

Access to Information in Tanzania: Still a Challenge

| A research report

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ACCESS TO INFORMATION IN TANZANIA: STILL A CHALLENGE

HakiElimu, LHRC and REPOA¹

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1. Introduction

Access to information is essential to democracy and development. Freedom of expression, including the right to access, receive and impart information, is enshrined in international law.² In Tanzania, the right to be informed, and to access and disseminate information, is recognized in Articles 18(1) and 18(2) of the Constitution:

Without prejudice to expression the laws of the land, 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.

Every citizen has the right to be informed at all times of various events in the country and in the world at large which are of importance to the lives and activities of the people and also of issues of importance to society (URT, 1998).

In practice, however, the extent to which these constitutional mandates are enjoyed by most citizens is far from certain. Translating legal and constitutional rights into bureaucratic mandates and operational practice remains a key challenge.

In recent years there has been renewed global interest in promoting access to information, to foster democratic participation and accountability and to curb corruption (II Sourcebook 2000). More than 40 countries around the world are said to have access to information laws (Banisar in Calland and Tilley, 2002). In Africa, however, only South Africa has a specific progressive law regarding public access to information.

While Tanzania does not have a law regarding public access to information, a number of legal and institutional reforms aim to strengthen linkages between government and citizens, public participation and government accountability. Most notable among these are local government reforms, which seek to devolve power and resources, and public sector reforms that seek to improve government performance, service delivery and responsiveness. Client service charters, developed by many ministries and government agencies, are one manifestation of this. The mushrooming of private media and civil society organizations in recent years has also vastly expanded opportunities for ordinary citizens to gain uncensored information.

¹ This study was jointly undertaken by three independent civil society organizations: HakiElimu, Research on Poverty Alleviation (REPOA) and the Legal and Human Rights Centre (LHRC). The overall project was led by Rakesh Rajani in collaboration with Joseph Semboja and Helen Kijo-Bisimba. This paper was written by Chambi Chachage, Newton Kyando and Rakesh Rajani. Data collection and study administration was coordinated by Veni Swai. Margareth Mrema documented experiences of requesters. Ann May, Joanita Magongo, Harold Sungusia and Elisabeth Rotzetter contributed to the initial planning, administration and analysis of the study. For more information contact paa@hakielimu.org

² See the *Universal Declaration of Human Rights* (Article 19), the *International Covenant on Civil and Political Rights* (Article 19 (2)) and the *African Charter on People's and Human Rights* (Article 9 (1)).

Moreover, the Government has also sought to strengthen communication with the public. Significantly, this initiative appears to be led from the State House itself. A Directorate of Communication has been established in the President's Office, and information officers designated in key ministries. The Prevention of Corruption Bureau (PCB) has also established a communications unit. In his seminal address on this issue in Bagamoyo in 2003, President Mkapa articulated the duty to communicate as central to government responsibility towards its citizens and therefore a core, obligatory function of government:

[Communication] is about improving interaction between government and the governed, in whose name decisions are made, and tax money spent. Elections every 5 years are important for democracy, but they are not sufficient to ensure the people have a greater say in the way they are governed. In between elections, the people must continue to feel relevant, to feel they are listened to. That is the heart and culture of democratic good governance. **Transparency and accountability must now cease to be a condition to be tolerated, but be perceived as a government's core function to be cherished as part to a deepening culture of service to the people.**

Government's duty to communicate fulfils the inalienable right of the citizenry to be informed, to air their views, to be heard, and to demand accountability from their government. Additionally, however, the new multi-party constitutional order requires openness and accessibility as pillars of legitimacy, and as determinants of government popular support.

...I should like everyone in government to hear me loud and clear. The duty to communicate, and the imperative for government to project itself to its citizens and to the world, must be a core function of every government institution. It is not optional; it is a duty; and it is mandatory (Mkapa, 2003, emphasis in the original).

The President observed that several actors have a role in promoting access to information, and asserted that the imperative of openness applies to both governmental and non-governmental institutions alike:

Good governance is about open and accountable institutions and observance of the rule of law. I say open and accountable institutions deliberately because the imperative is often and wrongly, ascribed to government only. In fact, all actors on the good governance stage – governments, civil society, NGOs, media and private and corporate sector – all have to be open and accountable to the wider public (Mkapa, 2003).

