing and Human Settlement

CATEGORY 1 - WEBSITE

<http://www.ardhi.go.tz/>

The Ministry's website is another one of the most regularly updated website among the surveyed institutions. The website is full of all kinds of information required by users. It contains current projects undertaken by the Ministry, contacts, laws and policies, programs and latest news. But like all other institutions, it lacks information on budget and expenditure, procurement procedures and vacancies.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?			

Total Score: 5/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Lands and Human Settlement

1. What is the mandate of the Ministry of Lands, Housing and Human Settlement?
2. What is the working relationship between the Ministry and Local Government Authorities in plot allocation to the citizens?
3. How many workers are under your Ministry?
4. How many citizens were issued with title deeds in 2008?
5. What is the gross salary of the Minister of Lands, Housing and Human Settlement?

Information denied – Total Score: 0/9

5. National Examination Council (NEC)

CATEGORY 1 - WEBSITE

<http://www.necta.go.tz>

The NEC's website had regularly updated information including examinations results of form four, form six and various colleges. Additionally, it contained mechanisms for online registration of students. But like all other institutions surveyed, it lacked information on budget and expenditure, procurement procedures and vacancies.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts		•	
f) Vacancies and employment procedures		•	
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?			

Total Score: 5/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the National Examination Council of Tanzania

1. When was the council established?
2. How many staff members are employed by the council?
3. How many students are expected to sit for this year's form four examinations?
4. How many students completed form six last year?
5. What is the gross salary of the Executive Director of the Council?

Information denied – Total Score: 0/9

6. National Social Security Fund (NSSF)

CATEGORY 1 - WEBSITE

<http://www.nssf.or.tz/>

The Fund's website is updated on a regular basis. The website is full of all kinds of information required by users. It contains current information about benefits of the members and procedures on how to apply for the Social Security Fund's benefits. But like all other institutions, it lacks information on budget and expenditure, procurement procedures and vacancies.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures		•	
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?			

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the National Social Security Fund:

1. When was the National Social Security Fund (NSSF) established?
2. How many pensioners benefited from the Fund in 2009?
3. What is the total terminal benefit provided to the Fund's beneficiaries in 2009?
4. How many staff members are employed by the Fund?
5. What is the salary of the Fund's Director General?

Information denied – Total Score: 0/9

7. Parliament of the United Republic of Tanzania

CATEGORY 1 - WEBSITE

<http://www.parliament.go.tz/>

It is also one of the most regularly updated websites among the surveyed institutions. The website contains information about recent budget speech – national budgets, ministerial budgets, regional and sectoral budgets. It contains budget on shadow ministers as well. The website contains latest information about parliament. But like all other institutions, it lacks information on procurement procedures and vacancies.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?			

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to Tanzania Parliament

1. How many female MPs are currently in parliament?
2. What is the budget allocation to the parliament excerpted from the 2010/2011 national budget?
3. Where can citizens find easy access to parliament information?
4. How frequent is the parliament website being updated?
5. What is the gross salary of the speaker of parliament?

Information denied – Total Score: 0/9

8. Ministry of Water and Irrigation

CATEGORY 1 - WEBSITE

<http://www.maji.go.tz/index.php>

The Ministry of Water and Irrigation's website was the most organized, informative and regularly updated. It spotted a clean design and was easy to navigate. It was easy to access and download documents and additionally contained all kinds of useful information for the user including current projects undertaken by the Ministry, contacts, laws, policies, programs and latest news. Unlike all other institutions, this website contained information on procurement procedures and vacancies. Signed contracts including amounts. This website was among the best three of 49 public institution websites surveyed in eight countries.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts	•		
f) Vacancies and employment procedures	•		
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?	•		
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 9/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to Ministry of Water and Irrigation

1. How many Tanzanians access safe drinking water today?
2. How many Tanzanians have running water connected to their homes today?
3. What is the average walking distance to the nearest safe drinking water source in rural areas in Tanzania?
4. What is the Ministry's priority in the 2010/2011 budget allocation?

Information denied – Total Score: 0/9

RESEARCH CONCLUSIONS

The findings of this study, unfortunately indicate that nothing has changed from the previous study. Secrecy is still a major problem and continues to dominate Government and Public Institutions in Tanzania. While improvements have been noted in other Countries under this study, the situation in Tanzania practically remains the same.

