



**The Legal Aid Forum**

Working Together For Equitable Access to Justice

# **ASSESSMENT OF THE STATUS OF FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION IN RWANDA**

(2013 – 2021)

## **REPORT**



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## Acronyms

ACDEG	African Charter on Democracy, Elections, and Governance
ARFM	Association Rwandaise des Femmes des Media
ARJ	Association Rwandaise des Journalistes
ATI	Access to Information
AU	African Union
CoK	City of Kigali
CSOs	Civil Society Organizations
EU	European Union
FGD	Focus Group Discussion
FM	Frequency Modulation
FOE	Freedom of Expression
GOR	Government of Rwanda
ICCPR	International Covenant on Civil and Political Rights
KII	Key Informant Interviews
LAF	The Legal Aid Forum
M&E	Monitoring and Evaluation
MHC	Media High Council
MINADEF	Ministry of Defence
MININFOR	The Ministry of Information
NCPD	National Council of Persons with Disabilities
NGO	Non-Governmental Organization
NUDOR	National Union of Disability Organisations of Rwanda
NWC	National Women's Council
NYC	National Youth Council
OAU	Organization of African Unity
PSF	Private Sector Federation
PWD	People with Disabilities
RBA	Rwanda Broadcasting Agency
RGB	Rwanda Governance Board
RIB	Rwanda Investigation Bureau

RMB	Rwanda Media Barometer
RMC	Rwanda Media Commission
RNP	Rwanda National Police
RURA	Rwanda Utility Regulation Authority
SDG	Sustainable Development Goals
SWOT	Strengths, Weaknesses, Opportunities and Threats
TL	Team Leader
TV	Television
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UNESCO	The United Nations Educational, Scientific and Cultural Organization
VOA	Voice of America

## **Executive Summary**

This Assessment on the Status of Freedom of Expression and Access to Information in Rwanda was conducted by the Legal Aid Forum (LAF), with financial support from the European Union (EU) in 2021. It aimed at assessing the status of Freedom of Expression and Access to information in Rwanda, following reforms by the Government of Rwanda in the media and information sector to promote freedom of expression and access to information.

Findings from this assessment highlight a number of strengths, opportunities, weaknesses, challenges and threats related to the implementation of freedom of expression and access to information in Rwanda.

## **Summary of Key Findings**

1. Rwanda has a good legal framework for FoE and ATI that has been informed by international treaties and protocols ratified by Rwanda. However, some laws have been found to conflict, which constrains freedom of expression. The case in point is article 10 of the media law of 2013, which prohibits seizure of journalists' materials while article 10 of the law governing Rwanda Investigation Bureau empowers RIB to seize anything for their investigation without specific consideration for the media as per the provisions of the media law,
2. ATI law lacks clarity on sanctions for non-compliance by duty bearers for their refusal to share public interest information,
3. Some administrative practices limit the smooth implementation of FoE and ATI laws. For example, approval for court reporting by journalists takes 48 hours regardless of the urgency of the matter in court, clearly limiting access to public interest information,
4. The penal code promulgated in 2018 has some provisions that impede free speech that needs to be repealed,
5. Freedom of expression has been a preserve of the elites in Rwanda. Their voice is sacrosanct while ordinary citizens do not express themselves freely or share information freely with journalists for fear of intimidation and denial of basic services, particularly at local government levels. In some instances, there is increased self-censorship because people do not want to create a bad relationship (kwanga kwiteranya),
6. On complaints handling mechanism for freedom of expression and access to information issues, the findings revealed a shared responsibility involving institutions such as RMC, RURA, RGB, ARJ and the Office of the Ombudsman. However, the absence of evidence of serious enforcement of sanctions for non-compliance with the ATI law suggests that the mechanism is both weak and ineffective,
7. Self-censorship resulting from Rwanda's historical background defined mainly by the genocide against the Tutsi in 1994 and other divisionism was identified as one of those

limitations to full utilization of opportunities provided by the FoE and ATI laws and policies,

8. This assessment shows that social media have had a positive effect on FoE and ATI to the extent that it facilitates the timely sharing of information to a broad audience. But social media also have a negative effect as seen in the spreading of fake news, rumours and hate speech, mis/disinformation which can often mislead citizens, particularly those with a low level of understanding of the information industry,
9. The assessment also identified the negative effect of the Covid-19 pandemic on FoE and ATI, mainly during periods of lockdowns. However, some positive features were also noted, such as increased use of social media to search for and share Covid-19 related information, and increased freedom of expression with a variety of opinions on the pandemic. Media viewership also rose significantly while close collaboration with GOR organs, mainly RNP and local leaders, to facilitate information sharing was noticeably high,
10. Information and Communication Technology and social media have expanded the public sphere, which has led to a multiplicity of media outlets and diversity of content and encouraged freedom of expression and sharing of information instantaneously. However, the problem of mis/disinformation, fake news and hate speech propagated online was noted by a majority of the respondents.

### **Summary of recommendations**

1. Review access to information law to clarify the penalties or sanctions for non-compliance. This will also include reviewing and or repealing any other laws that hinder or undermine freedom of expression and access to information,
2. RMC and other stakeholders may consider establishing detailed guidelines or etiquettes for exercising the right to FoE while considering and inhibiting the potential abuse of the right of FoE given the exceptions provided by the constitution and the country's socio-cultural norms,
3. Support the media with financial incentives such as tax exemptions or reductions, and capacity building to enhance professionalism,
4. Promote Media/digital information literacy to promote responsible use of media content among citizens, raise their awareness on information access and their rights and responsibility,
5. Mainstream media information literacy training programmes into curricula of all levels of learning from primary schools to universities,
6. Use a variety of channels to promote the inclusiveness of PWD, mainly for those who cannot access classic channels,



7. Reinforce and build on current gains to support the implementation of FoE and access to information,
8. Harmonize and domicile all issues of media and journalists under one authority or institution instead of distributing that task to different institutions,
9. Review and restructure Rwanda Media Commission (RMC) to make it a robust self-regulatory body,
10. Reinforce the institutional capacity of media associations and train journalists to monitor for themselves the implementation of freedom of expression and access to information,
11. Establish mechanisms to promote the welfare, rights and privileges of journalists and to enhance their safety and security as they access the information and use it in their journalistic work,
12. Decriminalize all offences related to media, freedom of expression and access to information,
13. Government bodies and departments concerned with ATI must be proactive by providing accurate information to mitigate the threat posed by misinformation in the media about the Covid-19 pandemic,
14. The Government of Rwanda should collaborate with the international community and owners of global techs to explore ways of regulating digital platforms to curb hate speech often spread through misinformation and disinformation,
15. The concept of confidential/classified information should be further clarified to ease access to information,
16. The legislature should establish a court in charge of freedom of expression and access to information offences,
17. Train duty bearers on how to communicate effectively with citizens to ensure effective implementation of the constitutional right to information but also to give a sense to public officials that communicating effectively is a government priority. This should include proactive disclosure of information,

## **1. Introduction**

This assessment aimed at gauging the current status of freedom of expression and access to information in Rwanda, following reforms in the media and information sector.

The study focused on the indicators and principles of freedom of expression and access to information, including those of the UN's Sustainable Development Goals, the European Council indicators for media in a democracy and African Union principles while giving due consideration to Rwanda's social, cultural political, economic and historical context. The assessment also analyzed legal texts related to Freedom of Expression (FoE) and Access to Information (ATI) at the international, regional, and national levels.