The President noted that these changes will require a significant reorientation of government culture and practice. Such institutional change is also bound to take time. Two years after the Bagamoyo address, and several more since the onset of the local governance and public sector reforms, is a good moment in which to assess the extent to which the commitment to openness is translated into daily practice.

The study described in this report sought to assess how easy/difficult it is to obtain information from governmental and non-governmental institutions – both national and international – based in Tanzania. It examines how access to information, in terms of both receiving and giving it, varies between requesting individuals and requested institutions. The study seeks to provide an indicative picture of access to public information in Tanzania, based on actual requests made, in order to spur further reflection, debate and improved practice.

2. Study Methodology

The study was conducted in mid to late 2004. The study design³ was based on making information requests on a need to know basis and systematically tracking responses to these requests. Findings are therefore based on actual experience rather than perceptions or recollections from distant memory.

The study sought to test whether access to information differed by the type of person or organization making the request. A group of eight ‘requestors’ were selected to represent diversity, out of which one withdrew from the study prior to making any requests.⁴ Requesters included two journalists, two NGOs, an ordinary citizen, a person with disability and a university student. The study purpose and design were explained to all requestors through several meetings.

The requestors were asked to submit requests to public institutions of their choice, though each was encouraged to include at least some local government bodies as well.⁵ These included central government ministries, district councils, district courts, utility companies (TANESCO and City Water) and hospitals. In order to compare responsiveness, information was also requested from a few donors and NGOs in Dar es Salaam. Requests were sent to about 40 governmental and non-governmental organization/institutions, including 9 ministries and 3 embassies/UN organizations. This approach enables analysis of the responsiveness of the same institutions to different requestors, as well as the experience of each requestor from different organizations.

In total, 103 requests were submitted by the seven requestors. Each requester submitted between 9 and 17 requests for information. Requestors made up their own questions, but were asked to refrain from requesting information that was obviously confidential (e.g., military secrets) or potentially sensitive (e.g. names of Government ministers investigated for corruption) because the study focuses on access to basic public information that would not reasonably need to be withheld. In order not to prejudice findings, requestors did not make reference to their participation in this study when submitting requests for information.

Requests were submitted either in writing or verbally through physical visits. If a response was not received within two to three weeks, follow-up was done in writing, physical visit or telephone call. All requests and follow-ups were carefully documented in a form developed for the purpose. Requestors were asked to document in detail the nature of the responses they received throughout the process, and whether they were satisfied with the information provided to them (if any). Copies of all written requests and written responses, as well as documented forms of each request experience, were kept on file and cross-checked.

Information compiled was tabulated and verified against original documents and subjected to confirmation by the requestors. A consultant further interviewed each requestor to clarify and document their experience. Responses received were classified as ‘not received’ and ‘received’, as well as ‘satisfactory’, ‘partially satisfactory’ and ‘not satisfactory (because in some cases information was given but was found by the requestor to be inadequate or irrelevant to his/her need)’. Responses that were received more than three months after the request was first submitted were not included.

³ The study design was adapted from a methodology devised by the Open Democracy Advice centre (ODAC) and the Open Society Institute. A similar study was conducted by IDASA and the Media Institute of South Africa (MISA) in Tanzania for the UK Department for International Development (DFID) (IDASA, 2004).

⁴ The requester who withdrew represented a private sector grouping. Interestingly, the primary reason given for withdrawal was concern that asking questions formally and participating in this study may harm the good relations the body enjoyed with the Government.

⁵ A sample list of requests submitted is included in the Annex.

3. Study Findings

A basic analysis of access and responsiveness was undertaken in relation to four aspects: 1) type of institutions, 2) types of requestors, 3) type of requests (written or verbal), 4) before and after follow-up. Overall, the sample size is too small to be able to draw definitive conclusions about the responsiveness of any particular organization or about the access efficacy of any particular type of requestor. However, in sum these findings provide an indicative sense of responsiveness and access to information Tanzania, and can serve as a useful basis for discussion and further work.