Only one institution; the Department of Public Service Management responded to our written request for information by fax, telephone and postal address within the parameters of the study. This leads to a very dismal picture.

Not withstanding that the Right to Information is a Constitutional right, it will be a long way before Tanzanians can access the information they seek from Government and Public Institutions in order to access other social economic rights.

Although Tanzania's use of modern information technology

is highly commendable and among the top in the region, internet access (although growing) only reaches 1.3% (520,000) of the population according to a 2009 research by ITU. 98% of Tanzanians have to look elsewhere to get information from the Government, including sending requests or proactive disclosure on the part of the institutions.

Moreover, most of the websites appeared rather mediocre, scoring 5/10 and failing to meet most of the indicators sought in this study. For instance: none of the websites had information on budgets and expenditure, six of the websites did not even provide information on procurement and employment procedures, or contact information.

The Tanzania Revenue Authority and Ministry of Water and Irrigations websites were the only high scoring websites with detailed information, including copies of signed contracts and amounts involved.

MOST SECRETIVE PUBLIC INSTITUTION IN TANZANIA

The most secretive institution for 2010, based on this research, is the Ministry of Lands, Housing and Human Settlement. Despite the fact that the Ministry has a website, the information available fell far short of being useful and meaningful. While other Institutions have taken advantage of information technology as an efficient tool for communication, the Ministry's website failed to meet most of the research criteria in this information age.

In addition, the Ministry failed to provide information via written request, demonstrating that information was not readily available physically or electronically.

This Ministry deals with the core issues of modern Tanzania – land and housing, matters of huge importance that affects each and every citizen, yet the Ministry chooses to operate in darkness. What are they hiding? For a Ministry, mandated among others, to make land easily accessible to the citizens, the Ministry should be at the forefront to use all means available to make information accessible to the people. This particular Ministry can learn from the Ministry of lands in Botswana, whose website and extent of information provision is the best in this regional study.

While the Ministry chooses to be closed and secretive, it should reflect on the vision of Tanzania's founding Fathers, who recognised that for this country to develop it needed four things; people, land, good politics and good leadership.

We can conclude by saying that the secrecy of the Ministry of Lands, Housing and Human Settlement is a threat to this vision and the development of this country.

As such the Ministry of Lands, Housing and Human Settlement is the recipient of the 2010 Golden Padlock Award for the most secretive and non-transparent Public Institution in Tanzania.

THE MOST OPEN PUBLIC INSTITUTION IN TANZANIA

Using international standards and parameters set in this study, the President's Office/ Public Service Management qualifies as the most open and transparent of the eight Institutions surveyed. It was, in fact, the only Institution that responded to our written request, achieving a perfect score of 9/9.

Although their website got an average score, it is current, informative, user friendly, relevant and detailed. It fell short of being ideal by lacking information on its budget, expenditure and procurement procedures.

The websites of the Ministry of Water and Irrigation and Tanzania Revenue Authority were the best by far and a shining example to be emulated by other Institutions. However, their failure to respond or acknowledge receipt of our written requests could not be ignored or excused.

The President's Office Public Service Management is the recipient of the 2010 Golden Key Award for the Most Open and Transparent Government Institution in Tanzania.

The 2010 eGovernance Award goes to the Ministry of Water and Irrigation.

RECOMMENDATIONS

- The enactment of an Access to Information Law should be taken as a matter of urgency which can no longer wait.
- The National Security Act of 1970 should be amended or repealed as this Act prevents public servants to determine of what truly national interest is and what is not. This promotes the state of secrecy to persist.



ZAMBIA

2010 REPORT ON THE MOST OPEN & SECRETIVE GOVERNMENT INSTITUTIONS IN ZAMBIA

A MISA Zambia Study, September 2010
Researcher: Jane Chirwa da Silva

INTRODUCTION

Zambia has, in the current Constitution, a provision for Access to Information, which states under Article 20 (1) that: *"Except with his consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to impart and communicate ideas and information without interference, whether the communication be to the public generally or to any person or class of persons, and freedom from interference with his correspondence."*

In addition to this freedom of Access to Information, the Constitution of Zambia has various other Laws that provide for Access to Information. For instance, it is Constitutionally allowed for a Zambian citizen to attend Parliamentary sessions to listen to the proceedings provided one is dressed appropriately.

A citizen can demand the establishment of a tribunal to investigate a matter of which the findings are made public.