This assessment used qualitative methodology, combining individual face-to-face interviews and Focus Group Discussions (FGD) with document analysis. The sampling was purposive to determine FGD participants, key informants and other respondents. These were selected from the following categories: journalists, media owners and managers, media institutions, leaders of regulatory bodies, experts in journalism, human rights and justice, civil society organizations, leaders of private and public institutions, and opinion leaders.

The research team selected one district per province, including the city of Kigali. That is, Huye in the Southern Province, Rubavu in the Western Province, Musanze in the Northern Province, Kirehe in the Eastern, and Gasabo in the City of Kigali. Overall, 152 respondents contributed to the assessment. The assessment analyzed field data, discussed the findings in close reference to the objectives and purpose of the assessment and proposed appropriate measures for improvement.

### **1.1. Background of study**

Freedom of expression is a universal fundamental human right enshrined in Article 19 of the Declaration of Human Rights<sup>1</sup>. It stipulates that "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."<sup>2</sup>

This universal fundamental right has been reinforced in similar terms in Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which states as follows: "Everyone shall have the right to hold opinions without interference. 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 print, in the form of art, or through any other media of his choice."<sup>3</sup> Thus, all United Nations (UN) countries were recommended to ratify the International Covenant on Civil and Political Rights.

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<sup>1</sup> Universal Declaration on Human Rights (UDHR)

<sup>2</sup> Universal Declaration on Human Rights (UDHR)

<sup>3</sup> International Covenant on Civil and Political Rights (ICCPR)

In this regard, the Organization of African Unity (OAU) which became the African Union (AU) in 2002, has adopted the freedom of expression in the African Charter on Human and Peoples' Rights (ACHPR).

The Republic of Rwanda, as a member of the United Nations and of the African Union, ratified the ICCPR on 16<sup>th</sup> April 1975, and the ACHPR on 15<sup>th</sup> July 1983. Besides, Rwanda has incorporated this freedom of expression and access to information in its Constitution of 2003 as amended today. Article 38 of the Rwandan Constitution emphasizes freedom of the press, expression, and access to information.

In the same framework of reinforcing the freedom of expression in Rwanda, the Parliament of Rwanda adopted the Law n° 04/2013 of 08/02/2013 relating to access to information to enable the public and journalists to access information possessed by public organs and some private bodies and to establish modalities and procedures to promote the publication and dissemination of information <sup>4</sup>

The Media Barometer published by the Rwanda Governance Board (RGB) in 2021 indicates that the score for this sub-indicator is 86.4 % (freedom of expression). The scores by the category of respondents suggest that 98.7% of journalists agree that freedom of expression is guaranteed by law and respected in practice, a slight improvement from 97.9% in the RMB 2016. <sup>5</sup>

Concerning the Right to Information, the Media Barometer revealed that the average rating of 'Right to Information' is 94.7 %, a significant increase from 85.2% in 2016. Correspondingly, journalists' ranking of their right to information registered a significant increase of 93.3%, up from 63.1% in 2016. On the other hand, there was a significant decline in ordinary citizens', journalists' and CSOs' awareness of their rights to information from 90.5 % in 2016 to the current 4.2 % (2021). For journalists, this could partly be attributed to the fact that some individuals and institutions deny them information.<sup>6</sup> According to the 2016 Media Barometer, trust in media was rated at 75.3%, slightly higher than specific trust in radio, which was at 70.2 % (RMB, 2021). Other measures such as journalists' access to information, editorial independence, and media freedom registered a substantial decline.

While the Rwanda Media Barometer focused on assessing the national perception of freedom of expression and access to information using an exploratory and survey research design, this study applied a purely quantitative approach to gain a deeper understanding of the status of freedom of expression and access to information in Rwanda. It went beyond the conventional indicators of media freedom and quantitative data to look at the nuances of FoE and access to information, juxtaposing the findings with best practices. It aimed to go beyond statistics to understand their underlying causes and effects. Nevertheless, this study substantially complements the work of RMB 2021.

The study is a collaborative effort between the Rwanda Media Commission (RMC) and the Legal Aid Forum.

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<sup>4</sup> Office of the Prime Minister, 2013. Law n° 04/2013 of 08/02/2013 relating to access to information in Rwanda

<sup>5</sup> Rwanda Governance Board 2018 Rwanda Media Barometer 2018

<sup>6</sup> Rwanda Governance Board 2018 Rwanda Media Barometer 2018

## **1.2. Objectives of the assessment**

### **1.2.1. Scope of the study**

This study aimed at assessing the current status of Freedom of Expression and Access to information in Rwanda following reforms by the Government of Rwanda in the media and information sector and efforts by different stakeholders and actors to promote freedom of expression and access to information.

### **1.2.2. Specific objectives**

- o Analyse the legal and institutional framework underpinning the media's freedom of expression and access to information;
- o Analyse the extent to which freedom of expression and related laws are respected and complied with in Rwanda;
- o Assess the progress and challenges related to freedom of expression and access to information in the country;
- o Explore the contribution of FoE and ATI in the Rwandan society;
- o Assess the complaint handling mechanism related to freedom of expression and access to information;
- o Assess freedom of expression and access to information in view of emerging trends in social media, and
- o Document lessons learned and good practices related to freedom of expression and access to information.

## **2. Study design and methods**

This study used a purposive, inclusive and qualitative methodology. For data collection, the study used (a) Secondary data review/desktop research, (b) Key Informant Interviews, (c) Focus Group Discussions (FGDs) and (d) case studies. The data was collected from both primary and secondary data sources. These tools were customized from International FoE and ATI standards indicators and informed by Rwanda's social economic, political, cultural and historical context. These indicators have been discussed in the literature review section.

Qualitative data collection approaches were used for both primary and secondary data. The desk research qualitative method is complementary to KIIs. Key experts were interviewed to clarify and triangulate data on freedom of expression and access to information arising from desk research.

Though of national concern and touching on the entire population of Rwanda, the purpose of the study was to gain a deeper understanding of the principle and practices of FoE and Access to Information as opposed to a national survey meant to generalize the findings. Therefore, to identify key information and FGD participants, a purposive sampling technique was employed. Criteria such as subject knowledge and strategic position held in organisations related to information and media sector sectors were used to identify respondents.

## **2.1. Data Collection Methods**

The study used three collection methods, namely, desktop research, Key Informant Interviews (KIIs)/In-depth interviews, and Focus Group Discussions (FGDs). The section below outlines how these data collection methodologies were applied to meet the objectives of the study.

### **2.1.1. Desk Research**

Desk research was used to review literature that is relevant to freedom of expression and access to information, including the national legal framework, status, policy and administrative procedures related to handling complaints on freedom of expression, international laws, protocols and declarations ratified by the government of Rwanda, various country-specific reports including Rwanda Media Barometer reports and those published by reputable regional and international “watch” organizations in media, freedom of expression and access to information. Key websites and links were visited and, through snowballing, helped reach all possible and relevant sources of information for this study.

### **2.1.2. Key Informant Interviews and In-depth interviews**

These targeted media professionals, journalists and media workers as the central information seekers and primary beneficiaries of freedom of expression and access to information. The interviews were conducted after the desktop analysis to allow the researchers to (a) triangulate the data and (b) go behind the quantitative data for explanations and meanings of the initial findings. KII interview guides were developed after the desktop study to clarify issues as well as gain more insight into the same.

