**THE CONSTITUTIONAL RIGHT OF ACCESS TO INFORMATION IN TANZANIA: INSIGHTS ON THE LAW, PRACTICE AND PROBLEMS**

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# CERTIFIATION

The undersigned certifies that he has read and hereby recommends for acceptance by the Open University of Tanzania a Dissertation titled, ***“The Constitutional Right of Access to Information in Tanzania: Insights on the Law, Practice and Problems ”,*** In partial fulfillment of the requirements for the award of Master Degree of Law.

...............................................................

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DATE

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SIGNATURE

………………………

DATE

# DEDICATION

This work is dedicated to my beloved husband Hon. Mohamed Mchengerwa (MP) and to my sons Nasri Mohamed Mchengerwa and Ayman Mohamed Mchengerwa and my daughter Ghaliyah Mohamed Mchengerwa for encouraging me and being my fountain of inspiration for their purity heartfelt as I hereby feel so indebted to them. And in the loving memory of my late father John Abrahamu Mfikwa and my mother Jane Mfikwa for their support in my education from the initial stage. May Almighty God rest his Soul in external Peace. Amin.

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# ABSTRACT

#

The topic dealt by this study is about the constitution right of access to information in Tanzania insights on the law, practice and problems. In addressing the problems the researcher hypothesized that the right to information is not guaranteed by the national laws. The aim of research study was to analyse the constitution right of access to information and to explore the law and practice. In addressing the said problem the research has five chapters of which each chapter is covered with a specific aspects concerning the rights of access to information. The first chapter covers the introduction part under which there are introduction, background of the problem, statement of the problem, research objectives, research questions, literature review, significance of the research, research methodology, sample strategy and scope and limitations. The second chapter covers the history of access to information, from the Medieval Era in ancient time, historical development of access and the Magna Carta. Third chapter is enshrined with discussing on access to information in Tanzania whereby the different international and regional agreements as well as national laws on access to information are discussed. Chapter four covers the presentation of research findings and data analysis which involves interpretation of data gathered by the researcher during the study and produce it in a summary way. Chapter five is last chapter which provides for the conclusion and recommendation. The conclusion and recommendations that have been given has printed out what may be done in order to improve the access to information in Tanzania.

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**LIST OF ABBREVIATIONS**

ALA The American Library Association

ANC African Nation Congress

A.S. P Afro Shiraz Party

BC Before Christ

Cap Chapter

CCM Chama Cha Mapinduzi

CJA Commonwealth Journalist Association

Co. Company

CURT Constitution of United Republic of Tanzania

EPOCA The Electronic and Postal Communications Act

FAILE Freedom of Access to Information and Freedom of Expression

FIS Islamic Salvation Front

ICCPR International Covenant on Civil and Political Rights

IFLA International Federation of Library Association and Institution

IJMC Institute of Mass Communication and Journalism

JET Journalist Environmental Association of Tanzania

LL.B Legum Baccalaureus

LL.M Latin Legum Magister

LTD Limited

MAELEZO Tanzania Information Services

MCT Media Council of Tanzania

MISA The Media Institute of Southern Africa

MOAT Media Owners Association of Tanzania

NATO North Atlantic Treaty Organisation

NGO Non Governmental Organisation

OAU Organization of African Unity

SOSPA The Sexual Offences Special Provisions Act

TAJA Tanzania Journalist Association

TAMWA Tanzania Media Women’s Association

TANU Tanganyika African Nation Union

TCRA Tanzania Communication Regulatory Authority

TLR Tanzania Law Report

UDHR Universal Declaration of Human Rights

UN United Nations

UNESCO United Nations Education Scientific and Cultural Organization

 UPR Universal Periodic Reviews

USA United States of America

USSR Union of Soviet Socialist Republics

Vs Versus

**CHAPTER ONE**

**INTRODUCTION**

**1.1 Background of the Problem**

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[[1]](#footnote-2)

This right to freedom of expression is recognized as a human right under article 19 of the Universal Declaration of Human Rights, 1948 and recognized by The International Covenant on Civil and Political Rights of 1966 .Article 19 of the ICCPR states that;

*“Everyone shall have the right to hold opinions without interference and everyone shall have the right to freedom of expression, this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers either orally, in writing or in print in the form of art, or through any other reduce of his choice.”*

The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may accordingly, speak, write and print with freedom, but shall be responsible for such abuse of this freedom as shall be defined by law[[2]](#footnote-3).

Access to information notion can be traced back during colonial era where press was used as a tool to maintain to colonial administration. During that time right to information was only restricted to the glorification of the colonial master through making native submissive to the colonial masters’ civilization[[3]](#footnote-4).

During the German rule, media was designed to serve the interests of the German administration[[4]](#footnote-5). The first newspaper in Tanganyika was *Msimulizi* published by the Anglican Universities Mission to Central Africa in Zanzibar in 1888.This newspaper existed for only two years and in 1890 the *Mtenga Watu* was launched by Universities Mission to Central Angalican[[5]](#footnote-6). This followed by newspaper such as *Maongezi na Maarifa* focusing mainly on religion news. The most preferable printing centres were Dar es salaam,Tanga and Coastal Town.In 1899 The Germany started to publish a weekly newspaper in Germany language called *Deutch –Ostafrikanische* ,which was intended to serve as a mouth piece of the Germany planters and farmers.[[6]](#footnote-7)

During British rule, the first newspaper printed was the *Morogoro news*. This paper solely reported on the military situation[[7]](#footnote-8) in British Tanganyika. Other newspapers included the *Tanganyika territory Gazette* (1919), mainly for political and legal announcements, *The Tanga Port and East Coast Advertiser* (19191-1921) and *The Planters* which was for the interest of the coffee sisal and farming industries in East Africa. In the 1950s, nationalists press was established aimed at sensitizing the Africans for independence. Among the notable were *Sauti ya TANU*, published by the Tanganyika Africans National Union (TANU)[[8]](#footnote-9) and *Baragumu* published by United Tanganyika Party. These papers were being controlled by the Penal Code of 1920 and later by the Newspapers Ordinance of 1928[[9]](#footnote-10).

After independence, distribution of information was defined by the need to promote the interest of the new government[[10]](#footnote-11). The government denied or manipulated information which ultimately meant that there was no public disclosure of information. The main characteristics of this period were socialism, self-reliance and Ujamaa villages. The entire country was modeled on their elements[[11]](#footnote-12).

In 1961 the nationalists led by Tanganyika African National Union –TANU refused to have a Bill of Rights incorporated into the Constitution of independent Tanganyika, arguing that such a Bill would hamper the new government in its endeavors to develop the country[[12]](#footnote-13). The incorporation of Bill of Rights was regarded as a luxury which merely invited conflicts[[13]](#footnote-14).

The adoption of the Republican Constitution of 1962[[14]](#footnote-15) still considered Bill of Rights a “Luxury” and it had no provision on freedom of expression. One of significant backstep in freedom of expression appeared in 1963 when the National Executive Committee (NEC) of the ruling party Tanganyika African National Union (TANU) decided to change Tanganyika into a democratic one party state. The move was taken without people expressing their view on whether they were for or against the change. However, despite people being sidelined, one important development occurred. In the process, the President appointed a committed to deliberate on and invite comments and ideas from the general public on what form the one party democracy should take[[15]](#footnote-16). Among many suggestions forwarded to the Commission and induced in its report to the government was the inclusion of the Bill of Right in the national constitution[[16]](#footnote-17).

This suggestion was taken as one of way of providing guarantees to the fundamental rights and freedoms of the individuals. Despite rejection of his proposal by the government, the Commission proposal of including fundamental rights and freedoms in a loose form through the preamble to the constitution was accepted. The outcome of the acceptance appeared in Interim Constitution of 1965[[17]](#footnote-18) which contained constitutional guarantees including freedom of expression in loose and general terms via the preamble. This was not much of a positive development as far as the right to freedom of expression is concerned, because under the common law system, a preamble is not part of the constitution but a mere declaration of belief which does not enact the rights that could be enforced under the constitution, this position was emphasized in the case of *A.G V.Lesonoi Ndeinai & Joseph Selayo Laizer and Two other[[18]](#footnote-19)* .In other words preamble does not carry with it any legal force.

Nevertheless, the constitution of the ruling party TANU was appended in the interim constitution as a schedule. The TANU constitution contained human rights sentiments from which the right of freedom of expression could be deduced, and since a schedule is technically part of a constitution under common law then it could be used to claim rights to freedom of expression[[19]](#footnote-20).

The kind gesture was short lived as the TANU constitution was removed as a schedule to the constitution on enactment of the Permanent Constitution of 1977.The removal of the TANU constitution and subsequent failure to enact a Bill of Rights signified the beginning of robbing people of their fundamental rights and freedom since constitutional guarantee is the most effective way of resisting human rights violation by the state.

Serious demands for changes gained momentum around 1983 when the ruling party proposed constitution amendment. Bill of rights was not among the items dictated by the party for people to discuss. People grabbed the opportunity and demanded inclusion of a Bill of Rights in Constitution. However, this does not go to the extent of vindicating the state on its claims on the existence of freedom of expression because it accepted national constitution debate in the matter. Though the people exercised freedom of expression in the course of the debate, the same was of necessity.

Other impetuses for the introduction of the Bill of Rights came from within and outside. These included pressure exerted from Zanzibar which had already imported a Bill of Rights in 1984[[20]](#footnote-21) and the adoption of the African charter on Human and People’s Rights in 1981 Tanzania took an active role in the charter formulation and non-inclusion of Bill of Rights in its constitution would raise questions on its commitment to promotion of human rights. The charter, inter alia provides for freedom of expression under article 9 in the following words;

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinion within the law.

After twenty three years Tanzania introduced a Bill of Human rights in the Constitution through the Fifth Constitutional Amendment Act of 1984[[21]](#footnote-22).However, the guaranteed rights were not justiciable immediately as were suspended for three years during which the government was supposed to put its house in order by amending or repealing laws that contravened the guaranteed rights by virtue of the Constitution (Consequential, Transitional and Temporary Provisions) Act, 1984[[22]](#footnote-23). Freedom of expression was for the first time constitution guaranteed as enforceable right under article 18 of the Constitution in the following terms;

1. *subject to the law of the land* , every person is entitled to freedom of opinions and expression and that is to say the right to freely hold and express opinions and to seek, receive and import information and ideas through any media and regardless of frontiers and freedom from interference with his correspondence.
2. Every citizen has the right to be kept informed of developments in the country and in the world which are of concern for the people and their work and of questions of concern to the community.

However, the constitutional guarantees though protected freedom of expression in general had some shortcomings. For instance, the Constitution contained clawback clauses encapsulated in the words *subject to the law of the land*. Consequently, enjoyment of freedom of expression was subjected to a cost of draconian laws including The News Paper Act[[23]](#footnote-24) The National Security Act[[24]](#footnote-25) the Prison Act[[25]](#footnote-26) to name but a few. These laws curtailed people right of freedom of expression to the extent of rendering the constitutional provisions obsolete. The anomaly was later cured and the clawback clause remover in 2005 by the 14th constitutional amendment. The new article 18 reads.

Every person;

1. has the right to freedom of opinion and expression;
2. has the right to seek, receive and impart information, regardless of national boundaries;
3. has the freedom to communicate, and the right to do so without interference and;
4. has the right to be informed at all times of various events of importance to the lives and activities of the people, and issue of importance to society.

The removal of a clawback clause which made article 18 subject to other laws of the land was a huge step towards ensuring freedom of expression.

Since 2011 the Tanzania constitution has been going through a review process. The proposed of draft constitution of United Republic of Tanzania contains more elaborate and explicit provisions on freedom of expression, freedom of information and media freedom. These are stipulated under article 29 and 30 respectively.

Article 29. – (1) Every person (a) has a freedom of (i) opinion and expression of his ideas; (ii) communicating and also has the right of not being interfered with in his communication; (iii) innovativeness and artistry: (iv) academic and scientiﬁc research; and (b) has a right to be informed at all times of: (i) various important events of life and activities of the people and also of issues of importance to the society. (ii) execution by the state authority of national policies and social development activities; and (iii) other matters of social importance.

Article 30. - (1) every person has the freedom to: (a) seek, receive and use news and information and disseminate that information; and (b) start mass media and other means of information dissemination regardless of national boundaries

The proposed constitution has been commended as a step forward in promoting access to information in Tanzania; however the new constitution is not yet out. Although the proposed constitution has been commended by civil society as positive step forward promoting access to information is Tanzania, other existing laws such as the *Media Service Act,2016*,*The National Security Act, 1970*,*the Public Service act ,2002* and *The Public Leadership Code of Ethics Act* ,1995 would undermine these freedoms.

In 2006, the Tanzania ministry of information released a *Freedom of Information Bill* (2006), calling for stakeholder reviews since then the government dragged its feet on passing it into law. The Bill contained provisions for forms of access of information, right of information, period within which information requests should be responded to protection of whistle blowers, the time limit for determining requests protection of resources and the right to appeal. Section 16 of the bill contain proposed a period of 21 day for release of information requested by citizens[[26]](#footnote-27)

*The Access of Information Act**2016*was passed into law by the Tanzania parliament of September 7, 2016.This amended slightly from the bill that had been presented to the Tanzania parliament for first reacting on June, 23rd, 2016, and revised more substantially from a bill the government planned to bring before parliament in 2015 under a certificate of urgency but which was withdrawn following media and public pressure. Legislation enabling public access to information was a flagship commitment of Tanzania’s open government partnership (OGP) action plan for 2014-2016. Such a law could in principle, go a long way towards bring the government closer to the people-allowing the public, civil, society. The media and others to better understand what the government is going and encouraging more and better public participation in decision making processes.

*The Access to Information Act* *2016* is an opportunity to give greater meaning to clauses in the Tanzania constitution, specifically articles 18 (1) and (18 (2) that provide for the right to information, stating[[27]](#footnote-28).

The act allows a broad exemption in cases where another law governs the handling or release of information. In international best practice access to information laws are given priority over other legislation in situations where the laws conflict, in the Tanzania case the other laws take precedence. Since there are many laws on the Tanzania statute books that tightly control access to information, this significantly weakens Access to Information Act[[28]](#footnote-29).

The procedure for appeals against decision of information holders includes a clear conflict of interest. In the vast majority of possible cases the final decision on such appeals rests with the minister responsible for legal affairs making it very straightforward for the government to withhold any information if it wishes to do so[[29]](#footnote-30).

There is no single killer clause, however, in combination, they represent a series of obstacles that make things difficult for those in government who are minded to release information. Conversancy they makethings a lot easier for those who wish to withhold information[[30]](#footnote-31).

 When the bill of right was introduced in our constitution almost every citizen believed to be the ended of human rights violation in Tanzania. On the ground that was not the case, surprisingly, the rate of abuses of human rights like arrest, detention conditions and sometimes acts of torture rose significantly. Worse enough on the first instance there was no any proper meekness for implementation of *Bill of rights in Tanzania* until 1994 when *Basic Rights and Duties Enforcement Act*.[[31]](#footnote-32)

Tanzania is a signatory to several international and regional human rights instruments that address civil rights and liberties including the *International Covenant on Civil and Political Rights of 1966.*[[32]](#footnote-33) Although Tanzania has not explicitly incorporated all of these instruments into its domestic legislations, it accepts these instruments as legally binding[[33]](#footnote-34).

For a country to be named as the country that respect and promote human rights must before all ratify and domesticate all international human rights instruments by international law. Countries like Tanzania are obligate to take some measures to ensure human rights protection and promotion.

**1.2 Statement of the Problem**

Right to information is an essential element of the democratic process and development of human being, there can be no true democracy in a country where the majority of the people do not know their rights and duties. Also the rights to information any expose corrupt government practices undermine the personal and professional interest.[[34]](#footnote-35) In the case of Tanzania there is reason to believe that there is a last of awareness in the part of the general public of the nature of this right because public advocates, nongovernmental organizations, the media and legal aid groups, one working to inform citizens of their rights and play a key role in public sector information and data collection and distribution[[35]](#footnote-36).However the majority of Tanzania citizen live countryside and the activities of the local press legal aid provided and grassroots organization only extend as per as the regional town centers[[36]](#footnote-37).

Nevertheless, the widespread culture of confidentiality in various public bodies is an obstacle to change. Approximately two thirds of government and its bodies are classified confidential and there is no standard procedure for classifying them. This religion secrecy has become an all purpose means by which the government dissembles their citizens and maximize its powers.[[37]](#footnote-38)

For instance the usual exemption permitting government to with hold access to information is generally in respect of these matters, international relations and national security law enforcement and prevention of crime ,internal deliberations of the government information obtained in confidence from some source outside the government, information which if disclosed would violate the privacy of an individual information[[38]](#footnote-39).There is also a lack of relevant mechanisms for people to access legal information on demand[[39]](#footnote-40).However once the government and its public bodies control the definition of the national security, there is no limit to what information it may decide fall within this category[[40]](#footnote-41)

Despite the fact that the government have that right to withhold document for reasons of legislative previsions, national security and so on accountability and pureness cannot be achieve within an organizational culture that promotes excessive confidentially and secrecy[[41]](#footnote-42).

This crucial point also is not only availability of mean of information to the public rather it’s should be whether the information communicated to the public is useful and instigate their right to development, participation in public affairs health education ,justice gender and so on.

There is a need of law which shall make it obligatory to private information to the public serve for utmost sensitive security information. The need is having the law which actually governs right to information in fair and democratic mannerism, which is suitable to the people because citizens needs access to government information for their awareness and participation in national affairs effectively, and without access to information there will not be accountable government.

Therefore availability of the right to government information ensures better decisions and laws encourages more ethical government and failure to do so make people in dark country which fertilized ignorance and underdevelopment in Tanzania.

**1.3 Research Objectives**

**1.3.1 General Objectives**

The research aimed examining the constitutional right to access to information in Tanzania by in sighting on the laws, practices and problems.

**1.3.2 Specific Objectives**

1. To examine the laws and their effectiveness in governing the right to access to information in Tanzania.
2. To explore the enforcement of the right of access to information and see what may be done to improve it.

**1.4 Research Questions**

1. Whether people and public officials lack awareness on the right of access to information.
2. Whether our national laws guarantee the right to access to information to the people.

**1.5 Literature Review**

My work has been inspired by the works of the previous scholars who have written extensively on the rights of the access of information as discussed below.