In addition, the public can access information through the press because the Constitution guarantees Press Freedom as outlined below:

20 (2) *"Subject to the provisions of this Constitution no law shall make any provision that derogates from the freedom of the press."*

However, as much as such Laws are in existence in Zambia, the situation is still a far cry from the ideal because subsequent pieces of legislation such as the Penal Code, originally of the 1930s and amended very few times, has a lot of Laws that impede media freedom. Further, the derogations that follow Constitutional provisions for Access to Information and the Press literally take away the very provided freedom.

Zambia, currently, has in the Penal Code Defamation of the President as a criminal offence with a jail term of three years. Others pieces that are contentious are the State Secrets Act among others.

While Zambia is undergoing a constitutional review process, which has almost reached its climax as the National Constitutional Conference (NCC) has now concluded its business and was scheduled to hand over the 2010 Draft Constitution to Government (the Minister of Justice) at the time this report was being compiled, the hopes for better legislation on access to information were dashed because NCC delegates elected to erase the Article from the 2005 Mung'omba Draft Constitution that provided the right to information. Further submissions from MISA Zambia and

other stakeholders to the 2010 Draft Constitution, for such a right to be included in the final 2010 Draft Constitution were rejected. The article is currently not part of the 2010 Draft Constitution; what was returned instead is the part that provides for the right of citizen to seek retraction when incorrect information is published about them.

A consolation is that the 2010 Draft Constitution states that Government shall enact legislation to provide for Access to Information under Article 60(6a). However, it remains to be seen if the same would provide for the Right to Information or would instead take away the very essence of such legislation.

RESEARCH METHODOLOGY

The research adopted both the qualitative and quantitative methods of data collection. The Chapter sent written requests to all the sampled Ministries and Public Institutions. The research was categorized into two. Using clearly defined evaluation criteria, the first category (Category 1) entailed assessing the websites for the chosen Government Ministries and Public Institutions to establish which among them has the most or least efficiently organized provision of public information.

Category 2, entailed sending physical requests for information to the same Ministries and Public Institutions seeking specific information.

DATA ANALYSIS

Under **category 1** (websites) [n = 10], a score of 0-4 represents absence of or poorly organized website; 5 – 6 represents a fairly organized website; and 7 – 10 represents a well organized website with most or all relevant information that is of interest to the public

Under **category 2** (physical requests) [n = 9], a score of 0-4 in the evaluation criteria represents secrecy or access denied; 5 – 6 represents fair openness; and 7 – 9 represents openness. In addition, a response with requested information within 2 weeks constitutes openness whilst a response after 30 days or never constitutes a denial.

LIMITATION OF STUDY

Restricted Sample. Owing to limited time and capacity, the study was limited to only five Government Institutions.

The following Institutions were, therefore, sampled by MISA Zambia owing to the vital role each one plays in the welfare of the Zambian people:

1. Ministry of Education (MoE)
2. Ministry of Finance and National Planning (MoFNP)
3. Electoral Commission of Zambia (ECZ)
4. Ministry of Information and Broadcasting Services (MIBS) and
5. Ministry of Communication and Transport (MCT)

SUMMARY OF RESEARCH FINDINGS

WEBSITES

- All surveyed Organisations had websites, but only four of these sites were available.
- The Ministry of Education's (MoE) website was "temporarily unavailable".

- The websites were generally updated, informative, but none had information on Institutional budgets and expenditure.
- Only the MoFNP had information on procurement procedures.
- The ECZ's website was the most innovative because it has embraced social forums such as twitter and facebook to reach more citizens and provided easy email facilities to the Organisation on the website in addition to provisions for a visitor to the website to forward relevant information to persons of their choice.

WRITTEN REQUESTS

- Only the Ministry of Education responded to written information requests within research parameters.
- The other four Institutions failed to respond to the written request within or outside the research parameters including the Electoral Commission of Zambia, the most open institution of 2009
- The most open and secretive public institutions are named at end of report.

DETAILED FINDINGS

1. Ministry of Education

CATEGORY 1 - WEBSITE

<http://www.moe.gov.zm/>

The Ministry of Education website was unavailable on the 16 August 2010 it had the following message "Republic of Zambia – Ministry of Education. This site is temporarily unavailable. Please notify the System Administrator".