While the literature review was expected to yield reliable information about FoE and ATI, it was, however, not considered enough for conclusions to be drawn from it. It provided the normative but not the ideal and experiential knowledge of the different actors in the information industry. For this reason, KIIs were conducted with purposively selected leaders, including representatives of strategic government institutions, particularly those considered key sources of official government information and implementers of the laws related to freedom of expression and access to information. These included the Office of the Ombudsman, the Ministry of Local Government (MINALOC), the Rwanda National Police (RNP), the RGB, and the RIB.

Since getting the best information in informant interviews is less about the number of individuals interviewed and more about the knowledge and insights of the individuals on the subject, the research question/s and the problem that needs to be solved, our interviews only focused on individuals with knowledge about the subject matter of the study.

Thus while desk research enabled us to learn what is already in documents and best practices from elsewhere, face-to-face informant interviews were appropriate because they made it

possible to follow up questions where something was not clear and seek clarifications on the spot where necessary (Bernard, 2000). In a practical sense, informant interviews were organized to supplement and complement other methods of data collection.

### **2.1.3 Focus Group Discussions**

FGDs were mainly used to gather respondents' perspectives and help arrive at some consensus on critical, contentious issues regarding the normative practices of freedom of expression and access to information. They, therefore, involved gathering people with shared backgrounds and experiences to discuss specific issues and experiences on how they related and interacted with freedom of expression laws and practices in Rwanda. A focus group discussion guide was used to bring out their perceptions, attitudes, opinions and ideas. The discussions were stratified along such categories as, government officials, journalists, civil society organisations, members of the public and representatives of local government.

## **2.2. Data analysis and presentation**

With the ideas and information gathered from the above three principal sources of primary and secondary data, a text and narrative analytical method were used to make sense of the data (Bal, 2009, Alverson and Sköldbberg, 2000). Responses from the face-to-face interviews were recorded and analyzed. This was done as soon as was practically possible after the interviews. Data analysis included collaborative reading, coding and thematizing of interview data followed by analysis. Key themes included the relevance of the legal framework of freedom of expression and access to information, application of laws and policies, public perception of access to information and freedom of expression, including other globally acceptable principles.

## **2.3. Sample size, distribution and sampling process**

### **2.3.1. Media and information industry**

Media practitioners and professionals crucial in access to information and freedom of expression were selected for both FGDs and KII. These included journalists, media managers, reporters and correspondents. Others were media managers, regulators and heads of media professional associations.

### **2.3.2. General Public**

Public representation was diverse. Ordinary citizens with no particular public responsibilities were selected in the City of Kigali and at four sites in each of the country's provinces. There were also opinion leaders purposely selected because of their understanding of the subject. They included young female and male participants representing the National Women Council (NWC), the National Youth Council (NYC), the National Council of Persons with Disabilities (NCPD), religious leaders, and representatives from the private sector.

These were selected from five sectors of the five districts shown below:

Sector	District	Province
Rubavu	Rubavu	Western
Mahama	Kirehe	Eastern
Cyuve	Musanze	Northern
Ngoma	Huye	Southern
Bumbogo	Gasabo	City of Kigali
Remera	Gasabo	City of Kigali

The following categories were interviewed individually or online.

### 2.3.3. Leaders of government institutions and agencies

As discussed earlier, representatives of government institutions were selected because of their strategic position as providers of official information and as regulators of the information and media industry.

### 2.3.4. Leaders of civil society organisations

Civil society organisations are key players in human rights and freedom of expression issues. As such, persons knowledgeable in the implementation of freedom of expression and access to information in the country were selected.

Overall, 152 individuals, including 136 ordinary citizens and local opinion leaders, were selected for the FGDs and 13 for the KII. Their regional distribution is illustrated in **Table: 1** below:

**Table 1. Research participants by location and sex**

Location	Sex		Total
	F	M	
<b>COK (City of Kigali)</b>	18	29	<b>47</b>
<b>Huye</b>	13	15	<b>28</b>
<b>Kirehe</b>	9	14	<b>23</b>
<b>Muhanga</b>	0	2	<b>2</b>
<b>Musanze</b>	14	11	<b>25</b>
<b>Rubavu</b>	13	14	<b>27</b>
<b>Total</b>	<b>67</b>	<b>85</b>	<b>152</b>

*Table 2. Distribution of respondents by position and sex*

Position	Sex		Total
	F	M	
CSOs	1	1	2
Experts	0	4	4
GOR key informants	0	4	4
Journalists	4	6	10
Media owner & manager	0	2	2
Local opinion leaders	16	18	34
Ordinary citizens	22	22	44
PSF officials	1	0	1
Representatives of journalism institutions	0	3	3
The youth	23	25	48
Total	67	85	152
%	45%	55%	



*Table 3. Stratification of FGD participants by their role in society*

Position		District					Total
	Sex	Gasabo	Huye	Kirehe	Musanze	Rubavu	
<b>Adult ordinary citizens</b>	F	3	6	2	5	6	22
	M	3	5	4	4	6	22
	Total	6	11	6	9	12	44
<b>Journalists</b>	F	4					4
	M	6					6
	Total	10					10
<b>Local opinion leaders</b>	F	6	1	2	5	2	16
	M	5	4	4	2	3	18
	Total	11	5	6	7	5	34
<b>The youth</b>	F	3	6	5	4	5	23
	M	3	6	6	5	5	25
	Total	6	12	11	9	10	48
<b>Total</b>	F	16	13	9	14	13	65
	M	17	15	14	11	14	71
	Total	33	28	23	25	27	136

#### 2.4. Data Collection process, quality control and ethical considerations

For each FGD, a note-taker was identified and provided with a digital recorder. A transcript of the discussions was produced immediately after each session. The note-takers were briefed ahead of the fieldwork to familiarize them with data collection instruments, interviewing techniques and related ethics. Key informant interviewers were trained in interviewing techniques, including the need for sensitivity to individual personalities, recording, and thematization of critical issues emerging from interviews.

To ensure data reliability, validity and quality, the researchers used the same methods and tools among similar categories of respondents in all the surveyed sites. All questions were clear and unambiguous. Pretesting the research tools guaranteed relevance.

## **2.5. Ethics considerations and duration of the study**

All the respondents were well briefed in advance about the purpose of the research. They were assured of anonymity and confidentiality, and that the data would only be used for the purpose of this study. The study took two months.

## **2.6. Assessment limitations and mitigation strategies**

Measures to curb the spread of the COVID-19 pandemic, including social distancing, were adhered to. However, the response rate was slightly affected by the restriction of movement. Still, it did not affect the reliability of the data because we had identified a large enough pool of potential respondents to compensate for any likely gaps. In some instances, one-on-one physical interviews were replaced with telephone interviews.

However, the data collection process took longer than anticipated due to lengthy administrative procedures at some of the institutions we interacted with. To mitigate this challenge, we adjusted the timeline accordingly.

## **3. Literature review related to freedom of expression and access to information**

This chapter reviews the literature in the fields of freedom of expression and access to information in Rwanda and internationally, including study reports, journal articles, documents, and news articles to learn from any past work and compare key findings with those of other researchers.

### **3.1. Analysis of legal texts and policies related to freedom of expression**

The analysis of policies, laws, regulations, and instructions related to freedom of expression and access to information in Rwanda helped obtain information on crucial progress and issues related to freedom of expression and access to information in Rwanda. The review provided insights into discussion topics for focus group discussions and key informant interviewees to determine how such laws and policies are implemented.

In international treaties, the first record of the right to freedom of expression is found in Article 19 of the Universal Declaration of Human Rights<sup>7</sup>. It indicates that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and seek, receive and impart information and ideas through any media and regardless of frontiers. But this declaration is not a binding text. That is the reason why the UN General Assembly later adopted the ICCPR mentioned above.