**Feldman David**[[42]](#footnote-43) says restricting access of information is necessary when protection the security of any state, but he advises that the law has to find a way of accommodating this democratic demand. Feldman urges that not all government activities can be effectively performed in the glare of publicity. There are no reasons of doing do a or where it is not in the public interest for doing important to impose restrictions on access to information in order to protect individuals and the public at large from being hurt if the information is targeted to hurt any person or if the information disturbs peace and harmony of a state Feldman for instance say, any information which show lack of respect on others, religion, sex or tribe is discriminatory and need not to be accessible to the public. The researcher is somehow different with Feldman’s argument that, restrictions access to information is necessary for protecting the security of any state and that certain public functions cannot be effectively performed in the glare of publicity. In any democratic system of government, state leaders and their functionaries are constitutionally obliged to be open in their acts of governance to be the glare of public eyes.

**John Stuart Mill**[[43]](#footnote-44) argued that, there ought to exist the fullest liberty of professing and discussing as a matter ethical conduction, any doctrine, however immoral it may be considered Mill argues that, the fullest liberty of expression is required to push arguments to their logical limits rather than the limits of social embarrassment. Mill also introduced what is known as the “harm principle” in placing the followings limitation as free e expression: The only member of a civilized community against his will is to prevent harm to others.

In 1985 **Joel Feinberg**[[44]](#footnote-45) introduced what is known as the “offence principle” arguing that **Mills** harm principle does not provide sufficient protection against the wrongful behaviors of others. **Feinberg** argues that the harm principle sets the bar too high and that some forms of expression can be legitimately prohibited by law because they are very offensive. But, as offending someone is less serious than harming someone, the penalties imposed should be higher for causing harm. In contrast, **Mill** does not support legal penalties unless they are based on the harm principles. The researcher do agree with Mills views that he does not support legal penalties because, the degree to which people may be the result of unjustified prejudice.

**Jason Coppel[[45]](#footnote-46)** says state are permitted to control the flow of information by imposing restrictions on the licensing of broadcasting in the way a state deems it to be beneficing to the territory. He says the grant of broadcasting licenses may be made conditional focusing the need of her potential audience at national regional and local level. **Jason Coppel** defends the practice of imposing restriction on access to information but to some extend **Coppel** has failed to acknowledge the contribution of the media in any democratic society because media is regarded as the watch dog in any democratic society. **Jasson** work is appreciated but in one way or the other the writer has failed to examine the need of the right of freedom to information in a democratic state.

**Richard Stone[[46]](#footnote-47)**argues that freedom of information is restricted for various legitimate reasons including protection of the national security territory integrity or for public safety. He says, information which may affect investigation is treated as being an official secret, thus its publication can be restricted on justification of the basis of this aim. Preventing disclosure of information in some situation can be used to cover the government information lick stone’s argument that freedom of access to information can be controlled due to reasons of national security is important but the researcher is of the view that restrictions on access to information on the basis of national security alone is not enough without justified reasons on why restrict flow of information to the public.

**Sengondo Mvungi[[47]](#footnote-48)** says state may become in democratic and even decided to restrict the right of access to information due to political reasons. He argues that it is the duty of every official running public utility agency offices or institution grant access to information and explain such actions when required to do so otherwise freedom of information and explain such actions when required to do so otherwise freedom of information is at stake and is endangered ideally when left to the hands of such state officials. **Sengondo** says, restriction on access to information creates doubts and questions such that journalists ask which information is important to delivery to the society due to the reason the Tanzania Constitution lacks provisions guarantees the right of the media on the access of information. He says, in some democratic states, restricting media law should be repealed as recommended by various findings. **Sengondo** concludes by saying, there is a need for major reforms in the media law of a country whose laws governing the right of access to information are old, restrictive and in appropriate for the press. **Sengondo’s** view is of great help in a democratic society but a doubt is if openness and unrestrictive laws alone constitutes good governance without pointing the evil of free access of information in a society.

In a report made by **Haki Elimu**[[48]](#footnote-49), access to information in Tanzania at large is surrounded with ups and downs. The report pinpoints that one of four requested received a satisfactory response. Also the report indicates that where the information was made available, it required significant time for a follow-up. The report went further and indicates that holding public information is a national problem not only to government institutions but also to the private institutions suggestion that serious steps should be taken to make the government more open, transparent and accountable. The report on its findings recognized that, donors and various institutions in the country are the most responsive group as compared to government institutions but insisting that private institutions are slow and incorporative when it comes to providing of information[[49]](#footnote-50). The report concludes by recommending that access to information in Tanzania is still a challenge and deeply rooted such that as access to information should be introduces and on that aspect a leaf can be borrowed from South Africa. The report on one hand did not say why there are ups and downs on access to information mainly from governments institutions, hence this research intends to find reasons and solutions as to why government institutions creates ups and downs on delivery of information when requested to do so[[50]](#footnote-51).

A report written by **Legal and Human Rights Centre**[[51]](#footnote-52) states that human right should be of great importance in any democratic state abhorring dictatorship. The book indicates that, due to harsh provisions of some media laws in a country, the government is at a position of controlling both the public and the private media firms. According to the book restrictions are necessary where they protect the rights and reputations of others and the national security but argues that such restrictions should be justifiable. The book elaborates that fundamental rights including access to information are not rights from the state but are rested in concludes by saying the government has a great role to review, amend or repeal some of the laws which infringe human rights so as to enhance freedom to information by enacting Media laws, that will guarantee freedom of access to information. However the report is less detailed, for at reason, this work aims to raise more arguments concerning the problem[[52]](#footnote-53).

**Nuwamanya Joseph** (2003)[[53]](#footnote-54) on his side says restriction on access to information sometimes have experienced mushrooming of new media forms. He says in some countries new private media firms are being started at a high speed as if the laws governing the media sector are favorable. **Nuwamanya** says there is a clear conflict between the constitution and other laws of the land because while the constitution grants freedom by one hand the same right is taken away by the other hand and are characterized with harsh provisions which are not favorable for the media sector today. **Nuwamanya** made a good contribution on issue of media freedom but failed to support some of his arguments. This work will explore some of **Nuwamanya**’s arguments which were not precisely explained[[54]](#footnote-55).

**Bill Reagan**[[55]](#footnote-56) states that, freedom without limits is no freedom at all, freedom without limits lead to uncertain living. He emphasizes that children misbehave not because they are bad, but because they don’t know what their boundaries are. **Reagan** adds that, if boundaries are not site, children will continue to test the limits, even to their own detriment. His work is academically appreciated but he is silence that freedom is unprotected if it constitutes fighting words[[56]](#footnote-57).

**Muasho Kimaro** (1992),[[57]](#footnote-58) on his part comments that politic have been used to deny the right of access to information, aiming at protecting the image of the state or the selfish behaviour of some individuals. He says in Tanzania the government has monopolized the media sector by inheriting colonial restrictive laws resulting in the restriction of the process of disseminating information .He argues that where there is a presidential appointment of a head of a media institution of president automatically becomes the editor-in –chief, controlling the flow of information at a wider scope. His work is appreciated but the researcher opinion is that, some of his arguments are absolute compared to some years back. Focusing on the current media situation in the country, this writer will extent some parts of **Muasho’**s work[[58]](#footnote-59).

**Mwangi M**[[59]](#footnote-60) explains right to information via freedom of expression and opinion that right to information can be free where there is law which is firm and transparent supported by the government that controls the behavior of the society. Also he explains more that legal limits which are put to enjoyment of the right to information must form part of the law in the sense that the government should not imposed confidentiality upon information which the law does not provide for the confidentiality[[60]](#footnote-61).

Also the legal limitation (confidentiality) should be necessary and must serve only the objectives stated in the laws and not otherwise. Sometimes these limitations are used in bad faith to injure the right to information. Therefore right to information is the principle and limitations must be kept at minimum, Moreover, he explains on the confidentiality of the source of information to journalists[[61]](#footnote-62).

Nevertheless, this research focused on the reasonability of the limitations put under the laws which do infringe the enjoyment of the specific right to information from government bodies unlike **Mwangi, M** who concentrated on the limitations upon the general right to information. This research also focused on the practice on how right to information is guaranteed, promoted and protected regardless of the law protection unlikely **Michael** **Mwangi** who dealt much with the laws providing right to information. It focused on practice because sometimes the problem cannot be the law, can be practice of its enforcement and protector as generally law can be good but practice does not correlate with the law hence there is need even to make inquiries upon the poultice specially in as travesties how do they apply the laws specifically on the confidentially and right to information[[62]](#footnote-63).

**Fuchs, M**[[63]](#footnote-64) describes more the role of the court upon preventing unnecessary secrecy be use of the power of the public opinion depends on the access of information especially government information. **Meredith Fuchs** also explains that the constitution permits the judiciary to play a role in restraining excessive government secrecy via judicial review even though the judiciary to play a role of monitoring and limiting secrecy but it is the one to determine what amounts to national security[[64]](#footnote-65).

Actually, secrecy has expanded in areas beyond those of classification and information policy. The government has increased use of potent litigation tactics such as motions lawsuits on the basis of the state secrets privilege as this privilege allows the government is allowed to with hold information from disclosure in litigation if the disclosure of government information with threats or to our national security is false dichotomy became it undermine the legitimacy of the government actions, reduce accountability, hindering critical technological and scientific progress and interfering with the efficiency of the market place[[65]](#footnote-66).

This research deal with examining how constitution of our country provides about right to information and government secrecy in the country. Also this research deal with how the government uses the law upon secrets to injure right to government information and what suggestions to be made in our constitution and other laws[[66]](#footnote-67).

**Gideon, M**[[67]](#footnote-68)also explains more on the research done upon public institutions to determine their transparency and openness in various Southern Africa countries including Tanzania that the absence of a legal bares for access as infarction 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. It came with finding that unfortunately indicates that nothing has changed encourages a culture of secrecy to persist. It came with finding that unfortunately indicates that nothing has changed from the previous study[[68]](#footnote-69). 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 is Tanzania poetically remains the same notwithstanding that the right to information is a constitution right. However this research focused on Tanzania MISA context and not Southern Africa countries like what MISA did[[69]](#footnote-70).

**De, D.J**[[70]](#footnote-71) explains that right to information is a facet of speech and expression thus indisputably is fundamental right however a reasonable restriction or the exercise is always permissible is the interest of the security of the state and its public bodies because when exercised without limitation various details may be vulnerable to sabotage in technology and encourage enemy to estimate and monitor strategic activities against the state and its bodies. Notwithstanding ,if a reasonable restriction is imposed in the interest of the state by reasons of a valid piece of legislation the court normally would uphold and respect the legislative policy behind the same as it was stated in the case of peoples union of *Civil Liberties Versus Union of India* [[71]](#footnote-72),where the supreme court of India was of the view that Atomic Energy Act had to be enacted by the parliament as the information in wrong hands can pose a danger not only to the security of the state but to the public. The law restricts disclosure of information not in vague or wide in nature because it specifies the areas where such disclosure is restricted. This research actually concentrated on the practice and law governing right to information in Tanzania, unlikely him who described more to the context of India[[72]](#footnote-73).

**Mart S.N**[[73]](#footnote-74) discusses the right to receive information as per the evolution course in the United States context. She explicates that right to receive information has evolved from its early places as a necessary corollary to the right of freedom of speech because the right to receive information follow ineluctably from senders’ right to send them and it is necessary predicate to the recipient meaningful exercise of his own freedom of speech, press and political freedom. Hence where there is no right to send information accentuates the absence of the right to receive information[[74]](#footnote-75). However she made further details upon the need of existence of right to receive information as independent right from freedom of speech. She argued that the interests of the listener may not always concur with the interests of the communicator. Also the communicator may not always be in position to assert his rights. The admitted interests of the recipient will be entitled to greater weight when they are based upon on independent legal foundation, rather than being merely derivative of the rights of the communicator[[75]](#footnote-76).

**Robert Martin**[[76]](#footnote-77) defines freedom of expression as the freedom to receive and impart ideas, opinions and information without interference, hindrance or intimidation. It belongs to all persons and may be exercised through speaking, writing, publishing and broadcasting or through physical act and it is the primary freedom, an essential precondition to the exercise of other freedom. It is the foundation upon which other right and freedoms arise[[77]](#footnote-78).

It may be limited to respect other social interests which are of pressing and substantial significance. Person who exercise freedom of expression are under obligations to act responsibly and in a manner consistent with established ethical notion.

**Muhammand Hashim**[[78]](#footnote-79) writes that the absence of restraints upon the ability of individuals or groups to communicate their ideas to other subject to the understanding that they do not invade other essential rights to the dignity of individual is the basis of freedom of expression. Its purpose is to inform, persuade and convince others as well as to reveal the truth or to clarify and eliminate doubts.

In general, this review is very helpful to the write in assessing and analyzing the exercise of the right of access to information in Tanzania[[79]](#footnote-80).

**1.6 Significance of the Research**

The work will contribute knowledge to the government, society and the media sector at large, the significance and necessity of the right to access to information. This work will also be an eye opener for both the media and the government, expressing the need for a free press in the country. Recommendations that is presented in this work will help the legislature in Tanzania see the need of having amended some of the problematic laws on the right of access to information and media laws. Not only that, but also this work will assist to educate authorities concerned on the need to give an unimpeded right of access to information in the country. The media sector in Tanzania operated with by some cumbersome legislation of which result to some hindrances while seeking for information, this research will show the need to amend some of the media laws to serve the current media sector in the country and to promote awareness among the public their right of access to information.

At last point of this research it will help educate journalists in the country know their rights of access to information and how their legal status is set out in various media laws.

**1.7 Research Methodology**

This research used various methods to obtain appropriate date. The methods used did enable the researcher to get both primary and secondary data which were useful for an analysis which was made after the collection of data .Two methods were used in this research namely, library research and field research ;

**1.7.1 Documentary Review**

Documentary Review consists of primary and secondary data, relating to the principle of access to information at both international and nation levels.

Primary sources was collected from government papers, policy documents, legislations, circulars, newspapers and magazines. Also the researcher looked at documents available covering the subject including reports assessing difficulties of seeking and obtaining information in Tanzania, various consultant reports and other departmental documents.

Secondary sources includes published and non-published materials in form of textbook, research papers journals, law reviews case of laws etc. Both primary and secondary source were traced from the Attorney Generals in Dar es Salaam Chambers, the University of Dar es Salaam, Institutes of Mass Communication and Journalism and Government Printer. At these locations the researcher visited various libraries and achieves located therein. In particular the libraries of the University of Dar es Salaam Faculty of law, Library at the University of Dare s salaam Institute of Mass Communication and Journalism (IJMC) and the Libraries of the High Court of Tanzania at Dar es Salaam and that of the Law Reform Commission of Tanzania.

**1.7.2 Field Research**

The researcher used questionnaires, direct interviews and observations.

One of the interviews was conducted to media owners, practicing journalists and officials from the Ministry of Information, Culture and Sport. Data gathering from different official includes members of parliament, leaders from different people at random. Also, various officials from institutions responsible for promoting access to information, example the Tanzania Communications Regulatory Authoring –TCRA, the media council of Tanzania –MCT and Press Clubs. Interview with official from these institutions was of great importance because it is believed that the right of access to information cannot be achieved unless these key institutions are empowered to discharge their duties. This entails the empowerment by legislation adequate and appropriate resources.

**1.7.3 Internet Review**

Online research methods were used by researcher to collect data via the internet. These methods are also referred to as internet science or web based methods many of these online research methodologies by re-invest and re-imagine them in the light new technologies and condition associated with the internet. The researcher used these specific types of method include; cyber-ethnography, online content analysis, online focus groups online interviews and online questionnaires.

A total number 40 people participated in this study trough, direct telephone or email interviews, focus group discussion participants represent two government ministries, three government departments and agencies authorities, there higher learning institution and one non- governmental organization (NGOs) and private sector organisation including business community and private individuals. The researcher succeeded to get beaded information from Tanzania science journalist association, Tanzania media foundation and Journalists environmental association of Tanzania. In terms media, independent television (ITV) and Tanzania broadcasting corporations were the media that the researcher visited.

**1.8 Sample Strategy**

This study was based on random sampling of key respondents who were expected to provide information in a balance and comprehensive manner. These were selected based on their expertise on the subject matter, but also their experiences on governance issue including;

1. Journalist Association
2. Media Owners
3. Civil Society Organisation
4. Institutions of higher Learning
5. Central Governments

Different group of people participated in this study through direct, telephone or email interviews; focus group discussion. Participants represented government departments and agencies or authorities, from higher learning institutions, and nongovernmental organisations and private sector organisation. A total number of 40 people participated in this study trough, direct telephone or email interviews, focus group discussion participants represent two government ministries, three government departments and agencies authorities, there higher learning institution and one non- governmental organization (NGOs) and private sector organisation including business community and private individuals. The researcher succeeded to get needed information from Tanzania science journalist association, Tanzania media foundation and Journalists Environmental Association of Tanzania. In terms media, independent television (ITV) and Tanzania broadcasting corporations were the media that the researcher visited.

**1.9 Scope and Limitations**

These researches based on the Dar es Salaam, mainly on the law, practices and problems towards the access to information to Tanzania citizens. The study considered specific obstacles to the right of information and suggest best practice for changes. To the end, the study employed the following multi-layered approach. Some difficulties were faced in the process of interviewing selected respondents. For example some of the intended respondents could not be reached due to having tight schedules (such as Members of Parliament who were in their Constituent Assembly in Dodoma at the time the study was undertaken).Moreover, due to time constraints those who failed to respond within the designated time frame were not included in the study. Other simply failed to respond, despite numerous effects undertaken by the researcher to contact them.

**CHAPTER TWO**

**HISTORY OF ACCESS TO INFORMATION**

**2.1 During Medieval Era**

Perhaps the most famous case of censorship in ancient times is that of Socrates, sentenced to drink poison in 399 BC for his corruption of youth and his acknowledgement of unorthodox divinities[[80]](#footnote-81). It is fair to assume that Socrates was not the first person to be severely punished for violating the moral and political code of his time. This ancient view of censorship as a benevolent task in the best interest of the public is still upheld in many countries for example China. This nation was advocated by the rulers of the Soviet Union (USSR), who were responsible for the longest and most extensive censorship era for the 20th century[[81]](#footnote-82).

**Free speech: A challenge to Religious Power in Europe.**

Free speech, which implies the free expression of thoughts, was a challenge for pre-Christian rulers. It was not less troublesome to the guardians of Christianity, even more so as orthodoxy became established[[82]](#footnote-83). To fend off a heretical thread to Christian, doctrine church leader introduced helpful measures such as the Nicene Creed, promulgated in325 AD. This profession of faith is still widely used in Christian and copied and ever more widely disseminated ideas perceived as subversive and heretical were spread beyond the control of the rulers. Consequently, censorship became move rigid and punishment more severe.

The invention of the printing press in Europe in the mid 15th century only increased the need for censorship. Although printing greatly aided the Catholic Church and its mission, it also aided the Protestant Reformation and heretic such as Martin Luther. This printed book also became a religious battleground.

