



INSTITUTE FOR PUBLIC POLICY RESEARCH

access denied

Access to Information in Namibia

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Institute for Public Policy Research (IPPR)

Research Report

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Executive Summary

Access to information, as a human rights and governance concern, remains a thorny political and governance issue in Namibia.

In the year this report was compiled the country appeared on the cusp of introducing a formal access to information (ATI) framework. However, by late 2017 it seemed as if the lawmaking process had stalled and a draft ATI bill, which had been crafted with significant input from civil society, was floating around somewhere in the halls of state.

The current government has been talking a lot about efficient government and transparent and accountable governance since taking office in March 2015. Conversely, the state sector has continued to demonstrate a long evident aversion to any sort of significant or substantial openness. The divergence between political rhetoric and administrative practice remained as stark as ever by late 2017.

But it is not just state sector actors which demonstrate this aversion; for ATI and transparency deficits appear to stubbornly exist across most sectors of society, including in the private sector and civil society domains. It can be reasonably argued then that Namibia is generally not possessed

of an institutional and societal culture that favours openness and transparency, but rather tends towards secrecy.

This is borne out in fact by the findings of this study, which provide a credible and fair view of the ATI situation across the public, private and civil society sectors, as well as specific industries such as the minerals extractive sector.

The Aim

In short, the aim of this study was to determine to what extent various cross-sectoral entities and stakeholders would be responsive to specific information requests from our researchers. For this purpose we picked just over 100 public (including state-owned enterprises and regulatory bodies), private and civil society institutions and organisations to form part of our target group. Also, given the immense significance of the mining or minerals extractive sector to the Namibian economy, we very deliberately picked a handful of mining industry operators to direct information requests at.

The Findings

While probably largely unsurprising, the findings of this study are nevertheless still hugely interesting and instructive. The main findings are:

80%

of all organisations and institutions did not respond or could not provide the information requested. Nearly 60% of targets simply did not respond to information requests in any meaningful way.

The level of unresponsiveness (75%)

to information requests by government departments remains worrying.

Roughly **85%** of Public Enterprises approached for information were unresponsive, which contradicts the prevailing narrative of improving governance, transparency and accountability.

The combined unresponsive/information not available rate amongst state agencies and special offices was also slightly **above 85%**. This must surely raise questions about the levels and quality of oversight of

public assets and resources. Out of the 14 regions, **just one**, Erongo, responded with the information requested, and in a reasonable time.

The fact that almost **80%** of private companies did not respond, withheld the information requested or did not have such information available suggests that transparency is also not a priority for the Namibian private sector.

Recommendations

It is recommended that:

1. Relevant Namibian state authorities resuscitate, rework with relevant stakeholder and public inputs, and ultimately submit to parliament the draft access to information bill which was crafted with significant civil society input in 2016;
2. Relevant Namibian state authorities finalise the draft revised National Information Policy of 2016;
3. Namibian state authorities live up to the stated principles and ambitions of efficiency and accountable government in the Harambee Prosperity Plan (HPP) in order to achieve the desired levels of progress as articulated in Namibia's various developmental agendas;
4. In line with the various international, continental and regional instruments, all Namibian actors – in government, business and civil society – formalise and adopt practices that foster transparent and accountable interactions across all sectors of society;
5. Relevant Namibian state authorities repeal all laws that undermine the emergence of progressive institutional and organisational cultures based on accessibility and openness;
6. Non-state actors, both in business and civil society, advocate for the full implementation of systems and processes across the state sector that would enable greater access to information;
7. Namibian state and non-state actors collaborate meaningfully in the spirit of multi-stakeholderism to continuously enhance the freedom of expression and access to information landscape and climate in the country, as well as across the southern African region and the African continent.

The response rate in the private sector was **almost 10 percentage points** better than that of the government sector, while the information withheld rate was less by 7 percentage points in the private sector. The only indicator where the private sector fared worse than government was with requested information not being available, where this was the case in 8% of requests to government entities and 13% for private sector entities.

Mining companies were quite forthcoming, with a response rate of almost **30%**, and information withheld and information not available rates of roughly 5% each. However, the non-response rate was still high, at about 60%.

While Civil Society Organisations (CSOs), as a sector, fared by far the best and mirrored the mining sector with regard to responding to information requests (30%), the non-response rate was also still

surprisingly high at 60%. Disturbingly, 10% of CSOs refused to give out any information.

Namibia has a lot of work to do across the board in order to engender more transparent organisational and institutional cultures that are appreciative of the value of access to information.



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1

Introduction: Namibia's ATI(-less) landscape

1.1 International and regional instruments

In order to proceed coherently with a discussion of the Namibian access to information situation, it is firstly necessary to understand the existing legal context.

However, before exploring the domestic situation, it is necessary to briefly view the global and regional contexts against which Namibia's ATI situation should be judged.

That said, it should be remembered that Namibia is a signatory to the UN's Universal Declaration of Human Rights (UDHR)¹, which forms the basis for the Namibian Constitution's bill of rights as contained in Chapter Three. With regard to access to information, Article 19 (Freedom of Opinion and Information) of the Declaration states: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

This statement is read as clearly establishing access to information as a basic human right in international law. The UDHR has influenced the articulation and formulation of access to information measures in other international and regional instruments as well. Chief amongst these is the International Covenant on Civil and Political Rights of 1966, which in its own Article 19 states: "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 media of his choice."

In August 2000, Namibia signed up to the SADC Protocol on Culture, Information and Sport, which was ratified by the Namibian parliament in 2002. The SADC protocol requires states to, among others, create, maintain and strengthen institutional frameworks for the implementation of information-related policies. In a related and complementary declaration of 2001, member states were called on to promote the use of information and communications technologies to achieve access to information.

Also in 2002, Namibia signed up to the Declaration of Principles of Freedom of Expression of the African Union. Amongst the Declaration's principles is the need to enhance freedom of expression and access to information across the continent. The Declaration of Principles of Freedom of Expression was a consequence of and complementary to the African Charter of Human and Peoples' Rights, which was also ratified by Namibia. Aside from these, there are a number of other African instruments (see The recognition of the right of access to information in Africa) which also have a bearing on Namibia's obligations within the realm of access to information.

Aside from these very prominent long-standing commitments, Namibia also signed up to the World Summit of the Information Society's Plan of Action, which requires of signatories to develop policies and laws that situate information centrally in all developmental agendas.

¹ <http://www.un.org/en/universal-declaration-human-rights/>

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Importantly, it should also be remembered that Namibia is a signatory to, and has ratified, the United Nations Convention Against Corruption of 2003, and is currently (2016-2020) being assessed for compliance with certain sections of UNCAC. Transparency is central to UNCAC measures and access to information is a prominent feature amongst such measures (see How does the UNCAC help promote the right of access to information?).

Namibia signed the Sustainable Development Goals (SDGs) framework in November 2015. SDG 16 (Peace, Justice and Sustainable Institutions) calls on states to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”, recognises that access to information is important to the framework's goals being achieved. To this end, one of its targets (16.10) is to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements”. The indicator (16.10.2) for this target is the “number of countries that adopt and implement constitutional, statutory and/or policy guarantees for

public access to information”.

With regard to SDG 16, the Africa Freedom of Information Centre (AFIC) in its ‘State of the Right to Information in Africa Report 2017²’ states: “People need information to make decisions on personal development, education of their children or health of mothers. They need information in order to influence policies and decisions of government on where more efforts are needed and when. Citizens need information to limit the consequences of climate change and to provide feedback on how well government interventions are working. Without citizens access to information, it will be impossible for any country to achieve the Sustainable Development Goals (SDGs).”

In light of all this, from an international commitment standpoint, it is clear that Namibia has willingly placed itself under quite a lot of pressure, as a signatory to all these declarations and conventions, to create and implement formal access to information policy and legislative frameworks.

² <http://www.africafoicentre.org/index.php/resources/reports-publications/248-full-report-state-of-rti-in-africa-report-2017-sdg-report-1/file>

Box 1: How does the UNCAC help promote the right of access to information?

The UN Convention against Corruption (UNCAC) establishes that there should be specific mechanisms to ensure respect for access to information and to ensure transparency.

There are also provisions that require public disclosure and dissemination of specific information relating to the functioning of the administration and its anti-corruption measures.

Transparency of specific information

The UNCAC identifies a number of classes of information that should be publicly available to assist the fight against corruption and to ensure effective government accountability. Transparency requirements include:

- **Employment of public officials (Article 7 (1)):** Transparency with respect to the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials.
- **Election campaign funds / political parties (Article 7(3)):** States Parties are required to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.
- **Public sector systems (Article 7 (4)):** States Parties are required to endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.
- **Public procurement (Article 9 (1)):** States Parties are obliged to ensure that systems of public procurement are based on the principle of transparency.
- **Public sector finances (Article 9 (2)):** States Parties are required to promote transparency and accountability in the management of public finances.
- **Public administration (Article 10):** States Parties are required to enhance transparency in the public admin-

istration with regard to its organisation, functioning, and decision-making processes.

- **Private sector transparency (Article 12 (2c)):** The UNCAC refers to the need for transparency in the private sector for anti-corruption measures to be effective. In particular, it requires States Parties to promote transparency among private entities, including where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities.
- **Decision-making process in government (Article 13 (1a)):** States are required to enhance the transparency of and promote the contribution of the public to decision-making processes.

These access to information provisions are important as they:

- **Push for stronger laws:** The UNCAC holds an important role in highlighting and pushing states to adopt legal frameworks incorporating the right of access to information. A strong access to information law would help to give citizens the right to request information and shine a light when there are suspicions of corruption.
- **Encourage proactive transparency:** Many types of information described above are simply not available to the public. The UNCAC encourages a significant increase in the volume of information that is automatically available to the public and published proactively.
- **Monitor implementation:** The official reports by States Parties and the parallel review reports by civil society help to uncover where States Parties are not fully implementing the UNCAC, or where improvements can be made, including on transparency measures.

Source: http://uncaccoalition.org/en_US/learn-more/access-to-information/

Box 2: Relevant UN treaties and other declarations on the right to information:

- Universal Declaration of Human Rights, UN General Assembly Resolution 217 A (III), 10 December 1948 (Article 9);
- International Covenant on Civil and Political Rights, UN General Assembly Resolution 2200 A (XXI), 16 December 1966 (Article 19) and the First Optional Protocol;
- Convention against Corruption, General Assembly Resolution 58/4, 31 October 2003;
- Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the General Assembly in resolution 53/144;
- General Comment No. 34, UN Human Rights Committee, 12 September 2011. This, arguably constitutes an authoritative interpretation of the freedoms of opinion and expression guaranteed by Article 19 of the International Covenant on Civil and Political Rights, which is binding on more than 165 countries;
- Aarhus Convention (Convention on Access to Information, Public Participation in Decision - making and Access to Justice in Environmental Matters), UN Economic Commission for Europe, 25 June 1998;
- The Brisbane Declaration on Freedom of Information: The Right to Know (2010);
- The Maputo Declaration on Fostering Freedom of Expression, Access to Information and Empowerment of People (2008);
- The Dakar Declaration on Media and Good Governance (2005).

