



## RWANDA

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**Submitted by:**

Africa Freedom of Information Centre

Gilbert Sendugwa

Coordinator & Head of Secretariat

Africa Freedom of Information Centre

Plot 5 Katago Road, P.O Box 35643, Kampala

Tel: 256 414 533554 Fax 256 414 533554

Email: [gilbert@africafoicentre.org](mailto:gilbert@africafoicentre.org)

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Website: <http://www.africafoicentre.org> |

Twitter: <https://twitter.com/AFIC1>

## **Executive summary**

Rwanda has recently adopted a number of new laws, including a media law and a revised law on genocide ideology. The country has been focused on a growth plan in the last ten years, however, freedom of expression and association remain tightly controlled. In order to try and facilitate this growth, the right to information has been is of great significance. This UPR report focuses on developments related the right to information and associated measures taken by Rwanda.

In this submission, the Africa Freedom of Information Centre provides information under sections A, B, C and G as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*<sup>1</sup>. Most of the information presented in this report concern particularly the right to information and access of information.

Freedom of expression and information Rwanda's previous UPR provided considerable number of recommendations from countries such as Canada, Austria, Japan, Brazil, Italy, Netherlands, Sweden, Belgium, Slovakia, Germany, United Kingdom, United States, Switzerland, Poland, France and Indonesia.

AFIC and its members and partners commend the Government of Rwanda's commitment to its reporting obligations.

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<sup>1</sup> See Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

## **A. Methodology**

1. The Africa Freedom of Information Centre (AFIC). AFIC is a pan-African network and resource centre consisting of 35 civil society organizations in 22 African countries, promoting access to information in Africa through comparative research, coordinating regional advocacy, facilitating information-sharing and capacity building. AFIC promotes democratic rule and socio-economic justice for African citizens through fostering a culture of increased transparency, integrity and accountability among governments, both regional and international.
2. The planning, development, and management of this report involve Open Democracy & Sustainable Development Initiative (ODESUDI) as well as Human Rights First Rwanda Association (HRFRA). HRFRA promotes and safeguards human rights, good governance, and promotes rule of law in Rwanda while ODESUDI is a Rwandan Local NGO that promotes open democracy and governance through promoting citizens rights on access to information. This report involves results from consultative meetings with the Rwanda Ombudsman. It also involves the media, groups and individuals who have an interest in the right to information and access to information. The consultation involved desk research, media reports and individual human rights reports, all which have helped to inform and frame Rwanda's UPR report.

## **B. Normative and Institutional Framework of the State**

### **Applicable frameworks & standards in international human rights law in Rwanda.**

3. Rwanda's constitution is arguably a model of explicit provisions guaranteeing access to information and the protection of freedom of speech and the press.<sup>2</sup> The constitution explicitly establishes and guarantees freedom of information in Article 34.

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<sup>2</sup> State of Right to Information in Africa Report pg 52 <http://www.africafoicentre.org/index.php/reports-publications/139-state-of-right-to-information-in-africa-report-2014?path> ( last accessed on the 16<sup>th</sup> of March 2015) .

4. In view of the history of the country's genocide and human rights violations and commitment to implement the new constitution, the Rwandan legislature commendably passed a law allowing for the freedom of information in Rwanda. The law relating to access to information in Rwanda was passed by the Rwandan legislature in 2012.<sup>3</sup> The law was enacted following the guidelines of the African Modal Law on Access to information. The Act provides for right of access to information held by public bodies and private entities that receive public benefits, perform public functions, and/or provide public services, particularly, in respect of information relating to public resources, benefits, functions or services, except where limitations are placed on the needed information because of a compelling public interest.<sup>4</sup>
  
5. It is now widely recognized that the right to information is protected by the main human rights treaties and has developed into a norm of customary international law. Commendably, Rwanda has agreed to be part of significant right to information treaties, particularly the United Nations Convention on Corruption<sup>5</sup>, the International Covenant on Civil and Political Rights<sup>6</sup>, and the African Charter on Human and Peoples Rights<sup>7</sup>. Rwanda has ratified most of the regional international instruments related to access to information law apart from the African Charter on the values and principles of public administration.

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<sup>3</sup> Law number 04/2013 of 08/02/2013 Relating to Access to Information.

<sup>4</sup> See Freedom of Information Act section 1.4 (a and c).

<sup>5</sup> Article 13, United Nations Convention against Corruption 31 October 2003. (Rwanda ratified on the 4<sup>th</sup> of October 2006).

<sup>6</sup> Article 19, International Covenant on Civil and Political rights 16 December 1966. (Rwanda ratified on the 16<sup>th</sup> of April 1975).

<sup>7</sup> Article 9, African Charter on Human and Peoples Rights 21 October 1986. (Rwanda ratified on the 15<sup>th</sup> of July 1983).