The United Nations Human Rights Committee, General Comment No. 34 on Article 19 of the ICCPR in 2011, notes that the right to freedom of expression includes, for example, political discourse, commentary on one's affairs and public affairs, canvassing, and discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse.<sup>8</sup>

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<sup>7</sup> Universal Declaration on Human Rights (UDHR)

<sup>8</sup> United Nations Human Rights Committee, General Comment No. 34 on Article 19

Article 12 of the Convention on the Rights of the Child states that States Parties shall assure the child who is capable of forming his or her views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. Article 13 of the same convention provides that the child shall have the right to freedom of expression."<sup>9</sup>

Article 21 of the Convention on the Rights of Persons with Disabilities (CRPD) is one of the most comprehensive treaty-based provisions regarding freedom of expression and access to information. It indicates that state parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive, and impart information and ideas equally.<sup>10</sup>

Article 9 of the African Charter on Human and People's Rights holds that every individual shall have the right to receive information and that every individual shall have the right to express and disseminate his opinions within the law."<sup>11</sup>

To complete the freedom of expression provisions of the African Charter, the African Commission on Human and Peoples' Rights (ACHPR) adopted the Declaration of Principles on Freedom of Expression in Africa in October 2002.<sup>12</sup>

According to Principle III, the freedom of expression imposes an obligation on the authorities to take positive measures to promote diversity, including the availability and promotion of a range of information and ideas to the public and pluralistic access to the media and other means of communication.

The African Charter on Democracy, Elections, and Governance (ACDEG) adopted in 2007 by the African Union recognises the importance of freedom of expression to political, economic, and social governance through Article 27(8). The ACDEG obliges states to commit themselves to "promoting freedom of expression, in particular, freedom of the press and fostering a professional media."<sup>13</sup>

In 2004, the African Court was established to complement the work of the ACHPR in protecting human rights in Africa. In the ordinary course, individuals or non-governmental organisations cannot directly lodge a complaint alleging the violation of their rights by a member state before the African Court. Only the ACHPR, member states, and African inter-governmental organisations can lodge a complaint. However, in terms of Article 34(6) of the African Court Protocol, a member state can make a declaration recognising the jurisdiction of the African Court to accept cases brought by individuals and NGOs.

Regarding the promotion of freedom of expression in the East African Community (EAC), the Treaty for establishing the EAC does not contain an express right to freedom of expression. Still, it does include amongst its fundamental principles, in Article 6(d), the principle of good

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<sup>9</sup> UN Convention on the Rights of the Child

<sup>10</sup> UN the African Charter on Human and People's Rights Convention on the Rights of Persons with Disabilities (CRPD)

<sup>11</sup> African Charter on Human and People's Rights

<sup>12</sup> Declaration of Principles on Freedom of Expression in Africa in October 2002

<sup>13</sup> The African Charter on Democracy, Elections, and Governance (ACDEG) adopted in 2007

governance, which consists of the principles of democracy, the rule of law, accountability, transparency, and the rights contained in the African Charter.

In the case of Rwanda, its 2003 Constitution, which was revised in 2015, states in “Article 38 that: *Freedom of the press, expression, and access to information, are recognised and guaranteed by the State. Freedom of expression and access to information shall not prejudice public order, good morals, the protection of the youth and children, the right of every citizen to honour and dignity and protect personal and family privacy. Conditions for exercising and respect for these freedoms are determined by law.*”<sup>14</sup>

The freedom to receive and broadcast information is also recognized in Article 8 of Law n° 2/2013 relating to media. It indicates that freedom of the media and freedom to obtain information are recognized and respected by the state. Such freedom shall be applied per the law”. Article 9 of the same law clarifies that censorship of information is prohibited. However, the freedom of opinions and information shall not jeopardize the general public order and good morals, individual's right to honor and reputation in the public eye and to the right to inviolability of a person's private life and family”. Finally, Article 10 relates to modalities for seizure and provides that the material of a journalist shall not be seized except if the court orders it”.<sup>15</sup>

### 3.2. Indicators and Principles of Freedom of Expression and Access to Information

Freedom of expression and access to information are part of the Sustainable Development Goals (SDGs) agenda, given their critical role in supporting democracy and good governance. As part of broader efforts to promote peace and inclusion, SDG 16 focuses explicitly on the need to encourage public access to information and fundamental freedoms.<sup>16</sup>

SDG 16 has 12 targets. Target 16.10 is “to ensure public access to information and protect fundamental freedoms according to national legislation and international agreements.” There are two indicators to monitor this target: **Indicator 16.10.1:** Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists, and human rights advocates in the previous 12 months. **Indicator 16.10.2:** Number of countries that adopt and implement constitutional, statutory, and policy guarantees for public access to information.

Resolution 1636, adopted by the Parliament of the Council of Europe on 3<sup>rd</sup> October 2008, highlights the role of freedom of expression and information in the media as an essential requirement of democracy. It states: “Public participation in the democratic decision-making process requires that the public is well informed and has the possibility of freely discussing different opinions. The resolution identifies 27 basic principles to assess the status of press freedom, as illustrated in the appendices.”<sup>17</sup>

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<sup>14</sup> The Constitution of the Republic of Rwanda 2015

<sup>15</sup> Law n° 2/2013 regulating Media in Rwanda

<sup>16</sup> <https://www.un.org/ruleoflaw/sdg-16/>

<sup>17</sup> [http://ec.europa.eu/enlargement/pdf/press\\_corner/elarg-guidelines-for-media-freedom](http://ec.europa.eu/enlargement/pdf/press_corner/elarg-guidelines-for-media-freedom)

The African Commission on Human and Peoples' Rights, in its 32<sup>nd</sup> Session, held from 17<sup>th</sup> – 23<sup>rd</sup> October 2002 in Banjul, Gambia, declared 16 fundamental principles on Freedom of Expression.

In Rwanda, the assessment of freedom of expression done by RBG focuses on a system of regulation conducive to freedom of expression and media freedom. As for indicators, RGB has pointed out freedom of expression, media freedom, right to information, editorial independence guaranteed by law and respected in practice, and Journalists' right to protect their sources.

### **3.3. Implementation of freedom of expression**

Even though freedom of expression is a universally recognized fundamental human right, some governments and those wielding power find many ways to obstruct it<sup>18</sup>. They impose high taxes on newsprint, making newspapers so expensive that people cannot afford to buy them. Independent radio and TV stations are forced off the air if they criticize government policy. The censors are also active in cyberspace, restricting the use of the Internet and new media. Some journalists risk intimidation, detention, and even their lives, simply for exercising their right to seek, receive and impart information and ideas through any media, regardless of frontiers<sup>19</sup>.

According to Reporters Without Borders (RSF)<sup>20</sup>, a total of 50 journalists were killed worldwide in 2020, according to the second part of the annual round-up of abusive treatment and violence against journalists. While the number of journalists killed in countries at war continues to fall, more are being murdered in countries, not in battle. They are killed for attempting to expose wrongdoing or corruption. All governments must protect those who work in the media. This protection should include investigating and prosecuting those who commit crimes against journalists.<sup>21</sup>

Despite the exponential growth in the amount of information available, access to information remains a political and practical issue. The 24-hour news cycle can deliver information about national and world events at the click of a button. Yet, according to UNESCO's latest report on World Trends in Freedom of Expression and Media Development, many actors find ways to control and manipulate content, often without transparency or alignment with international standards.