CATEGORY 2- WRITTEN REQUESTS

Below are the set of questions written to the Minister of Information by the researcher in a capacity of private citizen:

1. What is the Ministry of Education doing to address the high pupil-teacher ratio in rural areas?
2. How has the Private Sector contributed to the quality of education? and
3. How is the Ministry addressing the falling standards of education in the Government-owned and run schools especially that such schools are attended mainly by the under-privileged?

n = 9	30 days	Yes	No/None
1. Is there an official designated to take and respond to information requests? What is the title of the official?		•	
2. How long did it take for institutions to provide you with information?	•		
3. Did the institution respond orally or in writing to information requests?	written response		
4. In what format was the information given, if given (hardcopy, softcopy).	hard copy		
5. If information was not given, did public institution give a written/oral reason?			n/a
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?			•
7. If information is not given within 30 days consider it a refusal.			n/a
8. Did institution ask for reason why information is being sought?			•
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)		•	

Total Score: 8/9

2. Ministry of Finance and National Planning

CATEGORY 1 - WEBSITE

www.mofnp.gov.zm

The Website for the Ministry of Finance and National Planning was well updated and contained vital information such as the 2010 National Budgets, the Fifth National Development Plan. It had an outlined mission and described how its role contributes to the development of Zambia. Furthermore, the website had an organizational structure in addition to information on the procurement procedures and reports. The ministry's website also provides links to key public financial and economic institutions in Zambia making it easy to access more information on economic and financial matters in Zambia. However, the website did not have contacts readily available.

n = 10	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;		•	
c) Reports, policies, programs	•		
d) Budget and expenditure	•		
e) Information about the procurement procedures, signed contracts	•		
f) Vacancies and employment procedures		•	
g) The name, the address, the telephone number and the working hours of the respective institution?			•
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?	•		

Total Score: 6/10

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the Ministry of Finance and National Planning by the researcher in her capacity as citizen.

The country is currently debating the issue of reintroducing windfall taxes for the mining industry. Much as there is some information, I wish to state that my level of understanding of the topic is inadequate.

Therefore, I wish to make the following queries on the issue of windfall taxes as outlined below:

1. What is windfall tax?
2. Why should it be charged only on the profits the mines make? and
3. Does this kind of tax apply to all other companies in Zambia?

Information denied – Total Score: 0/9

3. Electoral Commission of Zambia

CATEGORY 1 - WEBSITE

<http://www.elections.org.zm/>

The Website for the Electoral Commission of Zambia was well updated with its latest campaign programme; the recruitment of voters well presented. It provides information on where voters can register from and has created links to social network forums such as twitter and facebook. In addition to this effort, the ECZ website also had the postal address, email, fax and landline.

The website provides site viewers with a chance to subscribe to receive information from it or to forward vital information to people they associate with. It contains reports of the 1991 to the 2010 by-elections.

It stipulates its powers and the laws that provide such powers including laws on electoral process such as the Electoral Code of Conduct and Act of 2006 and the Zambian Constitution. It had an outlined mission and how its role contributes to the development of Zambia. Further the website stipulates the organisation structure on its homepage. However, it lacked information on the procurement procedures, vacancies and budgets.

n = 11

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs	•		
d) Budget and expenditure			•
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?		•	
i) Does the institution reply to electronic requests/ provide requested information electronically?		•	
j) In the case of the electoral commission does the website have information on election results for the last ten years by party, candidate, constituency etc?	•		

Total Score: 6/11

CATEGORY 2- WRITTEN REQUESTS

The following questions were sent to the ECZ in the researcher's private capacity. ECZ never responded.

1. How long is the voter registration exercise going to take place?
2. How is ECZ publicizing the exercise in order to ensure the eligible voters are not left out?

Information denied – Total Score: 0/9

4. Ministry of Information & Broadcasting Services

CATEGORY 1 - WEBSITE

<http://www.mibs.gov.zm/>

The website generally had outdated information on most of its pages except for few that had information dating back to February 2010, even in such cases the information was still outdated. For instance the latest press statement was placed on 08 January 2010 while information on the number of radio stations and online publication was not up-to-date either. According to the website, the Republican President was still the late President Levy Mwanawasa. It did not have the media policy and the two broadcasting Acts namely the Zambia National Broadcasting Corporation (ZNBC) Act and the Independent Broadcasting Authority Act both of 2002. It simply stated that such were awaiting cabinet approval. Even the Fifth National Development Plan that outlines media development and the Media Policy were unavailable.