Taken from: <http://www.africafoicentre.org/index.php/resources/reports-publications/248-full-report-state-of-rti-in-africa-report-2017-sdg-report-1/file>

1.2 Local instruments

Against the backdrop of all its international and continental commitments, freedom of expression and the media are enshrined in the Constitution of the Republic of Namibia, under Article 21 of Chapter Three (Fundamental human rights and freedoms), which reads: “(1) All persons shall have the right to a) Freedom of speech and expression, which shall include freedom of the press and other media (...)”

While freedom of expression and the media are thus overtly guaranteed, access to information is not. However, given that freedom of expression and access to information have become nearly inseparable and are considered two sides of the same coin in international and regional declarations and conventions, access to information could surely be inferred as implicitly being provided for.

That said, there appears to be an intention in government to insert access to information amongst basic human rights and freedoms as enshrined in Chapter Three of the Namibian Constitution. This intention is articulated in the Draft Revised National Information Policy of 2016 (see Draft Revised National Information Policy of 2016).

The draft revised policy recognises that the state needs to be more proactive in information dissemination and states to this end: “One of the Government’s communications challenges is to put itself and its programme in touch with the people, demonstrating that its agenda is their agenda through Government information services and media liaison. These functions do not receive due attention in the public sector. Public Relations Officials often lack skills, training, know-how and mandates. Low status information, communication, media and public relations officers are expected to inform the nation on often complex issues and to defend Government policy issues and development plans and activities.”

It should be mentioned here that in 2016 civil society organisations, under the umbrella of the Access to Information (ACTION) Namibia Coalition, assisted the Ministry of Information and Communication Technology (MICT) to draft an access to information bill, using the African Union’s Model Law on Access to Information as the basis. However, since then, the draft bill has languished somewhere in the halls of state and by end 2017 it was unclear whether or when the bill would make an appearance on the parliamentary agenda.

That said, aside from the draft information strategy, the need for access to information frameworks is also formulated in Namibia’s National Anti-Corruption Strategy and Action Plan 2016-2019. The anti-corruption strategy, under its Strategic Objective 2 (Preventing corruption in government offices, ministries, agencies and public enterprises), lists as Specific Objective 2.2: “Increasing institutional transparency by

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increasing the availability of public data made available by public authorities.” And goes on to state that action taken would include: “Access to Information legislation will be introduced to ensure access to public information and transparency of decision-making processes to further provide for relevant action to protect information.”

When the strategy document was still in draft form in 2014, a motivation for including access to information was articulated as an aim of Namibia's Anti-Corruption Commission (ACC) over coming years to push the state to: “Pass Access to information legislation to facilitate transparency and accountability within political and bureaucratic processes, whether within government, political parties or the private and non-governmental sectors.”

The 2014 draft strategy document clearly outlined why this was necessary: “In a democracy, transparency is integral to the way public officials make decisions. For this reason it is important that citizens in general and the media (radio, television, newspapers), in particular, are guaranteed the right to freedom of speech and access to information. Only then can transparency be given force and public sector officials held publicly accountable. In this way, the media can play a role in exposing corruption and inform citizens of the actions of public officials.”

When considering the need for access to information legislation, it is important to bear in mind that Namibia's state bureaucracy is highly secretive. To illustrate, consider that Namibia was ranked 77th out of 86 countries in 2015 and 98th out of 114 countries in 2016 on the Open Data Barometer rankings, released and produced by the World Wide Web Foundation. The Open Data Barometer assesses the ease with which government data can be accessed by interested parties, including development partners.

At the same time, while various Namibian authorities have paid lip-service to the need for a law guaranteeing access to information, there remains an apartheid-era law on the statute books which militates against meaningful access to information, namely the Protection of Information Act of 1982. In this regard, a Media Institute of Southern Africa (MISA) Namibia assessment states: “While the rationale behind this law is national security, it can easily be argued that it provides a (too) wide ranging framework, restricting media access to official government documents – even on issues of no relevance to national security. It could thus easily be (mis-)used for the wrong purposes, such as censoring the media.”

When considering previous statements, it needs to be pointed out that in Namibia access to information is still significantly framed as largely a media concern.

In this regard, a 2012 briefing paper, for the ‘Towards Greater Transparency: Access to Information in Namibia’ conference, sums up the importance of access to information to the workings of the media quite appropriately: “The media acts as an important conduit of information, and fulfill an important function in ensuring that information is distributed widely, as well as ‘enhancing mechanisms for audience participation’. However the media's relationship with access to information is two-pronged, in that it acts as both the facilitator and consumer of information. It cannot carry out its function as a conduit of information, unless it is first able to access and interact with this information. The absence of access to information legislation which hinders the media's ability to receive and consume information, hinders its ability to report accurately, and in turn negatively effects its ability to provide quality information to the public.”

What should shine through the preceding statements is that the media in Namibia is viewed with quite a bit of suspicion by the state, and possibly the ruling political elite, given the way the two have apparently become intertwined over the years, and that the state is, despite its commitments, and as already mentioned, coming across as dragging its feet in ensuring significantly greater access to information. In fact, the state's suspicions of the media is articulated in the country's existing and outdated National Information Policy (of 1992).

To quote in this regard from the earlier referenced MISA study on media ownership and diversity in Namibia: “This policy mostly provides for a number of state-owned media to be established, though it also recognises independent media houses. It does, however, state that a number of these private establishments are ‘partisan’ and contribute to fuelling ethnic and social divisions. Taken in consideration, the policy does not seem to approve nor encourage independence. The policy does not provide detail of how the state-owned/subsidised media should operate and therefore their level of independence remains obscure.

“The policy therefore appears greatly influenced by the government's immediate objective of unifying Namibians. The policy refers to the necessity for ‘national unity’ numerous times when explaining the need for establishing the state-owned media houses, as well as the need for a ‘direct’ channel to announce the work and accomplishments of the government. This objective is undoubtedly understandable, especially given the tumultuous history of Namibia, but as some statements in the policy are rather vague or airy some of these could easily be misused by government. For instance, the so-called ‘partisan’ or government critical media, which is mentioned in the policy, could easily be targeted and accused of disseminating divisive or anti-nationalist or anti-unifying messages to the public.”

However, this is not the whole of it, for aside from the earlier mentioned Protection of Information Act of 1982, Namibia still has a number of other apartheid-era laws on the books that militate against a more democratic information-sharing dispensation – the Official Secrets Act, the Key Points Act, and the Criminal Procedures Act. Similarly, immediately post-independence laws were promulgated that actually buttressed the secrecy-inducing pre-independence ones mentioned above, and the main one is undoubtedly the Public Service Act of 1995, which severely restricts what information civil servants are allowed to release. Then there are the post turn-of-the-century laws to the same effect, such as the Research Act of 2004 and the Communications Act of 2009, both of which seek to limit free expression and access to information in some way by vesting what appear to be censorial powers in state agencies and functionaries. The latest attempts to curb free and creative expression and limit access to information are the Film Regulatory Authority of Namibia (FRAN) Act and the Electronic Transactions and Cybercrime Bill, which appears to grant security and regulatory agencies wide-ranging privacy invading surveillance powers.

That the National Information Policy and long standing and contemporary legislative initiatives and proposals, as discussed, that impact free and creative expression and limit the scope for a more democratic flow of information are an articulation of the ruling political elite's, and consequently the state's, suspicions of the media sector is surely not in question at this juncture. In this context, this altogether suspicion-soaked stance should be viewed as contributory to stimulating the political elite and their private sector associates co-opting or moving to own media channels on the private media landscape. This appears to be a process well underway. The question, of course, is what impact this is having on access to information. And this is what the case study section of this discussion will attempt to illuminate.

However, at the time of writing, all was not doom and gloom. For while the rhetoric, practices and stated intentions around access to information remains decidedly confusing, momentum seems to be mounting towards some sort of formal access to information dispensation being put into place in the not too distant future.

This is because in April 2016, the administration of President Hage Geingob launched its Harambee Prosperity Plan, which runs until 2020.

The HPP recognises transparency as a core principle of development and in Chapter 3 (Effective governance and service delivery), under "Accountability and Transparency" it states:

"Access to Public Information: To ensure that our citizens have access to relevant Government information, the MICT

will develop a Plan for aligning the functions of the Public Relations and Liaison Officers to their core functions of information dissemination before end of June 2016. In addition, permissible access to information by the public must also be included in the Plan."

While this quite promising, these lofty intentions have still not been significantly realised.

In conclusion, this is of course not all that can be said about the freedom of expression and access to information policy and legislative environment in Namibia, but in the interest of brevity and this discussion these are the salient features – the constitutional provisioning for freedom of expression and the absence of access to information statutes – and is employed here merely to sketch the lay of the land for what follows.

Key Take-aways

- While freedom of expression is explicitly constitutionally provisioned, access to information is not;
- As a signatory to, and having ratified, a number of key international and regional declarations, conventions and treaties, Namibia is obliged to implement formal access to information frameworks;
- Such an obligation, and the intention, is also formulated in various domestic policy and developmental initiatives;
- In Namibia access to information is still significantly framed as largely a media concern;
- Existing policies and laws, compounded by apartheid-era laws still on the books, as well as a secretive bureaucratic culture militate against a more open and transparent state and society arising any time soon;
- In such an environment misinformation and manipulation – made possible through owning and/or co-opting of the media by politically connected elites – of public sentiment and support to achieve narrow political or commercial aims – such as attaining and/or maintaining positions of political power and commercial advantage – becomes a credible threat to the development of a truly democratic, prosperous, innovative and equitable society.

Box 3: Draft Revised National Information Policy of 2016

Access to information

Access to information is important for consolidating democracy and stimulating development in Namibia. It allows citizens to gain knowledge and to make informed decisions about participating in the governmental and developmental processes in the country. Various obstacles, such as illiteracy, lack of ICT skills, inappropriate structures, urban-rural imbalances, corruption, unsuitable content, lack of assistance and the digital divide impede access to information and the media.

In tandem with international, continental and regional covenants and protocols, the Government recognises people's right to information and adopted a set of policy recommendations on access to or freedom of information in 1999 following the Conference on the Promotion of Ethics and Combating of Corruption in 1998. While the right to information is an empowerment tool, it is also the most effective tool promoting ethics and combating corruption.