They clarified that even countries with strong legal guarantees of freedom of information can still find ways to restrict access to information by withholding data and documents that should be in the public domain.<sup>22</sup>

### **3.4. Restrictions to freedom of expression**

Article 20 of the ICCPR provides for certain restrictions on speech. It states that any propaganda for war shall be prohibited by law and that any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law

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<sup>18</sup> <https://www.un.org/en/chronicle/article/freed>

<sup>19</sup> <https://www.un.org/en/chronicle/article/freedom-expression-fundamental-human-right>

<sup>20</sup> <https://rsf.org/en/news/rsfs-2020-round-50-journalists-killed-two-thirds-countries-peace>

<sup>21</sup> <https://www.un.org/en/chronicle/article/freedom-expression-fundamental-human-right>

<sup>22</sup> <https://www.un.org/en/chronicle/article/freedom-expression-fundamental-human-right>

Article 9(2) of the African Charter provides a much broader restriction where it stipulates that freedom of expression is exercised ‘within the law and every individual shall have the right to express and disseminate his opinions within the law’.<sup>23</sup>

Article 41 of the Constitution of the Republic of Rwanda states that: In exercising rights and freedom, everyone is subject only to limitations provided for by the law aimed at ensuring recognition and respect of other people's rights and freedom, as well as public morals, public order, and social welfare which generally characterize a democratic society.

Articles 154, 160, 163, 164, and 36 of Law n° 68/2018 of 30/08/2018 determining offences and penalties in general in Rwanda contain restrictions against freedom of expression.

### **3.5. Analysis of legal texts and policies related to access to information**

The right to access information has its origins in the right of freedom of expression stipulated in Article 19 of UDHR and the ICCPR mentioned above.

The UN Convention Against Corruption, in Articles 10 and 13, also provides for access to information in the context of transparency in public administration and broad participation as a tool for fighting corruption.<sup>24</sup> According to UNESCO (2019), access to information is critical to achieving Sustainable Development Goals (SDGs). Through access to information, the public is empowered to make informed choices, effectively monitor and hold their government to account, and be able to know about decisions affecting their lives.<sup>25</sup> Per the UNESCO report of February 2019, 125 countries had adopted the Access to Information (ATI) which is entitled to Freedom of Information (FOI) or Right to Information (RTI) in some countries.

Access to information as a cross-cutting right is guaranteed by Article 9 of the African Charter on Human and Peoples' Rights (the African Charter) as an invaluable component of democracy, as it goes beyond facilitating participation in public affairs.<sup>26</sup>

The importance of the right to access information is underpinned by the fact that it is a crosscutting right. It is a right that is necessary for the realization of other human rights, including the right to participate in government directly or through freely chosen representatives, as guaranteed by Article 13 of the African Charter."

Article 9 of the AU Convention on Preventing and Combating Corruption obliges state parties to "adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences."

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa also reinforces the need for access to information, including eliminating discrimination against women.

According to the African Charter on Democracy, Elections, and Governance, it is the responsibility of state parties to create an atmosphere that fosters access to information and to

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<sup>23</sup> African Charter on People and Human Rights

<sup>24</sup> UN Convention Against Corruption

<sup>25</sup> <https://en.unesco.org/news/access-information-g>

<sup>26</sup> African Charter on Human and Peoples' Rights

ensure 'adequate disclosure and dissemination of information in a manner that offers 'the necessary facilities and eliminates existing obstacles to its attainment.

Rwanda is among the countries that have adopted such laws to support press freedom, strengthen professional standards, and develop cross-disciplinary knowledge among media professionals. Article 3 of the Law n° 04/2013 of 08/02/2013 relating to access to information indicates that every person has the right access to information in possession of a public organ and some private bodies. The right of access to information includes the following: assessing activities, documents, or records; taking notes, documents, extracts, or copies of official documents or records; taking documents or extracts of notified copies; obtaining information stored in any electronic form or through print-outs copies of information stored in a computer or any other device <sup>27</sup>. Furthermore, Article 5 of this law indicates that without prejudice to the provisions of Article 4 of this law, the Minister, in consultation with the concerned organs, shall issue an order determining which information could destabilize national security.

Article 6 of the same law emphasizes the public interest in the disclosure of information. It stipulates that a public organ or a private body to which this law applies shall disclose information where the public interest in disclosure outweighs the interest of not disclosing such information. In considering what constitutes the public interest, particular emphasis shall be put on the following: 1° to promote in public and private organs to which this Law applies the culture of informing the public about their activities; 2° to ensure that the expenditure of public funds is subject to effective management and oversight; 3° to promote founded public debate; 4° to keep the public regularly and adequately informed about the existence of any danger to public health or safety or the environment; 5° to ensure that any public authority with regulatory mission properly discharges its functions.

That law (n° 04/2013 of 08/02/2013 relating to access to information) is clarified by five ministerial orders published in the Official Gazette No 02 of 13/01/2014. These are: Order No 005/07.01/13 of 19/12/2013 determining which information could destabilize national security; Order No 006/07.01/13 of 19/12/2013 determining in detail the information to be disclosed; Order No 007/07.01/13 of 27/12/2013 determining the time limit for the provision of information or explanations of not providing it; Order No 008/07.01/13 determining the procedure of charges of fees related to access to information, and Order No 009/07.01/13 determining private organs to which the law relating to access to information applies.

### **3.6. Principles of access to information**

Some articles of the Declaration of Principles on Freedom of Expression in Africa adopted by the African Commission on Human and Peoples' Rights stipulate that: public bodies hold information not for themselves but as custodians of the public good; regulatory bodies for broadcast and telecommunications have to be independent and adequately protected against interference, particularly of a political or economic nature; a public complaints system for print or broadcasting should be available; effective self-regulation is the best system for promoting high standards in the media.

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<sup>27</sup> Office of the Prime Minister, 2013. law n° 04/2013 of 08/02/2013 relating to access to information

Other articles of the same declaration indicate that states are under an obligation to take effective measures to prevent attacks on media practitioners and, when they do occur, to investigate them, punish perpetrators, and ensure that victims have access to effective remedies,

In protecting reputations, states should ensure that their laws relating to defamation conform to the standards; states shall review all criminal restrictions on content to ensure that they serve a legitimate interest in a democratic society; states shall promote a general economic environment in which the media can flourish; protection of sources and other journalistic material; media practitioners shall not be required to reveal confidential sources.

Some of the 15 Tshwane Principles on access to information indicate that the public has a right to access government information, including information from private entities that perform public functions or receive public funds (Principle 1). Journalists and others who do not work for the government should not be prosecuted for obtaining, possessing, or disclosing classified information to the public or for conspiracy or other crimes based on their seeking or accessing classified information. (Principle 47) <sup>28</sup>

In addition, journalists and others who do not work for the government should not be forced to reveal a confidential source or other unpublished information in a leak investigation. (Principle 48). Governments should not be permitted to keep state secrets or additional information confidential that prevents victims of human rights violations from seeking or obtaining a remedy for their violation. (Principle 30)

For assessing access to information in Rwanda, RGB emphasizes media availability and access to information for citizens. As for indicators, RGB indicates the availability of media and enabling facilities for citizens. Both print and broadcast media and related facilities are accessible to citizens; media promotes culture and Kinyarwanda, promotes a knowledgeable society, and promotes sports and entertainment.