3.1 Responses by Type of Institution

Table 1 below shows the numbers of requests for information submitted to various types of organization, and their respective response rates:

Table 1: Response by Type of Institution

Type of Responses	Type of Institution									Total
	Donors	Business	Central Govt	Judiciary	Hospitals	Others	Local Authorities ⁶	NGOs	Utilities	
Requested	9	4	41	8	6	3	17	8	7	103
No Response	3	2	26	6	5	2	13	7	6	70
Responded	6	2	15	2	1	1	4	1	1	33
Partial Satisfactory Response	0	0	1	1	0	1	1	0	1	6
Satisfactory Response	5	2	11	1	1	0	2	1	0	23
Unsatisfactory Response	1	0	3	1	0	0	1	0	0	5
Responded as % of Requested	67%	50%	37%	25%	17%	33%	24%	13%	14%	32%
Satisfactory Response as % of Requested	56%	50%	28%	19%	17%	17%	15%	13%	7%	25%

The findings show that overall rates of responsiveness were generally low, with only about half of all responses being responded to by the highest cluster. In sum, less than one third of all requests received a response even after follow-up, and only 25% of all requests received satisfactory responses. Across clusters there were major variations. Donors (56%) and private businesses (50%) were the most responsive, and local government (15%) and central government (28%) were among the least responsive.⁷

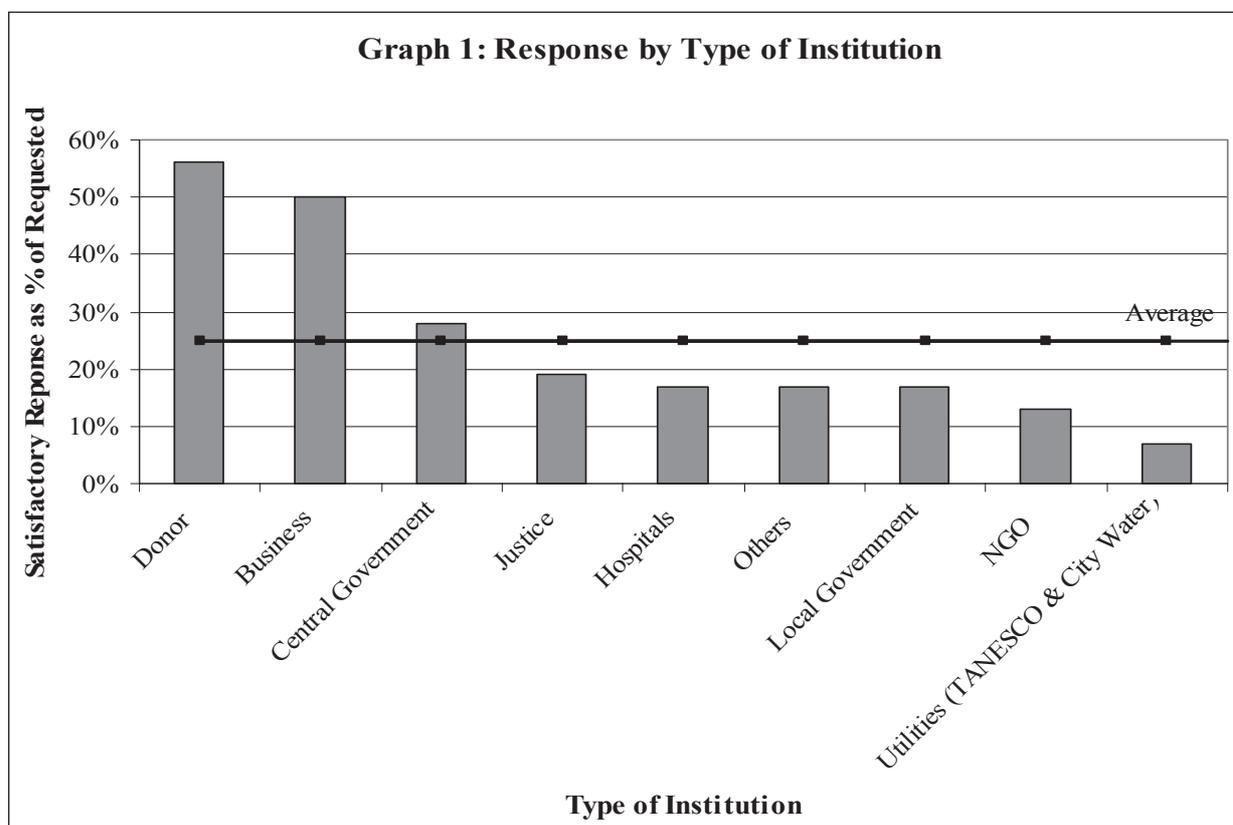
Significantly, the lowest level of responses were received from the utilities, both of which were under private management and expected to be more customer responsive, and NGOs, who are expected to be more open and responsive to citizens. This shows that access to information is a national challenge not limited to government institutions, and that in some respects non-governmental organizations may be even less amenable to divulging information to the public.