## C. Promotion and Protection of Human Rights on the Ground

### Freedom of the Press

6. The Rwanda Media Commission was established as a media self-regulatory body by Law N0. 02/2013 of 08/02/2013<sup>8</sup> most of whose roles and responsibilities include advocating for a press-conducive environment and also increase the capacity of the media in Rwanda.
7. Rwanda has garnered a reputation for press violence as journalists face threats, intimidation, and prosecution in the course of their work.<sup>9</sup> Reporters without borders *Reporters Sans Frontières (RSF)* the widely acclaimed French not for profit that seeks to promote and defend press freedoms globally in its most recent index ranked Rwanda at position 162 out of the 180 countries on the grid in as far as states that promote press freedoms.<sup>10</sup>
8. In April 2013, Huguka community radio presenter Epaphrodite Habarugira was detained on a charge of “minimizing” the 1994 genocide and “spreading genocide ideology.”<sup>11</sup> The Muhanga district court ruled that the charges against him were without foundation, and he was released after spending three months in jail. In July 2013, Idriss Gasana Byiringiro, a journalism student and reporter for *Chronicles* newspaper, was held by Rwandan police for more than 72 hours on charges of trying to “deceive the intelligence services” and fabricating lies in an article that alleged he was kidnapped by armed men. Byiringiro was arrested when he went to the police station to make a statement. After being held for three days he issued a statement to certain news media in which he confessed to fabricating the abduction story. He was then released pending trial, whereupon he maintained that he had indeed been kidnapped. He was later detained for 30 days on the orders of the public prosecutor to allow time to prepare a case against him. In November 2012,

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<sup>8</sup> Article 2, Law number 04/2013 of 08/02/2013 Relating to Access to Information.

<sup>9</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/117/93/PDF/G1111793.pdf?OpenElement> ( last accessed on the 20<sup>th</sup> of March 2015).

<sup>10</sup> Reporters Without Borders *Reporters Sans Frontières (RSF)* World Press Freedom Index 2014.

<sup>11</sup> <https://freedomhouse.org/report/freedom-press/2013/rwanda#.VQqwrNKUeRs> ( last accessed on the 12<sup>th</sup> of March 2015).

Stanley Gatera, editor of the newspaper *Umusingi*, was sentenced to one year in jail and a fine of 30,000 Rwandan francs (\$50) for “inciting divisionism and gender discrimination” in an opinion column he wrote in June. The state prosecutor claimed that the article broke Rwanda’s laws about referring to ethnic identities.<sup>12</sup>

9. The Rwandan police continue to attack and threaten journalists. In June 2012, police assaulted journalist Norbert Niyuzurugero of *Kigali Today* while he was photographing traffic jams. The same month, police beat Radio Flash journalist Anonciata Tumusiime unconscious outside of Parliament, ostensibly for breaching security, though other reports claimed that the reporter was attacked for allegedly disrespecting the police commissioner.<sup>13</sup>
10. In Rwanda, media houses openly exhibit political loyalty to the Government. The government has the authority to shut down media outlets based on their news content, which has set a negative precedent. The Rwandan media is dominated by pro-government newspapers and radio stations. There were several dozen print publications registered with the government in 2012, though only about 10 of them published regularly. Six of the country’s 25 radio stations are government owned. In addition to the main government-run television station, two private stations opened in July 2012, the first private television channels to operate since 1994. However, the state-owned media reach the largest audience, and most private outlets do not engage in overly confrontational coverage, although some criticism of government policies can be found on the call-in shows of private radio stations.<sup>14</sup>
11. Media censorship is still a reality in Rwanda. A glaring case in point relates to the BBC documentary ‘The Untold Story’, which was aired in September 2014 by the British Broadcasting Corporation (BBC).<sup>15</sup> The documentary highlighted sensitive questions regarding the 1994 genocide in Rwanda. This led to the indefinite suspension of BBC Kinyarwanda service broadcasts through the Rwanda Utilities

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<sup>12</sup> Reporters Without Borders Reporters Sans Frontières (RSF) publication *Wave of Intimidation of Kigali media* (28<sup>th</sup> April 2014).

<sup>13</sup> <https://freedomhouse.org/report/freedom-press/2013/rwanda#.VQqwrNKUeRs> (last accessed on the 12<sup>th</sup> of March 2015).

<sup>14</sup> <https://freedomhouse.org/report/freedom-press/2013/rwanda#.VQqwrNKUeRs> (last accessed on the 12<sup>th</sup> of March 2015).

<sup>15</sup> Jane Corbin, Vine Videos, BBC Documentary, *Rwanda The Untold Story*.

