



ORIGINAL RESEARCH PAPER

Law

TOWARDS EFFECTIVE IMPLEMENTATION OF THE ACCESS TO INFORMATION ACT IN TANZANIA: ARE INFORMATION HOLDERS PLAYING THEIR ROLES EFFECTIVELY?

KEY WORDS: ATI Act; Implementation; Information Holders; Role.

Godwin Stephano

Research Scholar, School of Legal Studies and Research, APG, Shimla University, Himachal Pradesh, India.

ABSTRACT

In September 2016, Tanzania adopted an Access to Information Act, 2016 (ATI Act). The ATI Act gives every citizen the right to access information held by government and private bodies. However, in order for the ATI Act to realize the gains that motivated its adoption, it requires proper implementation which is a co-responsibility of both the information holders (supply side) and the citizens (demand side). This study is therefore set out to investigate whether the information holders/officers are playing their role of implementing the ATI Act as envisaged for them under the ATI Act. Using quantitative survey design, the study has revealed that the objectives of the ATI Act have not yet been fully realized and perfected, primarily because some information holders/officers have not yet acquired sufficient knowledge and understanding regarding of what their obligations are under the ATI Act. Furthermore, most of information holders have not yet appointed information officers to deal with information request. The study recommends for knowledge to information holders of what their obligations are under the ATI Act and also appointment of information officers to deal with information request.

INTRODUCTION

Access to information is a fundamental human right in any constitutional democracy and no country can truly call itself democratic, unless citizens have the right to access and request information that is held by public and certain private bodies. Citizen's right to access information is therefore an inherent right of every citizen in any democratic country like Tanzania [1]. In 2016, Tanzania passed the Access to Information Act, 2016 (the ATI Act) to govern the right to access information in Tanzania. The ATI Act enables every citizen access to information from public and certain private bodies, subject only to narrowly defined exceptions. However, the passage of the ATI Act in itself is not sufficient to enable citizens to enjoy their constitutional right to access information. It requires proper implementation which is a co-responsibility of those with rights and those with a duty towards them to understand and play their role to implement the ATI Act. In other words, the implementation of the ATI Act is a co-responsibility of both the information holders/officers (supply side) and the citizens (demand side).

Consequently, the right to access information as provided under the ATI Act is exercised in two main ways namely proactive publication of information and reactive or responsive provision of information [2]. Proactive publication of information on the one hand presupposes the positive obligation of information holder [3] to provide, to publish, and to disseminate key types of information about their main activities even without a specific request for that information, so that the public can know what they are doing. On other hand, reactive access to information implies the right to any person to make a request to the information holder for specific information subject to a clear set of exceptions.

Considering the fact that it is now more than three years since the enactment of the ATI Act, the implementation of it, is still very much in its infancy.

Therefore, this study which examine whether the information holders/officers are playing their role of implementing the right to access information law as envisaged for them under the ATI Act, is considered to be a significant undertaking.

OBJECTIVE OF THE STUDY

1. To examine whether the information holders/officers are playing their role of implementing the right to access information law as envisaged for them under the ATI Act.
2. To ascertain challenges and measures to be taken to enable information holders/officers effectively implement the right to access information in Tanzania.

RESEARCH METHODOLOGY

In this study, the survey research methodology was employed to gather data. The research investigation was conducted during the period of December 2019-February 2020 in Dar es Salaam Tanzania.

INSTRUMENT OF DATA COLLECTION

The questionnaire was used as the instrument of data collection. The method was used due to its ability to covering a large number of respondents within a short time, [4] and more importantly, questionnaires are an excellent way of dispassionately tackling questions dealing with perceptions, attitudes and representativeness. The questionnaires were administered in Dar es Salaam, Arusha and Dodoma regions (Tanzania). This involved respondents employed in public and private sectors. Purposive sampling was used in selecting the respondent in this study. For purposes of simplicity, the first five questions required a 'yes' or 'no' answer, while the last question required a short explanation from the respondents.

SAMPLE SIZE

From the total of 689 questionnaires that were administered to respondents, 602 questionnaires representing 87.4 percent of the questionnaires distributed were collected. Out of this 602 questionnaires I had collected, 38 questionnaires representing 6.3 percent were incomplete and I therefore left them out, choosing to work with 564 dully filled questionnaires which is about 81.8 percent response rate which was considered adequate. Data generated from these responses are presented and analyzed statistically using descriptive statistics which involved frequencies and percentages.

DATA PRESENTATION AND ANALYSIS

Research Question One:

Are you aware of the importance and benefits of access to information law in Tanzania?

In answering this question, more than half of the respondents i.e 51.7% said 'yes' while 46.3% said 'no' followed by 2% of the respondents who had no idea about the importance and benefits of access to information law in Tanzania.

Research Question Two:

Is there any official(s) in your institution who specifically handles information requests and ensure proper implementation of the ATI Act?

Majority of the respondents (60.3%) said that their institutions has no designated officer to handle information requests.

Only 39.7% of the respondents indicated that their institutions has designated officer dedicated to handle information requests and ensure proper implementation of the ATI Act.