In Western history the very teams censorship takes on a whole new meaning with the introduction of the index Librium prohibit rum. Pope Paul IV ordered the first index of prohibited books in 1559.the index was issued again 20 times by different popes. The last index of prohibited books was issue as recently as 1948, and the finally abolished in 1966.

These lists of books banned for their heretical or ideologically dangerous content, were issued by the Roman Catholic Church. Zealous guardians carried out the sacred inquisitions, banning book and sometimes also the authors. The most famous of authors that the Catholic Church banned is undoubtedly Galileo (1633) and the most famous victims of the inquisitions trials must be Joan of Arc (1431) and Thomas More (1535).

“The Spanish authorities were not only worried about the religious situation in Europe, but also in America. The possibility that America could be invaded with a ideas from protestant countries was considered a permanent threat[[83]](#footnote-84)”

The Catholic Church controlled all universities, such as the famous Sorbonne, and also controlled all publications. The church decreed in 1543 that no book could be printed or sold without permission of the church. Then in 1563 Charlex IX of France decreed that nothing could be printed without the special permission of the king. Soon other secular rulers of Europe followed suit[[84]](#footnote-85).

Consequently, European rulers used system of governmental license to print and publish to control scientific and artistic expressions that they perceived potentially threatening to the moral and political order of society.

The dual system, of censorship created through the close alliance between church and state in Catholic Countries was also exported to the colonised territories in the Americas. Philip II of Spain reinstated the inquisition in 1570 as part of the colonial policy designed to deal with the political and ideological crisis in the Peruvian vice royalty[[85]](#footnote-86).

The Peruvian inquisition system was a Spanish blue print for controlling the import of books. The inquisitorial officers periodically examined ships and luggage imports and inspected libraries, bookstores and printing houses. When the inquisition was established in Peru in 1570 the tribunal’s district ranged from Panama to Chile and Rio de la Plata[[86]](#footnote-87).

**The Authority of the Postal Services**

Although the art of printing was vital to the dissemination of knowledge the establishment of a regular postal service was also an important advancement to communication. First establishment in France in 1464 the postal service soon became the most widely used system of person -to - person and country- to -country communication[[87]](#footnote-88).

Consequently, the postal service also plays a crucial role as a instrument of censorship in many countries, particularly in times of war. The British Empire efficiently employed censorship of mail during the first half of the 20th century. Even in today, the postal service’s remains a tool of censorship in countries where the import of prohibited literature, magazines film and etcetera is regulated[[88]](#footnote-89).

In Europe printing naturally also spurned the development of newsletters and newspapers. The relation of Strasbourg published in 1609, was regarded as the first regularly printed newspapers. Soon the establishment of newspapers in other European countries followed, catering to a growing public demand for news and information. The first newspaper appeared in 1610 in Switzerland, in the it abs burg territories in Europe in 1620,in England in 1621 in France in 1631,in Denmark in 1634 and Italy in 1636 in Sweden in 1645 and in Poland in 1661.In some regions of India, however newsletters had been correlated since the 16th century[[89]](#footnote-90).

The rapid growth of newspapers represented a huge improvement of information sources for the literate peoples of Europe. But it also increased the authority’s worry that unlimited access to information would be harmful to society and public morals particularly in times of war or internal crisis. Thus the licensing act of 1662 was enforced without mercy in Britain until after the great plague of 1664-65.In Germany; the press was effectively inhibited during the thirty years war (1618-48) through censorship trade restrictions and lack of paper for printing. Such subtle means censorship even today may effectively hamper the development of the free media in many countries.

**The Age of Enlightenment and Freedom of Expression.**

John Milton targeted the powerful bureaucratic sputum of pre censorship practiced in late medieval Europe in his much disputed speech “Areopagitica” to the parliament of England in 1644.Milton vigorously opposed the licensing act that parliament passed in 1643 in his noble plea for expression of the press.

Milton also quoted Euripides adding the weight of the ancient struggle for free expression to his own arguments[[90]](#footnote-91).

Milton’s passionate and strong defense of free expression contributed to the final lapse of the licensing act in Britain in 1694.His “Areopagitica” also became one of the most quoted arguments for freedom of expression and remains today a true beacon of enlightenments[[91]](#footnote-92).

The 17th and 18th centuries represented a time of reason in Europe. This rights liberty and digit of the individual become political issues; subsequently protected by law in many countries. Sweden was the first country to abolish censorship and introduce a law guaranteeing freedom of the press in 1766, then Denmark Norway followed suit 1770.To day, the first amended of the constitution of the United States (1787) guarantees of freedom of speech and the press. It is regarded as the root of the comprehensive protection of expression in western countries, along with the much quoted statement of the French national assembly in 1789:”The free communication of thought and opinion is one of the most precious rights of man, every citizen my therefore speak, write and print freely[[92]](#footnote-93).”

Although censorship lost ground as the most frequently used legal instrument during and offer the 18th century in Europe governments maintained laws curbing freedoms of express. Now the restrictive instruments are legislative acts on national security, criminal acts on obscenity or blasphemy or libel laws.

In the United States, formal censorship never existed but the libel law could sometimes serve the same purpose, thus America courts became the testing ground for free expression. This was also the case in Britain after the lapse of the licensing act in 1694.The courts became the new controllers in many countries that embraced the principles of freedom of expression libel laws were often subject to broad interpretations, allowing for continued restraint, harassment and persecution of attics journalists and other intellectual critics that challenged the contemporary concepts of national security, blasphemy concepts and obscenity.

**Censorship in the Union of Soviet Socialist Republics. The Longest Tradition in the 20th Century**

The Russian empire had a long tradition of strict censorship and was slow to adopt the changes that central European countries had implemented a century before. Censorship reforms were started in a single decade of tolerance, from 1855 to 1865 during the reign of Tsar Alexander II. There was a transition from legislation on pre-censorship (determining arbitrarily in advance what may or may not be permitted) to a punitive system based on legal responsibility. During this decade the press enjoyed greater freedom and more radical ideas were voiced. Nevertheless censorship laws were re-imposed in 1866 practically eliminating the basic ideas of the reform. Only half a century later the law of 1905-1906 abrogated pre-censorship. Finally, all censorship was abolished in the decrees of April 27th 1917 that the Temporary Government issued[[93]](#footnote-94).

Sadly the freedom was short lived as the decrees only were in force until October 1917. This began a new, long and extensive era of strict censorship under the revolutionary rulers of the USSR lasting until the end of the 1980s. Taking into account the long history of strict censorship during tsar-regimes, the Russian people have only been without formal censorship in the last decade of this millennium[[94]](#footnote-95).

The new order of the USSR meant drastic political and economic changes, but also culture, education and religion were subject to revision, all with the idealistic intentions of relieving the new Soviet citizen of the suppressive yokes of feudalism. Hence religion, regarded as gross and misleading superstition, was targeted only a few months after the revolution[[95]](#footnote-96).

In the spring of 1918, a decree was issued formally separating church and state. Strict prohibitions imposed on religious bodies and nationalization of all church property followed. In 1922 the central censorship office was established, known for short as Glavlit. Its role was to purge the Soviet society of all expressions regarded as destructive to the new order and contagious to the minds of people. The Glavlit had absolute authority to subject the performing arts and all print media to preventive censorship, and to suppress political dissidence by shutting down "hostile" newspapers[[96]](#footnote-97).

In the early 1920s during the time of Lenin and Trotsky, however, writers and artists were granted creative freedom, provided they observed the rule of not engaging in overt political dissent. This leniency may be attributed to the regime's recognition of the importance of intellectuals for the conveyance of the new ideals. Although the majority of intellectuals were opposed to the revolution, many artists and intellectuals supported the revolution's ideals of equality for all and freedom from slavery and poverty[[97]](#footnote-98).

Russian artists had embraced the ideals of the European Modernist Movement, already in 1915 forming the visionary Avant Garde movement which survived until 1932. Thus the first years of the new order saw a degree of innovation in literature and the arts, in stark contrast to the overall political rigidity of the regime. All leniencies ended with the Stalin regime, during which the censorship system became more elaborate and the methods of purging increasingly sinister. The regime authorized printing, banned publications and prevented the import of foreign books[[98]](#footnote-99).

After a time the USSR imposed its strict censorship system on all occupied countries and satellite-states, many of whom had been subject to the censorship of imperial Russia. When the USSR occupied independent Lithuania in 1940 a "bibliocide" began, lasting in effect until 1989. This period of Soviet dominance was only interrupted in 1941-1944 by the German occupation. The Nazi regime was infamous for theirbook, *pyres and deadly censorship in Germany* and the German-occupied countries. Nevertheless, the systematic use of the destruction of libraries in the USSR is part of the longest and most extensive censorship in the 20th century.

**Apartheid Censorship in South Africa**

To uphold its cruel policy of racism, the Apartheid regime in South Africa (1950-1994) employed severe censorship, torture and killing. The aim was to strangle the South African extra-parliamentary liberation movement, the African National Congress (ANC), and apparently to erase public memory. In this respect, the prohibitive policies of the Apartheid regime strongly resemble that of the USSR[[99]](#footnote-100).

Censorship affected every aspect of cultural, intellectual and educational life in South Africa. Although grimly menacing, the magnitude of the banning of ANC symbols-, buttons, t-shirts and lighters -seemed truly paranoid. Already in 1996 the South African publisherJacobsen thoroughly compiled and published detailed information about all censored items*.* The excellent *Jacobsen's Index of Objectionable Literature* restores to memory and documents for posterity all the details of the Apartheid madness[[100]](#footnote-101).

The tenacious struggle against the Apartheid regime has been the subject of numerous studies, notably also by the South African historian Christopher Merrett, who besides producing books such as *A Culture of Censorship*, also has compiled a complete list of censorship through the entire history of South-Africa. The list is included in the Beacon for Freedom of Expression database with the gracious consent of the author. Another noteworthy mention is Peter D. McDonald's book *The Literature Police: Apartheid Censorship and its Cultural Consequences (2009)* and the impressive companion [website](http://www.theliteraturepolice.com/).

Throughout its 400-year history, the media has been the first victim in times of war, be it in external or internal conflicts. As a rule, the press has been faced with a choice between gagging and closure. Many respectable newspapers were simply taken over by a country's new rulers, or submitted to becoming their mouthpiece[[101]](#footnote-102).

In the years prior to the outbreak of World War II the press in Germany, Italy, Spain, and Portugal was subject to rigid Fascist censorship, but no less strict was the censorship of the enemy the USSR. During World War II the press was held in a stranglehold by all countries involved, from Norway to Japan.

In the United States and Britain a clampdown on news coverage was expected, as strict press censorship had also been applied during World War I. The British and American press and media, often submitting voluntarily to self-censorship, were also the targets of a steady flow of official news and propaganda issued by the British Ministry of Information and the U.S. Office of War Information.In USA, a "*Code of Wartime Practices for the American Press*" was also issued by the Office of Censorship[[102]](#footnote-103).

The war of words is less lethal but no less dirty than the war of weapons. Demonizing the enemy and whitewashing one's own cruel deeds while blindfolding the people through rigid censorship have been favoured strategies for many warlords and dictators throughout history. Some of the worst examples of rigid press censorship induced by military dictators in the 20th century were those of Spain (Spanish Civil War 1936-39, the regime lasted from 1936-1975), Greece (1967 -1974), Chile (1973-1990) and Nigeria (1966-1999). Despite countless pleas from the international community, Turkey still upholds strict censorship through the Anti–Terror Act of 1991, under the pretext of ensuring national security against "the enemy within",” the Kurdish minority[[103]](#footnote-104).

The role of media in times of war was starkly demonstrated in the spring of 1999 when the NATO alliance started the campaign of bombing designed to secure peace and human rights, and also force the Yugoslavian government to stop ethnic cleansing in Kosovo. The Yugoslavian government which had clamped down on independent national media for almost a decade expelled all foreign media and independent observers from Kosovo. Thus the government guaranteed its unlimited license to kill, terrorize and deport hundreds of thousands of ethnic Albanians from Kosovo. Due to their leader's archaic policy of censorship and propaganda, the Serbian population of Yugoslavia lost all sympathy in international public opinion.

The NATO alliance, however, also launched a war of words portraying their "war for peace" as just and clean. When in April 1999 it became indisputably evident that NATO bombs had killed Kosovo-Albanian refugees, NATO informed the international media in a manner that the international media has characterized as misleading. NATO'’s deliberate and deadly bombings of the radio and television stations in Belgrade were also strongly criticised as contradictory to the humanistic aims of the NATO operation.

"Those that live by the pen shall die by the sword", With these words the Armed Islamic Group (GIA) declared war on the media in Algeria, instigating one of the most chilling contemporary examples of the deliberate murder of the messenger. From May 1993 until the end of 1995, 58 editors, journalists and media workers were systematically executed; nine were murdered in 1993, 19 in 1994 and 24 in 1995, with the intent of punishing and scaring journalists from acting as mouthpieces for the Algerian authorities. This slaughtering was triggered by the conflict that exploded when the Algerian army disrupted the election of the National Assembly in 1992 to prevent what seemed to be the certain victory of the fundamentalist party *Islamic Salvation Front* (FIS). The Algerian press, having long suffered rigorous censorship, not least during French colonial rule, was caught in the crossfire between the authorities and the opposition.

As the conflict mounted, the authorities introduced sterner press censorship under the pretext of national security, clamping down ever harder on the coverage of civilian killings and introducing in 1996 rigid pre-censorship of all "non-official" reports on the bloody conflict. With Algeria being off-limits to foreign press and independent observers, the killings could go on behind closed doors. By 1998 independent observers estimated that between 80,000 and 100,000 civilians became victims of the frenzied slaughter. Only in 1998 did the Algerian government amend their press law, no doubt thanks to the incessant pressure from independent freedom of expression organizations.

**2.2 The Magna Carta**

The Magna Carta was written in 1215 and signed into law by King John 1 of England. This important charter was the first legal document that limited the power of the monarchy and ensured that kings and queens would be bound by the law. Although the Magna Carta did not guarantee freedom of speech it began a tradition of civil rights in Britain that laid the foundation for the first bill of right, which would be passed more than 400 years later[[104]](#footnote-105).

The Magna Carta was signed between the barons of medieval England and king john.”Magna Carta” is Latin and means “Great Charter “The Magna Carta was one of the most important documents of medieval England. The British bill of right was written in 1689 and granted freedom of speech in parliament. This was the first instance in history that only form of freedom of speech was codified into law. The British bill of rights granted wide-weeping freedoms of British citizens and was extremely influential throughout the western world. It was inspiration for both French declarations of the rights of man and the United States constitution .A bill of rights sometimes called a declaration or a right to be citizens of a country. The purpose is to protect those rights against infringement from public official and private citizens. The term “bill of right “originals from England where it refers to the bill of rights 1689 enacted by parliament following the Glorious revolution, asserting the supremacy of parliament over the monarch, and listing a number of fundamental rights and liberties.

Clause 39 of Magna Carta made a succinct first appearance in the so called “unknown charter” which probably represented points for discussion, and accessional agreement, between the king and his adversaries in the early month of 1215[[105]](#footnote-106).

The first clause of that document brings together the substance of clause 39 and 40 in a concise declaration that king John grants that he is not to avert a man without judgment, nor to take anything for justice, nor to perpetrate injustice, by the time the articles of the barons has been drawn up most likely a few days before 15 June 1215 that single sentence had been expended into two discrete clauses, with its first section enlarged from nine words to the thirty-four of article 29. Except in omitting the word VI (with force) followed that article in the ground it covered but with a stylistic incongruity which is found in many of the charters clauses –changed from an impersonal prohibition to a personal disclaimer half way through its length, when after six of the ways in which a free man could be punished or harassed had been individually for bidden, the king homely speaking in the first person ploral,promised not to employ and additional form of violence before the clause ended in an undertaking not to proceed in the ways forbidden by due form of law[[106]](#footnote-107).

Clause 39 of Magna Carta was restating a universally accepted principle when to declare that not action detrimental to a Freeman’s life, limb or property was taken without a prior judgment in a lawfully constituted court. It is the conclusion of the clause, forbidding royal action against any free man except by the lawful judgment of his peers or by the law of the hand which has prompted most scholarly discussions[[107]](#footnote-108)

There seem to be no reasonable grounds for doubting that the Latin though capable of being idiomatically translated as should here be understood as meaning that is how the contemporary translator of the charter into French understood it, when he chose to render rather than forms which he used throughout his text[[108]](#footnote-109). But the presentation of judgment and law as alternatives which to present-day eyes appears to be making a distinction between verdict and sentence, is arguably more apparent that real. The text is in fact speaking of judgment rather than proof but the two formed inseparable parts of a single process and clause 39 must have been concerned with both. In ordinary circumstances a court gave a first the truth was to be established, and then once the proof had been made (or had not been made) the case should be concluded.

**2.3 The first amendment to the United States Constitution**

First amendment to the United States constitution prohibits the making of nay law respecting an establishment of religion, ensuring that there is no prohibition on the free exercise of religion, abridging the freedom of speech, infringing on the freedom of the press, interfering with the right to peaceably assemble or prohibiting the petitioning for a governmental redress of grievances, it was adopted on December 15, 1791, as one of the ten amendments that constitute the bill of rights[[109]](#footnote-110).

The bill of right was originally proposed to assuage anti-federalist opposition to constitutional ratification. Initially the first amendment applied only to laws enacted by the congress many of its provisions were interpreted more narrowly than they are today. Beginning with *Gitlow V. New York* [[110]](#footnote-111)the Supreme Court applied the first amendment to states-a process known as incorporation through the due process clause of the four teeth amendment.

In *Everson v Board Education* [[111]](#footnote-112)the court drew on Thomas Jefferson’s correspondence to call for a wall of separation between church to states though the precise boundary of this separation significantly in a series of 20th and 22st century court decisions which protected various forms of political speech anonymous speech, campaign financing, pornography and school of exceptions to first amendment protections. The Supreme Court overturned English common law precedent to increase the burden of proof for defamation and libel suits, most notably in *New* *York Times Co. V Sullivan* .[[112]](#footnote-113) The Free Press Clause Protects publication of information and opinions and applies to a wide variety of media. In *Near V. Minnesota* [[113]](#footnote-114)and *New York Times V United State [[114]](#footnote-115),* the Supreme Court ruled that the first amendment protected against prior restraint –pre publication censorship –in almost all cases.