Policy strategies:

The Government shall:

- Draft access to information legislation in accordance with the adopted recommendations at the 1998 Government Conference on the Promotion of Ethics and Combating of Corruption.
- Provide a mechanism for the disclosure of information, and the monitoring of freedom of information to ensure that the public is granted access to information as required.
- Amend the Constitution to safeguard access to information.
- Review existing laws that militate against access to information and the free press.
- Draw up an Action Plan to implement the Information Policy with technical assistance from UNESCO's 'Information for All' programme.
- Create conditions for equitable access for all to information, knowledge and underlying technologies. Namibians should be enlightened through information campaigns in booklets through relevant institutions on the value of information in society.
- Strengthen existing programmes catering for the specific needs of rural and marginalised audiences, women, youth and the San communities not reached by the public broadcaster,
- Provide appropriate developmental information with the aim of job creation and poverty reduction.
- Put measures in place together with other government institutions, as well as regional councils, local authorities, civil society for resource sharing and decentralised information policy implementation. Multipurpose community centres should expedite the programme of taking new technology to rural people for improved access to information.

Source: Draft Revised National Information Policy (March 2016)

Box 4: The recognition of the right of access to information in Africa

The African Union has also recognised the importance of the right to information to advance on human rights, democracy, and good governance in the continent. Six treaties recognise the right to access to information and oblige state parties to these treaties to observe and promote this right. These treaties are:

- The African Charter on Human and Peoples Rights (Article 9),
- The African Charter on Democracy, Elections and Governance (Article 19),
- The African Union Convention against Corruption (Article 9 and 12.4),
- The African Union Youth Charter (Article 10 and 11),
- The African Charter on Values and Principles of Public Service and Administration (Article 6) and,
- The African Statistics Charter (Article 3).

Source: <http://www.africafoicentre.org/index.php/resources/reports-publications/248-full-report-state-of-rti-in-africa-report-2017-sdg-report-1/file>



2

Research Findings: A disquieting picture emerges

Research Protocol

The aim was to test whether key pieces of information that are in the public interest are made available to members of the public following requests for this information.

This will enable us to identify whether the principle of access to information is recognised and working in Namibia or whether it will require legal reinforcement from an Access to Information law.

The aim was not to get the information at any cost (e.g. through personal connections) but to test whether it can be obtained in formal ways through the exercise of the right to information. The requests were not communicated as coming from the IPPR. Instead requests were framed as coming from ordinary citizens. This was to ensure a level playing field for all respondents. Requesters were not to explain why they required the information beyond the principle of public interest and the belief that the requested information should be in the public domain. Three substantive attempts (the initial request and two follow-up attempts) were made to obtain information.

Initial requests were made in writing and delivered either by hand or by email. These were followed up by a reminder two weeks later via a phone-call, follow-up-email, or personal visit. A final follow-up using the same methods was made a week later. A grace period of another two weeks was allowed for responses. In total then institutions had five weeks to give a response.

Between 10 May and 10 August 2017 IPPR researchers sent out information request letters to just over 100 government ministries, agencies, state-owned enterprises, regional councils, private companies (including specifically mining companies), and civil society organisations (for a complete list see Appendix III) to assess their openness and responsiveness to facilitating the release of the information requested.

Taken altogether, as illustrated in Graph 1, just 20% of all request targets across responded with the information requested.

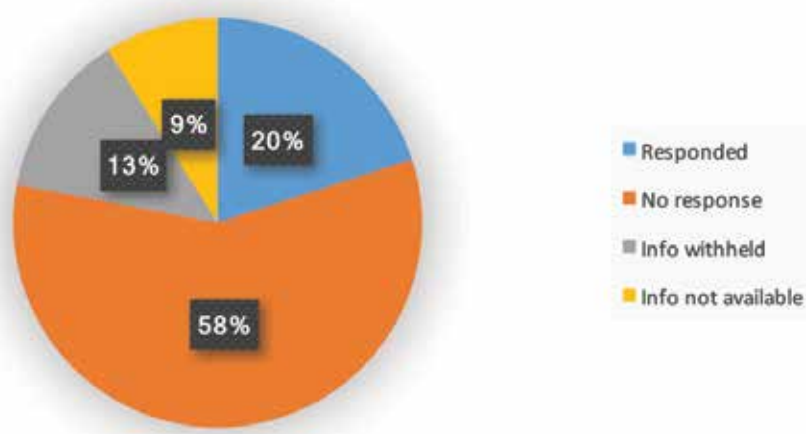
The fact that 80% of organisations and institutions did not respond or could not provide the information, including nearly 60% of targets which simply did not respond to our information requests in any meaningful way, arguably speaks to a general and predominant Namibian institutional culture which does not prize transparency highly.

Research Findings: A disquieting picture emerges

While this mostly holds across all sectors identified for the purposes of this study, it has to be pointed out that the transparency deficit is, probably unsurprisingly, most striking across the various areas of the state sector. Given that in most developing societies, and especially in small ones such as Namibia, where the state plays an oversized role and has an outsized influence in most spheres, thus setting the tone in most areas of governance, it can probably be reasonably argued that the lack of a culture of openness visible across all sectors is a consequence of the overarching, and problematic, state sector culture.

With this in mind, and given that the information requested could certainly not be considered of a sensitive nature, in a commercial or security sense, and considering the fact that most, if not all, the entities targeted for this study deal with, rely or depend on, or administer, manage or exploit public assets and/or resources or are government service providers or recipients of government assistance or business, or just generally deal with the public, the fact that about 13% of targeted entities (Graph 1) deliberately withheld the information requested points to the extreme of this transparency deficient culture, namely an institutional culture of secrecy.

Graph 1: An overview of all organisations' feedback



2.1 Government departments, state-owned enterprises, regulatory agencies and regional councils

As already indicated, the response rates amongst various state sector entities was low.

In early May 2017, request letters were sent to 20 government ministries (see Appendix 3 for a complete list).

As Graph 2 illustrates, of the 20 ministries approached with an information request, just 5 responded with the requested or similar information, while 35% simply did not respond to the initial request and follow-up attempts. Of concern is that 25% of government departments refused to provide the information requested. At the same time, 15% of targeted government departments claimed to not have the information requested.

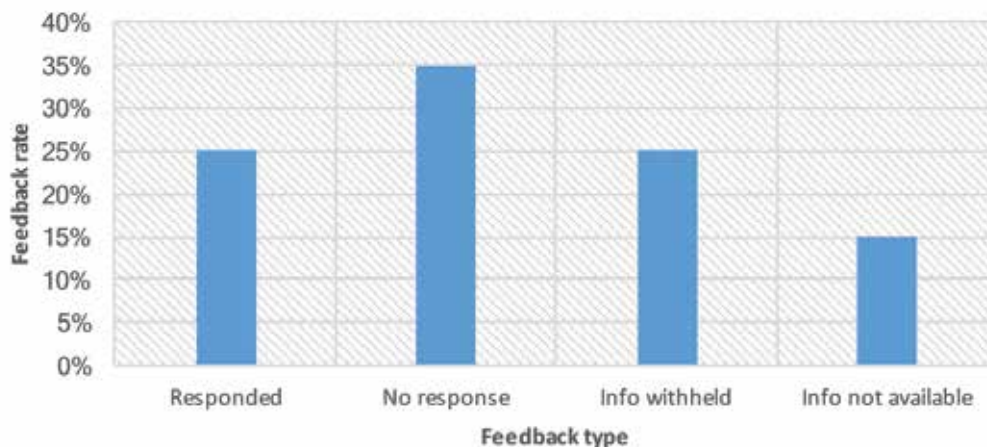
The last two points are worthy of further discussion. For in the first instance, of state departments refusing to release requested information, it has to be said that this practice flies in the face of claims that the current administration has infused the state sector with much more transparency since 2015. The fact that 60% of ministries targeted either did not respond to what should otherwise have been a routine information request for information which should really be readily available or not

confidential from a member of the public does quite clearly undermine the claim of a more transparent government.

As to the issue of the information requested purportedly not being available, in 15% of cases, the issue of poor record keeping in government comes into focus here, for, as stated already, the information requested was of such a nature that the expectation that such information exists in some form is a reasonable one. That the information could not be retrieved or made available does arguably speak to persisting state sector struggles with information and records management.

On the whole, the level of unresponsiveness (75%) to information requests by government departments does not appear to be improving and remains worrying.

Graph 2: Government Ministries

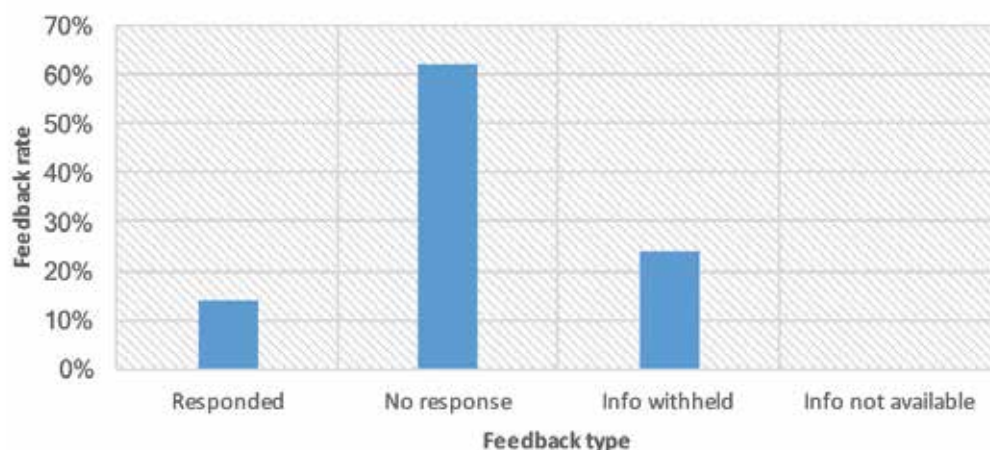


With regard to state-owned enterprises (SOEs), 21 of which were approached for this study (see Appendix 3 for a complete list), the worrying picture is replicated.

The combined non-response and information withheld rate for this sector was over 85% (Graph 3). This level of unresponsiveness is especially concerning given the fact that the SOE sector is highly dependent on the public purse to remain afloat. The information requests in this sector related to the release of annual reports and performance management systems in place at various entities.

It has to be mentioned here that governance in the SOE sector has always been rather opaque, if not downright inscrutable. And once again, the fact that roughly 85% of SOEs approached for information were unresponsive also goes to undermine the prevailing narrative of improved governance, transparency and accountability in the state sector.