Regulatory Authority (RURA).<sup>16</sup> The manner in which the closure of the BBC Kinyarwanda service broadcasts was conducted also revealed procedural irregularities particularly concerning the mandate of the Rwanda Utilities Regulatory Agency. The fact that the RURA, a technical agency that is also responsible for sanitation, transport, and postal services, took it upon itself to act as arbiter over freedom of information created suspicion on the bans political dimension.<sup>17</sup> The Rwanda Media Commission (RMC) which was instituted to address violations of press freedoms went on to state that the BBC documentary, 'Rwanda's Untold Story' violated both media ethics and media principles and has called for the prosecution of those involved with the documentary. Although RMC condemned the content of the documentary, the body argued that the suspension of the transmission was not the right decision to make.<sup>18</sup>

12. The Rwanda media environment improved in 2012 due to the passing of progressive laws. The state introduced progressive amendments to the 2009 media law<sup>19</sup> during the year, though some problematic clauses were left unchanged. The state would retain its control over the media by determining rules for their operation and defining journalists' professional standards. Furthermore, the minister in charge of information and communication technologies (ICTs) would have unlimited powers to set the requirements for establishing media outlets and conditions for allowing foreign audiovisual media companies to operate in Rwanda. However, the proposed amendments would remove the requirement for journalists to hold particular academic qualifications, ease the process for acquiring press cards, and reduce the grounds on which authorities can refuse to provide information. Other restrictions on journalists would also be lifted, including bans on the use of "unlawful methods to obtain or to disseminate information" and "distorting ideas contained in information

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<sup>16</sup> Edmund Kagire, 'The East African, 'Rwanda suspends BBC Kinyarwanda service' ,(Saturday October 25<sup>th</sup> 2014).

<sup>17</sup> Reporters Without Borders Reporters Sans Frontières (RSF) publication 'BBC'S KINYARWANDA BROADCASTS SUSPENDED INDEFINITELY' (28<sup>th</sup> October 2015).

<sup>18</sup> Edwin Musoni, *Media body appears before BBC probe commission* New Times Publication of (November 19<sup>th</sup> 2014) .

<sup>19</sup> Law Number 02/2013 on regulating media (Media law) adopted in Rwanda on 11 March 2013.

or a text.”<sup>20</sup> Furthermore, the Law relating to access to information, initially drafted by the Media High Council in 2009, set new standards for public access to information and to protect whistleblowers.<sup>21</sup>

### **Access to Information**

13. In 2012, an estimated 8 percent of Rwandans accessed the internet.<sup>22</sup> This figure is extremely low. The challenge is mainly related to socio-economic limitations that have affected the ability of Rwandans to use the internet. There are no official restrictions on internet use, and there were no reports during the year of the government monitoring online communications.
14. Low literacy rates leading to the inability to read news papers make radio the primary source of information for most Rwandans.<sup>23</sup> Therefore, the lack of capacity to decimate information is limiting access to information in Rwanda.
15. It should be noted, however, that public awareness of the right to information law and ways in which the public can exercise this right is very low. As such, very few ordinary Rwandans have applied the law through the filing of information requests despite the huge need for such information.<sup>24</sup> The Government of Rwanda, which is the prime implementer of the law, has made some strides. Despite these efforts, Rwanda still has a lot to do particularly when it comes to raising public awareness. The government has failed to prioritize training of information officers and has yet to

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<sup>20</sup> <https://freedomhouse.org/report/freedom-press/2013/rwanda#.VQqwrNKUeRs> (last accessed on the 12<sup>th</sup> of March 2015).

<sup>21</sup> Law Relating to Access to Information number 04/2013 of 08/02/2013.

<sup>22</sup> <https://freedomhouse.org/report/freedom-press/2013/rwanda#.VQqwrNKUeRs> (last accessed on the 12<sup>th</sup> of March 2015).

<sup>23</sup> <http://statistics.gov.rw/node/1086> (last accessed on the 12<sup>th</sup> of March 2015).

<sup>24</sup> <http://www.freedominfo.org/2013/03/rwanda-publishes-new-law-on-right-to-information/> (last accessed on the 12<sup>th</sup> of March 2015).



equip their offices to effectively promote and implement the Law Relating to Access to Information.<sup>25</sup>

16. The institution charged with monitoring access to information law called “the office of the Ombudsman”, has insufficient capacity in terms of human resources and is overwhelmed with other tasks related to fighting corruption and injustices with little focus on access to information. It also needs more substantial budgets to allow it to carry out its mandate under the access to information legislation.
17. Some public institutions have nominated information officers while others have not. In instances where information officers have been nominated, their duties appear to focus on other roles besides addressing access to information requests from the public. Private organizations are unaware of this law and consequently none have nominated information officers. There is also limited awareness of the public information officers about their role in answering access to information related requests from the public.<sup>26</sup>

### **National Legislation Concerns**

18. Rwanda is one of the few African countries that adopted a national access to information law.<sup>27</sup> This is commendable, however, limited attention has been paid to implementing measures to build and sustain democracy, good governance, transparency and accountability.