What exactly did the frames mean by freedom of speech or of the press? Surprisingly there is little definitively known about the subject. The debates in the first congress which proposed the bill of rights are brief and un illuminating. Early state constitutions go rally included similar provision but there is no record of defiled debate about what those state provisions meant. The Framers cared a good deal about the freedom of the press as the, as the appeal to the inhabitants of Quebec, writer by the first continental congress in 1774 shows:

The last right we shall mention regards the freedom of the press. The importance of this consists, besides the advancement of troth science, morality and arts in general in its diffusion of liberal sentiments on the administration of through between subjects and its consequential promotion of union among them, whereby oppressive officers are shamed or intimidated into move honorable and just modes of conducting affairs.

The statements mention some of the value that the founders saw as inherent in the principle of freedom of the press. The search and attainment of truth, scientific progress cultural development, the increase of virtue among the people the holding of government officials to republican values, the strengthening of community and a check self –aggrandizing politicians. But broad statements such as this may tell us less than we would like to know about what the freedom of press meant to the founders of rule of law, when the freedom would yield to competing concerns, or whether the freedom prohibited only prior restraints or also subsequent punishments.

Given this fundamental right to information governments have a duty to provide access to information. This chapter examines the concept, development and fundamental principles of access to information. Access to information as a party and parcel of human rights has passed a very unique history of success.

History shows that there was a period when the principle of access to information was not readily available. However due to socioeconomic and political development globally, no one will deny that there is great improvement, development and growth of the right of access to information in many countries. It is of writer’s intention that this chapter examined how and why access to information as a component of human rights has been adopted in various legal documents.

**2. 4 Definition of Access to Information.**

Access of Information is the notion that the public can obtain information in the possession of the state, in some countries and private entity information, for the purpose of being informed about the activities of the state[[115]](#footnote-116). The right to information is fundamental human right enshrined in Article 19 of the *Universal Declaration of Human Rights and the International Convention on Civil and Political Rights* and is a component of the broader right to freedom of expression. Ultimately, the freedom of opinion and expression can only be realized when those who are meant to enjoy this right have access to the information they need in order to form opinions. An individual is only able to enjoy the right to information when they are free to access relevant information as such; access to information is the ion of practical implementation of the right to information. Access to information is sometimes referred to as the “right to know” of one’s surroundings[[116]](#footnote-117)

**2.5 Fundamental Principles to Access to Information**

According to the international law and the best practice shows that to be effective access to information should be based on a number of general principles.

**2.5.1 Openness**

Openness is an overarching concept or philosophy that is characterized by an emphasis on transparency and free unrestricted access to knowledge and information, as well as collaborative or cooperative management and decision- making rather than central authoring. Openness is an important principle because any information held by a public or private body should in principle be openly accessible, in recognition of the fact that public bodies hold information not only for themselves but also for the public good. According to the principle of openness, the greater the openness of the government activities, the participation of the citizen in the democratic process.

Individuals can only be informed about their government behavior if they have access to information about its functions. Openness of the government lies at the care of a democratic society. It is only through access to government proceedings and information that citizens can form balanced opinions about the kind of government they desire, and only then can form balanced opinions about the kind of government they make wise choices at the ballot box[[117]](#footnote-118) openness creates ability of individuals to discover truth and reasons.

Openness is a important principle because any information held by a public or private body should in principle be openly accessible in recognition of the fact that public bodies hold information not only for themselves but also for the public good. Openness is one of the very important elements of a democratic government that honors the right of access to information. It envisages the ability of the others what they have learned and to form opinions according to the information that is available.

**2.5.2 Press Freedom**

**Gervas Moshiro**[[118]](#footnote-119) defines press freedom as the liberty to gather and disseminate information without restraints of any kind like licensing, content review and accountability regarding the published materials. Generally, the degree of a society commitment to openness is attributable to the medias effort to monitor and expose the activities of the government[[119]](#footnote-120).This system of opened is exemplified by the English tradition of transparency in government. It is suggested in a democratic system of governance, state leader and their functionaries are constitutionally obliged to open their acts of governed to the glare of the public eye and are legally obliged to give information and explain their actions the public through the media. Public awareness is the deliberate plan and sustainable effort to establish and maintain mutual undertaking between an organization and its public.

The objectives of a free press in a democratic system of government through various channels of mass communication on print, electronic media and even tradition media are:

1. To increase people’s awareness in various government activities.
2. To have an informed and alert community that is capable of playing its fully part in all aspects of social-economic and political activities.
3. To educate, inform and maintain contact with the public.

 These objectives may only be fruitful when the government has no right to tell the press what to public[[120]](#footnote-121) on the other hand a reliable press is that which adheres strictly to the ethics of the profession and ensures that the interest of the people is its paramount objective[[121]](#footnote-122) without denying the watchdog role of the press. Any law aimed of influencing and controlling the media operation is not in the best interest of the citizens. The press serves as medium which the people can make their voices felt remembering that the media is the mouth of the mouth less.

**2.6. Historical Development of Access to Information**

Access to information is an extension of freedom of speech a fundamental human right recognized in international law, which is today understood more generally as freedom of expression in any medium be it orally, in writing, print, through the internet or through art forms[[122]](#footnote-123).

The modern history of freedom of information including access to information began in England during the 16th and 17th century whereby printing developed and grew[[123]](#footnote-124)**.** It has been noted that freedom of the press is probably one of the most elusive concept that human political history has produced. It is a concept, which has managed to slip into the ever pretentious embrace of almost all state systems of the world. United States of America, said to be leading democracy on earth[[124]](#footnote-125) to day enjoys the guarantee of the freedom of access to information after years of struggle. The press and the citizens resisted laws that restricted freedom of the press almost thirty freedom years before the introduction of the first newspapers. The evolution of the press freedom in the united to the traces to the first amendment to the United States of America’s Constitution[[125]](#footnote-126)

*“Congress shall make no law abridging the freedom of speech or of the press…………”*

By such provision in the United States of Americas constitution, it is presumed that liberty of the press as that of access to information generally is not only desired but actually guaranteed to ensure a transparent democratic government, this constitutional right (access to information) has been reflected for more than fifteen centuries. Most of the people of the western world have lived under various forms of autocratic systems in which few people at the top imposed their wills on the masses at the bottom.[[126]](#footnote-127)

From the fourth century on the church had a great influence to the day –to day life of the people .The church preached the doctrine of obedience, reinforced by the promise of better life in the world hereafter as time went by, there emerged an alliance between the church and the state forming a political system know as DIVINE RIGHT making the kings regime believed to have or darned by God.[[127]](#footnote-128) During kingship in Europe particularly in England whereby the modern right of access to information is reflected forum, no questions or critics pared way, because questioning the authority was not only considered as a crime but resulted to torture if not death promoting criticism from various angler of England[[128]](#footnote-129)

In any democratic state it is important to note press freedom ensues the ability of the public to learn about the activities their government and to communicate to others what they have learned and to form opinions according to the information that is available. John Milton, human rights activist suggested that;

*“It is equally illogical to assume that everything the government does will be done justly, but if the people are free to talk and write about the government policies and if those who govern are willing to pay attention, the result should be an improvement in the quality of the government and well being of the people”[[129]](#footnote-130)*

Britain in year 1476 had no laws governing what could or not be printed such that printers were restricted only by their imagination and ability[[130]](#footnote-131). Printing in Europe during the period of religious struggle was an important tool empowering small groups. As time passed by the British government realized that unrestricted publication and printing could seriously dilute their power because individuals controlling the flow and content of information received a positive reception from the people by using their media to mass fame and publicity at the expense of the readers.

Between 1476 and 1776 seditious laws and later licensing laws were introduced to restrict the press in England, punishing those who criticized the government or the crown. Printer’s clearing this period had to get prior approval from the government or the church before printing their hand bills or newspapers.[[131]](#footnote-132)

**2.7 Adoption of Freedom of Information Provisions in the Constitution of United Republic of Tanzania, 1977.**

Tanzania is a party to a number of international and regional agreements which provided for commitments and obligations for access to information and the right to information and the right to information. These agreements recognize the right to information as a tenet of democratic governance.

The adoption of the constitutional provisions guaranteeing the freedom of information in Tanzania constitution came into effect when the bills of rights into the constitution of the united republic of Tanzania of 1977 was incorporated in 1984 following the fifth amendment of the constitution. These changes came into operation in March 1985. The Constitution of the United Republic of Tanzania 1977 provided in a general legal sense, a framework for the protection and realization of the right to freedom of expression in the following terms;

The right to seek, obtain and disseminate information is provided for under article 18 of the constitution of the united republic of Tanzania, 1977, the article states that;

*“Every person-(a) Has a freedoms of opinion and expression of his ideas*

*(b) Has a right to seek, receive and or disseminate information regardless of national boundaries, (c) Has the freedom to communicate and a freedom with protection from interference from his communication, and (d) Has right to be informed at all times of various important events of life and activities of the people and also of issues of importance to the society.”*

With a specific law on the right of access to information that would compel to state to disseminate information in its custody more frequently or as and when requested, Tanzanian citizens hardly enjoy these constitutional guarantees.[[132]](#footnote-133)

It is clear from these provisions that the framers of the constitution intended to guarantee three basic freedoms, namely, freedom of thought encapsulated in the term “freedom of opinion” freedom of speech that has been clearly defined as freedom of expression” and freedom of information that has been defined as freedom to seek, receive and impart information” The incorporation of the Bills of Rights into the United Republic of Tanzania constitution 1977 ushered a new era in Tanzania in accordance with the Universal Declaration of Human rights,1948 which reads as follows;

*“Everyone is entitled to a social and international order is which the rights and freedoms set forth in this declaration can be fully realized”*

**2.8 Conclusions**

This chapter has discussed the history of access of to information at length. The access of information and freedom of information has developed despite some barriers in recent years. Although this freedom worldwide has grown and developed there has emerged a phenomenon over the last decade worrying that the information gap between the urban and rural areas is widening. Most communication channels say print and electronic media are urban centered leaving the rural population in critical shortage of information.

**CHAPTER THREE**

**DISCUSSION ON ACCESS TO INFORMATION IN TANZANIA**

**3.1** **Access to Information**

The right to information is one of the most fundamental aspects of development. This right is embodied in international instruments (both binding and non-binding), to which Tanzania is signatory. It is also a human right that is protected through international norms as well as international customary law[[133]](#footnote-134). The right is enshrined in different international and regional agreement such as;

1. *The Universal Declaration of Human Right*, 1948 under Article 19,
2. *The International Covenant on Civil and Political Rights* [[134]](#footnote-135)( ICCPR) under article 19 (2) as well as the First Optional Protocol;
3. *Aarhus Convention (Convention in Decision making and Access to justice in Environmental Matters) UN Economic Commission for Europe*, 25 June 1998;
4. *Convention Against Corruption: General Assembly Resolution 58/4 of 31 October,2013* ;
5. *General Comment No 34 UN Human Right Committee* ,*12 September*,2011 which interprets the application of article 19 of *the International Covenant Of Civil and Political Right (ICCPR) 1966* of freedom of opinionand expression*;*
6. *African Charter On Human and People Rights,* 1981 under article 9;
7. *Declaration of Principles of Freedom of Expression in Africa, 2002* which affirm right to information in Africa.
8. *African charter on democracy ,elections and good government* ,30 January 2007;
9. *African Charter on Values and Principle of Public Services and Administration*, 2011 under Article 6.

**3.2 National Legislative Framework in Practice**

**3.2.1 The Constitution of the United Republic of Tanzania 1971**

The Constitution of the United Republic of Tanzania under article 18 provided for the right to seek, receive and disseminate information regardless of national frontiers.

The Constitution further provides for restrictions against interference of personal communications. At the sometime it constrains provisions for the right to be informed at all times of various events in the country and in the word, which are of importance to the lives and activities of the people society at large. Article 18, this provides that every person;[[135]](#footnote-136)

1. Has a freedom of opinion and expression of his ideas,
2. Has the right to seek ,receive and ,or disseminate information regardless of national boundaries;
3. Has the freedom to communicate and a freedom with protection from interference from his communication;
4. Has a right to be informed at all times of various important events of life and activities of the people and also of issues of importance or the society.

However the current constitution does not categorically mention that such right and freedoms can also be exercised through the media as specified in the previous version contained under the former article 18 (1).[[136]](#footnote-137)

Moreover, the Constitution does not provide for the mechanisms to ensure that the general public, especially persons from rural areas and disadvantaged social-economic backgrounds can access relevant information ,neither does it provide for transparency of information and sanctions against authorities that refuse sharing of public information. The same Constitution under article 30 it provides for the limitations upon basic rights and informations. The article reads;

30(1) “The human rights and freedoms, the principles of which are set out in this constitution, shall not be exercised by a person in manner that causes interference with or curtailment of the rights and freedoms of other persons or of the public interest”.

The above position was adopted in the case of *Hamis Rajabu Dibagula V Republic,* Court of Appeal Tanzania, Criminal Appeal No. 53 of 2001 when the court emphasized; “……freedom of religion is also impliedly guaranteed under Article 18(1) of the Constitution. Thai ,freedom ,like other freedoms, is not an absolute right. The exercise of it, just as the exercise of other freedoms, is subject to the requirements of public peace, morality and good order, which are requisites of the common good of society”.

Since 2011, the Tanzania Constitution has been going through a review process. The proposed draft Constitution of The United Republic of Tanzania[[137]](#footnote-138) contains more elaborate and explicit-provisions on freedom of expression, freedom of information and media freedom, these are stipulated under article 29 and 30 respectively.

Articles 29 (1) every person (a) has a freedom of (i) opinion and expression of his ideas ,(ii) communication and also has the right of not being interfered with in his communication (iii) innovative and artistry (iv) academic and scientific research and

(b) has a right to be informed at all times of (i) various important events of life and activities of the of the people and also of issues of importance to the society ,(ii) execution by the state authority of national policies and social development activities and (iii) other matters of social importance.

Article 30 (i) every person has the freedom to (a) seek receive and use news and information and disseminate that information ,and (b) start mass media and other means of information dissemination regardless of national binderies.

(2) The mass media shall be free and shall also have (a) the right to receive, use and disseminate the information which they get (b) the responsibility of (i) dissemination of news and information to the people and (ii) respecting and protecting human dignity, respect, freedom and esteem of the people against the information that they use prepare and disseminate.

(3) The government and its institution civil societies and individuals shall have the responsibility of providing information to the public about how they discharge their responsibility.

The proposed Constitution has been commended as a step forward in promoting access to information in Tanzania. However as with the existing Constitution under article 18, the two proposed new articles if implemented will remain subject to contradictory provisions in other existing legislation. According to current Constitution[[138]](#footnote-139) ,the right to information under the grundnorm is construed vide the freedom of expression and it is not construed as independent right. Such provision hides the real and genuine right to information which is fundamental as compared to other rights since it lays the foundation of other rights. In the case of *Julius Ishengoma Francis Ndyanabo V Attorney General[[139]](#footnote-140) ,*Court Of Appeal Civil Appeal no 64 of 2001(2002) TZCA 2 (14 February 2002) the court held that “provisions touching on fundamental rights have to be interpreted in a broad ,liberal and strict manner to jealously guard those rights”

Therefore the manner of the provisions debase the basic value of the access to information in Tanzania.

**3.2.2 The National Security Act, 1970**

Although the National Security Act No 3 of 1970 was enacted for the purpose of safeguarding national security, this does not mitigate the fact it infringes of the right to access to information. Section 4 and 5 of the said Act make it an offence or anybody to communicate certain type of information section 4(4) stipulates that:

“Any person who communicates to any person other than a person to whom to is authorized by an authorized officer to communicate it, any information relating to the defense or security of the United Republic shall be guilt of an offence and liable on concoction to imprisonment for a term not exceeding twenty years”.

The main challenge with the application of this law is that there is no definition of what constitutes national security and /or national defense.[[140]](#footnote-141)

In the case of *Kukutia Ole Pumbuni and Another V Attorney General and Another,* CAT, Arusha,Civil Appeal No. 32 of 1992 the Court of Appeal emphasized that to limit fundamental rights of the individual must be construed strictly otherwise the guaranteed rights under the constitution may easily rendered meaningless by the use of derogative or clawback clauses of that very same constitution, I quote “And that to limit fundamental rights of the individual must be construed strictly to make sure that it conforms with these requirements, otherwise the guaranteed rights under the constitution may easily rendered meaningless by the use of derogative or clawback clauses of that very same constitution.”

Moreover the Act prohibits wider section 5 (1) anyone to publish any classified material whether he/she know it was classified or not. The section provides for strict liability thus section 5 (1). “Any person who communicates any classified matters or cause the leakage of such classified matters to any person other than a person to whom he is authorized to communicate it or who it is in the interested of the united republic his duty to communicate it shall be guilty of on offence and liable an connection to imprisonment for a term not exceeding twenty years”.

(2) In a prosecution for contravention of subsection (1) it shall be not defense for the accused person to prove that when he communicated the matter he did not know and could not reasonably have know that is was classified matters”.

**3.2.3 The Newspapers Act, (Cap No.229 R.E 2002)**

The Newspaper Act[[141]](#footnote-142) aims at regulating registration and operation of newspapers in Tanzania. The Act requires that each and every newspaper that operates in Tanzania must be duly registered with the Registrar of Newspapers. The registration involves an affidavit duly made and sworn by a magistrate. In addition to this, the publisher of a newspaper has to execute and register a bond in the office of the Register. The law stipulates that it is an offence punishable by a fine and/or imprisonment to print or publish a newspaper that is not registered. The law further gives the minister, responsible for information, overriding powers to ban or prohibit publication of any newspaper in the country, when he/she is of the opinion that such publication may endanger national security. Section 25(1) of the law reads:

“Where the Minister is of the opinion that it is in the public interest or in the interest of peace and good order so to do, he may by order in the government gazette, direct that the newspaper named in the order shall cease publications as from the date (herein referred to as the effective date) specified in the order”

During the past five years, some newspapers and radio programmes have been banned or suspended using this law, including Mwanahalisi - an investigative weekly-newspaper, (October 2008), Kulikoni - also an investigative weekly-newspaper, (November 2009), Taifa Letu (November 2009), Mtanzania and Mwananchi (September 2013) - all daily papers. Additionally, the Mwanahalisi newspaper was indefinitely banned on 30 July 2012 for allegedly publishing seditious materials: inciting, violent and likely to jeopardise peace in the country contrary to Section 25 (1) of The Newspapers Act (Cap No 229 R.E 2002).

To this end, Article XIX (2014) argues that permanent and temporary bans or suspensions on newspapers amount to a wholesale abrogation of a publication’s right to free expression, particularly, where imposed unilaterally by an administrative body. It further calls for an independent judiciary to determine the criminal liability of any publication or individual reporting.