Graph 3: State - Owned Enterprises



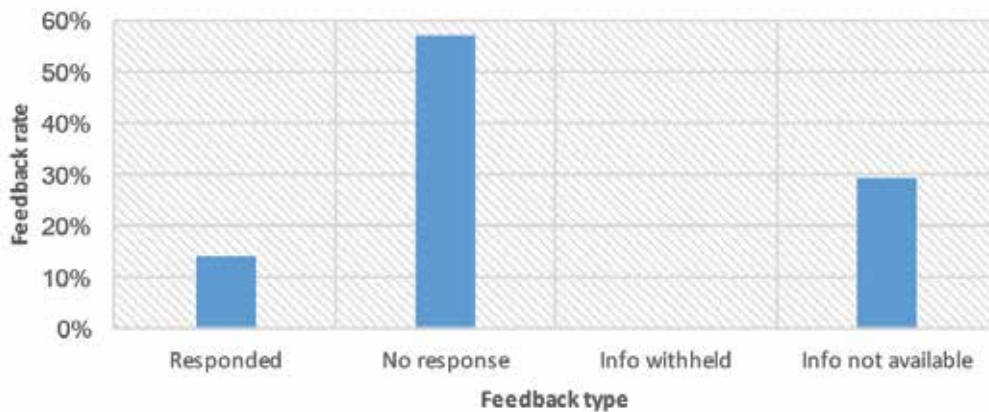
Amongst state agencies and special offices the picture isn't much better (Graph 4).

Of the seven agencies and special offices (see Appendix 3 for a complete list) approached with information requests, just one – the Office of the Judiciary – provided the information requested.

The non-responders included both houses of parliament, the Anti-Corruption Commission and the offices of the Attorney General and Auditor General.

The combined unresponsive and information not available rate amongst state agencies and special offices was also slightly above 85%. This is telling, because state-owned enterprises, with a similar non-response rate, either report or have to account in some way to these agencies and special offices. And the fact that neither sector tends to afford the public any sort of meaningful transparency must surely raise questions about the levels and quality of oversight of public assets and resources.

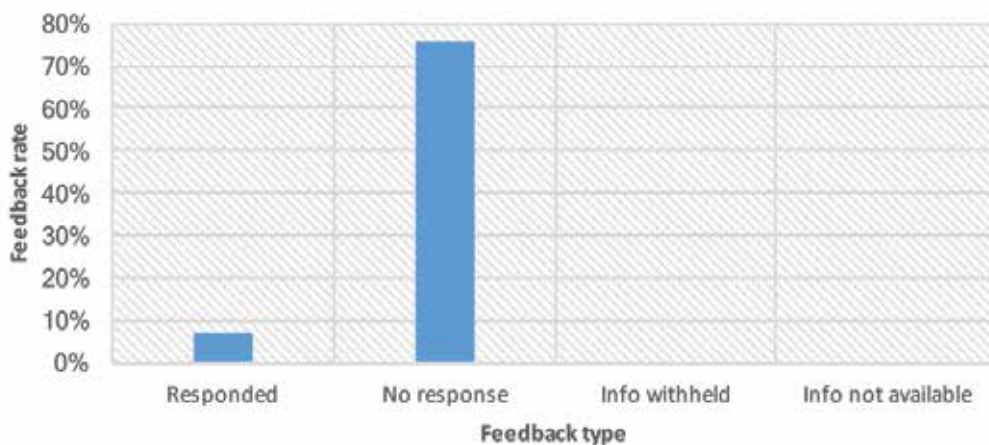
Information requests in this sector also related to the release of annual reports and descriptions of performance management systems in place at the various entities.

Graph 4: State Agencies

As for regional councils (see Appendix 3 for a complete list), information requests were forwarded to chief regional officers in all 14 regions of the country.

Once again, the unresponsive rate was very high, almost 80%.

Out of the 14 regions, just one, Erongo, responded with the information requested, and in a reasonable time.

Graph 5: Regional Councils

The overall high levels of unresponsiveness in the state sector are highly worrying and militate against an effective approach to achieving the goals of such development agendas as the Harambee Prosperity Plan (HPP) and the Sustainable Development Goals (SDGs). This is because the Namibian state sector comes across as considerably closed off and with very few meaningful collaborative engagements with other stakeholders in society.

2.2 Private sector and mining companies

The responsiveness of the private sector was slightly less concerning than that of the government sector (Graph 6).

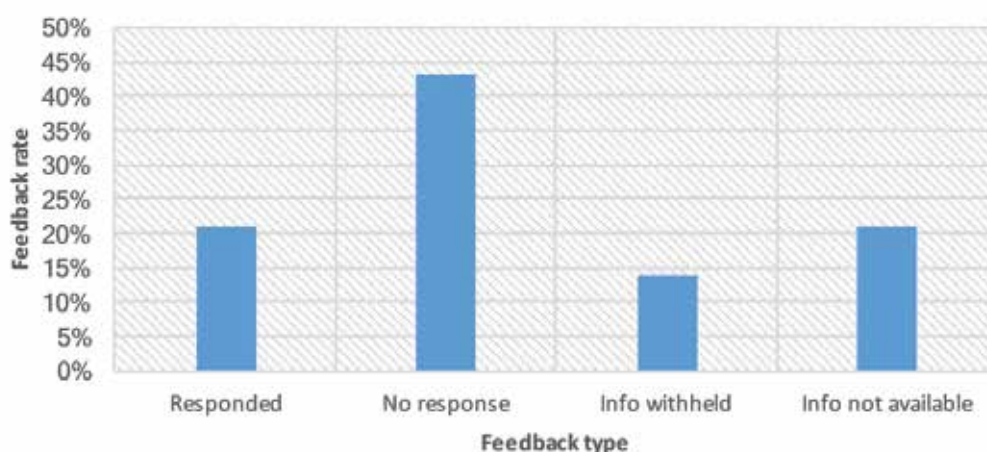
For this study, 14 of the biggest private companies were approached with information requests, related to their corporate social responsibility activities and workplace health and safety records.

The response rate in the private sector was almost 25%, while the non-response rate was below 45%.

Interestingly for this sector, slightly over 20% of companies indicated that they had no information available on their corporate social responsibility activities, which probably indicates that they do not engage in such initiatives in any significant way.

On the whole, however, the fact that almost 80% of private companies did not respond, withheld the information requested or did not have such information available suggests that transparency is also not a priority in the Namibian private sector.

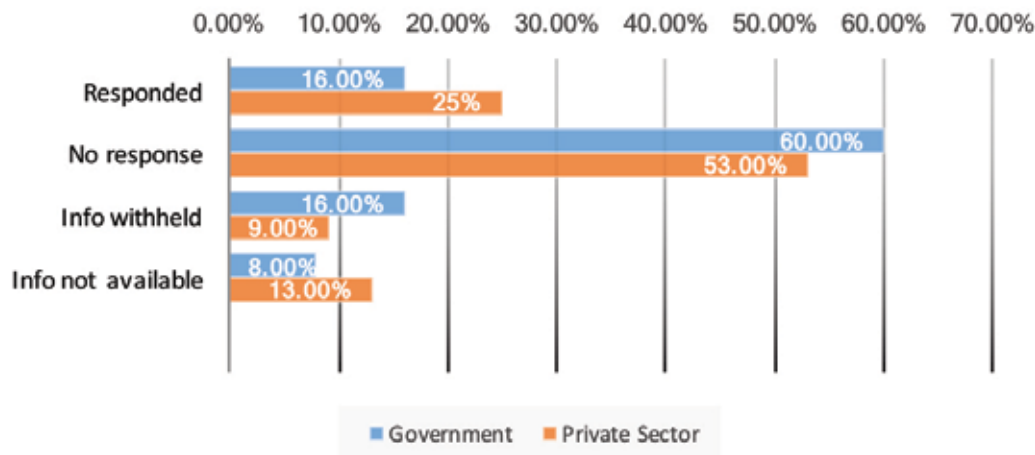
Graph 6: Private Sector



When comparing the responsiveness of government and private sector entities, it nevertheless is clear that while transparency seems to be substantially lacking across both sectors, the government sector does significantly outstrip the private sector on this score (Graph 7).

To be clear, the response rate in the private sector was almost 10 percentage points better than that of the government sector, while the information withheld rate was less by 7 percentage points in the private sector. The only indicator where the private sector fared worse than government was with requested information not being available, where this was the case in 8% of requests to government entities and 13% for private sector entities.

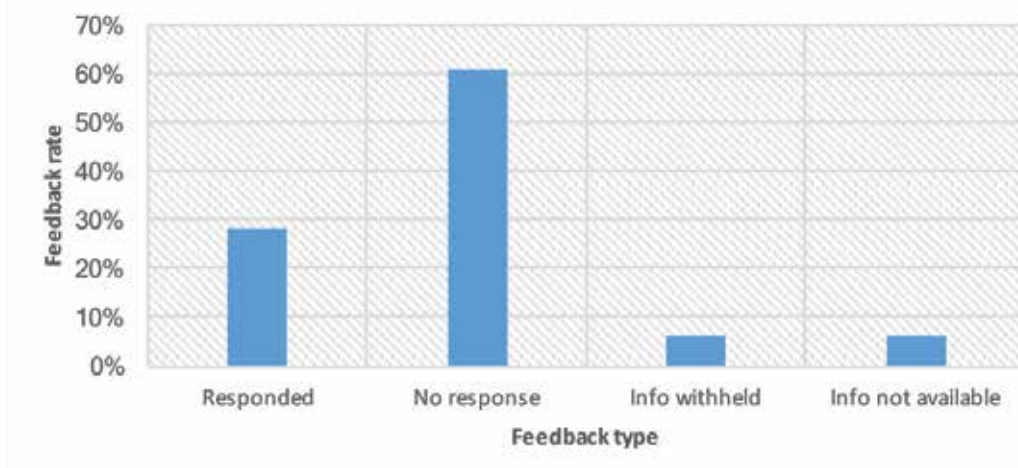
Overall though, the difference margins are still narrow enough that it can be reasonably argued that access to information is substantially deficient across these two critical sectors in society. As already indicated, this is suggestive of a highly problematic culture in both government and business.

Graph 7: Government vs Private Sector

Staying with the private sector, of particular interest to the research was how operators in the mining or minerals extractive sector would react to information requests. The mining industry is traditionally the most critical to the Namibian economy, and it was for this reason that the sector was specifically targeted for information requests.

In all, 20 of the most prominent mining and exploration companies, including multinational entities, were targeted for information requests, related to their health and safety records and taxes and royalties paid to the Namibian government in the last financial year.

Surprisingly, the mining companies were quite forthcoming (Graph 8), with a response rate of almost 30%, and information withheld and information not available rates of roughly 5% each. However, the non-response rate was still quite high, at about 60%.