⁶ This category includes Regional Secretariats.

⁷ Because the central and local government sample size was relatively large, these findings are more robust than other categories of institutions.

The findings also indicate that privatized management of government utilities has not yet changed the public enterprise culture towards increased responsiveness or transparency towards citizens.

Graph 1 below gives a ranked picture of how institutional clusters provided information found to be satisfactory by the requestor, and a bar showing the average rate of responsiveness.



When information was not provided or organizations were hesitant, requestors attempted to discern the reasons for this. In several cases the persons representing the organizations did not appear to be equipped to find and share the information themselves. For example, one requestor provided the following account:

When I arrived at the reception I was welcomed by a secretary. She phoned a certain officer and told me to talk to her on the phone. The officer said, “Hello my name is Jonia,” then she asked me, “Who are you?” I answered her. She replied, “I don’t understand you. I have seen your letter but I don’t have answers to your questions” and hung up (Ordinary Citizen, Requesting information from an NGO).

Many other requestors were of the view that the information was available, but that representatives of organizations did not feel any sense of responsibility to divulge the information, or were in fact deliberately withholding information. The following accounts are illustrative:

Here they also asked me a lot of questions before they allowed me to get in. I was asked these questions by a certain man but I didn’t know who he was but it appears that he was a worker there at the Ministry. After answering these questions at the gate I was directed to a certain lady by the name of Winifrida. She asked me a lot of questions and I could sense that they were in some way worried because of the kind of question I was

asking. They angrily asked me these kinds of questions: “Who are you?”; “Where are you coming from”; “What do you want?” “Why are you asking those kinds of questions?”; “What do you want to use them for?” (Ordinary Citizen requesting information from a central government institution)

‘It [letter] was received by the Permanent Secretary. They did not respond because maybe they were hiding the truth. That is how we work with our government. They promised to call me, which they did not’ (Journalist 1, requesting information from a central government institution).

A number of reasons may explain why information is withheld. Most organizations do not appear to have a specific code or practice that explicitly embodies the obligation to share information. Moreover, even where these may exist, internal information systems and access may be poorly organized and individuals who deal with citizens may not be adequately prepared to share the information even if they were inclined to do so. In other cases information may be kept deliberately secret so as to keep citizens in the dark. This study cannot explain the reasons and institutional constraints to information access, but further work in this area would be extremely useful.

3.2 Responses by Type of Requestor

Table 2 shows requests made and responses received by requestor, and Graph 2 below depicts satisfactory responses received in ranked order:

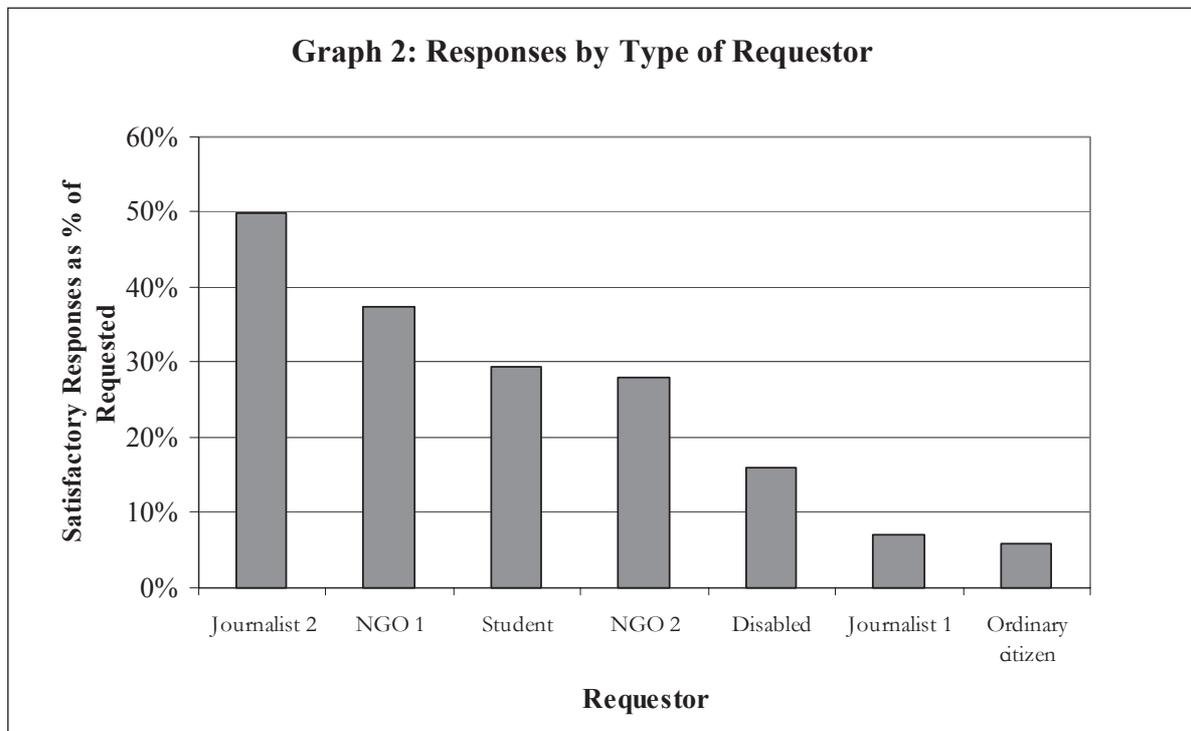
Table 2: Response by Type of Requestor

Type of Responses	Type of Requestor							Total
	M04	M02	M07	M06	M05	M03	M01	
	Journalist 2	NGO 1	Student	NGO 2	Disabled	Journalist 1	Ordinary citizen	
Total requests	14	16	17	16	16	15	9	103
Satisfactory Response	7	6	5	4	2	0	0	23
No response	7	10	12	11	13	13	8	74
Partial Satisfactory Response	0	0	0	1	1	2	1	6
Satisfactory Response %	50%	38%	29%	28%	16%	7%	6%	25%

The overall success rate was low, and did not exceed 50% for any of the requestors. Ability to gain access to information varied significantly among the requestors, as can be seen above. The ordinary citizen and one of the journalists did not get a single fully satisfactory response to the total of 24 requests for information submitted by them. Of the 16 requests submitted, the person with disability only received 2 satisfactory responses. The most responses were elicited by the other journalist, who was able to secure information for half the requests submitted. In between, the two NGOs and university student received satisfactory responses to between 28% and 38% of their requests.

Significantly, Graph 2 shows the comparative picture of how requestors’ elicitation of a satisfactory response differed also among type of requestors. The difference between the two NGO rates was 28% and 38%, and the difference between the two journalists was even greater at 7% and 50%. While the sample size is too small to draw conclusive explanations, the results

indicate that the status and individual attributes of the requestor are likely to make an important difference in accessing information. The more successful NGO was comparatively larger with stronger institutional resources than the other NGO. The journalist who was able to secure information in half her cases is well known and was said to be ‘determined’; whereas the other journalist who fared poorly is less well known and did not aggressively seek information (see also next section).



The large differences in the ability to access information suggest that the constitutional right to information is not enjoyed equally. In spite of the small sample size, the findings indicate that, on average, the ordinary citizen typology is less likely to obtain information than it is for the NGO typology. This may in part be explained by the fact that while organizations may accept that another organized entity has some legitimate claims to information, ordinary citizens enjoy no such rights. The following account of the ordinary citizen study participant is telling:

They did not want to receive the copy of the letter and said they have a lot to do and do not have the time to help me. I felt that they were telling me I was a ‘nobody’ and just disturbing them (Ordinary Citizen requesting information from local government).