In terms of laws and policies, the website only had the Bill of Rights, a partial constitution as part of it could not be retrieved. However, the website for the Ministry of Information contained the ICT Policy of 2006, a mission outlining its purpose while the vision and strategic plan were unavailable. The consolation is that it provided readily available contacts such as the landline, postal and physical contacts on its website.

Of all the websites, the Ministry of Information was the least updated and less useful in terms of laws governing the media and facilitating for access to information. It did not contain the organisation structure either. There was no information on latest media issues such as on media regulation in Zambia.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?			●
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.		●	
b) A list of Acts, laws issued within the scope of its powers;			●
c) Reports, policies, programs	●	ICT Policy, Bill of Rights	
d) Budget and expenditure			no budget
e) Information about the procurement procedures, signed contracts			●
f) Vacancies and employment procedures			●
g) The name, the address, the telephone number and the working hours of the respective institution?	no name, no email		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			●
i) Does the institution reply to electronic requests/ provide requested information electronically?		●	

Total Score: 4/10

Below is an example of one of the pages obtained from the Ministry of Information on the "Facts about Zambia link" http://www.mibs.gov.zm/index.php?option=com_content&task=view&id=21&Itemid=76

Wednesday, 21 December 2005	
Zambia is a country rich in wildlife and is found in Southern Central Africa.	
Country	Republic of Zambia
Capital	Lusaka
Government type	Republic
Head of State	H.E Levy Patrick Mwanawasa, S.C
Independence	24th October 1964 (Former British Colony)
Population	9,959,037 based on 2002 estimates.
Nationality	Zambian(s)
Ethnic groups	African 98.7%, European 1.1%, Other 0.2%
Religions	Christian 60-80%, Muslims and Hindus 24% - 40% indigenous beliefs 1%
Languages	English (Official), major vernaculars- Bemba, Kaonde, Lozi, Lunda, Luvale, Nyanja, Tonga, about other 70 indigenous languages
Currency	Zambian Kwacha
Main Exports	Copper, Cobalt, Gemstones,Electricity, Cut Flowers, Sugar, Cement, Textiles, Timber, Wood products, Processed Foods

CATEGORY 2- WRITTEN REQUESTS

Outlined below are the questions that were sent to the Ministry of Information and Broadcasting Services:

1. 1 What is the decision of Government concerning media self-regulation in Zambia?
2. 2 What measures has the Government put in place to sustain the gains recorded under the electronic media [especially radio]? and
3. 3 What measure has the Government put in place to address the stagnation of the print media industry especially newspapers?

Information denied – Total Score: 0/9

5. Ministry of Communication and Transport

CATEGORY 1 - WEBSITE

www.mct.gov.zm/

The website provided some updated information because it contained the reports, laws, policies, the National budget and national development plans. It also had links to key ministries in addition to some quasi-Government institutions. Further, it provides for the structure of the organisation

and links to other key ministries and relevant development documents. However, it had no information on its budget, signed contracts, expenditure nor procurement procedures. Furthermore the contacts provided were not readily available.

n = 10

	Yes	Not quite	No
1. Does the website contain updated information?	•		
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	•		
b) A list of Acts, laws issued within the scope of its powers;	•		
c) Reports, policies, programs		•	
d) Budget and expenditure		•	
e) Information about the procurement procedures, signed contracts			•
f) Vacancies and employment procedures			•
g) The name, the address, the telephone number and the working hours of the respective institution?	•		
h) Has contact information about the officials been published: name, position, phone numbers, e-mail?			•
i) Does the institution reply to electronic requests/ provide requested information electronically?		•	

Total Score: 4/10

CATEGORY 2- WRITTEN REQUESTS

The following were the questions that were sent to the Ministry by the researcher as a citizen. ZAMTEL did not respond.

There is currently debate on the sale of the Zambia Telecommunications (ZAMTEL) Company Limited of 75 percent shares to Lap Green and many issues have been addressed. However, it is still not very clear why the company was sold to Lap Green and not to Zambians.

I am therefore writing to find out why ZAMTEL was sold to Lap Green and not the Zambian business community.

Information denied – Total Score: 0/9

CONCLUSION

Secrecy is still a major problem in Government and public institutions in Zambia. Of the five public Institutions surveyed, none, but one, responded to a written request for information while the other four neither acknowledged receipt nor provided reasons for refusal.