### **3.7. Implementation and monitoring of access to information laws**

While 116 countries have laws or guarantees for information in place, it is not easy to evaluate if they are being put into practice consistently and within a reasonable timeframe. In particular, questions arise concerning the efforts and capacities of governments to make information available and about citizen awareness of their rights to seek and receive information.

The UIS and UNESCO are currently cooperating on a Rapid Data Collection exercise to assess the implementation of the right to information in a sample of the countries involved in this year's Voluntary National Review of the SDGs, including SDG 16.10. This data collection involves a specially tailored questionnaire produced through the mandate of UNESCO's International Programme for the Development of Communication.

The implementation of access to information in Rwanda is in line with the respective laws in the country. The Office of the Ombudsman, Rwanda Governance Board, Rwandan Media Commission and their stakeholders play a role in the mobilization of the people to know and

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<sup>28</sup> • <http://dx.doi.org/10.1596/978-1-4648-0879-1>



apply the law (n° 04/2013 of 08/02/2013) relating to access to information and its ministerial orders. This law stipulates that the Office of the Ombudsman is in charge of monitoring and evaluating the implementation of access to information.

Soeze (2005, p. 19) wrote that the media, as the watchdog of society, is responsible for keeping the public informed, educated, and socialized. This involves making people know the day-to-day activities and dealings of those in government, whether military or civilian. Besides, the media also help ensure that the government knows the feelings and yearnings of those it governs. However, for the media to perform these functions effectively and efficiently, there should be press freedom.

According to a study conducted by Jean Baptiste Hategekimana on the Effects of Access to Information Law on Print Media Journalism Practice in Rwanda<sup>29</sup>, that law helped print media journalists overcome the problems they encountered. This was indicated by 59.7% of the respondents who said that feedback from the information sources was no longer being delayed. Some 50% said accurate and balanced information was now available; 43.5% said access to some critical information had improved, 35.5% said extreme self-censorship of print media journalists had been reduced; interesting and diversified news stories needed to market newspapers were could be easily obtained (35.5%); and information from public institutions was readily available due to the recruitment of communication officers (24.2%).

On the question of how the restrictions stipulated in the access to information law affect print media journalism, 77.4% indicated that some sources used those restrictions as an excuse to refuse to give access to some public interest information. Further, 77.4% said that people were not well informed about the crucial issues concerning their country and their lives; 51.6% indicated some public interest issues were subjected to extreme censorship, and 43.6% confirmed that some news stories were not balanced due to lack of information.

### **3.8. Disclosure of information related to the public interest**

When balancing disclosure and privacy against a conflict between the right to information and to privacy, neither of these rights necessarily carries more weight in international law. However, how the courts treat them in practice will vary from country to country and change over time. But in cases of conflict, the decision-maker may rely upon a public interest balancing test when determining whether information should be disclosed. This applies to all classes of exemptions, and not only to those relating to privacy.

Under a public interest balancing test, even if the information is determined to be personal and its release would cause harm to an individual, it may be disclosed if it is found that the public interest in the release is more important than the potential harm that could be caused to the individual. In the absence of a specific legal framework, the decision-maker can weigh the different values and determine, case by case, when information should be released (Banisar 2011, 18).

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<sup>29</sup> Hategekimana, J.B, (2018) Effects of Access to Information Law on Print Media Journalism Practice in Rwanda, <https://www.ijsr.net/archive/v7i4/ART20181602.pdf>

Article 7 of the law related to access to information in Rwanda highlights that every public and private organ to which this law applies shall proactively disclose vital information to the public. A ministerial order shall determine in detail the information to be revealed.

According to Ministerial Order No. 006/07.01/13 of 19/12/2013, a public and a private organ shall proactively disclose information related to:

- 1° -- the particulars of its organization, functions and mission;
- 2°-- the powers and duties of its officers and employees;
- 3° -- the procedure followed by the managing organs in the decision-making process;
- 4° -- any law and regulations used by the authority in respect of its relations with citizens or other persons;
- 5° -- books and information classified it holds, manages or those used by its staff for the purposes of their duties;
- 6° -- staff addresses to help people who may need it in the context of information retrieval where they can get them;
- 7° -- explanations of any proceeding regarding the request of advice or representation of the citizens in the initiation of the policy or its implementation;
- 8° -- the budget allocated to each department of the organ, indicating the planning and reports on disbursements made;
- 9° -- the modalities of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- 10° -- particulars of concessions, permits or authorizations granted by the organ;
- 11°-- particulars of the facilities available to citizens for obtaining information, including the working hours of a library or reading room, if provided for public use;
- 12° -- the names, job category, addresses and other information of its public information officer and his/her immediate supervisor;
- 13° -- the contract between the organ and other people in connection with a public interest, human rights and freedoms.

Each public or private organ shall put in place mechanisms regarding the provisions of this Order to ensure that citizens have easy access to information through different media channels and the Internet.

Article 4 indicates that modalities may be put in place by the Ombudsman's Office to provide information. Without prejudice to the provisions of the Constitution of the Republic of Rwanda and other laws, whenever deemed necessary, the Office of the Ombudsman shall provide the information to be disclosed by a public and a private organ.

### 3.9. Restrictions on publishing some information in Rwanda

Article 4 of the law related to access to information in Rwanda indicates that without prejudice to the provisions of Article 3 of the same law, information withheld by a public organ or private body to which this law applies shall not be published when it may: destabilize national security; impede the enforcement of law or justice; involve interference in the privacy of an individual when it is not of public interest; violate the legitimate protection of trade secrets or other intellectual property rights protected by the law, and obstruct actual or contemplated legal proceedings against the management of a public organ.

The same article adds that if the request for information relates to a record that contains information in two parts, one part being not allowed to be published, and the other part containing information that can be published as provided by this law, the requesting person shall be provided with the information allowed to be published.

Ministerial Order No. 005/07.01/13 of 19/12/2013 determines which information could destabilize national security and stipulates some restrictions on access to that information. Article 4 of this order concerns conditions for classification. It indicates that the decision to classify information must be based solely on the following conditions: 1° -- information classification is justified by the protection of national security; 2° -- State information is classified due to a clear, justifiable and legitimate need to do so or to a demonstrable need to protect it in the interest of national security.

Article 5 clarifies the classification level markings on documents and other materials. Information, documents and other materials whose disclosure could be harmful to national security shall bear classification markings per the provisions of this order. The competent authority shall determine the classified information and non-classified information based on the time limit.

Article 6 stipulates that classified information levels shall be, **Top Secret**, **Secret**, **Confidential**, and **Restricted**. Other articles indicate conditions or criteria for classifying information as **Top Secret**, **Confidential**, or **Restricted**.

## 4. Findings

### 4.1. Legal and institutional framework underpinning media FOE and ATI in Rwanda

#### 4.1.1. Knowledge of the existence of international, regional treaties and national laws

A majority of the respondents confirmed they were aware that the Constitution of the Republic of Rwanda of 2003 and as amended in 2015 guarantees freedom of expression. This is consistent with the RMB 2021 that indicated 86.4 percent national awareness. Some experts and journalists posited that FoE is a fundamental right besides being guaranteed in the Article 38 of the Rwandan constitution and related legislations. A few were aware that the country had ratified different conventions and treaties related to freedom of expression, which is the cornerstone of the good legal framework about freedom of expression in Rwanda.

Though aware of the freedom of expression and right to access official government information, some respondents in the FGD in the Districts of Huye, Rubavu, Musanze, Kirehe, and Gasabo

said they were not aware of the exact laws stipulating those rights. While this is common among a majority of citizens in other jurisdictions, the concern would be lack of awareness of their right to access of government records. A farmer in one of the group discussions opined: *“Rwandan citizens have the right to express their opinions within the framework of national laws, but those laws are not well known to citizens.”* This aspect of measurement was not brought out in the RMB 2021.