Graph 8: Mining Companies

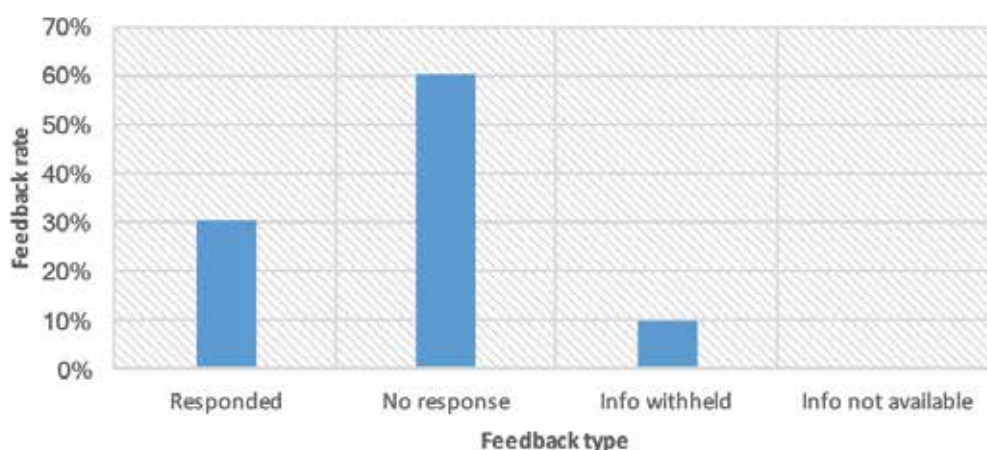
2.3 Civil society organisations (CSOs)

Perhaps the best example of how access to information and transparency deficient Namibian organisations and institutions are as a whole is to be found amongst civil society organisations (CSOs) (Graph 9).

While CSOs, as a sector, fared better and mirrored the mining sector with regard to responding to information requests (30%), the non-response rate was also still surprisingly high, at 60%. Disturbingly, 10% of CSOs refused to give out any information, even though the request was merely an enquiry after projects and programmes being run by the specific organisation through 2017.

That said, the non-response rate amongst CSOs speaks volumes – for it is higher than that of the private sector (53%) – as this is a sector in which one would normally expect a more open and approachable environment and one that is more engaged with ordinary people at grassroots levels.

Graph 9: Civil Society Organisations

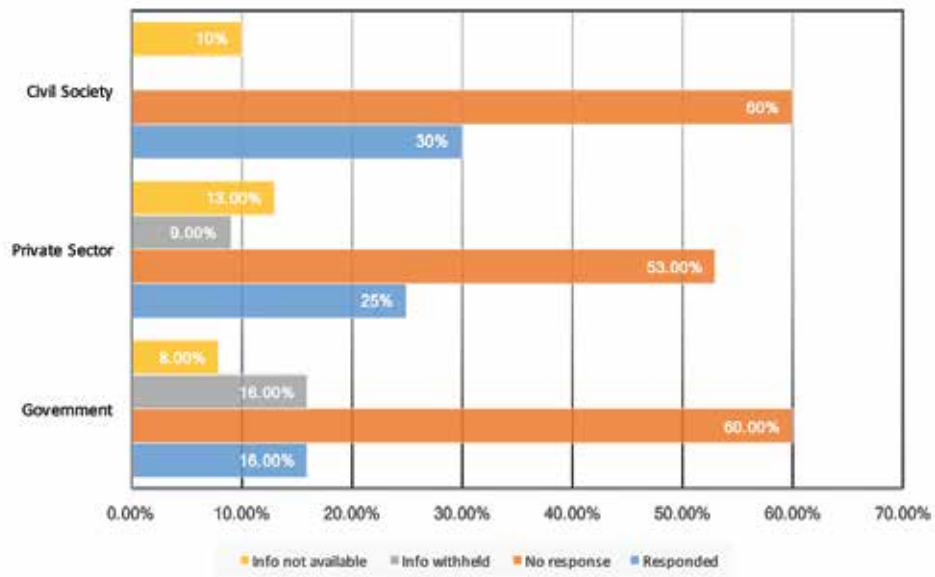


The overall situation is captured in Graph 10, which shows that concerning government and CSOs have a similar non-response rate, but civil society does have a much better response rate – nearly double (30%) that of government (16%) – while the private sector languishes somewhere between the two in terms of response rate (25%).

However, as already stated, it is worrying that the private sector has a significantly lower non-response rate than civil society – a difference of about 7 percentage points.

On the whole, it is clear that Namibia has a lot of work to do across the board in order to engender more transparent organisational and institutional cultures that are appreciative of the value of access to information.

Graph 10: Government, Private Sector & Civil Society



Key Take-aways

- The fact that 80% of organisations and institutions did not respond or could not provide the information, including nearly 60% of targets which simply did not respond to our information requests in any meaningful way, arguably speaks to a general and predominant Namibian institutional culture which does not prize transparency highly.
- On the whole, the level of unresponsiveness (75%) to information requests by government departments does not appear to be improving and remains worrying.
- It has to be mentioned here that governance in the SOE sector has always been rather opaque, if not downright inscrutable. And once again, the fact that roughly 85% of SOEs approached for information were unresponsive also goes to undermine the prevailing narrative of improved governance, transparency and accountability in the state sector.
- The combined unresponsive and information not available rate amongst state agencies and special offices was also slightly above 85%. This is telling, because state-owned enterprises, with a similar non-response rate, either report or have to account in some way to these agencies and special offices. And the fact that neither sector tends to afford the public any sort of meaningful transparency must surely raise questions about the levels and quality of oversight of public assets and resources.
- Out of the 14 regions, just one, Erongo, responded with the information requested, and in a reasonable time.
- On the whole, however, the fact that almost 80% of private companies did not respond, withheld the information requested or did not have such information available suggests that transparency is also not a priority in the Namibian private sector.
- To be clear, the response rate in the private sector was almost 10 percentage points better than that of the government sector, while the information withheld rate was less by 7 percentage points in the private sector. The only indicator where the private sector fared worse than government was with requested information not being available, where this was the case in 8% of requests to government entities and 13% for private sector entities.
- Surprisingly, the mining companies were quite forthcoming (Graph 8), with a response rate of almost 30%, and information withheld and information not available rates of roughly 5% each. However, the non-response rate was still quite high, at about 60%.
- While CSOs, as a sector, fared by far the best and mirrored the mining sector with regard to responding to information requests (30%), the non-response rate was also still surprisingly high, at 60%. Disturbingly, 10% of CSOs refused to give out any information, even though the request was merely an enquiry after projects and programmes being run by the specific organisation through 2017.
- On the whole, it is clear that Namibia has a lot of work to do across the board in order to engender more transparent organisational and institutional cultures that are appreciative of the value of access to information.

Examples of Information Requested

** For further details of entities approached and their responses see APPENDIX III*

MINISTRIES

Ministry of Safety and Security:

Distribution of crime offenders by types of offence between January 2014 to March 2016

INFORMATION WITHHELD

(Can only be released via national statistics agency)

Ministry of Finance:

Sources and amounts on the inflow of international official development assistance to the Republic of Namibia between 2009 and 2016

INFORMATION RECEIVED

Ministry of Mines and Energy:

Breakdown of number of rural and urban households accessing the solar energy subsidy loan for the procurement of solar energy technologies per region

NO RESPONSE

Ministry of Defence:

The number of military personnel dispatched to African Union and United Nations missions from 2011 to 2016, broken down by mission and length of service

INFORMATION WITHHELD

Ministry of International Relations and Cooperation:

Number and titles of bilateral and multilateral agreements and treaties processed as from April 2015 to April 2017 respectively.

INFORMATION NOT HELD

STATE-OWNED ENTERPRISES

National Housing Enterprise:

Data on houses constructed and handed over to beneficiaries per region between 2007 and 2016

NO RESPONSE

Namibia Airports Company:

Details on Performance Management System in operation

INFORMATION WITHHELD

Namibia Tourism Board:

Details on Performance Management System in operation

INFORMATION RECEIVED

PRIVATE SECTOR

Oryx Property Management:

Corporate social responsibility report

INFORMATION RECEIVED

Pupkewitz Holdings :

Corporate social responsibility report

NO RESPONSE

United Africa Group:

Corporate social responsibility report

INFORMATION WITHHELD/NOT FOR THE PUBLIC

B2 Gold:

Health and Safety policy, Statistics of minor and major incidents as from 2015

INFORMATION RECEIVED

Navachab Mine:

Health and Safety policy, Statistics of minor and major incidents as from 2015

NO RESPONSE

Namibia Marine Phosphate:

Request for taxes and royalties paid in the last available financial year

NO RESPONSE

REGIONAL COUNCILS

Karas:

A description of the development projects and programmes undertaken in past financial year

NO RESPONSE

Erongo:

A description of the development projects and programmes undertaken in past financial year

INFORMATION RECEIVED

Zambezi:

A description of the development projects and programmes undertaken in past financial year

NO RESPONSE

CIVIL SOCIETY

Namibia Nature Foundation:

Projects currently being undertaken for the year 2017

NO RESPONSE

Shack Dwellers Federation of Namibia:

Projects currently being undertaken for the year 2017

INFORMATION RECEIVED

Box 5: 14 key principles of the African Platform on Access to Information (APAI)

1. Fundamental Right Accessible to Everyone

Access to information is a fundamental human right, it is open to everyone.

2. Maximum Disclosure

All information held by public bodies is public and should be subject to disclosure (except in limited circumstances).

3. Established in Law

The right to access to information shall be established by law in each African country.

4. Applies to Public Bodies & Private Bodies

The obligation to access to information shall apply to all public bodies as well as government owned or controlled private bodies.

5. Clear and Unambiguous Process

The process to obtain information should be simple and fast.

6. Obligation to Publish Information

Public and relevant private bodies shall be obliged to proactively release information relating to their activities that is of public interest.

7. Language and Accessibility

Information should be available in the language of the person seeking it, and in an accessible location and format.

8. Limited Exemptions

The right to access to information shall only be limited where there would be a significant harm if the information was released.

9. Oversight Bodies

Independent bodies should be established to monitor and hold government bodies and relevant private entities to account.

10. Right to Personal Data

All persons have a right to access and correct their personal data held by third parties.

11. Whistleblower Protection

Adequate protections against different forms of sanctions should be provided for those who disclose information on wrong-doing and information in the public interest.

12. Right of Appeal

Everyone has the right to appeal administratively any action that hinders or denies access to information or any failure to proactively disclose information.

13. Duty to Collect and Manage Information

Public and relevant private bodies have a duty to collect information of public interest on behalf of their citizens.

14. Duty to Fully Implement

Public and relevant private bodies have an obligation to ensure the law is fully implemented.