In some cases requests from ordinary citizens were ‘laughed at’ and dismissed. The following case description from the MISA/IDASA study captures the sentiment experienced by many in this study powerfully:

I was told an ordinary citizen cannot just have access to such information unless s/he has something specific beyond *‘just the right to information’*. The assistant said it was his first time to encounter a farmer traveling all the way to their offices just to get information. The assistant did not find it necessary for me to know his name and noted while laughing that ‘it was a waste of time for a peasant to search for information just because it is a right’. He and his colleague however agreed that such a right exists. They said ‘government offices are not places to be visited by anyone; you have harvested

already and now you are free you have nothing to do’... I was advised ‘to start a new garden to keep my self busy at my village’ (IDASA, in URT, 2005).

3.3 Responses by Type of Request

Requests were lodged in written or verbal form, and follow-ups were often verbal physical visits. Table 3 below shows the number of these types of requests, further follow-ups and their respective success rates:

Table 3: Responses by Type of Request

	Written	Verbal	Total
Number of Requests	96	7	103
Responses Before Follow up	7	6	13
Responses After Follow up	21	1	22
Total Responses	28	7	35
Responses Before Follow up in %	7%	86%	13%
Responses After Follow up in %	22%	14%	21%
Total Responses as % of Requested	29%	100%	34%

Table 3 shows that most of the initial requests were lodged in writing (96%). However, written requests elicited very few responses, especially before follow up, where only 7% of the requests were successful. In contrast, at first glance it appears that the response rate to verbal responses was very high (100% after follow-up). However, all 7 verbal requests were made by one requestor (Journalist 2). In this case it is difficult to determine whether the success can be attributable to the type of request (verbal) or to the personality and fame of the particular journalist requestor. Both factors are likely to have contributed; and it is noteworthy that none of the *written* requests made by the journalist received a satisfactory response.

The difference in the response success rate before and after follow up may be revealing. After follow-up, responses to written requests increased from 7% to 22%. At one level this may simply be explained by organizations needing more time to respond. However, the more plausible explanation is that the verbal and physical aspect of the follow-up was more effective in ensuring success. For many organizations it appears that sending a letter alone may be insufficient, and that physical follow-up and interaction with the relevant officers is necessary. The following experience of one requestor is illustrative:

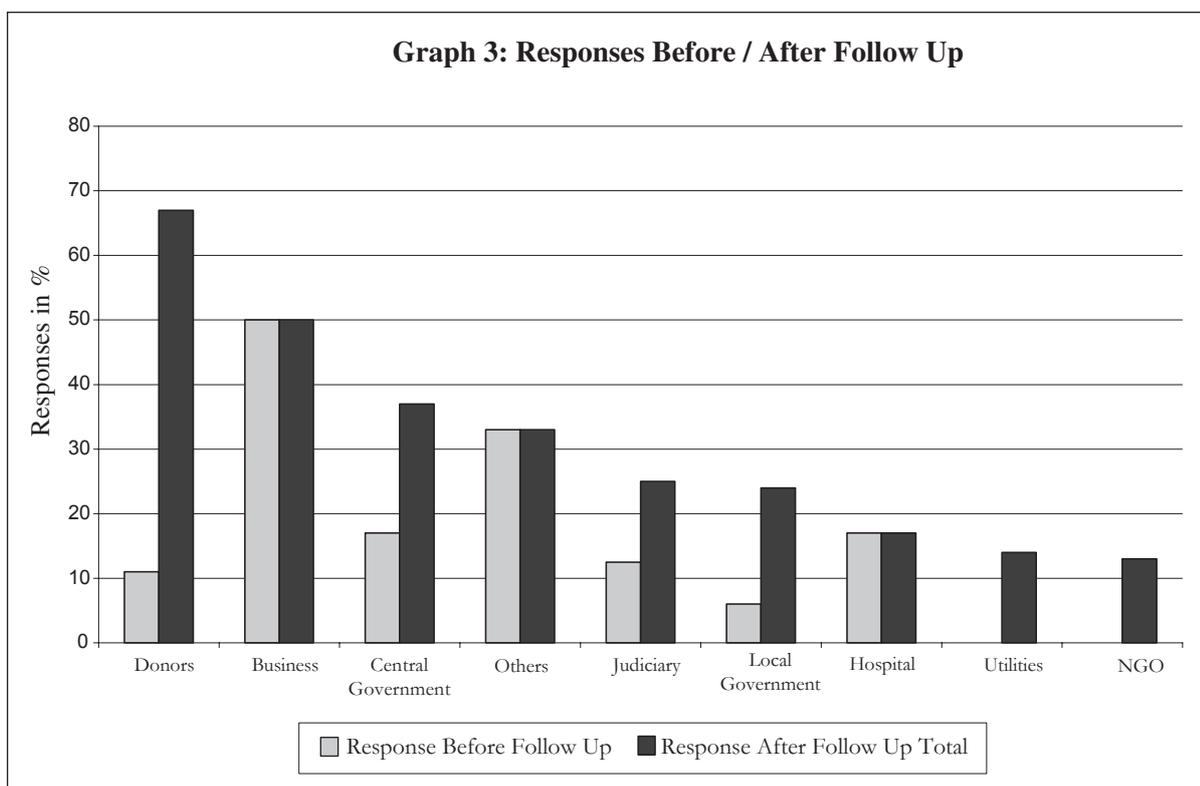
I followed up after not receiving a response. I was told the Commissioner will work on the copy and call you back. I was sent to Commissioner to photocopy my letter and he assured me that they will work on it. And then they sent the information (marked confidential) urgently to us (NGO 2 requesting information from a central ministry).