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<sup>25</sup> <http://www.freedominfo.org/2013/03/rwanda-publishes-new-law-on-right-to-information/> ( last accessed on the 12<sup>th</sup> of March 2015).

<sup>26</sup> Out of the 17 requests submitted through [www.sobanukirwa.rw](http://www.sobanukirwa.rw) an access to information/ Open government website for Rwanda established by Open Democracy & Sustainable Development Initiative (ODESUDI) in partnership with Tumenye LTD only one has been successfully answered.

<sup>27</sup> <http://www.freedominfo.org/2013/03/rwanda-publishes-new-law-on-right-to-information/> ( last accessed on the 12<sup>th</sup> of March 2015).

19. Implementation of *the obligation to proactively publish Information (proactive disclosure)* is poor. Article 8 of the law on access to information provides that public institutions and some private bodies to which this law applies should proactively publish information on their website within a period of six month. Article 3 of Ministerial order No 006/07.01/13 OF 19/12/2013) also require proactive disclosure, however, the requirements in these articles are yet to be fulfilled with publications.
20. There are statutes, mainly of security nature, that provide for confidentiality and thereby inhibit freedom of information. For example, the law number 48/2008 of 09/09/2008 Relating to the Interception of Communications, outlawed the public disclosure of how ones duties are carried out within the execution of this law.<sup>28</sup>

**D. Identification of achievements, best practices, challenges and constraints in relation to the implementation of accepted recommendations and the development of human rights situations in Rwanda.**

21. Rwanda UPR 2011 review drew specific comments on freedom of expression and Access to Information. The committee was concerned about restrictions on freedom of expression imposed on the press and journalists under the 2009 Media Law and recommended its amendment. The delegation stated, with regard to media freedom, that the media in Rwanda did not have a good track record.<sup>29</sup>
22. The Rwanda UPR 2011 review did not draw specific comments on Access to Information.
23. With the adoption of new media laws and a law on access to information, Rwanda has made strides to fulfill the recommendations directed at it during the last 2011 review.

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<sup>28</sup> Article 7 law number 48/2008 of 09/09/2008 Relating to the Interception of Communications.

<sup>29</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/117/93/PDF/G1111793.pdf?OpenElement> on the 12<sup>th</sup> of March 2015).

**E. Recommendations for Action in Rwanda**

24. Implementation of the Law Relating to Access to Information should remain a top priority of the Rwandan government. In particular, Rwanda should expedite the appointment of information officers for all agencies covered by the law, offer training to officials, and systematically set up implementation arrangements in all agencies. Public agencies and the Information Commissioner should treat reporting on Law Relating to Access to Information implementation with utmost importance. Furthermore, the government should prioritize creation of citizens' awareness of their right to information and how they can exercise this right.
25. To ensure proactive disclosure Rwanda should establish a specific unit at the office of the ombudsman charged with ensuring the implementation of and reporting on the access to information Law.
26. There should be an increased budget allocation to the office of the ombudsman in order to carry out its mandate under the access to information Law.
27. Recommendations for civil society include increased engagement and sensitization of the public. Advocacy for the right to access to information should be enhanced. Effective monitoring systems should be developed to assess efforts at increasing access to information. Civil society could take the lead in creating awareness of the Law Relating to Access to Information dissemination through, for example, workshops for government officials, members of the public, and training community based networks, would be deemed a good approach.
28. Rwanda should adopt a standard freedom of information implementation policy. There is need for an integrated approach to information access in Rwanda, which requires a proactive release of information which is timely and relevant, considers privacy, and records management.
29. Rwanda should amend Article 42 of the Media Law Number 02/2013 of 08/02/2013 in the view of ensuring that there is a clear distinction between the mandate and responsibilities between RURA and RMC by ensuring that the RMC regulates the conduct of media practitioners in terms of broadcasting contents including the audio

visual media whereas RURA's responsibility to regulate the distribution of frequencies to the audio and visual media. Rwanda should also ensure that distribution of licenses to private media house is conducted by RURA and not subcontractors to avoid a monopoly of private companies.

30. Rwanda should promptly revise its libel laws to meet international standards for freedom of expression and the media. One such method is to ensure that laws associated with criminal libel are dropped. Rwanda should repeal Article 288 of its Penal Code which criminalizes defamation. Media outlets in Rwanda must not be prevented from reporting on all activities on behalf of the right to information of the public. Stakeholders should take measures to condemn the libel related gags, orders, and directives used by the Rwanda's criminal court.
31. Initiate prompt investigation on press violence and intimidation. The Rwandan Governments should take stern measures to ensure suspects from security organs that beat and threaten journalists are accordingly prosecuted to deter future occurrences.