Source: <http://www.africanplatform.org/apai-declaration/14-key-principles/>





3

Conclusions

While Namibia still has much going for it as far as overall good governance goes, the country's slow movement towards crafting and implementing modern transparency and accountability mechanisms – such as access to information legislation and regulatory structures – could see the country fall behind in meeting its obligations in this respect.

At a time when corruption and the mismanagement of resources pose ever greater threats to Namibian state and society, and as the Namibian government struggles to keep the state afloat fiscally, more transparency and accountability is urgently required to ensure efficient and effective service delivery.

In all this it should be remembered that Namibia is a signatory to the Sustainable Development Goals (SDG) framework, which speaks directly to the Namibian government's Harambee Prosperity Plan (HPP) and other local developmental initiatives, and the fact that there appears to be some foot-dragging around access to information could see the country fail to achieve its SDG and HPP goals.

This has become imperative, for as this study shows, overall organisational and institutional responsiveness – whether in government, the private sector or civil society – in the context of access to information is grossly deficient and highly problematic, and suggests that such closed off or secrecy-valuing institutional cultures could undermine Namibia's search for equitable prosperity over the long term.

Thus it appears urgent that relevant Namibian authorities reacquaint themselves with the international, continental and regional declarations, conventions and treaties to which the country is a signatory and which it has ratified, so as to reassess, re-orientate and redirect Namibian efforts around infusing greater transparency, accountability and efficiency into the state sector, so as to attempt to set the appropriate tone for other sectors of society given the oversized role and influence of the Namibian state in basically all spheres.

4 Recommendations

It is recommended that:

1. Relevant Namibian state authorities resuscitate, rework with relevant stakeholders and adequate public inputs if necessary, and ultimately submit for parliamentary debate the draft access to information bill which was crafted with significant civil society input in 2016;
2. Relevant Namibian state authorities finalise the draft revised National Information Policy of 2016;
3. Namibian state authorities live up to the self-stated principles and ambitions of efficiency and accountable government captured in the Harambee Prosperity Plan (HPP) in order to achieve the desired levels of prosperity and advancement, as articulated in Namibia's various developmental agendas;
4. In line with the various international, continental and regional instruments, all Namibian actors – in government, business and civil society – formalise and adopt practices that foster transparent and accountable interactions across all sectors of society;
5. Relevant Namibian state authorities repeal all laws that undermine the emergence of progressive institutional and organisational cultures based on accessibility and openness;
6. Non-state actors, both in business and civil society, advocate for the full implementation of systems and processes across the state sector that would enable greater access to information;
7. Namibian state and non-state actors collaborate meaningfully in the spirit of multi-stakeholderism to continuously enhance the freedom of expression and access to information landscape and climate in the country, as well as across the southern African region and the African continent.

Box 6: The State of Right to Information in Africa Report 2017

Recommendations to State Parties:

1. Ratification and domestication of all international and regional instruments regarding protection and promotion of the right to access to information.
2. Fully comply with reporting obligations and follow up ATI Resolutions and recommendations of Human Rights Treaty bodies.
3. Adopt or amend existing access to information legislation in line with the regional and international standards such as the Model Law on Access to Information in Africa, and ensure effective implementation.
4. Repeal all laws and policies that unduly restrict the right of access to information, including Official Secrets Acts and similar restrictive national legislation.
5. Ensure efficient and timely reporting on the SDGs in particular SDG 16.
6. Strictly implement Resolution on the Right to Freedom of Information and Expression on the Internet in Africa (ACHPR/Res. 362(LIX) 2016) to prevent against unlawful interruption or limitation of access to Internet, social media and messaging services, especially during the electoral period, as noted in.
7. Change the culture of public services to be more open, transparent and accountable to citizens, consistent with the African Charter on values and principles of public service and administration.
8. Consistent with regional and international standards, proactively disclose and promote access to information held by public bodies.
9. Build capacities of civil servants to ensure effective implementation of RTI frameworks.
10. Provide sufficient resources (human and logistical) to public entities to fully capacitate their institutions in implementing ATI laws.
11. Formally appoint and profile information officer for each public entity so they have the right authority and public recognition.
12. Mandate independent oversight mechanisms to monitor, enforce and report ATI implementation.
13. Ensure a modern and innovative public service by promoting ICT and records keeping in government institutions.
14. Create consultative platform for different stakeholders to promote, advocate and monitor implementation of the right to information at national and local levels.
15. Raise citizens' awareness of their right to access public information by carrying various promotional measures such as media campaign, radio talk shows, public dialogues, etc.
16. Commemorate the International Day for Universal Access to Information on 28 September focusing on SDG 16.10.2.

Source: <https://www.scribd.com/document/360137157/African-Freedom-of-Information-Digital-Report-2017-1>



5

References

In order of appearance

The following documents were referenced in this report and can be accessed at the accompanying links:

The Universal Declaration of Human Rights
<http://www.un.org/en/universal-declaration-human-rights/>

The State of the Right to Information in Africa Report 2017
<http://www.africafoicentre.org/index.php/resources/reports-publications/248-full-report-state-of-rti-in-africa-report-2017-sdg-report-1/file>

Access to Information - The right of access to information and the UNCAC
http://uncaccoalition.org/en_US/learn-more/access-to-information/

National Anti-Corruption Strategy and Action Plan 2016 - 2019
<https://www.accnamibia.org/wp-content/uploads/2016/07/National-Anti-Corruption-Strategy-and-Action-Plan-2016-2019.pdf>

Open Data Barometer
<http://www.opendatabarometer.org/report/analysis/rankings.html>

ATI & The Media (for the 2012 'Towards Greater Transparency: Access to Information in Namibia' conference)
<http://www.ippr.org.na/sites/default/files/ATI%20Media%20Briefing%20Paper.pdf>

Harambee Prosperity Plan 2016/17 – 2019/20
<http://www.gov.na/documents/10181/264466/HPP+page+70-71.pdf/bc958f46-8f06-4c48-9307-773f242c9338>

Access to Information: An enabling and fundamental human right - 14 Key Principles
<http://www.africanplatform.org/apai-declaration/14-key-principles/>



6

Appendices

Appendix I: Acknowledgements

The information requests, the numerous follow-ups and legwork for this study were done by Ndeshi Fikameni and Michael Hasheela, who were both Research Associates at the Institute for Public Policy Research (IPPR) at the time of the research was being conducted.

The report was compiled and written by Frederico Links, who is also a Research Associate at the Institute for Public Policy Research (IPPR).

Graham Hopwood, Executive Director of the IPPR, played an invaluable guiding role throughout the research process, as well as advising on the methodology and other aspects of the study. We thank him for his significant contributions.

We also heartily thank the High Commission of Australia in South Africa for the valuable funding support that allowed this project to go ahead.

Similarly, we wish to acknowledge the Access to Information Namibia (ACTION) Coalition for their moral support of this study, as well as their inputs and suggestions.

Finally, the researchers would like to express their gratitude to those organisations and institutions which responded favourably to requests for information.

Any errors in this report remain solely the responsibility of the IPPR.

Frederico Links
November 22, 2017

Appendix II: Research Protocol

This document sets out the protocol to be followed by IPPR researchers engaged in filing access to information requests as part of the Access to Information research report.

The aim is to test whether key pieces of information that are in the public interest are made available to members of the public following requests for this information.

We hope to obtain useful information about the way in which requests for information are dealt with in Namibia. This will enable us to identify whether the principle of access to information is recognised and working in Namibia or whether it will require legal reinforcement from an Access to Information law.

In order to generate meaningful comparative data about level of access to information in Namibia, it is important that the

same procedures are followed by different requesters both in making requests and in recording the way in which the authorities respond to those requests.

This protocol sets out the procedure to be followed for both of these processes. It is of the greatest importance that procedures are followed carefully. The aim is not to get the information at any cost (e.g. through personal connections) but to test whether it can be obtained in formal ways through the exercise of the right to information.

The details of responses should also be recorded:

OUTCOME	CIRCUMSTANCES
Unable to Submit	It was physically impossible to make the request
Refusal to Accept	An official with decision-making power refused to receive the request
Information Withheld (Oral Refusal)	An official with decision-making power stated that they would not answer the request
Information Withheld (Written Refusal)	A written refusal to answer the request was received by the requester
Transferred (intermediate outcome)	The authority with which the request was lodged transferred it to another authority
Referred (intermediate outcome)	The authority with which the request was lodged referred the requester to another authority
Mute Refusal	No response at all – administrative silence
Information Received	The information requested was provided in full to the requester
Partial Access	Access to part of the information is provided and to part denied, on the basis of claimed exceptions to the right of access
Incomplete Information	Only part of the requested information is provided
Information Not Held	Authority responds that they do not hold the requested information
Invalid Answer	A response was given which purported to provide the information but did not, for example irrelevant information or a link to a website not holding the requested data.
Excessive Fees Charged	Fees charged either for filing the request or excessive fees for accessing the information

It should not be communicated that the exercise is part of an access to information study or that the request is made by the IPPR. Rather requests should be framed in a way that they are seen to be coming from ordinary citizens. This is to ensure a level playing field for all respondents. Requesters should not have to explain why they require the information beyond the principle of public interest and the belief that the requested information should be in the public domain. If information is provided based in response to reasons given, it becomes a test of how convincing the reasons are rather than of the respondent's willingness to be open.

Standard Procedures on Submitting and Following Up Requests

- Submission
- Two weeks later - follow up reminder
- Further week later - final reminder:
- A grace period can be given to receive responses.

Step 1: Set questions and identify the target respondent institutions

Only one request letter per institution.

Step 2: Check the website of the target institution

The nature of the requests being filed in this project is such that it is unlikely that the precise answer to the questions will already be in the public domain in the form that we are asking for it. Nevertheless, please check the websites of the relevant institutions and to see whether or not the information seems to be available. Even if it seems that all of the information is available, you should still file the requests, but it is important to download and record the fact that you found that information. Later we will compare the on-line information with any answers provided in response to our requests.

Step 3: Prepare the requests for submission

To standardise the process, all requests will come as letters from researchers in their capacity as citizens. A standard/similar wording will be used for all letters.

Step 4: Request submission

This can be done by email or hand delivery. If it is normal to hand-deliver requests, then prepare two copies so that one can be stamped with the date of delivery.

Step 5: Follow-up

Following up can be done by:

- phoning the institution to see if the request is still being processed;
- sending an email/letter to inquire about the request;
- returning in person to the institution to ask about the request.

We are working to a rule of three substantive attempts (the initial request and two follow-up attempts) to get the information (unless of course the institution provides the information in which case the procedure comes to an end).

Step 6: Receiving the Information

If your request is successful, either fully or partially, you will either receive the information directly or be notified that the information is ready to be collected. You may also be informed that you may come to the institution to view the information.