**3.2.4.The Media Service Act, 2016**

The Act aims to restrict the independent of freedom of the media in Tanzania by way of among others establishing a statutory media council (called “Media Services Council”) requiring journalists and media house to obtain an official license, affirming, the government controlled public broadcaster as state broadcaster introducing severe sanctions for a number of media specific offences and allowing for the banning of newspaper as well as the import publications. All these objectives state a basic right as expressed in Article 19 of the Universal Declaration of Human Rights:

“Everyone has the right to freedom of opinion and expression this right includes freedom to hold opinions without interference and seek, receive and import information and ideas through and media and regardless of frontiers.”

They also contravene Article 19 of the International Covenant, on Civil and Political Rights, to which Tanzania acceded in 1976:

1. Everyone shall have the right to hold opinion without interference
2. Everyone shall have the right to freedom expression this right shall include freedom to see, receive and impart information and ideas of all kinds regardless of frontiers either orally, writing or in print in the form of art or through any other media of his choice.

According to section 3[[142]](#footnote-143) the Act attempts to regulate all media, defining media as radio newspaper, internet and any other related technology and print media as news journals, magazines news letter’s internet platforms are also included by way of defining an editor as a person who is in charge of programe production at a radio or television station, newspaper production or online platform.

Furthermore the Act covers social media defined as online interactions among people in which they create, share, and exchange information and ideas in virtual communities networks and their associated platform. The inclusion of journalism magazines and newsletters means that all small publications, even those published by NGOs, companies of the Act.

The inclusion of the internet, internet platforms and social media that is (face book twitter, blogs contradicts General Comment No 34 (2011) on article 19 of the International Covenant on Civil and Political Rights by the United Republic Nations Human Rights Committee**.[[143]](#footnote-144) :**

“States parties should take account of the extent to which development in information and communication technologies such as internet and mobile based electronic information dissemination systems have substantially changed communication practices around the world.”

In its section 4 (1), the Act established a Media Service Council within the authority meaning the Tanzania Communication Regulatory Authority. At present the body is in charge of broadcasting services only, its chairman and we chairman are appointed by the president of the state and fair non-executive members by the minister responsible for communications.

The council is this going to be constituted as part of a government controlled body. According to sub-section 2, the council is to consist of a chairman appointed by the president and other six members appointed by the minister responsible for information.

Section 5[[144]](#footnote-145) lists the functions of the council it have to monitor radio and television broadcasts and social media content as well as the compliance of print media content with license conditions and professional ethics. It also license news papers broadcast content providers social media and news agencies. In addition it have the power to issue directives to media houses, inspect media houses and enforce codes of ethics as stipulated in regulations.

Section 6[[145]](#footnote-146) the Act empowers the Council to warn, suspend or deregister content providers in the event that there is violation of laws. According to section 9 (2)[[146]](#footnote-147) the Minister will issue regulations prescribing the requirements and procedures for licensing a person who interned to offer media services. Section 12[[147]](#footnote-148) gives the Council the power to adjudicate complaints from the public against the media adhering to procedure prescribed in the regulations as issued by the Minister.

The government –controlled council thus has the power to license or to ban media of any form. It has the power to enforce government prescribed professional standards and deal with complaints from the public this overriding the voluntary Tanzania Media Council. All of those provisions contravene the comments of the United Nations Human Rights Committee: It is incompatible with Article 19 to refuse to permit the publication of newspapers and other print media other than in the specific circumstances of the application of paragraph 3 such circumstances may never include a ban on a particular publication unless specific content that is not severable can be legitimately prohibited under paragraph 3.Any restrictions on the operation of website, blogs or any other internet-based electronic or other such information dissemination system including systems to support such communication such as internet providers or search engines are only permissible to the extent that they are compatible with paragraph 3. Permissible restrictions generally should be content – specific general bans on the operation of certain sites and systems are not compatible with paragraph 3.

Paragraph 3 allows for restrictions only if they are necessary for respect of the rights or reputations of others and for protection of national security or of public order or of public health or morals. Licensing of media is not necessary in this regard and wholesale banning is prohibited. The provisions run counter to the African Union Commission on Human and People Right Declaration of Principles on Freedom of Expression in Africa of which under article VIII:

“Any registration system for the print media shall not impose substantive restrictions on the right to freedom of expression”.

Section 43 empowers the Board to prohibit in its absolute discretion and by order published in the Gazette “the importation of any publication if it is of the opinion that the importation would be contrary to the public interest. This provision contravenes article 19 of The Universal Declaration of Human Rights which states that:

“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.”

In the case of *Legal and Human Rights Centre (LHRC)and Others V Attorney General* (1)(Miscellaneous Civil Case No 77 of 2005)(2006)TZHC 1 (24 April 2006) the Court emphasized that a law which seeks to limit or derogate from the basic rights of individual on the ground of public interest, will be saved by the Constitution of it satisfied the principle of proportionality quote ; “A law which seeks to limit or derogate from the basic rights of individual on the ground of public interest, will be saved by Article 30(2) of the Constitution of it satisfied two requirements. Firstly, such law must be lawful in the sense that it is not arbitrary .It should make adequate safeguards against arbitrary decisions and provides effective, control against abuse of those in authority when using the law. Secondly, the limitation imposed must not be more than necessary to achieve the legitimate object. This is also known as the principle of proportionality.”

For all these reasons the declaration of principles of freedom of expression warns in its article xii that freedom of expression should not be restricted on public or national security or public interest grounds unless there is a risk of harm to a legitimate interests the interests the risk of harm and the expression.

**3.2.5 The Tanzania Commission for Human Right Report of 2016**

Legal and Human Rights Centre has been documenting human rights situation in Tanzania and producing the Tanzania human rights reports since 2002. According to the LHRC, in preparation and production of this report LHRC collaborate with different stakeholders such as the government and its agencies the media academic institution, researchers and community members as well as development partners.[[148]](#footnote-149)

According to the report, freedom of expression in Tanzania was under much more pressure compared to 2015, through banning of media outlets and enactment and implementation of laws restricting such freedom. The Media Service Act was enacted in 2016, replacing the highly criticized Newspapers Act, 1976, but also containing restrictive provisions including accreditation (licensing) of journalists and government control over content publishers by media outlets.[[149]](#footnote-150) In 2016 this freedom was under pressure with the closure and banning of media outlets and the enactment and implementation of legislation. Freedom of expression is a fundamental civil right and is the freedom hold opinions without interference and to seek, receive and impart information and ideas through and media and regardless of frontiers[[150]](#footnote-151). It is guaranteed and protected under Article 18 of the Constitution of Tanzania, 1977 as well as under various regional and international human rights treaties ratified by Tanzania, including ICCPR[[151]](#footnote-152) and ACHPR[[152]](#footnote-153).

According to these treaties the government has a responsibility to safeguard freedom of opinion the freedom of the media and the right to information. With regard to freedom of expression Tanzania as a state has obligations not to interfere with information flow and creating conducive environment for free and independent media while the right to hold opinion is absolute,[[153]](#footnote-154) the freedom to seek, receive and impart information and ideas may be subjected to restriction,[[154]](#footnote-155) the restrictions however must be in accordance with the law must serve a legitimate aim and necessary for protection or promotion of such aim.[[155]](#footnote-156)

Key recommendations on safeguarding freedom of expression provided during Tanzania Universal Periodic Reviews (UPR) process in 2016 were rejected[[156]](#footnote-157)

The impact of government action and legislation which restricts freedom of expression was noted at the regional level. In the 2016 Civil and Political Rights Perception Index Freedom of Expression in Tanzania (and mainland) was graded C by monitor based in the Regions the Index, presents and important perspective from the region and community level. In terms of freedom of expression there was perception that this right is not fully protected with some regions in mainland such as Tabora and Songwe scoring as law as D common factors contributing to grades in lower-grades political issuer. Media freedom was also heighted as a key issue as well as limited participation of women in meetings and few opportunities for women to express their view[[157]](#footnote-158).

In 2016, freedom of opinion was restricted due to the implementation of the Cybercrimes Act which was enacted in 2015. This Act has been criticized by various human right stakeholders for containing several provisions which several restrict freedom of expression through the internet, creating fear among social media and internet users[[158]](#footnote-159). In 2016 the implementation of this Act demonstrated how they curtail freedom of expression in practice, by September 2016 at least ten people had been arrested under the Cybercrimes Act for allegedly insulting President John Pombe Magufuli. The following list highlights some of the cases reported by the media on the application of the Cybercrimes Act in 2016.

In the case of *Republic V Issac Hababuk Emily*, Criminal Case 100/2016Arusha Resident Magistrate Court, (unreported) the accused a resident of Arusha was arrested and charged with insulting president John Magufuli on his facebook page after commenting “Hizi ni siasa za maigizo halafu mnafananisha huyu bwege na Nyerere wapi bwana”[[159]](#footnote-160) He was reacting to comparison between the president and the founding father the late Julius Nyerere ,arguing that the president cannot be compared with Nyerere and referring to him as bwege which can be translated to “Imbicile”. In June 2016 the accused was convicted and sentenced to three years in prisons or pays fine of Tshs Seven millions by the Arusha Resident Magistrate Court.[[160]](#footnote-161)

While in June 2016 one Leonard Mulokozi Kyaruzi was arrested in Dar es Salaam and charged with insulting president John Magufuli on WhatsApp social media. He was accused of creating this comment “Hivi huyu Pombe ni Kwamba hana washauri? Hushauriki? Au ni zuzu? Bwege sana huyu jamaaa, he doesn’t consider the law in practice before opening his mouth? Au na yeye anaumwa ugonjwa wa Mnyika?

The purpose of enacting the Cybercrimes Act, 2015 was stated to be combating abuse of social media, so far the application of the Act seems to be protecting political leaders from potential abuse or inticism as attested by the cases filled under the law. The Act has provisions that could promote human rights, such as children right safeguard children against online child pornography. However no reports of this have been cited.[[161]](#footnote-162)

The Access of information Act was enacted in 2016 but falls short of the standards of the African model law on access to information four media outlets were banned in 2016 two newspapers and two radio stations for allegedly violating The Newspapers Act of 1976 without being given a opportunity to be heard as require under the principle of natural justice. The highly criticized Cybercrime Act[[162]](#footnote-163) continued to be implemented in 2016, whereby at least 10 people were arrested and charge in court.

Access to information Act, 2016 was enacted with the aim enabling citizens to access information as their right under article 18 of the constitution of united republic of Tanzania, 1977 this law has also been a requirement under the open government partnership (OGP) aimed at promoting government transparency. This has been an ongoing recommendation by LHRC and other stakeholders, indicating a positive development in the governments, responsibility to ensure access to information.[[163]](#footnote-164)

However, this law contains a number of limits and restrictions which will restrict citizens in accessing information and denying non citizens access. The law does not provide certain limitations such as who can access information, where to access information, the use of information and acquiring information. The Act falls short of the standards of the African model law on access to information according to the analysis the Media Council of Tanzania in December, 2016.

The Act only provides for the right to access information held by public authorities and registered private bodies which citizens public funds or are in possession of information which is of significant public interest[[164]](#footnote-165).This restricts access to information and contravenes Tanzania’s commitment under the AU Declaration on the Principles of Freedom of Expression in Africa, 2002, which states that “everyone has the right to access information held by private bodies which is necessary for the exercise or protection of any right.[[165]](#footnote-166)

The Act only provides for the right to access information for Tanzanians[[166]](#footnote-167). It sidelines non-citizens, legal persons, societies and international organizations, contrary to international principles and standards or the right to access information[[167]](#footnote-168).The citizenship Act, 1995 refers to natural person only.

The Act confers upon for the information holders an obligation to publish “a description of its structure, functions and responsibilities including those of any of its statutory officers or advisory committees and a general description of categories of information held by such information holder[[168]](#footnote-169).However this scope of information is considered to be narrow and such other information such as budgets or financial arrangement and contracts with third parties have been suggested to be included in the list of information that should be published.[[169]](#footnote-170)

While the enactment of The Access of Information of Act, 2016 is a positive step the Act does not fully protect the right to access information as it contains a number of restrictions.

**3.2.6 Tanzania Communication Regulatory Authority Act, 2003**

The act establishes the Tanzania communications regulatory authority (TCRA) after merging the Tanzania broadcasting commission with the Tanzania communications commission. The TCRA monitors and regulates communication and broadcasting series in the county by issuing renewing and cancelling licenses, establishing standards, regulating rates and charges as well as facilitating to resolve complaints and disputes[[170]](#footnote-171). Through the content committee the TCRA issue sanctions based on different media laws. For instance in February 2013 it suspended *Imani* FM radio of Morogoro for a period of six months for allegedly breaking broadcasting rules and regulations by urging, Muslims to boycott the national 2012 Census through their *Kidokezo* program .Another radio to faced TCRA sanction was cloud FM radio which through the segment called Bull’s eye on their manning power breakfast show was alleged to have violated broadcasting regulations by giving undue prominence to homosexuality contents this corrupting morals. It was summoned to pit was summoned to pit was summoned to picky a fine of Tshs 5 millions.

The law also has very restrictive provisions on the right to information. This is arguably in contradiction with article 18 of the Constitution of United Republic of Tanzania, 1977, in terms of freedom of speech and opinion as well as the freedom to receive and disseminate information. For example under section 17, this Act directs that;

“(1) Where the authority has reasons to believe that a person be capable of supplying information, producing a document or giving evidence that may assist in the performance of any its functions, any officer of the authority may be summons signed by the Director-General or General Secretary of the authority served on that persons require that person ;

1. To furnish the information in writing signed by him, in the case a body corporate, signed by a competent officer of
2. To produce the document to the authority, and
3. to appear before the authority to give evidence”

**3.2.7 Local Government Finances Act, (LGFA) 2002**

Local government authorities are obliged to make available information on revenue collection and expenditure to the public. This study revealed that such information is based revealed that such information is based through full council meetings village assembly meetings ,word development committee meetings notice boards as well as publishing in newspapers. Moreover section 47 of the LGFA mandates a regional commissioner to authorises any person to access the records of the authority after that person has made an application to the effect. However the efficacy of this information is colorful on the following fronts the language used is mainly English, which is not spoken by the majority of the public the channels through which information is relayed are often in accessible to members of public. For instance, of one office,[[171]](#footnote-172) the whole wall was full of papers containing information, such as the form four results, results, budgetary information and public notice. However, this information was not accessible to all people especially those with physical impairments.

**3.2.8 The Records and Archives Managements Act, 2002**

The Act under section 16 restricts access to any classified information or document that has been deposited to the national archives or any other archival repository unless 30 years have passed. The application of this law is not in full agreement with right to information in the country. For instance, the general practice within governments circles has been that many documents have been marked “confidential “which in essence classifies accessibility of such documents thus impending the public to access such information .this is a serious violation of the principle of accessibility which requires that such restrictions to have some in-built safe guards as will be expended on later.

**3.2.9 The Electronic and Postal Communication Act, 2010**

This Act regulates the electronic and postal communication sector in the country. It makes reference to the already discussed Tanzania communication regulatory authority in terms of provision of the regulatory framework. This law, like others discussed above is in violation of the right to information.

This is firstly because section 59 of the act empowers the president to suspend any postal license, withdraw the use of postal; service or order for any postal article not to be conveyed, intercepted, detained or delivered to any officer wherever there is an emergency, or in the interest of national ort public security. Just like in the national security act the words national interest and security lack a definition.

Moreover section 103 provided for the content regulation, which empowers the ministers to make regulations on content related matters among other things the act requires the minister to make regulations prohibiting the provision of content which is held to be indecent obscene, false, menacing or offensive in character.

From the above it can be concluded that the application of this law is very difficult, firstly, because there is no clear definition of key terms that constitute offences under section 118.In addition, there are no mechanisms to enforce the provision on people with visual and hearing impairment.

**3.2.10 The person with Disabilities Act 2010**

This Act provides under section 38 for the access to information by people with hearing or visual impairment. The main challenge with application of this act is two- fold.

1. The requirement is imposed merely on public bodies, which means any private entity is exempt from this law and ;
2. The application of this section is not mandatory for the act gives a lee-way application through the use of words as “where practical” This loophole could be used to defeat the whole purpose of this section.

**3.2.11 The access to Information Act, 2016**

The Access To Information Act, 2016 was passed into law by Tanzania parliament an September, 2016 this was amended slightly from the bill that had been presented to the Tanzania parliament for first reading on June 23, 2016 and revised more substantially from a bill the government planned to bring before parliament in 2016 under a certificate by urgency but which was withdrawn following media and public pressure.

Legislation enabling public access to information was a flagship commitment of Tanzania open government partnership action plan for 2014-2016.Such a law could in principle, go a long way towards bringing the government close to the people allowing the understand what the government is doing and encouraging more and better public participation in decision making processes.

The Access to Information Act, 2016 is on opportunity to give greater meaning to clause in the Tanzania constitution, specifically article 18 (1) of 18 (2) that provides for the right to information stating.

“Without prejudice to expression of the laws of the land every person has be the right to freedom of opinion and expression and to see receive and import or disseminate information and ideas through and media regardless of national frontier and also has the right of freedom from interference with his communications”

“Every citizen has the right to be informed 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”

The Act allows a broad exemption in cases where another law governs the handling or release of information. In international best practice, access to information laws are given priority other legislation in situation where the law conflict.

In the Tanzania case the other laws takes precedence since there are many laws on the Tanzania statute book that tightly control access to information, this significantly weakness the act.

There is a major concern with the penalties for information holders who acts in contractions of the act, the penalty for wrongly releasing information is severe-three to five years imprisonment, while there are no penalties mentioned for wrongly withholding information. The incentive for information holders is therefore very clear by releasing information you like a by risk, it for safer to refuse to do so.

The lack of an independent information commission also means there are no provision for promotion or monitoring it will be very hard for anyone to assess how well the law is being implemented to indentifying good and bad practice or to identify and resolve problems.

**3.3 Access to information as a tool of transparency and Good Governance**

The right to access informed held by public bodies is a key human right, in particular because of its essential role in underpinning democracy. This right is hest manifested when there is freedom of expression as it was adopted by resolution 59 (1) the united Nations General Assembly in 1946,this “freedom of information is a fundamental human right and the touchstone of all the freedom to which the united nations is consecrated”.[[172]](#footnote-173)

Right to information affords the public on of best means of discovering and forming an opinion of the ideas and attitudes and of how their affairs are being run by these entrusted in the public service[[173]](#footnote-174).

In particular, it gives leaders the opportunity to reflect and comment on the preoccupations of public opinion, it this enables everyone to participate in the frees politicaldebate which is at the very core of the concept of a democratic society. This implies that a fee press contributes to strengthening the right to information where the media is able to comment on public issues without overt censorship or restraint to enable to formation of public opinion. This is manifested by the way the media outlets functions in the country and the way they relate with both the government of the day on the one hand and the general public on the other.