A business person representing the Private Sector Federation (PSF) was of the view that the ATI law was not well known by private business actors, even though they need accurate and updated information as part of their advocacy on their business issues.

Though most journalists, experts, and key informants were well aware of national laws relating to freedom of access to information, which seems to agree with the RMB 2021 findings, some were only vaguely aware of them. One expert in the field of journalism and human rights stated that,

*“The existence of the ATI law since 2013 is a big improvement. Nevertheless, some journalists have not yet understood the best use of the law. They can use it as a basis to accuse a leader of denying them information. Penalties are not only imprisonment.”*

All the journalists, experts and leaders of public and private institutions who were interviewed recognised the input of the ATI law since its enactment in 2013. A private sector journalist confirmed that the freedom of expression of ordinary citizens allowed journalists to enjoy the right to access information. However, a radio director noted that although the ATI law was enacted in 2013, a majority of citizens were not aware of it, including journalists. He remarked that: *“They do not know how to use it properly. Thus, there is a need for a lot of awareness-raising.”*

Most of the respondents recognised the following institutions and stakeholders that create awareness of ATI law, ensure its respect in the community, and strengthen freedom of expression: RGB, RMC, Office of the Ombudsman, ARJ, LAF, European Union, and UNESCO.

In brief, the following was apparent from the interviews on knowledge of the existence of international, regional treaties and national laws on freedom of expression and access to information.

Rwanda has an excellent ATI legal framework. However, there are fundamental gaps in its execution as indicated below:

- Some people consider that the ATI concerns only journalists while it, in fact, also concerns all citizens.
- Some journalists do not sufficiently know the access to information law, which suggests that they are not aware of the rights it offers them in their journalistic work. Others do not know other laws related to access to information while some do not appreciate the law because it does not provide sanctions for non-compliance, particularly where the law authorizes the owner of the information to determine what is classified or not.
- Some leaders do not differentiate between the media law and the ATI law when they complain informally to the ombudsman's office.
- While most members of the public are aware of the access to information and freedom of expression laws, they are not aware that they have a right to access official

government records. A majority of those citizens that are aware of these laws were still reluctant to ask for information from their leaders.

- Existence of government institutions supporting the implementation and monitoring of ATI law: Office of the Ombudsman to deal with the implementation of access to information; RMC to provide support to professional journalists
- People with Disabilities (PWD) are substantially aware of the laws regarding their right to information. They are also aware that they can complain when the law is not respected.

## **4.2. The extent to which FOE, ATI, and related laws are respected in Rwanda**

### **4.2.1. Current situation of FOE and ATI in Rwanda**

On the extent to which freedom of expression and related laws are respected and complied with in Rwanda, most of the respondents thought that FOE was improving. This does not seem to significantly agree with the citizens' perception as captured by the RMB 2021 at 70.1%. This perception could nevertheless be attributed to the Rwandan culture of how people express their feelings, pleasure, or sadness. They argued that people enjoy freedom of expression and access to information in general. One expert with more than 30 years of experience in journalism and human rights offered this perspective:

*“Culturally, most Rwandans do not respond straightforward. Before reacting to a question, a Rwandan asks himself or herself why someone wants the information. Then the feedback will depend on the trust he/she has in the interviewer than what he/she thinks is true.”*

Most of the ordinary citizens who interacted with the research team in the five sampled Districts acknowledged the availability of freedom of expression. However, they noted that only a few people really enjoy it. For them, ordinary citizens were afraid of expressing their true opinions lest they attract harmful consequences. Therefore, they prefer to keep silent as illustrated by a 55 old man: *“When an ordinary citizen provides information to the media or leaders of higher institutions of the central government, they do not get services from the local leaders.”* According to some of them, only leaders, intellectuals, and rich people give their views freely and easily.

Nevertheless, they mentioned that some people impede others from enjoying those rights due to their particular interests. Many ordinary citizens who participated in the FGD said that some local leaders did not like citizens who provided information to the media or higher-level leaders. They indicated that such citizens were sometimes refused the services of local government leaders.

Some journalists acknowledged that citizens do not use their right to FOE well. One journalist confirmed that some local leaders harassed citizens who gave information to the media, saying: *“Please complain to your journalist/media to find solutions to your problems.”* He indicated that proactivity in providing information to journalists and citizens was not well respected. At this point, an owner and manager of a private media outlet disclosed that they always ensured

proper follow-up and advocacy of citizens who may be harassed because they talked to the media. The follow-up may include referring the case to the supervisor or a local leader who, unfortunately, might abuse his power.

Another journalist said: *“Freedom of expression and access to information depend, not only to whom you deliver your speech, but also where you are delivering your speech.”* In the case of Rwanda, he said freedom of expression was guaranteed but that some of its intended beneficiaries “do not know how to use it properly”. It was clear to him that freedom of expression was linked to journalists’ respect for ethics and professionalism and that those not following their code of ethics were the ones who were afraid for no reason (*hari abantu batinya baringa*).

Another respondent noted the following:

*“In Rwandan culture, children respect elders and cannot express any idea without permission. If not, they will be labelled ‘inshyanutsi’ (extremely talkative). The Rwandan history, environment, and background are different from neighbouring countries, for instance. Hence, Rwandan citizens will express themselves differently, even though FOE is guaranteed.”*

Another had this to say:

*“In practice, freedom of expression depends on each one’s background information and (level of) self-censorship. The citizens are aware of their freedom of expression, but most Rwandans are reticent in expressing what they think (“vuguziga”) They speak cautiously. This reserved attitude is observed even in manifestations of joy. Rwandans do not explode by their feelings like most of our neighbours do, for example.”*

Supporting the view that Rwanda has unfettered freedom of expression, an official of a journalism institution brought in a historical perspective. He noted: *“Before 1994, the media worked in disorder, with no code of conduct, and with everyone doing what he or she thought was ok. Then there was the spread of genocide ideology and hate speeches pretending that it was freedom of expression. After 1994, there was the suspicion of media fearing the spectrum of genocide ideology used by media. Then there was the initiation of policies by the Ministry of Information but the media continue to think they are impeded from using their freedom of expression. Today, there is genuine freedom of expression because everyone can launch his or her radio or magazine just after following the requisite instructions.”*

On the question of how government institutions share information with members of the public, a PSF official reported: *“We organize awareness sessions on various issues affecting the business community through Imanzi Centre. The centre aims to improve and upgrade the skills of business people and facilitate PSF members at all levels to access accurate information related to their business.”* They also use radio and TV for advocacy and advertisements, respond to all public inquiries on phone at their call centre or conduct workshops and study tours to inform members at all levels and share the experience with others.

Regarding People with Disabilities (PWD), an informant said: *“The implementation of FOE and ATI is challenging depending on the types and severity of the disability. Some PWD don't*

*access information at the right time. For instance, the GOR's decisions on Covid-19 are not accessible to the deaf and blind; they cannot access BDF loans and other community services as they get information late."*

One chief editor noted that sometimes leaders at the central level were not flexible enough to provide information. He singled out as exceptions Rwanda National Police, Rwanda Investigation Bureau, and the Ministry of Defence (MINADEF) which have spokespersons. However, sometimes even these spokespersons were not able to provide the required detailed information. Paradoxically, journalists affirmed that most of the local leaders were flexible in providing information. *"For instance, most mayors give information to journalists on the telephone, but most Ministers are not friendly to the private media."*

Concerning the implementation of the access to information law, one senior journalist stated: *"Not well-implemented even though it is in the law because it depends on who is providing information and on his or her time."* He added that there was no clear guidance on how ARJ could support a journalist who had been refused access to information while pointing out at the same time that public media had easier access to information than was the case with private media.