In spite of empirical evidence from such studies of prevailing secrecy in most Public Institutions in Zambia, Government is all talk and no action to enact the Freedom of Information (FOI) Bill which since 2002 'further consultations' have been cited by Government as the reason for the delay.

This contrasts the lightning speed at which Government moved to amend the Independent Broadcasting Act (IBA) and the Zambia National Broadcasting Corporation (ZNBC) Act of 2002 so that the Minister of Information, a politician, appoints board members than the appointments committee thus compromising the independence of the boards especially that of the public broadcaster ZNBC. To attest to this, MISA Zambia, in 2006, undertook a survey of the ZNBC main news during the run-up to the 2006 tripartite elections. The results revealed that ZNBC gave 75% coverage to the ruling party than opposition parties.

Although Government has highly embraced the use of Information Communication Technology such as websites to provide information to the public, a remarkable development, the handling of citizens requests for information is still very poor as demonstrated by the findings of this research. Despite having officials designated to provide information to the public, information largely remains a privilege than a right for citizens, given or refused at the discretion of a public official. When reasons for refusal are not provided, the requester is left to guess whether it is secrecy or just the incompetence of public officials.

While generally most of the websites contained relevant and updated information, the situation was different for the Ministry of Information whose website was near irrelevant containing outdated information and nothing on current developments. The website contained no Laws that have been passed by it or being handled that may affect the media. It is unacceptable for a Ministry responsible for disseminating Government information and host to the Chief Government spokesperson to provide false information. How else can we explain the information that the late Mwanawasa was still the President two years after his passing?

MOST SECRETIVE PUBLIC INSTITUTION IN ZAMBIA

Generally Zambian Government institutions operate in secrecy with a near 100% failure to respond to citizens requests for information. Of the five institutions surveyed only one responded; the Ministry of Education, except they too did not have a functional website to be able to provide 24hrs information to the public, in particular the learners. However, nothing could have prepared this research for the sloppy handling of public information by the Ministry of Information. There was nothing informative about the Ministry of Information, who ironically at the pinnacle of providing information. Not only did it fail to respond to a written request for simple information, its website was near useless, and a source of misinformation too. This Ministry needs serious redefinition of its role to the nation as it poses a serious danger to the public right to be correctly and timely informed.

It therefore goes without saying that the most secretive Government Institution for 2010 and recipient of the Golden Padlock Award is no other than the Ministry of Information and Broadcasting Services (MIBS). In 2009, the Ministry of Health was the most secretive because of an outdated website and its failure to respond to written request. It is, however, worth mentioning that the Ministry of Health uses other media such as posters, public announcements through radio, television and public address systems that have been very effective. The recent one was the measles campaign at the time there was an outbreak in Zambia.

MOST OPEN PUBLIC INSTITUTION IN ZAMBIA

None of the institutions surveyed qualify as open. However, any institution that responds to a citizen's request for information leans toward openness. The Ministry of Education was the only institution that provided the information sought in this research, the Ministry could most likely have been the most open for 2010 if not for a failure to have a functional website, a major criteria for this study.

This research further takes recognition of those institutions stopping at nothing to utilise of ICTs to inform and interact with the public. In particular, the research recognises the Ministry of Finance and National Planning and the Electoral Commission of Zambia whose well resourced websites were bent at providing the public with necessary and useful information. Had these two institutions attached the same importance to providing information to those who

may not have access to ICTs through proactive disclosure and responding to written requests, they would have been among the most open. Having a good website is commendable, but failure to respond to requests borders on contempt and secrecy towards the public. It should not be forgotten that internet penetration in Zambia, while exponentially growing, is still low 11.9% (1.3million people) by March 2009, according to research by the International Telecommunication Union.

The research failed to find an open Institution in Zambia in 2010.

However, a new award has been added for institutions utilizing ICTs for the better provision of information to the public.

The 2010 e-Governance Award goes to the Electoral Commission of Zambia.

RECOMMENDATIONS

Zambia urgently requires the enactment of an Access to Information law in addition to Parliament retaining the Clause providing for the right to access to information in the draft Constitution under current review. Information is a fundamental right for all citizens and no one has the right to take that right away from any one, but a duty to ensure that this right is realised by all citizens.

An Access to Information regime in Zambia is paramount and urgent in order for citizens to fully take part in the governance of the country be it through elections, contributing to a local Government or national budget and providing checks and balances resources allocated for development purposes.

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