Record Keeping

One of the goals of this study is to illustrate the real-life experiences of citizens going through the process of requesting information from official agencies and the private sector. The Initiative should offer concrete evidence on the problems ordinary members of the public face in accessing key information across a wide range of issues.

Responses are assessed on two levels. First, whether or not the respondent responded at all to the query. Respondents will be given three opportunities to respond inquiries. If no formal response was provided in a reasonable time frame, or officials refused to provide an answer to the question posed, the result is categorised as a failure to respond to the citizen information request.

Second, when respondents do respond to citizen requests, the information provided is analysed based on whether or not it substantively addressed all aspects of the inquiry.

Based on these criteria, responses can be broadly grouped into three categories:

- 1. The question was answered, and all requested information was provided.** This is the best possible outcome, where responses were strong on both levels. They adequately attended to citizen information requests and provided substantive information that answered all the questions posed.
- 2. The question was answered, but not with all the required information.** In this category, responses were strong on only one of the two levels measured. While they responded to all of the citizens' formal requests for information, the answers provided did not substantively address all aspects of the questions posed.
- 3. The question was not answered, and therefore none of the required information was provided.** This is the worst possible outcome, as it implies that the respondent failed completely on both levels.

Appendix III: Questions & Responses (105)

MINISTRIES (20)	DATA REQUESTED/ QUESTIONS ASKED	RESPONSE	FINAL OUTCOME
Safety and Security	Distribution of crime offenders by types of offence between January 2014 to March 2016	Information will be given to NSA for public access	Information withheld
Gender Equality & Child Welfare	Data on the number of prosecuted, pending and dismissed incidences of GBV between 2010 and 2016		Information not held
Finance	Sources and amounts on the inflow of international official development assistance (ODA) to the Republic of Namibia between 2009 and 2016		Information received
Home Affairs	Data on the number and nationality of work permits granted between 2011 and 2016		Information withheld
Justice	Process report on case management in the Magistrate, High and Supreme Courts		Information not held
Land Reform	Data on the proportion of foreign-owned land vis-a-vis overall available commercial farmland	Will get back to you	No response
Mines and Energy	Breakdown of number of rural and urban households accessing the solar energy subsidy loan for the procurement of solar energy technologies per region	PS is out of office; Will get back to you	No response
Urban and Rural Development	Data on houses constructed and handed over to beneficiaries per region between 2007 and 2016		No response
Office of the Prime Minister	The number of beneficiaries of drought relief food and the number of food parcels distributed per region from 2013 to 2016		Information received

Public Enterprises	The official list of all Namibian public enterprises according to their respective categories, i.e. commercial, non-commercial and financial institutions	Information received
Agriculture, Water and Forestry	The number of beneficiaries of Agriculture Extension Services, broken down by type of service and per region from April 2013 to March 2016	No response
Defence	The number of military personnel dispatched to African Union and United Nations missions from 2011 to 2016, broken down by mission and length of service	Information withheld
Education	The number of beneficiaries per region of the school feeding scheme from April 2013 to March 2016	Information received
Economic Planning	Sectoral progress reports for NDP4	Information received
Environment and Tourism	The number of game rangers and game patrols from April 2015 to March 2017	Information withheld
Health and Social Services	The most prevalent types of case dealt with broken down per region from April 2015 to March 2017	No response
Industrialisation, Trade and SME Development	Breakdown of company registrations, deregistrations and dormancy rates per region from April 2015 to March 2017	No response
International Relations and Cooperation	Number and titles of bilateral and multilateral agreements and treaties processed as from April 2015 to April 2017 respectively	Information not held

Poverty Eradication and Social Welfare	The number of street committees, number of people in street committee in each constituency. The number of food parcels distributed per constituency since 2016	No response	
Sport, Youth and National Service	Number of sports development activities broken down per region and per sport code from April 2015 to March 2017	No response	
STATE-OWNED ENTERPRISES (20)	DATA REQUESTED/ QUESTIONS ASKED	RESPONSE	FINAL OUTCOME
Air Namibia	Annual reports from 2010 to 2016		Information not held
Business and Intellectual Property Authority	Annual reports from 2010 to 2016		No response
Epangelo Mining	Annual reports from 2010 to 2016		Information received
National Youth Council	Annual reports from 2010 to 2016	Public Relations Officer out of office	No response
Youth Credit Scheme	Annual reports from 2010 to 2016	Only the latest (2016) is available	Information not held
Motor Vehicle Accident Fund	A description of national road safety programmes in place	Officer responsible is out of office	No response
National Housing Enterprise	Data on houses constructed and handed over to beneficiaries per region between 2007 and 2016	No response	No response
Social Security Commission	Annual reports from 2010 to 2016	2016 not approved yet	Information not held
August 26 Holdings	Annual reports of the August 26 Textile and Garment Factory (Pty) Ltd from 2010 to 2016.	CEO currently out of office	No response
TransNamib	Annual reports of TransNamib Holdings between 2010 and 2016		Information not available
Agricultural Bank of Namibia	Details on Performance Management System in operation		No response
Communications Regulatory Authority of Namibia	Details on Performance Management System in operation		Information received
Meat Corporation of Namibia	Details on Performance Management System in operation		No response
Namibia Airport Company	Details on Performance Management System in operation		Information withheld
Namibia Development Corporation	Details on Performance Management System in operation		No response
Namibia Institute for Pathology	Details on Performance Management System in operation		No response

Namibia Institute of Public Administration & Management	Details on Performance Management System in operation		No response
Namibia Student Financial Assistant Fund	Details on Performance Management System in operation		No response
Namibia Tourism Board	Details on Performance Management System in operation	Invited to a meeting	Information received
Namibia University of Science and Technology	Details on Performance Management System in operation		No response
PRIVATE SECTOR (14)	Data Requested/Questions Asked	Response	Final Outcome
Capricorn Asset Management	Corporate social responsibility report		Information received
Frans Indongo Group	Corporate social responsibility report	Still processing, will get back to you	No response
Namibia Asset Management	Corporate social responsibility report		Information received
Oryx Property Management	Corporate social responsibility report		Information received
Pointbreak	Corporate social responsibility report		Information not held
PWC	Corporate social responsibility report	Waiting on partners to give an answer	No response
Puma Energy	Corporate social responsibility report		Information not held
Pupkewitz Holdings	Corporate social responsibility report	Will check with colleagues	No response
United Africa Group	Corporate social responsibility report		Information withheld/not for public
Weylandts	Corporate social responsibility report		No response
Ohorongo Cement	Health and Safety policy plus Statistics of minor and major incidents as from 2015		No response
Paragon	Latest Affirmative Action report		Information withheld/not for public
Wilderness Air	Latest Affirmative Action report		No response
Agra	Latest Affirmative Action report		Information withheld/not for public

REGIONAL COUNCILS (14)	DATA REQUESTED/ QUESTIONS ASKED	RESPONSE	FINAL OUTCOME
Karas	A description of the development projects and programmes undertaken in past financial year	Resend letter	No response
Kavango East	A description of the development projects and programmes undertaken in past financial year	CRO not in office	No response

Appendix III: Questions & Responses (105)

Kavango West	A description of the development projects and programmes undertaken in past financial year	Resend letter; CRO will get back to you	No response
Kunene	A description of the development projects and programmes undertaken in past financial year	Will get back to you	No response
Ohangwena	A description of the development projects and programmes undertaken in past financial year		No response
Omaheke	A description of the development projects and programmes undertaken in past financial year		No response
Erongo	A description of the development projects and programmes undertaken in past financial year		Information received
Hardap	A description of the development projects and programmes undertaken in past financial year		No response
Otjozondjupa	A description of the development projects and programmes undertaken in past financial year		No response
Oshana	A description of the development projects and programmes undertaken in past financial year		No response
Khomas	A description of the development projects and programmes undertaken in past financial year		No response
Omusati	A description of the development projects and programmes undertaken in past financial year		No response
Oshikoto	A description of the development projects and programmes undertaken in past financial year		No response
Zambezi	A description of the development projects and programmes undertaken in past financial year		No response

GRN AGENCIES (7)	DATA REQUESTED/ QUESTIONS ASKED	RESPONSE	FINAL OUTCOME
Attorney General	Annual reports for the years 2015 and 2016 and the performance management policy	Relevant official is out of office	No response

Auditor General	Annual reports for the years 2015 and 2016 and the performance management policy		No response
Anti-Corruption Commission	Annual reports for the years 2015 and 2016 and the performance management policy		Information withheld
Electoral Commission of Namibia	Annual reports for the years 2015 and 2016 and the performance management policy		Information withheld
National Assembly	Annual reports for the years 2015 and 2016 and the performance management policy		No response
National Council	Annual reports for the years 2015 and 2016 and the performance management policy	Secretary will only be back in early August	No response
Office of the Judiciary	Annual reports for the years 2015 and 2016 and the performance management policy	Collect information at OPM	Information received

MINING COMPANIES (20)	DATA REQUESTED/ QUESTIONS ASKED	RESPONSE	FINAL OUTCOME
Dundee Precious Metals	Health and Safety policy, Statistics of minor and major incidents as from 2015		Information withheld/not for public
B2Gold	Health and Safety policy, Statistics of minor and major incidents as from 2015		Information received
Weatherly Mining Namibia	Health and Safety policy, Statistics of minor and major incidents as from 2015		No response
Rosh Pinah Mine	Health and Safety policy, Statistics of minor and major incidents as from 2015		No response
Navachab Mine	Health and Safety policy, Statistics of minor and major incidents as from 2015		No response
Rossing Uranium/Rio Tinto	Health and Safety policy, Statistics of minor and major incidents as from 2015		Information received
De Beers Namibia Holdings	Health and Safety policy, Statistics of minor and major incidents as from 2015		Information received
Areva Resources Namibia	Health and Safety policy, Statistics of minor and major incidents as from 2015		Information received
Valencia Uranium	Health and Safety policy, Statistics of minor and major incidents as from 2015		No response

Appendix III: Questions & Responses (105)

Husab Mine Swakop Uranium	The latest Affirmative Action report		No response
Bannerman Mining Resources Namibia	Request for taxes and royalties paid in the last available financial year	Do not make any profits in Namibia	Information not held
Craton Mining & Exploration	Request for taxes and royalties paid in the last available financial year		No response
Damara Granite	Request for taxes and royalties paid in the last available financial year		No response
Imerys Gecko Holdings Namibia	Request for taxes and royalties paid in the last available financial year		No response
Namibian Marine Phosphate	Request for taxes and royalties paid in the last available financial year		No response
Teck Namibia	Request for taxes and royalties paid in the last financial year		Information withheld/not for public
Gecko Namibia	Request for taxes and royalties paid in the last financial year		No response
Onganja Mining Company	Request for taxes and royalties paid in the last financial year		No response
Namibia Rare Earths	Request for taxes and royalties paid in the last financial year		Information received
Namibia Marine Phosphate	Request for taxes and royalties paid in the last available financial year		No response