Another requestor reported similarly success in securing information only after lengthy verbal follow-up from a local government institution:

I had to go back for the reply after two days. The mayor who received the question was reluctant to answer and we went through a long conversation before he answered (Journalist requesting information from a local government institution).

3.4 Response to Requests Before/After Follow Up

As noted above, follow-up was invariably necessary in order to secure access to information. Graph 3 below shows the success rate before and after follow-up by type of institution.



Graph 3 above shows that follow-up was often essential in securing a response, particularly for donors, and local and central government. Interestingly donors, who are often viewed as less bureaucratic and able to operate efficient offices, largely only responded after follow up. In fact the average donor response prior to follow-up was less impressive than that of central government institutions. Significantly, the least responsive clusters, utilities and NGOs did not respond at all prior to follow-up. These findings as well as the narrative descriptions in the previous section suggest also that levels of responsiveness may be in large part determined by personal attributes and connections, rather than institutional mandates, systems and practices.

These aspects also mean that it takes a significant amount of time to obtain information even when it is provided. The fastest information turnaround time in the study was 2 days, but this was highly unusual. The organizations that responded on average took 31 days to respond from the time the request was first made. Among those who responded, the fastest response rate was among donors, an average of 16 days, and the slowest was among justice institutions and NGOs at 34 days. Central government institutions, which formed the largest grouping in the study, took 29 days on average to respond.

4. Conclusions and Next Steps

This report has presented the findings of responses to 103 actual requests for public information submitted to various institutions in 2004. Overall, the study findings indicate that access to information in Tanzania is poor. Only one in four of all requests received a satisfactory response, even though the information requests were largely non-controversial. Where information was made available, it required significant time and follow-up. On average it took 31 days to receive a response from those who responded. Before follow-up only one in every seven requests was successful; many local and central government entities as well as donors did not respond at all

before follow-up. Verbal and physical interaction was often necessary in order to gain information.

Responsiveness varied across types of institutions, with donors and businesses being among the most responsive (responding to about half of all requests), central government responding successfully to 28% of all requests and local government to 15%. Notably response rate for NGOs was only 13%, which represents only 1 response to the 8 inquiries. Utilities under private management also only responded to 1 of the seven requests made, but even that response was found to be only partially satisfactory. These findings indicate that withholding public information is a national problem, not limited to government alone.

The findings of this study are broadly consistent with those of a similar study done by MISA and IDASA/ODAC for DFID at around the same time.⁸ Its preliminary findings showed that about 62% of requests received no responses at all, 16% of responses were incomplete and only 9% received satisfactory responses (IDASA, 2004).