 The obligation to respect freedom of expression lies with the state. This notwithstanding Tanzania does have a specific law regulating access to information. Laws that provide for the right to information are scattered and the majority moreover are too restrictive[[174]](#footnote-175).

Thus while it is the primary duty of the state to ensure respect of the right to information ,the citizens and media have a moral /social obligation to wards enacting this right to access information. Any code of conduct or laws enacted to regulate right to information should be facilitative and encouraging rather than restrictive and aimed at punishment.

Additionally, in order to guarantee goes governance and transparency all agencies have the duty to ensure that right to information is meaningful utilized and more importantly accessible to the public. This sentiment was reflected by past president Hon. Benjamin Mkapa in his address to the nation in which he stated that;

“Good governance is about and accountable institutions and observance of the rule of law. I say upon 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[[175]](#footnote-176).Some of the initiatives include;

1. Establishment of the directorate of communication in the president’s office and this has been emulated by other government, departments and agencies;
2. Local government reforms aiming at direction of power and resources;
3. Public sector reform yearned towards improving government performance, service delivery and responsiveness;
4. Processes to enact the right to information law as well as media service law;
5. The constitutions review process which under the proposed article 30 and 31 provide for the right to information and freedom of the media and
6. Signing up for the open government partnership (OGP) in 2011

Access to information is a catalyst for development and the well being of the people Right of access to information therefore promote inclusive development, reinforces democratic governance and facilitates delivery of socio-economic services. In order for the right of access to information to be effectives people must have free access to the some information and should understand how to make use of that information.

**3.4 Overall effect of the above National Legislations**

This study has found out that in many provisions of legislation, line ministers and the president of the country are given enormous powers under the umbrella of public interest .The defense of public interred lacks a concise and applicable definition, and can be invoked in the name of public security by the state machinery and officers, as opposed to members of the public. This clearly shows that the executive can use this “grey-area” to enforce restrictions, which from an impediment to the right to information.

**CHAPTER FOUR**

**PRESENTATION OF RESEARCH FINDINGS AND DATA ANALYSIS**

**4.1 Application of Right to Information**

Through the questionnaires conducted, it can generally be observed that both government and non-state actors still face difficulties when it comes to accessing certain types of information. Most of the respondents were of the view that right to information is impugned and that the right to information actually impedes transparency, democracy and good governance in Tanzania**.** This chapter also attempts to survey the practical problems facing journalists in Tanzania while obtaining information from different sources, the government or her agencies. My endeavor is to access how easy or difficult it is to obtain information from governmental and non-governmental institutions both national and international based in Tanzania. Journalism like any other profession in Tanzania practically faces impediments and problems the same as other professionals. Also, this chapter outlines events related to seeking and obtaining information. Finally, this chapter hastens to elaborate long term solutions how the right of access to information principle can best be promoted and protected.

**4.1.1 Response by Government Officials**

This study has found out that the majority of interviewed government officials believe that there has been a massive restriction to the right of information, to the point where a line has been crossed, because even basic information is being restricted in the name of National Security. 37 per cent of the interviewed government officials blame the unreasonable restriction on leakage of Government secrets. 62 per cent of government officials believe that there should be a classification of information. This is necessary because the current system does not leave room for classification seeing as every government document is marked as ‘CONFIDENTIAL’

**4.1.1.1 Arrangements to Disseminate Information:**

Government officials who were interviewed by the researcher said that they disseminate information to the general public through the following channels:

a) Press Conferences: in which journalists are called in either to Government information centers or into respective offices and availed with the necessary information. Sometimes there is time for a questions and answer round, whilst at other occasions no such time is accorded.

b) Through the use of other platforms set up by various institutions. For example is the Tanzania Revenue Authority (TRA), which organizes Tax Payer’s Week centered on disseminating information relevant to tax payers.

c) Annual Events, such as the Saba Saba Trade Fair, which takes up two weeks and aims at bringing together several government and non-government institutions aimed at popularizing their business activities.

d) Seminars/workshops and symposiums are another medium of information sharing. Through such initiatives government institutions have the opportunity to get feedback from the general public and/or invited audiences on pertinent issues.

e) Other institutions publish relevant information on websites and other multimedia sources.

Notably, government officials from Tanzania Revenue Authority (TRA) and attorney general chambers revealed that most of the government institutions have departments of information, concerned with providing information to the general public or intended customers. However, it was discovered that that there are several government institutions, which have limited arrangements in place for providing information to the public. Additionally, some officers from the said officers declared that most of the government and non state actors call for press conferences when they have special issues such as “to clean” their houses or share successes from their activities.

**4.1.1.2 How is information obtained from NGOs?**

Officials from Tanzania Revenue Authority, Attorney General Chambers and Ministry of constitution and legal affair responded to this question as follows;

1. That most of the information from Non State Actors is obtained through various publication disseminated to them
2. Some of the non state actors are working closely with the Government institutions and they meet on various occasions to exchange information
3. Other officials said, they obtain information from non state actors through websites and other multimedia fora.

**4.1.1.3 Interviewees on denial and satisfaction of information by authorities**

Officials from Tanzania Revenue Authority, Attorney General Chambers and Ministry of constitution and legal affair were also asked to state whether they have ever been denied access by authorities to certain sought-after information. The responses from the interviewees indicated that this depends from one authority to another. Officials from TRA revealed that, some government sectors like Minerals and Energy are sometimes reluctant to provide adequate information.

“ I have been working in the TRA office at Tulawaka Gold mine, my responsibilities there is to check the authenticity on gold production and the income that government is supposed to earn, but the concerned authority from the respective ministry are siding with the owners of the mining and they conceal important information,”

 “We are working closely with the one organization by the name of Legal and Human Rights Centre (LHRC), most of the time when we need information from them with regards to legal aid and human rights we normally get on time and with all the information we need[[176]](#footnote-177)” said one officer from the Ministry of Constitutional and Legal Affairs (MOCLA)

Other officers revealed that some of the information requested from non state actors especially, related to the disclosure of finance and audit issues was not revealed as required. “Some of these non state actors need to have audited reports, yet they do not disclose them.[[177]](#footnote-178)”

**4.1.1.4 Nature of information sought by People**

Government officials from Tanzania Revenue Authority were also asked what kind of information in their opinion the public seeks from them. To this they responded that; the information sought is mainly that related directly to development issues, income poverty, and issues of food security, land and housing. Moreover, others seek information on water projects, information related to the health services, education, farming and human rights.

“Currently we have many medium and small scale business people who want more information on Electronic Fiscal Devices (EFD), this has been a major challenge to us, and therefore, the Directorate of Public Education is doing its best to educate them on the importance of these devices.[[178]](#footnote-179)”

**4.1.1.5 Major impediment to the Right to Information**

Officers were asked to share their views on what they deem to be the major impediments to the effective implementation of the Right to information law in Tanzania. Officers from the above three institutions expressed the following views. Firstly, that the right to information is not a top priority to most of the government institutions; secondly, that the sector, which is vested with the power to enact the law is not playing its role well. The general public needs to be educated on their right to obtain information.

**4.1.1.6 Suggestions from Government Officials**

Government officials were asked to put forward their suggestions on what they think are the most effective ways to implement the right to information in Tanzania. Their views are summarized below:

1. The Constitution making process should take on board the right to information in Tanzania;
2. Government Information Departments should be strengthened and well equipped to provide current information through modern technology, and
3. The government should allocate enough budget for the information sector.

Officers moreover suggested that it is a necessary undertaking for various government sectors to revise their communication strategy and formulate more concrete ideas that can help to strengthen communication channels to the public. Others suggested that the government should make open and clear communication policies, which will require all government sectors to publish information and provide sanctions for deliberate non disclosure of information.

**4.2. Disclosure under the Public Leadership Code of Ethics**

Journalists were also asked whether they have made any request for disclosure of information on any Government official under the Public Leadership Code of Ethics Act, in the area of their field work. 20 journalists interviewed among five media houses[[179]](#footnote-180) visited said when they requested information from the Secretariat of Leadership Code of Ethics, they usually get the same response, namely that the Public Leadership Code of Ethics Act No. 13 of 1995, does not allow the media to investigate and report on the property holdings of public leaders. One journalist[[180]](#footnote-181) out of 15 went further and said the Secretariat even quoted some of the provisions on regulations which restrict information recoded by Secretariat to be revealed to the general public. In response to the question of whether the information sought in relation to Leadership Code of Ethics has been provided within the expected time, one journalist[[181]](#footnote-182) stated the following: “I made a follow-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…..”

Journalists were asked to state whether they were satisfied with the quality of information disclosed to them by various government and non-state actors. Of the 20 journalists interviewed, five[[182]](#footnote-183) said they were partly satisfied with the quality of information disclosed to them (the requested being principally statistics-related on various government achievements. However, the remaining 15 journalists were not satisfied with.

**4.2.1 Interviewees on Denial to Information**

When responding to whether they were denied information they sought from authorities they had contacted, ten journalists interviewed said information related to Land, Housing Settlement was mostly denied. This was followed by information related to mineral and energy sector, Legal related issues and ICT.

**4.2.2 Suggestions from the interviewed Journalists**

Selected journalists Media Council of Tanzania (MCT), were asked to state their suggestions for effective implementation of the right to information in Tanzania. The respondents had various opinions on the matter;

Journalists, who are also members of the Right to Information Coalition,[[183]](#footnote-184) came up with several suggestions on how the Government can effectively implement the right to information:

1. The Constitution making process should take aboard the right to information in Tanzania;
2. The protracted process of enacting laws for the Right to Information should be expedited and enacted immediately; and
3. The enactment of the law should go hand in hand with the repeal of laws that hinder the right to information in Tanzania such as The News Paper Act, 1976

Input was also sought from media stakeholders on what should be the measures to ensure the maximum amount of information gets disseminated through voluntary disclosure. Ten journalists [[184]](#footnote-185)interviewed suggested that the government should devise clear policies that will strictly force actors from different sectors to provide information whenever requested by parties concerned.

**4.2.3 Interview by Journalists**

The journalists who were interviewed ranked different sectors according to their track record with respect to the provision to information. The sector-specific rankings are elaborated on below.

The Health Sector was ranked as excellent in providing information as it was evidenced that most of the actors in the sector readily provided information whenever asked to do so.

“Some of the medical experts were even more than ready to give extra information when requested.[[185]](#footnote-186)”

The health sector was followed by the education sector, which was ranked by respondents reasonably good; followed by the manufacturing sector. Legal/Judiciary was ranked well on its provision of information, though it must be noted that most of the information is kept confidential as it will interfere with court processes. Land and Housing was considered to perform below standard in the provision of information.

Journalists were also asked to discuss their thoughts on what they think constitutes lack of access to information on transparency, access to justice, access to quality education, access to health care, democracy and economic opportunity. Journalists interviewed gave the following responses: i) Missing information on transparency lead to conflicts in society. “Most of the land conflicts between farmers and pastoralist in various areas of the country are caused by the lack of proper information and transparency…no one among them is aware of who is supposed to be where among themselves. Land information issues are not properly delivered to them.[[186]](#footnote-187)” ii) concerning access to health care, lack of adequate information can implicate that people’s health will be jeopardized. There must be awareness on outbreak of various diseases such as bilharzias, malaria, small pox etc., as well as other diseases. Shortage of information on HIV/AIDS for example has taken a lot of lives in the rural areas in particular due to poor handling of patients. It is imperative for the healthy functioning of society that there is proper reporting on health issues; iii) Lack of sufficient information on different education systems means that the majority of people will remain in the dark, especially those who are living in the rural areas and who are the most disadvantaged group. This can lead to poverty and misery prevailing within communities, which negatively impacts on the nation; iv) Moreover, others said, lack of proper information especially on issues related to elections, right to vote and to be elected are some of the issues that infringe on democracy. It will affect the quality of leaders elected and this has tremendous impact on development of the country and people’s wellbeing; v) Survival of almost all people in society depends on economic stability. In this regard when people are missing important information on economic opportunities, this can impact negatively on them conducting business “small scale farmers are always complaining that they are selling their farming products at a very low price as they do not have proper information on issues like market price etc.[[187]](#footnote-188)”

**4.2.4 Knowledge of Initiatives in Place for Right to Information**

People who were interviewed were asked, moreover, if the government authorities had made suitable arrangements for providing information to citizens. 15 participants at Kariakoo and Mwenge market revealed that they do not understand whether the government is responsible for providing information to its citizen or not. One participant responded that she sees the Government introduction of digital decoders as an infringement of the right to information, as many people cannot afford them, and are thus barred from watching television. She insisted that she would rather spend the money used to pay for he monthly subscription fees for the decoders, to feed her children.

**Further Suggestions**

Participants suggested the following in order to ensure there is RTI in Tanzania:

1. The Government should make sure that all relevant information can be accessed for free without paying any fees.
2. The Local government should create an environment, where people and especially those with low income status, can get information from the Hamlet leaders. This could be through establishment of community libraries that are accessible to the general public, especially members of the public living in that particular locality.
3. Information, delivered by the government must be contained in a simplified form to meet the needs of every person in the community. The government and those disseminating information should avoid using very technical language that is understood only by a very small portion of the population.

**4.3 Press in Practice**

In the past the government was the main source of information and journalists got used to collect information from the government press center, although times have changed the hangover is not gone, journalists have to work to get information. During the period of command economy the government was supposed to do most things, the situation is different now in that the economy is market driven and the private sector, including individuals has more responsibility.

Reports show that the extent of the right of access to information abuse today in Tanzania is high than it was during the command economy. There are examples where journalists and ordinary citizens find it difficult to seek and obtain information, for instance:

A report by a non-governmental organization HakiElimu[[188]](#footnote-189), observed that seeking and obtaining of information either from the central government, ministries, district councils, district courts, utility companies, say Tanzania Electricity Company Tanesco or Dar-es-Salaam Water Sewage Company-Dawasco formerly known as City Water, is still a challenge.

The report included information requested from donor organizations and nongovernmental organizations in Dar-es-Salaam, in order to compare responsiveness. Likewise, the study sought to test whether access to information differed by type of person or organization making the request. A group of eight requestor’s were selected to present. Requesters included two journalists, two NGO’s, an ordinary citizen, a person with disability and a university student.

The findings showed that overall rates or responsiveness were generally low, with only half of all responses being responded by the highest cluster. 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. From Donors only 56%responded while from the private and businesses sector 50%responded, from the local government 15% responded while response from the central, government was 28%.

Appendix 2 (please see appendix 2 below) shows the numbers of requests for information submitted to various types of organization, and their respective response rates.

Significantly, the lowest level of responses were received from the utility, both of which were under private management and NGO’s, this group was found to be more customer responsive. The report discovered that access to information in Tanzania is a national challenge not limited to government institutions, and that in some respects non-governmental organizations were less amenable to divulging information to the public. The findings also indicated that privatized management of government utilities has not yet changed the public enterprise culture towards increased responsiveness or transparency towards citizens.

Appendix 3 (please see appendix 3 below) gives a ranked picture of how institutional clusters provide information found to be satisfactory by the requestor, and a bar showing the average rate of responsiveness.

The journalist who was able to secure information in half her cases was well known and determined whereas the other journalist who fared poorly was less known and did not aggressively seek information.

Furthermore, the findings indicated that on average, the ordinary citizen typology was less likely to obtain information than it is for the NGO typology. This may, in part, be explained by the fact that while organizations accept that another organized entity has some legitimate claims to information, ordinary citizens do not enjoy their right to access information.

Appendix 4 (please see appendix 4 below) shows the comparative picture of how requestors elicitation of satisfactory response differed among the type of requestors.

In general, the report observed that access to information in Tanzania is poor. Only one out of four of all requests, received a satisfactory response, even though the information request were largely non controversial. Where information was made available, it required significant time and follow up. On average it takes 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 do not respond at all before follow up. The report finding concludes that holding public information in Tanzania is a national problem, not limited to the government alone.

A report by MISA-TAN[[189]](#footnote-190), observed that access to information by ordinary citizens is difficult. Request from ordinary citizens were laughed at- and dismissed. The report indicates that an ordinary citizen cannot access information unless he/she has something specific beyond the right to information.

A different report by MISA-TAN[[190]](#footnote-191), observed that obtaining information from the government or from other sources is difficult. The report finding disclosed that denial of information was most common with about 48% of all violations occurrences. The report pinpointed that difficulties on obtaining information was contributed by the failure of journalists or media houses to adhere to ethical principle of truth and objectivity. The report concludes by suggesting that, there will be reduction of difficulties of obtaining information from either source only when media houses and associations step up training in journalism ethics and the consequences of breaching the codes of ethics.

 In a survey we conducted, obtain in information from the government or non governmental institutions have been influenced by many factors. Majority of government personnel say ministers, permanent secretaries prefer to provide information to journalists from the electronic media say, Independent Television ITV, Star Television, Channel Ten and TVT rather than journalists from print media.

In an interview with print media journalists[[191]](#footnote-192), some said sources prefer electronic media because majority of the television stations broadcast at a wider coverage than the print media while some sources[[192]](#footnote-193) say, they like to be seen on the television rather thin to be read on newspapers or listened on the radio.

Discrimination of the print media journalists does not end there, among electronic media journalists named above, discrimination among them do appear at times, some journalists[[193]](#footnote-194) say, sources either ministers, permanent secretaries, district or regional officials prefer giving information to journalists from ITV rather than other television stations only because JTV has majority of viewers and is popular among other television stations in the country, arguments which were confirmed true with ITV journalists.

Conversely, journalists’ efforts to seek and obtain information from unpopular media firms find it difficult only because news sources prefer media firms that are popular. Electronic media journalists benefit this advantage compared to those from the print media. This finding although it looks odd but mushrooming of media outlets in Tanzania have made possible the existence of popular and unpopular media firms causing difficulties to practicing journalists enjoy their constitutional right to seek and obtain information.

Seeking and obtaining information depends how the source of information recognize, promote and protect the right of access to information, however this has been a difficult process. The government has published several times its proposal to government institutions to be friendly to journalists. It is true that governments are better placed to promote good governance through her institutions than those nongovernmental organizations. Despite government proposals, the government institutions have been problematic on providing information’s because the government is partly formed by politicians, politicians in Tanzania and worldwide, love to avail themselves to the media if they have something that promotes their interests and become dodgy if they sense that a journalist has some queries in their offices.

Following this event, government officials[[194]](#footnote-195) interviewed said they have been reluctant to give information to any journalists because of various reasons mostly due to the fact that some journalists write shoddy stories which lack balance, while some journalists have a tendency to smuggle opinions into their news stories such that those stories hit headlines, yet it is incomplete, detestable, while other journalists have a tendency of inventing fictitious names, proceeding to attribute personal opinions creating an impression that the said journalist conducted a cross-section interview.