Research Question Three:

Have you got any training on how to deal with access to information requests?

Concerning training on how to deal with access to information requests, majority of the respondents (72.4%) replied in the negative while over a quarter (27.6 %) of the respondents replied in the affirmative.

Research Question Four:

Is your institution regularly make proactive disclosure of information that the public may need to know about your institution?

While answering this question, a total of 66.2% of the respondents answered in the negative. Only 27.5% of the respondents said that their institutions regularly make proactive disclosure of information that the public may need to know about them and 6.3% did not respond to this question.

Research Question Five:

Is there any Institutional arrangement(s) in your institution to enable the dispatch of requested information within a set timeframe?

While answering the question as to whether there is any Institutional arrangement(s) in their institutions to enable the dispatch of requested information within a set timeframe, 87.5% answered 'no' while 10.9% answered 'yes'. About 1.6% of the respondents said they were not sure.

Research Question Six:

What measures need to be taken to enable information holders/officers to effectively implement the ATI Act?

In an attempt to answer this question, respondents gave multiple responses with an average of three responses per respondent. There were six categories of responses in this question. The largest group of responses (29%) mentioned 'training to information officers to know what their obligations are under the ATI Act', followed closely by 27.3% of the respondents who cited 'a need to every information holder to designate information officer(s) to deal with information request'. Similarly, 19.1% mentioned 'increase understandings among information officers of what citizens' rights to information entails', followed by 10.3% of the respondents who said 'need for institutions to proactively publish information of public interest'. Furthermore, 8.1 % of the respondents mentioned 'need of independent Information Commission to monitor the implementation of the ATI Act'. Lastly, there were 6.2% of the respondents who mentioned 'a need for every institution to develop a system for processing requests'.

DISCUSSION OF FINDINGS

The findings derived from the study has shown that 51.7% of the respondents were not aware about the benefits of the ATI Act while 46.3% were aware about the benefits of the ATI Act. It is therefore obvious from the finding that knowledge regarding importance and benefits of the ATI Act among the information holders/officers is inadequate and obviously it affects the effective implementation of the ATI Act. The findings further has showed that despite the ATI Act requiring every information holder to appoint officer(s) to deal with information request, fewer information holders had complied to this requirement. Findings from the survey revealed that, only 39.7% of the institutions had information officers while 60.3% of the institutions did not have information officers designated to manage information collection and retrieval. Worse enough, fewer appointed

information officer(s) were not trained as expected on how to deal with access to information requests. Only 27.6 % of the appointed information officers were trained while 72.4% were not trained. This state of affairs to great extent affects implementation of the ATI Act and the ability of information officers to handle information requests.

Consequently, the trend depicted above is also reflected in the responses regarding whether public institutions regularly make proactive disclosure of information that the public may need to know about their institutions. A total of 66.2% of the respondents answered in the negative, 27.5% of the respondents answered in the affirmative, while 2.1% did not respond. The picture that emerges from these findings is that majority of the information holders have failed to fulfill, despite the legislative mandate, proactively disclosure of information that the public may need to know about their institutions. This worrisome facts undermines effective implementation of the ATI Act.

In the same vein, on whether there is any Institutional arrangement(s) in their institutions to enable the dispatch of requested information within a set timeframe, 87.5% answered no while 10.9% answered yes and 1.6% said they were not sure. From the findings, it is apparent that majority of information holders have not yet developed systems to ensure proper implementation the ATI Act, such as systems to ensure that proactive disclosure takes place and that responses are provided in a timely fashion to requesters. This shows that, the objectives of the ATI Act have not yet been fully realized and perfected by many information holders. What this suggests, is that without a system for processing requests, it is very unlikely that requests will get processed in a regular way in accordance with the rules, and especially in line with the strict time limits set out in the ATI Act.

CONCLUSION

Although information holders are obliged by the ATI Act to implement the ATI Act, the study has revealed that there is a lack of commitment by most information holders in Tanzania towards the implementation of the ATI Act. The objectives of the ATI Act have not yet been fully realized and perfected, primarily because some information officers have not yet acquired sufficient knowledge regarding of what their obligations are under the ATI Act; absence of information officer(s) to deal with information request; failure to proactively publish information of public interest; and lack of institutional arrangements to dispatch information when it is requested.

RECOMMENDATIONS

In view of the findings made in the study, the following recommendations are hereby submitted:

1. Increasing sensitization to the information holders/officers about what their obligations are under the ATI Act.
2. Information holders to appoint information officer(s) to deal with information request.
3. Information holders to publish information of public interest proactively. Also to update this information regularly, as necessary.
4. Information holders to develop systems to enable them to implement their obligations under the ATI Act on a consistent basis.

REFERENCES

1. Tanzania is a country located in Eastern part of Africa.
2. Section 9 of the Tanzanian Access to Information Act, 2016.
3. Information holder means a public authority or a private body registered in by any written law in Tanzania. See section 3 of the Tanzanian Access to Information Act, 2016.
4. Ranjit Kumar, (2011) Research Methodology: A Step-By-Step Guide for Beginners, SAGE Publications, page 148.