The findings indicate that recent reforms and Presidential directives to make government more open, transparent and accountable to citizens are yet to take hold in day to day practice. The particular constraints – what blocks information from being provided in a timely manner – need to be better understood, and form the basis on concrete actions that need to be taken.

This study provides a useful base for further work and reflection. The following next steps are proposed for consideration:

1. Translate the report into Swahili for broader distribution and place it on websites of all three organizations who implemented the study.
2. Distribute this study widely among Government and others for discussion of the findings, possible causes and potential solutions; hold public debates on the same.
3. Follow-up interviews with selected organizations to share specific findings and explore jointly what may have prevented them from providing satisfactory information.
4. The President's Office – Public Service Management (PO-PSM) and the Directorate of Communication in the State House to assess the extent to which client service charters and designated information officers are able to serve their purpose.
5. Leading NGO networks to reflect on these findings and explore development of a code of conduct to foster transparency and information sharing.
6. Design and implement a larger study similar to this, involving government and non-government, as well as access for citizens in rural areas.
7. The public debates and government/non-governmental reviews should consider the value of drafting progressive legislation on access to information, and learn from the experience of countries such as South Africa in this regard.

⁸ The MISA study, however, only involved requests to public/government institutions, and did not include donors and NGOs.

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Annex: Sample List of Requests

Central Government

- Percentage of the budget approved by Parliament in 2003 actually spent.
- Number of cases of corruption lodged against health personnel in the last two years.
- List of owners of mining companies in Tanzania.
- Are genetically modified foods produced in Tanzania and what is Government policy regarding this?
- Total stocks of grain (maize) held by the Government.
- Plans for assisting orphans in the streets.
- Number/list of laws passed by Parliament in the last 2 years that have not been assented to by the President.
- Number of Tanzanian soldiers involved in peace keeping in other African countries, if any.
- List of investigations carried out by the National Environmental Management Council (NEMC) in the last 3 years and has there been an environmental impact assessment done of hotel development inside Ngorongoro National Park?

Local Authorities

- Copy of the document(s) that contain procedures and guidelines for procurement of books and stationeries to primary schools that were applicable in 2003
- Amount of funds the council allocated to primary schools as capitation and development grants from 2002-2004? Of the money how much was sent to schools and how much was retained or spent on the councils?
- The amount of money the municipality disbursed to primary schools in the year 2002/2004.
- The number of people that have received exemption and waivers for at health facilities in your district.
- Efforts undertaken by the municipality to prevent/combat cholera outbreaks.
- The number of schoolgirls that have become pregnant in your district.

Judiciary

- List of cases where the litigant requested the magistrate to withdraw from the case due to lack of confidence for the last three years. Of these how many requests were accepted?
- Number of cases of domestic violence during 2003 and outcomes (i.e. how many arrested, how many convicted and length of sentences)
- How many magistrates were transferred in or out of the district in the last 3 years? Of these how many were due to due to allegations of corruption or other issues in the public interest?
- What is the annual budget and actual expenditure of the Court of Appeal in the last 3 years?

Public Hospitals

- How many people have received exemption and waivers from cost sharing at health facilities in your hospital?
- The amount of money given by the Central Government for making prosthetic limbs.

Donors

- Information on funding given for women's empowerment programs and health programs in 2003 to various organizations.
- What is their procedure for giving loans to governments as well as individuals?
- What is the total value of loans given by you to the Government in 2003?
- The amount of money owed to you by the Government of Tanzania.
- How many grants did you give to the Government of Tanzania in 2003 (request supporting documents).

Utilities

- The strategy put up by your organization to curb water shortage in Dar es Salaam
- Efforts/strategies to improve water distribution?
- The number of cases of water vandalism and what action has taken against them?
- Steps taken to ensure access to electricity to the people in the villages
- The HIV/AIDS policy of your organization.

Businesses

- How conscious in the Tanzanian society regarding insurance?
- Poverty is affecting your customers – what is your strategy to minimize its impact?
- Your business trend in Tanzania in the last five years.

NGOs

- What have you done to establish a specific law that prevents early marriages of girls?
- Number of people who have benefited from your programs in the last 5 years.
- Your budget and expenditure for the last 3 years.
- Number of your donors/sponsors.
- Total number of employees and the proportion of them who are women.