Other government officials[[195]](#footnote-196) say, they become reluctant to provide information to any journalist because some journalists are untrained. Surveys show that a good number of practicing journalists are not trained. This situation greatly undermines the credibility of journalism as a profession in the country. A good number of practicing journalists today are those who are characterized by grave misrepresentation and distortion of information due to lack of professionalism in journalism[[196]](#footnote-197) or simply because competent journalists have become editors while some have left the profession. Thus, there is a big relationship between lacks of trained personnel or poor trained journalists’ vis-à-vis poor performance of the media institutions and the complaints thereof associated with such situation.

Journalism in Tanzania is weak in trained and skilled manpower either due to the fact that journalism institutions in Tanzania currently are operating simply to make money; there are institutions in journalism for instance Royal, Dar-es-Salaam School of Journalism-(DSJ) and Institute of Communication-IAMCO all based in Dar-es Salaam, sad to say some of these institutions do not provide the expected education demanded.[[197]](#footnote-198)

It is unfortunate that applicants intending to join this noble profession are not given a vigorous aptitude and intelligence test, like those who want to be trained as pilots or lawyers etc. Currently, the situation as it stands in our journalism institutions and universities, simply attracts people with money to pay fees, perhaps one would ask, why not call this a business. Since a journalist is a teacher at local and global levels, it is not enough that he, she knows what they want to write about but must know the technical-how of delivering the message the knowledge which can be acquired from a recognized journalism institution.

 In another development, journalists have been embarrassed even though they are academically competent for instance in the case of *Adam Mwaibabile v. Republic[[198]](#footnote-199)* Mwaibabile, a freelance excellent on balanced and incisive style of news presentation, was convicted by the district court for being in possession of a document stamped confidential’ contrary to sections 4(3) of the *National Security Act*. On appeal he was acquitted and discharged.

The introduction of multi-party politics in Tanzania in 1992 witnessed the mushrooming of private newspapers, magazines, radio and television stations, with the mushrooming of these media communication channels, good editors and reporters are becoming scare as a result most media firms lack qualified journalist.

In the eyes of Samuel Mwafisi, the proliferation of the media institutions in Tanzania has not resulted in the rise of the level of professional standards, Mwafisi had this to observe:

“The proliferation of media outlets, both print and electronic has not come with a corresponding rise in the level of professional standards, indeed, it is as if the light of press freedom, however faint we may say it has blinded media people.”[[199]](#footnote-200)

Harrison Mwakyembe a legislator had infamously referred to local journalists as UPE’s*-Uandishi Pasipo Elirnu* scribes’[[200]](#footnote-201). UPE is actually the acronym for Universal Primary Education, but, given the troubled nature of the country’s noble efforts to give all children education in 1990’s, the unskilled volunteer teachers who were recruited became to be referred to, rather derogatively, as UPE’s. There is a need for the members of the fourth estate to undergo continuous learning processes so as to serve the society better. Those in positions of authority have a corresponding role to play in this regard.

Obtaining of information from companies, non-governmental organisation, religious institutions and other public or private entities is easy and sometimes difficult but all depends if the information requested for promotes or defame the source. Officials from this group give information without difficulties when the information promotes their interest and becomes dodgy if they sense that a journalist has some queries in their office.

In May 15, 2007 Muhibu Said, a journalist with *Mwananchi,* a local newspaper was abused and harassed by the Registrar of Political Parties[[201]](#footnote-202).

 The registrar was accused of improperly handling the journalists who went to his officer to seek clarifications; at an event where abuse prevails obtaining of information from that source becomes impossible.

Obtaining of information from some sources becomes difficult simply because
journalists assigned for news coverage have less knowledge of the place assigned for. In 2005 in Dar-Es-Salaam, press reporters and photographers were brutally assaulted and injured by prison warders and officers while covering an operation of forceful eviction of tenants from former Air Tanzania Corporation-ATC houses in Ukonga. Unfortunately the then Minister for Home Affairs Oman Ramadhan Mapuri defended this scandal, responding the saga some media associations suggested that journalists while covering public issues, they should be entitled protection upon being harassed or attacked.[[202]](#footnote-203)

Acting in response, some senior journalists advised journalists train on laws and ethics that guides their daily operations if they are to avoid unnecessary problems,[[203]](#footnote-204) The Prison Act, 1967 is well unknown among some journalists, as long as the law has not been amended, anybody who conducts, interviews, write about or takes a photograph of prisoners, without permission of the commissioner, makes an offense. Knowledge among journalists should be broad to avoid unnecessary problems.

In another development, we have observed that media house policies or interests have influenced the whole ideal of seeking and obtaining of information and clarifications from sources, mass media owners have been using their institutions for personal gain, practice that defeats the government’s good intention to promote public access to information by allowing media pluralism.

Media institutions have been putting interests of their owners ahead of those of the public; media owners have been using the media to tarnish the reputation of both individual and institutional rivals. At some stage, during IPP Media chairperson Reginald Mengi and Yusuph Manji saga[[204]](#footnote-205), IPP Media institutions were backing their chairperson by promoting one sided stories neglecting Manji’s right to reply. In addition to the above issue, IPP journalists had difficulties to face Manji balance the story.

In an interview and through questionnaire responded, IPP journalists[[205]](#footnote-206) agreed that an administrative directive was provided not to seek clarifications from Manji, IPP
Media institutions were providing long air time attacks against Manji through
ITV/Radio One or through local daily newspapers *This Day* and sister paper *Kulikoni, Nipashe* and the *Guardian* Limited.

In another incident, IPP Media institutions say print and electronic media channels centered into a tug-of-war with *Yanga* Sports Club.[[206]](#footnote-207) The conflict between the two parties merged why IPP Media institutions blackout *Yanga* sports club in their news coverage. Interviewing IPP sports reporters[[207]](#footnote-208), the decision to neglect either to seek or obtain information from *Yanga* was an administrative directive; meanwhile investigative tips observed that Yusuph Manji, the main sponsor of *Yanga* sports club was the source of the tug-of-war. Difficulties of obtaining information from sources that are in conflict with the media owner exist in different media houses in Tanzania.

The author of this research, a journalist from ITV was once given a memo as to why he had not covered or obtained information from CUF demonstrations. The decision of the author not to cover the story was an administrative directive. A memo was awarded only because the media house shifted positions in favour of CUF.

Media house interests upon seeking and obtaining information as discussed above have great influence on practicing journalists, veteran journalists suggest that black outing sources would be punishing readers, listeners and viewers who are the ultimate beneficiaries of news.

Conversely, obtaining information is influenced pending relationship between the source and the journalist or the source and the media house. September 10 2006 CCM secretary general Yusuph Makamba disallowed journalists from tie private media attend his press conference in Singida allowing journalists fromstate media and the ruling party, Radio Tanzania and those from the print media, Daily News, Uhuru and Mzalendo.[[208]](#footnote-209)

In complement, government and the ruling party owned media institutions tend to be defensive when it comes to uncovering scandalous issues involving the government that is why they are nicknamed as organs and agents of their owner.

 The state president of the United Republic of Tanzania appoints state media heads, in this respect the president is the editor-in-chief.

In our opinion this by itself ensures the tight knots of control of the public mass media institutions. At the same time private media owners from different media houses are editors-in-chief at their jurisdictions. In respect to this relationship, whoever controls the flow of information is powerful and influences the journalists and editors the way he deems fit.

Remarkably, obtaining information from companies, NGO’s, CBO’S or individuals is not difficult because journalists expect incentives in the collection of news, while the source expects to be promoted.[[209]](#footnote-210) There are stories that they expect to be paid to attend news events, be it seminars, press conference, cultural events, and promotional events.

Some journalists in an interview revealed that they expect favours of transportation and being paid living expenses while they are seeking information from organizations which are not related to the government. Generally, envelope journalism is becoming common,[[210]](#footnote-211) responding to the questionnaires some journalists said they seek information which in return they will receive allowances.

Business relationship between the media owners and the government, NGO’S, CBO’S and adverts has ease obtaining of information. Investigative journalism in Tanzania has no roots for example, there are a lot of things done by the corporate world and the general public which should be revealed but they are not because of this weakness.

Collection of news is centered from events such as meetings, seminars and promotional events. In the past the government was the main source of information and journalists got used to collect information from the government press center *Maelezo.* Though times have changed, the hangover is not gone.

Lack of financial capacity has led media houses put more emphasis on commerce than adherence of the media sector. The deterioration is becoming more and more visible as time passes, some newspapers which a few years ago were very good broadsheets are becoming tabloids. Reporters, particularly in urban areas do not look for ordinary information but they go for scandal and the sensation, believing such stories have better chance of being published, thus enabling them to earn some money.

Responding questionnaires, some private journalists said, they work under poor conditions. Media houses do not train their personnel with the exception of the state media houses. Salary in majority of the media houses are poorly paid not making possible enjoyment to secure tenure and social security. In this respect collection of news is focused on events such as meetings or press conferences, seminars and promotional events, which in return allowances are rewarded.

Arandom investigation through interviews and questionnaires observed that academicians and activists are the ones who are mostly worried about the difficulties of obtaining information. However majority of practicing journalists interviewed were found to be relaxed on obtaining promotional information while some had little interest on the issue if there are difficulties on obtaining information. Practicing journalists today in Tanzania do not bother to seek information so long there is a growing practice of invitations cards from sources aimed to collect information from a press conference organized by the source. Press conferences have made journalism easy on obtaining information. Journalism in Tanzania has a long way to develop but sadly, the reality throughout the commonwealth is that the vast majority of governments continue to prefer to operate in secrecy keeping the public and the media in the dark.[[211]](#footnote-212) Few commonwealth members have the right to information legislation leaving behind majority of the members with restrictive legislations, bridging access to accurate information to the public who demand to he kept properly informed.

**4.4 Spokesperson of an Institution**

The ideal of having a spokesperson for an institution who is to be the source of information has created difficulties on the whole issue of seeking and obtaining of information. For instance regional police commanders-RPC’s and ministers are vested with powers to speak about issues which at times their subordinates are at a good position to elaborate.

Some journalists pointed out an example when an accident occurs, it is expected that the police officer who is at the scene of event is in a better position to inform the press or anybody else. On contrary, under the current practice, the RPC is vested with powers to speak on the issue.

Apparently, information provided by RPC’s or ministers are second hand or hearsay in that matter and they are at risk of missing the actual facts of the events. The idea of a spokesperson is not bad but an unnecessary delay of relaying information.

However the idea that every government department have a public relations office would not only help but facilitates the public access to information easily.

Likewise, when President Jakaya Kikwete issued his first speech in the Parliament in Dodoma as President,[[212]](#footnote-213) he stressed the need for his ministers to tell the media and by extension, the general public whatever they were doing. The President also stressed the need on his ministers, their deputy ministers and other senior civil servants to be well informed on all projects that would be carried out by their respective ministries.

What is however unfortunate is that the president’s message on the importance of informing the general public what they were doing in their respective ministries does not appear to have been understood. There are some ministries where it is still difficult to get even the most harmless information. Harmless information is information that speaks well of a person or institution. However there are ministries whose ministers respect the right to provide information such as ministries of public safety and security and ministry of finance. All the same, it is still difficult in these ministries to get their success stories leaving the media guessing on the same.[[213]](#footnote-214)

However, a closer look at such ministries one discovers that there are twin problems, either the officials in such ministries do not know what they are supposed to do, in which case they have failed, or they are well informed but they have something sinister to hide.

This development result at times in the media coming up with versions of its own story causing those responsible start giving the official version of the relevant incident. Hiding information not only raises questions but forces media personnel to pursue stories to its logical end. Sometimes bureaucracy is helpful because there are exi5eriences showing that, journalist have a tendency to distort information’s deliberately and sometimes due to lack of education and experience.

On the other hand there are views that the issue of who should be the pokes person should depend on the subject. If it is an ordinary administrative matter then the spokesperson should be the top person but if the matter involves professionalism then the professional concerned example, an engineer, lawyer, doctor or a banker should be responsible for discloser of the same.

In short, information is power and whoever controls the flow of information is powerful and influences the viewers and listeners the way he/she fills fit. Hiding
information from the media allows the existence of a vacuum, which must be filled by anything including rumors, therefore openness to the media through timely release of information coupled with transparency help check speculations.

**4.5 Events related to Press in Practice**

Seeking and obtaining of information in Tanzania have been associated with brutal hurt of journalists, which creates difficulties in news gathering. For instance in March 08, 2007 three journalists sustained serious injuries when hell broke loose at the High Court grounds in Dar es Salaam minutes after former Tabora Regional Commissioner Ukiwaona Ditopile Mzuzuri was released on bail on manslaughter charges following the fatal shooting on November 4 2006 of commuter bus conductor Flassan Mbonde at a road junction near Lugalo in the city.[[214]](#footnote-215) The journalists were hurt in violent clashes between them and scores of people believed to be zealous relatives of the accused who were apparently celebrating his release from remand custody. Relatives were unhappy with the way the media was covering the case. In the incident media personnel were inexplicably the indiscriminate target of taunts and physical assaults from a section of the crowds at the court premises even before the proceedings started. The ensuing commotion saw the three journalists, all photographers, injured as they struggled to defend themselves against the attacks that came from all over.

As the situation increasingly threatened got out of hand, with no intervention by the scores of members of the security forces around, print and electronic media journalists came to the rescue of the photojournalists who were besieged by the attackers, the mob descended on the media practitioners at the court’s premises in broad daylight, as police and other security agents looked on unmoved.

 Responding to the saga, seasoned legal expert Issa Shivji said journalists have the right to report events that are of interest to the public and they should do so freely and under conditions that guarantee them protection by law enforcement agents, insisting on the matter Shivji commented that:

“Any event or issue of interest to the public must be reported. It does not matter who is involved because all people are equal before the law. This (Ditopile case) is one such issue and it must be reported accordingly.”[[215]](#footnote-216) In April 21, 2007 Oscar Simon a journalist with the Kiswahili *Changamoto* newspaper from Rukwa region while in Mbeya municipality was abused and arrested by the police, the accusers (policemen) were quoted saying:

 “Use your pen now if it will help you while you are under custody. Journalists pretend to be knowing everything better than us, we will fight with you and discipline you.’’[[216]](#footnote-217)

March 2006 Tanzania *Daima* local newspaper journalist Kurwa Karedia was beaten by JKT soldiers at Ubungo Bus Terminal while trying to collect information concerning the removal of *wapiga debe* (touts and petty traders), his properties and identity card were lost. Threats to the media or journalist seriously affect the freedom of expression which encompasses the right of access to information because of the general public’s confidence on the media.[[217]](#footnote-218)

In November 2005 in Buguruni, Dar-es-Salaam, a photojournalist with the Guardian limited Khalfan Saidi was attacked by a mob of Civic United Front (CUF) supporters while on duty of seeking information at the party’s office, in the second incident, a mob of unruly members and supporters did the same to journalists from Star Television, Independent Television (ITV), Allan Lawa and Salehe Masoud and *Tanzania Daima.[[218]](#footnote-219)* Civic United Front (CUF) on its part expressed its disappointment over the assault of journalists alleged done by some of its members and supporters saying the spate of attacks on journalists was a work of hooligans and thus the party recognizes the contribution of members of the press to the development of democracy in Tanzania.

Abuse of journalists in Tanzania is growing since the start of multiparty democracy
in 1990’s. This has been an impediment to practicing journalists although the media
has been a serious partner in democracy promotion in the country. Cases of blatant harassment of journalists are rear in Tanzania, but this does not mean the media and journalists in Tanzania are enjoying optimal level of freedom. Journalists are still working under difficult environment, given the bureaucratic nature of official information sources.

**4.6 Conclusion**

In this chapter, the researcher have looked at the findings and analysis of access to information in Tanzania, the practice and problems at length. We have observed that access to information in Tanzania has developed but there are difficulties in seeking and obtaining of information.

Briefly, we conclude by saying access to information in Tanzania is still a challenge. The right to information holds within it the right of any person to seek and obtain information, from their government and the public officials, and even from private bodies where the right to information is needed for the exercise of the person’s right. In practice, the right obligates governments to proactively disseminate information at a bare minimum to ensure that people access information upon request, unless the public interest requires that it be kept secret. The right to information has been recognized internationally for more than fifty years. This ideal has since been reflected in numerous international and regional agreements. Journalism today in Tanzania despite the challenges of bad image and low wages, is extremely important. This is a profession with the capacity to influence vital changes in a nation, commonly known as the fourth estate. Today in Tanzania, the media is more than ever before, the media needs to become a serious development partner and be recognized as a key promoter of democracy in the country.

**CHAPTER FIVE**

**CONCLUSION AND RECOMMENDATIONS**

**5.1 Conclusion**

This work examined the extent to which the right to seek and obtain information is enjoyed in Tanzania. Secondly, the task of this work was to assess how the principle of access to information has been promoted and protected trough law and practice and whether the media laws and administrative regulations promote media freedom and access to information or are facts of repressive. In my endeavors to do this work was guided by one major assumption that in Tanzania access to information is still a challenge due to the fact that the public’s right to seek and obtain information is faced with a myriad of obstacles whereby the laws in the country are not favorable to the freedom of access to information.

Under guidance of the said assumption, the discussion started with examining the concept and the development of access to information and its underpinning principles, with a view to addressing the intertwined relationship between the concepts itself, promotion of human rights and democratic governance in protecting the principle of access to information. I have looked the historical development of access to information and the adoption of access to information in legal documents.

Access to information and freedom of information has developed despite there being some barriers in recent years. However there has emerged a worrying phenomenon over the last decade that the information gap between the urban and rural communities is widening such that communication channels, say print and electronic media, are urban centered leaving the rural in critical shortage of information. This has always been the case in Tanzania since colonial times, post independence, and media pluralism in 1990’s, to the present.

The adoption of access to information in legal documents, say at international or at a national levels, has always centered on securing their recognition, promotion and respect. No one will deny that the adoption of the Bills of Rights in legal documents show respect of human rights.

The discussion on the situation of access to information in Tanzania focused at seeing whether the principle of access to information is being promoted and protected and if it had any hearing with the inclusion of the Bill of Rights in the constitution. I have also looked into institutions that are responsible in promoting access to information both government and non-government institutions, focusing that access to information is a right just like other rights enshrined in the constitution of the United Republic of Tanzania.