CIVIL SOCIETY ORGANISATIONS (10)	DATA REQUESTED/ QUESTIONS ASKED	RESPONSE	FINAL OUTCOME
Namibia Association of Women Artists	Projects currently being undertaken for the year 2017		Information received
Desert Research Foundation of Namibia	Projects currently being undertaken for the year 2017		No response
Namibia Nature Foundation	Projects currently being undertaken for the year 2017		No response
Namibia Networks of AIDS Service Organisations	Projects currently being undertaken for the year 2017		No response
National Federation of People with Disabilities	Projects currently being undertaken for the year 2017		No response
Shack Dwellers Federation of Namibia	Projects currently being undertaken for the year 2017		Information received
Red Cross Society	Project currently being undertaken for the year 2017		Information received
Women's Association Namibia	Projects currently being undertaken for the year 2017		No response

Urban Trust of Namibia	Projects currently being undertaken for the year 2017	No response
Labour Resource and Research Institute	Projects currently being undertaken for the year 2017	Information withheld

SITE VISITS	DOCUMENT REQUESTED	RESPONSE	FINAL OUTCOME
National Assembly	Attendance register	Not for the public	Information withheld
National Council	Attendance register		Information received

Appendix IV: Samples of Request Letters

Ms. N Fikameni
P.O. Box 289
Tsumeb

6 July 2017

Gecko Mining
Managing Director
PO Box 81307
Windhoek

Dear Sir/Madam

Re: Request for taxes and royalties payed in the last financial year?

My name is Ndapunikwa Fikameni, I am currently conducting research in my own capacity. The research that I am conducting seeks to investigate taxes and royalties payed in the last financial year (2016) from the extractive industry.

Accordingly, I hereby request the following set of information from your esteemed institution:

• How much have you paid the Namibian government in taxes and royalties in the last financial year?

I would prefer to have this information sent to me electronically at the email address given below: xxxxxx@gmail.com

Alternatively, if this is not possible I could come to collect the information at your office.

I look forward to hearing from you.
Yours faithfully,

Ms. N Fikameni

Ms. N Fikameni
P.O. Box 289
Tsumeb

12 June 2017

Chief Regional Council
Khomas Regional Council
P.O. Box 3379
Windhoek

Dear Mr. Mafwila

Re: Programs and projects

My name is Ndapunikwa Fikameni, I am currently conducting research in my own capacity. The research that I am conducting seeks to investigate the programs and projects attended in the past financial year.

Accordingly, I hereby request the following set of information from your esteemed institution:

- **A full description on projects and programs undertaken in past financial year**
- **Budget allocations and breakdowns of projects and program**

I would prefer to have this information sent to me electronically at the email address given below: xxxxxx@gmail.com

Alternatively, if this is not possible I could come to collect the information at your office.

I look forward to hearing from you.
Yours faithfully,

Ms. N Fikameni

Ms. N Fikameni
P.O. Box 289
Tsumeb

17 May 2017

Namibia Airports Company
Human Resources Department
PO Box 23061
Windhoek

Dear Sir/Madam

Re: Performance Management System in operation

My name is Ndapunikwa Fikameni, am currently conducting research in my own personal capacity. The research that I am conducting seeks to investigate what system is in place to measure performance of employees in State Owned Enterprises.

Accordingly, I hereby request the following set of information from your esteemed institution:

- **Employee performance /appraisal policy**
- **Performance monitoring framework**

I would prefer to have this information sent to me electronically at the email address given below: xxxxxx@gmail.com

Alternatively, if this is not possible I could come to collect the information at your office.

I look forward to hearing from you.

Yours faithfully,

Ms. N Fikameni

Ms. N Fikameni
P.O. Box 289
Tsumeb

8 May 2017

Ministry of Economic Planning
Private Bag 13356
Windhoek

Dear Mr. Leevi Hungamo

Re: Requesting for information on the progress of the NDP4

My name is Ndapunikwa Fikameni, and I am currently conducting research within my own personal capacity. The research that I am conducting seeks to investigate the progress of NDP4.

Accordingly, I hereby request the following set of information from your esteemed institution:

• Sectoral progress reports of the NDP4

I would prefer to have this information sent to me electronically at the email address given below: xxxxxx@gmail.com

Alternatively, if this not possible I could come to collect the information at your office.

I look forward to hearing from you.
Yours faithfully,

Ms. N Fikameni

Ms. N Fikameni
P.O. Box 289
Tsumeb

31 May 2017

Ohorongo Cement
PO Box 444
Tsumeb

Dear Sir/Madam

Re: Safety record and protocol

My name is Ndapunikwa Fikameni, I am currently conducting research in my own capacity. The research that I am conducting seeks to investigate the system(s) in place to measure safety in your esteemed organisation.

Accordingly, I hereby request the following set of information from your esteemed institution:

- **Health and Safety policy**
- **Statistics of minor and major incidents as from 2015**

I would prefer to have this information sent to me electronically at the email address given below: xxxxxx@gmail.com

Alternatively, if this is not possible I could come to collect the information at your office.

I look forward to hearing from you.
Yours faithfully,

Ms. N Fikameni

Ms. N Fikameni
P.O. Box 289
Tsumeb

12 June 2017

Paragon Investment Holding
Human Resources Department

Re: Requesting for Affirmative Action Report

My name is Ndapunikwa Fikameni, and I am currently conducting research within my own personal capacity. The research that I am conducting looks at employment equity in the private sector, according to the Affirmative Action Act of 1998, section 29.

Accordingly, I hereby request the following set of information from your esteemed institution:

• The latest Affirmative Action Report

I would prefer to have this information sent to me electronically at the email address given below: xxxxxx@gmail.com

Alternatively, if this not possible I could come to collect the information at your office.

I look forward to hearing from you.
Yours faithfully,

Ms. N Fikameni

Ms. N Fikameni
P.O. Box 289
Tsumeb

27 June 2017

Namibia Red Cross Society
PO Box 346
Windhoek

Dear Ms. Uhongora

Re: Requesting information on projects

My name is Ndapunikwa Fikameni, and I am currently conducting research in my personal capacity. The research that I am conducting aims to investigate projects being undertaken by Civil Society Organisations.

Accordingly, I hereby request the following set of information from your esteemed institution:

• A brief outline of projects planned/undertaken for the year 2017.

I would prefer to have this information sent to me electronically at the email address given below:
nfikameni@gmail.com

Alternatively, if this not possible I could come to collect the information at your office.

I look forward to hearing from you.
Yours faithfully,

Ms. N Fikameni

What is the Action Coalition

The ACTION Coalition was formed in July 2012 when a number of like-minded organisations and activists decided to focus their resources (human and financial) to foreground access to information (ATI) on the policy and governance agenda of the Namibian Government as part of its commitment to eradicate corruption through fostering good governance practices throughout the state.

Since then, the ACTION Coalition has been instrumental in raising ATI's and freedom of expression's (FoX) profiles as political issues.

The ACTION Coalition has campaigned and advocated forcefully for a formal and comprehensive ATI legislative framework to improve accountability and transparency across all sectors of Namibian society.



What we do

In our attempts to further the causes of access to information (ATI) and freedom of expression (FoX), the ACTION Coalition engages in the following activities:

- Capacity building and awareness raising through regular work-shops and meetings with interested and affected individuals, organisations, members and partners;
- Regularly engaging with and advising relevant government and private entities on improving the Namibian ATI landscape;
- Issuing statements, alerts, briefs, etc. on issues impacting ATI and FoX in Namibia;
- Supporting the work of members by drawing on our extensive professional networks of local, regional and international experts and specialists;
- Supporting multilateral efforts to spread the message of strengthened ATI;
- Playing a leading role in Namibian Internet governance processes in the furtherance of FoX online;
- Connecting and liaising with like-minded organisations and movements across the African continent and beyond.

Previous IPPR Research Reports

Beneficiation in Namibia: Impacts, Constraints and Options

A report on the possibilities for value-addition in the extractive sector by Rowland Brown, Robert McGregor and Cheryl Emvula (2017)

Easing the Way for Investment in Namibia

A report on removing the bureaucratic and other other obstacles that are blocking investment in Namibia by Graham Hopwood, Frederico Links and Nangula Shejavalali (2014)

Namibia's New Frontiers: Transparency and Accountability in Extractive Industry Exploration

A report on governance challenges in the extractive sector by Graham Hopwood, Leon Kufa, Tracey Naughton, and Ellison Tjirera (2013)

Housing Policy and Delivery in Namibia

A research report examining housing policy options by Els Sweeney-Bindels (2011)

Namibia's Skills Deficits

A cross-sectoral perceptions and experiences by Frederico Links (2010)

Poverty and Inequality in Namibia

A series of three papers by Matthias Schmidt (2010)

Planning Power

A review of electricity policy in Namibia by Matthias Schmidt, Kudakwashe Ndhulukula and Detlof von Oertzen (2009)

2 BEE or Not 2 BEE?

An eclectic review of Namibia's Black Economic Empowerment Landscape
By Daniel Motinga, Nangula Shejavalali, Herbert Jauch, Leake Hangala and others (2007)

These research reports and all other IPPR publications are available as PDF downloads at www.ippr.org.na



The Namibian government has signed and ratified international agreements that recognise citizens' right to information and has stated that it is willing to introduce access to information legislation. However, progress towards formulating and passing a law has been slow.

In the meantime, Namibia's legal environment remains skewed against access to information, with apartheid-era legislation such as the Protection of Information Act remaining on the statute books.

In addition a culture of secrecy still exists across different sectors - which make it hard for ordinary citizens to access even non-controversial information and data.

The Institute for Public Policy Research (IPPR), alongside other non-governmental organisations that are members of the ACTION Coalition, is advocating for greater access to information as a means of ensuring transparency and improved governance.

This research report from the IPPR assesses the actual state of access to information (ATI) in Namibia. A large part of the report examines the results of test requests for information issued to over 100 entities covering government, the private sector and civil society. In addition, the report's authors provide an overview of the policy context for access to information in Namibia. It is hoped that by demonstrating that access to information in Namibia is often a case of 'Access Denied', this report will act as a spur to policymakers, decision-makers and civil society activists to work together to ensure Namibia has a meaningful and workable access to information law and system in place in the near future.



INSTITUTE FOR PUBLIC POLICY RESEARCH



ACTION
ACCESS TO
INFORMATION
NAMIBIA