The Constitution of United Republic of Tanzania is characterized by claw back provisions which grant rights by one hand and take them away by the other. Currently, the Constitution of United Republic Tanzania does not have provisions guaranteeing citizens access to publicly held information or provisions obliging public officials to provide information required by citizens but does uphold freedom of expression, which encompasses the right of access to information as a component of human rights. In this respect, implementation of such right calls for the need to have institutions in charge with such responsibilities to ensure that the general public enjoys those rights.

It is correct therefore to state that the institutions responsible to promote access to information have not fulfilled that dream, although there are efforts both from the government and the stakeholders. Additionally, access to information begins and ends in the constitution despite the fact that some domestic laws protect public order, morality and the national security.

Recently, there have been efforts both from the government and the media stakeholders on promoting the principle of access to information, although the government has not learned to live under the same roof of criticism and bitter truth. In this regard, the government has expressed its commitment to review, amend or repeal all laws that undermine freedom of expression and the press freedom.

Moreover, this study has attempted to show that while government need to change their attitudes of secrecy to a climate of openness to prevent potentially corrupt situations, citizens also need to embrace the spirit of demanding openness to information. They must exercise their right to information when they suspect that the principles of good governance and transparency are being violated. This process can take a while and requires patience, tolerance and acclimatization. When citizens are granted access to information produced by the state, but owned by the people, the balance of power between citizens and state gains equilibrium. Citizens exercise their power by electing representatives who make decisions on their behalf and govern.

The right to information is fundamental to building trust among citizens and the state. It is a right that acts as an instrument to allow citizens access to fulfill other cultural, economic and social rights such as the right to education, to food, to work, and to self determination. When citizens are denied their right to know, corrupt officials can act with impunity.

Access to information is imperative in fostering transparency, accountability, good governance and democracy.

 Lastly I assessed critically the situation in which journalists or any ordinary citizens find it easy/difficult in seeking and obtaining of information and the events related in the course of business. Access to information is still a challenge in Tanzania, the reasons of which are contributed both by the government political and economic pluralism, laws, procedures, and by the media in general.

There is also a huge increase in institutions and institution building, but this is only having a small effect on limiting corruption. There is therefore a real need for suitable right to information law. However laws alone will not change the situation markedly for ordinary citizens. What is required is a change in civil service culture where country enjoys tremendous economic development not accompanied by open government. Even where there is political and organizational commitment to right to information, there is an issue with capacities and resources to make information available.

 International and national bodies could be much better at integrating capacity building for access to information in public administration reform programmes. E-governance can play a role if it is seen as being less about technologies and more about the willingness of the government to engage and interact with people. Information is the oxygen of democracy. If people do not know what is happening in their society, if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of that society. But information is not just a necessity for people it is an essential part of good government.

Bad government needs secrecy to survive. It allows inefficiency, wastefulness and corruption to thrive. While the Government and its bodies do recognize that people need information, many officials are apprehensive about opening access to government information or records. Some expressed reservations as to whether there was any point because the government is in charge of making decisions on behalf of the people. Most government authorities and other public institutions, however, prefer to conduct their business in secret. Even democratic governments would rather conduct the bulk of their business away from the eyes of the public. Government authorities and other public institutions can always find reasons for maintaining secrecy such as the interests of national security, public order and the wider public interest are a few examples. Often government authorities treat official information as their property, rather than something which they hold and maintain on behalf of the people. Government officials and public officials routinely refuse to provide the available information to the people.

Civil service regulation allows only a handful high level government representative to communicate information to the media while even the capacity and accountability of that representative entrusted with such task is not used effectively to the extent government and public bodies seem to be closed ones especially in the age of information and democracy. The right to information is fundamental to building trust among citizens and the state. It is a right that acts as an instrument to allow citizens access to fulfill other cultural, economic and social rights such as the right to education, to food, to work, and to self determination. When citizens are denied their right to know, corrupt officials can act with impunity. Access to information is imperative in fostering transparency, accountability, good governance and democracy. This in turn will bring about development, for people will be able to participate.

**5.2 Recommendation**

In order to draw recommendation and suggest next steps, this study has adopted key areas that are guidelines for the effective operationalisation of the right to information. These recommendations refer to the structural and legal framework; therefore they take into consideration the prevailing frameworks with a view to changing them and adapting to new frameworks:

**5.2.1 Encourage Maximum Disclosure on Development Plans and Initiatives**

The principle of maximum disclosure is underlined by the fact that all information held by public authorities should be accessible to the general public except in certain situations that are provided by law. As exemplified in this study the media industry is still circumvented by several “draconian” laws and bureaucratic administrative sanctions. The government is able to shield under the blanket of national security and defense to hide certain information from the general public. Survey respondents who answered this question remarked that there is not maximum disclosure of information. Moreover, even where certain information is given to the public, it does not meet the demand and supply chain in the sense that what is given is not necessarily what the general public wants. Citing examples, respondents mentioned information on contracts with natural resources that the government enters with private entities is top secret.

**5.2.2 Put Strict Measures on Obligation to Publish**

Public institutions are not only obligated to grant free access to information but should readily publish relevant information through designated channels. Under the Open Government Partnership the government has committed to publishing information on budget allocation as well as execution. This study revealed that there remain a lot of challenges insofar as publication of information is concerned. One such challenge is the language used. Most of the notice boards visited by the researchers had on display some reports on income and expenditure in English. Moreover, the adult literacy rate of the country stands at 67.8 per cent as per United Nation International Children’s Emergency Fund, 2013 which means that any published material not in the language and format better understood by the intended audience is no good information. This therefore requires that authorities should place firm requirements on their institutions to publish information in the format well understood by the expected audience.

**5.2.3 Promote Open Government**

The government has signed up for the Open Government Partnership, thereby selecting three sectors to start with. Several steps have been taken to ensure that the business of the government is as transparent as possible. This notwithstanding, the for a established to disseminate information from the MDAs have merely been rendered the mouth piece[[219]](#footnote-220) of the institutions they represent. Open government should be reinforced by ensuring that the general public is given access to information and encouraged to submit their inputs. Mechanisms of feedback should be beefed up to ensure that communication is not a one-sided affair.

**5.2.4 Limited Scope of Exceptions of access to Information**

All exceptions should be clearly and narrowly drawn and subject to strict ‘harm’ and ‘public interest’ tests. These tests must also be defined, or at least a mechanism to determine them is put in place in order for them not to be used arbitrary to safeguard the interests of the regime. Additionally, drawing from other jurisdiction as exemplified in this study, the two tests must be gauged and pass the overriding above suggestions.

**5.2.5 Processes to Facilitate Access**

All requests made to the government and its institutions for information access should be processed promptly and fairly, and if there is any refusal then it should be scrutinized by an independent body. At the moment this is farfetched for the lack of specialized media service and access to information law. As it stands access to information in the MDAs as well as LGAs is dependent upon the whims of the specific institutions.

**5.2.6. Provide Information at Zero Costs**

Access to information should be free. This is in the spirit of the fact that there is a social contract between government and those being governed. Therefore, imposing any fee as a prerequisite to accessing information defeats the logic that all information held by the administrators is for the public good hence should be free.

**5.2.7 Maintain Open Meetings**

This requires public institutions to organize open meetings for the general public in order to share information on how their affairs are being run. This study found out that this is mainly done in the LGAs whereby through the Ward Development Committee meetings 46 different organizations having presence in the respective wards have the right to attend as observers. Moreover, there are other general meetings[[220]](#footnote-221) that constitute all technical personnel as well as elected and hired officers on one hand, and the general public on the other in which the general public is invited to participate and discuss different reports.

**5.2.8 Ensure Protection of Whistleblowers**

This is a very relevant principle especially in guaranteeing democracy, transparency and good governance. People who report illegal, dangerous or improper conduct of public leaders as well as those who discharge public services including Nation Security Agency should be granted immunity for appropriate disclosure of public interest information. Moreover, at all times they should not be victimized for making such disclosure but should be informed of the outcome of the complaint/disclosure they made.

On account of scarcity of trained and skilled manpower, I recommend strict measures be taken on organs which are responsible for accrediting media training institutions, setting standards of journalists, preparing curriculum, setting examinations and other related matters concerning the media training institutions. The situation as it stands today in our journalism, institutions and universities, simply attracts people with money to pay fees.

It is equally important to note that the above recommendations cannot be realized unless there is a political will on the part of the government to spearhead changes.

However this will be achieved, only when the government, media stakeholders and the public at large learn how to face challenges and admit downfalls whenever necessary so as to rectify the situation before it gets out, of hand.

**5.2.9. The promotion of awareness on the Right to Information**

The government can do so through its agents of education such as human right institutions such as commission for human right and good governance et al. Also the civil societies can play great role in promoting the awareness of people about this right and its reasonable limitations as well as their jurisprudence as the civil societies are very near to the people. Also these societies can pressurize the government to improve right to information enforcement in Tanzania. Moreover the activists and stakeholders can do so. It is matter of togetherness that brings up the awareness. Youth are an especially important group to work with and stimulate their demand for greater access to information. Young people can be empowered by providing them with information and helping them to bypass the minefields of social power networks like teachers and family members. Reproductive and sexual health information is especially important for the young, and using information and communication mechanisms that are relevant to this age group is key in building awareness of where to get information, to engage with them to find out what information they want and need, and to learn about what obstacles they face. Building rights awareness in formal education is also an important entry point. Technology is a key entry point. Young people are often early adopters and intermediaries between new technology and parents. ICT is especially important for government support as it can provide a way of promoting greater access to information in collaboration with government in a politically palatable way.

**5.3 Recommendation to the law makers**

 There are good numbers of the recommendations that the researcher wants to pose upon the legislators as their work demands them to enact some laws. These recommendations will act as guidelines to make sure that right to information is guaranteed and effectively enforced in Tanzania.

**5.3.1 Existing laws**

The government ought to remove restrictions upon access to information since it promotes good governance accountability and transparency hence people can acquire faith upon the operation and management of the government. This can be accomplished through amending the existing laws which encourage high confidentiality upon the government such Access to Information Act 2015 and others of the like. Amendment should be done carefully to the extent that there should balance between confidentiality and right to information especially in important matters such national security et al. the amendment of the laws will make the process of public services delivery transparent and understandable. Also the concept of transparency and accountability will not be understood due to presence of laws and principles which encourage strict confidentiality within the government.

**5.3.2 Laws ought to be enacted**

 Also crucially the government should enact the right to the access to information law and not access to information law, this law shall deal specifically with the right to information in Tanzania from government and public bodies. The current Access to information Law is not enough as it contains some of provisions which hinder the promotion, guarantee and enforcement of the access to information in Tanzania. Law of access to information should put clearly the demarcation between confidential information and non-confidential information so as the public officials can be aware of which information to disseminate to the people and which should not in accordance with the law.

**5.4 The key elements of the good right to information law**

The following are the key elements of an effective right to information legal regime which include:

1. A presumption of openness

 Individuals have the right to seek information without giving reasons for their requests, but governments should give reasons for withholding information. The RTI further implies that governments should make clear what kind of information they hold, and publish a wide range of information without being asked. This is often a challenge because governments frequently do not know what information they hold. Thus RTI makes governments think about how they organize and categorize information.

1. A defined and limited series of exceptions

 Some information should not be in the public domain if it is not in the public interest. Such exceptions should be specifically defined in law so that government representatives and laymen can agree on what they mean. Restrictions, if applied, should pass the “harm test”, meaning that withholding the information would do more harm to the public interest than releasing it. Any restrictions should be applied to the content of information, not the type.

1. An efficient and effective appeals mechanism

In addition to the courts, a specialist body the Ombudsman, a specialist Information Commissioner should be established to provide an administrative remedy.

In general, access to information is imperative in fostering transparency, accountability, good governance and democracy. This in turn will bring about development, for people will be able to participate.

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# APPENDIXES

# Appendix 1

**QUESTIONNAIRE**

This questionnaire is for academic purpose. It is intended to equip the researcher and

interested persons with knowledge in various academic and legislative activities.

Information received from this questionnaire will only be used for this academic research and not otherwise. You are free to explain your ideas according to your personal knowledge.

1. What do you understand about the access to information?

………………………………………………………………………………………

………………………………………………………………………………………

2. Is it your right to have an access to information? [ ] yes [ ] no.

3. Explain in your own words what do you know about dissemination of information?

………………………………………………………………………………………

………………………………………………………………………………………

4. Mention examples of how people get information in Tanzania

………………………………………………………………………………………

………………………………………………………………………………………

5. Is right to information important in your life? [ ] yes [ ] no

6. Give out the importance of right to information to your life

………………………………………………………………………………………

………………………………………………………………………………………

7. Do the government disseminate information to citizens? [ ] yes [ ] no

8. What information do the government provide to the citizens?

………………………………………………………………………………………

………………………………………………………………………………………

9. What methods which governments use to disseminate information to the citizens?

………………………………………………………………………………………

………………………………………………………………………………………

10. Are those methods used in dissemination of information effective? [ ] yes [ ] no

11. Give reasons in your answer above.

………………………………………………………………………………………

………………………………………………………………………………………

12. Have ever requested information from the government? [ ] yes [ ] no

13. What information did you request if you have ever requested the government?

………………………………………………………………………………………

………………………………………………………………………………………

14. What methods did you use to request information from the government?

………………………………………………………………………………………

………………………………………………………………………………………

15. Do you know laws which govern right to information in Tanzania? [ ] yes [ ] no

16. Are these laws effective in guaranteeing the right to information from government to citizens? [ ] yes [ ] no.

17. Give reasons for your answer in above questions.

18. What do you recommend on right to information from the government?

………………………………………………………………………………………

………………………………………………………………………………………

***THANK YOU VERY MUCH***

**Appendix 2**

**Appendix 2** Table below shows the numbers of requests for information submitted

 to various types of organization, and their respective responses rates.

|  |  |
| --- | --- |
| Types of Responses | Type of Institution |
| Donors | Business | Central Govt | Judiciary | Hospitals | Other | Local Authorities | NGOs | Utilities | **Total** |
| Requested  | 9 | 4 | 41 | 8 | 6 | 3 | 17 | 8 | 7 | **103** |
| Not response | 3 | 2 | 26 | 6 | 5 | 2 | 13 | 7 | 6 | **70** |
| Responded  |  | 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%** |

**Source:** A research report by HakiElimu: Access to information in Tanzania, still a challenge, August 2005

**Appendix 3**

**Appendix 3** Graph below shows ranked picture of how institutional clusters provided information and a bar showing average rate of responsibilities.



**Satisfactory Response as % of Requested**

 **Average**

 **Satisfactory response requested**

**Source:** A Research report by HakiElimu: Access to information in Tanzania, still a challenge, August 2005.

The research furthermore observed that requestors’ satisfactory response differed among them. The difference between the two NGO’s rates was 28% and 38% and the difference between the two journalists was even greater at 7% and *50%.* The report indicates that the status and individuals attribution of the requestor were likely to make an important difference in accessing information. The more successful NGO was comparatively larger with stronger institutional resources than the other NGO’s.

**Utilities** (**TANESCO** & **City Water**

**Central Government**

**Business**

  **Donor**

 **Business**

 **Central**

 **Government**

  **Justice**

 **Hospitals**

  **Others**

 **Local Government**

 **NGO**

**Utilities** **(TANESCO & City Water**

d

**Hospitals**

**Type of Information**

  **Donor**

**Justice**

**Others**

**NGO**

**Local government**

**Source:** A Research report by HakiElimu: Access To information in Tanzania, still a challenge, august 2005.

**Appendix 4**

**Appendix 4:** Graph below shows information response differed among the type of requestors.



**Requestor**

  **Ordinary citizen**

**Journalist 1**

**Disabled**

 **NGO 2**

**Student**

**NGO 1**

**Journalist 2**

**Source:** A Research by HakiElimu: Access to information in Tanzania, still a challenge, August 2005.

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 person has a right to freedom of opinion and expression and to seek ,receive and

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 frontiers and also has right freedom from interference with his communication

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151. Article 19 [↑](#footnote-ref-152)
152. Article 19 [↑](#footnote-ref-153)
153. Article 19(1) of International Covenant on Civil and Political Rights [↑](#footnote-ref-154)
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175. Mkapa, 2003. [↑](#footnote-ref-176)
176. A response from the Ministry of Constitutional and Legal Affairs. [↑](#footnote-ref-177)
177. Officer from TRA [↑](#footnote-ref-178)
178. Officer from TRA Kinondoni Regional officer at Mwenge [↑](#footnote-ref-179)
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180. Deodatus Balile of Jamhuri News Pape [↑](#footnote-ref-181)
181. Senior Reporter with The Guardian Ltd [↑](#footnote-ref-182)
182. Tamali Vulu- Senior Reporter Tanzania Daima News Paper, Judica Tarimo- free-

 lancer, Deudatus Balile-

 Jamhuri News paper, Martine Malera- News Editor with Tanzania Daima [↑](#footnote-ref-183)
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184. Tamali Vulu- Senior Reporter Tanzania Daima News Paper, Judica Tarimo- free-

 lancer, Deudatus Balile- Jamhuri News paper, Martine Malera- News Editor with

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185. Journalist with the ITV Ltd. [↑](#footnote-ref-186)
186. Idda Mushi a reporter with ITV from Morogoro [↑](#footnote-ref-187)
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203. Interview with Ndimara Tegambwage, in respect with journalist legal knowledge

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204. See Rai, July 13, 2006 [↑](#footnote-ref-205)
205. Interview with Steven Chuwa, Neville Meena, Joseph Mwendapole with respect to

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206. See Uhuru, July 21, 2006 [↑](#footnote-ref-207)
207. Interview with Esther Sangai and John Lugendo with respect to black outing Yanga

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208. See Mtanzania, September 10, 2006 [↑](#footnote-ref-209)
209. Interview with journalists and companies public relation officers with respect to

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210. See The Guardian (Tz) November 20, 2006. [↑](#footnote-ref-211)
211. Media Watch No. *55* July pg 9 [↑](#footnote-ref-212)
212. See The African November 2, 2006 [↑](#footnote-ref-213)
213. Ibidpage 95 [↑](#footnote-ref-214)
214. See The Guardian (Tz) March 9, 2007 [↑](#footnote-ref-215)
215. Ibid page 103 [↑](#footnote-ref-216)
216. See Mwananchi April 23, 2007 [↑](#footnote-ref-217)
217. LHRC, Tanzania Humans Rights Report, 2006, pg 30. [↑](#footnote-ref-218)
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219. Anonymous civil servants who told the researcher that everything they publish or

 issue as a statement should have been vetted by the superiors. No much room to

 exercise their professionalism [↑](#footnote-ref-220)
220. Official members of the WDC include ward councilor, ward executive officer, all

 Mitaa chairpersons, as well as all technical personnel in a respective ward.

 [↑](#footnote-ref-221)