Key informants revealed other challenges:

- o A weak or poor communication culture among Rwandans in general. This weakness is sometimes coupled with negligence, hence, low or lack of feedback: *"Some stakeholders don't regularly consult their emails or phones and thus delay responding, which is a big hindrance to business."*
- o Lack of proper action on feedback on issues. *"Sometimes, a GOR institution would consult us. We provide all information needed, but some decisions would be contrary to the discussions held with us. For instance, ideas provided during discussions on property taxes were not considered until the issue became a national debate."*
- o Most media outlets only look for hard stories and are not interested in educative and informative ones. *"For us, media are our best partners; we want to advertise and inform our customers about what we do. I have never refused an interview or phone call from a journalist but most of the time private media are interested in negativity and are in a rush."*
- o An RIB officer noted: *"RIB had not gotten cases involving leaders who harass citizens who provide information to the media and the higher leaders."*

### **Community platforms for FOE and ATI**

On the issue of community platforms for freedom of expression and access to information, several respondents cited the national dialogue (*umushyikirano*), community assemblies (*inteko z'abaturage*), meeting after community work (*inama nyuma y'umuganda*), parents' evening meetings (*umugoroba w'ababyeyi*), and community meetings between leaders and citizens at different levels. In this regard, a respondent recalled how during a public meeting, the President of the Republic solved a problem related to land expropriation without compensation. Another

citizen offered this perspective: *Some local leaders select those who will ask questions in front of the higher leaders to ensure that their questions do not unmask their wrongdoing.*”

### **Fairness and adequate distribution of channels and technical infrastructure**

Concerning the fairness and adequate distribution of channels and technical communication infrastructure, journalists of both private and public media outlets confirmed the existence of good policies and procedures for distributing channels. They also acknowledged that access to the technological infrastructure of communication was well in line with the policies and procedures of the Rwanda Utility Regulation Authority (RURA). 30 radio and 12 television stations are testimony to this fair distribution, while the activities of the more than 1,000 journalists allow people to express their opinions and access information. But some private media journalists felt that the implementation of those policies and procedures was complicated. One journalist noted that *“nowadays, someone could wait for three years without getting authorization and frequency from RURA while RDB gives the authorization within two days or 48 hours.”*

Under this objective, the following summary reflects the information generated from both KII and FGDs:

Culture informs the extent to which people utilize the freedom of expression and access to information laws in a country. That the fact that a society doesn't seem to express itself freely should not be misconstrued as lack of freedom and space or the prevalence of suppression of these freedoms. They are happy and contented.

Freedom of suppression is a preserve of the elites and influential citizens in Rwanda. There is extreme self-censorship among ordinary citizens when sharing information with journalists. For example, some fear the consequences that go with being open and candid while some have in the past been harassed and denied services at the local level for sharing information. It is therefore imperative for RMB's studies to distinguish between the views of ordinary citizens and those of the elite in order to better understand freedom of expression and access to information in the country.

While the right of access to information and freedom of expression are legal in the letter of the law, they are illegal in practical terms. This is attributed to the challenges related to economic problems, training, historical background, and the prevailing culture and censorship.

Freedom of expression and access to information have not been applied uniformly in all sectors of society. Indeed, areas that are crucial for access to information such as politics and economics are treated as sensitive, thus limiting their proper analysis.

That although journalists are central in the successful implementation of the access to information and freedom of expression laws, they are hampered by difficult working conditions such as low financial resources which impede their efforts to gather information for their stories. One online editor explained: *“The reason is that journalists do not have the financial means to go to the field to collect information for hard stories or investigative journalism. Journalists write stories without enough information.”*



That drawing from their historical experience where the media fanned animosity, incited the citizens and propagated hate ending up in the 1994 Genocide against Tutsi, a majority of citizens shun the concept of freedom of expression and the social benefits associated with it.

- With respect to access to information, it was evident that some officials are for no apparent reason adamant to share official information that the public has the right to know even with the full knowledge that the law obligates them to release such information when requested to. Others are selective and discriminatory. They are keener to share information with institutions such as RBA and some magazines than with the rest of the media industry. Journalists seeking the same information are redirected to RBA and privileged magazines. In some cases, public relations officers in charge of communication have no access to official information. Where such access is possible, they are not free to share information. More damning was also the report by journalists that some official websites have no information at all and yet they are referred to the same sites when they request information. This is particularly common among duty bearers who hide behind the pretext of confidential or classified information. It did not escape the attention of some government officials that some journalists that are ill-mannered and impolite and demand information without due regard for the laid down process.
- It was apparent that Rwanda is at a vantage point to successfully implement both the FoE and ATI laws because it has the requisite institutional framework.

#### **4.3. Challenging enforcement of existing laws and procedures**

A majority of the respondents stated that even though the legal framework allows citizens to enjoy the freedom of expression and access to information, some people, due to their personal interests, impeded the implementation of the two laws. This is how one journalist put it: *“Some journalists are unprofessional. They analyze the media to check if any content would be against the personal interests of their ‘employers’. Then they use social media to destroy the journalist based on their private life instead of denouncing what is wrong in the news story. This is a real challenge to freedom of expression.”*

Journalists in the private sector indicated that some leaders of public institutions refused to release information, claiming that it might be misused. They spoke of many obstacles that impede the full respect for FOE and ATI. Some journalism, legal, and human rights experts pointed out as an obstacle Article 41 of the Constitution<sup>30</sup>, which states that: *“In exercising rights and freedoms, everyone is subject only to limitations provided for by the law aimed at ensuring recognition and respect of other people’s rights and freedom, as well as public morals, public order and social welfare which generally characterize a democratic society.”*

It is important to note that the limitations stipulated in this article are imprecise and motivate some people to prevent others from enjoying the right to freedom of expression and access to information.

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<sup>30</sup> Official Gazette n° Special of 24/12/2015, The Constitution of the Republic of Rwanda of 2003 revised in 2015

#### 4.3.1. Conflicting provisions of some laws in Rwanda

Private media journalists said that Article 10 of the law regulating media in Rwanda<sup>31</sup> indicates modalities for seizure. It provides that: *“The material of a journalist shall not be seized. Except if the court orders it.”* However, Law n°12/2017 of 07/04/2017 establishing the Rwanda Investigation Bureau (RIB)<sup>32</sup> authorizes its officers to seize materials and documents for its investigation.

Regarding how RIB applies the two laws in the event it suspects journalists have committed an infraction, a senior RIB officer stated: *“The RIB has three main mandates -- prevention, detection and investigation. Some materials can be seized if there are signs of attempts, but we follow our law. When the issue concerns ethics and profession, we refer to RMC. The conflict between laws is the court’s mandate, not ours. Most journalists are caught in offences and pretend to be doing their profession.”*

Private journalists have insisted that the law on courts<sup>33</sup> allows judges a very long period (up to 48 hours) to permit journalists to practise in court. Most of the time, permission is given when it is too late to cover challenging stories.

According to some respondents, some public and private bodies have the tendency to ignore requests, which often leads information seekers to pursue litigious action to obtain what they need.

One journalism and human rights expert highlighted the downside of such litigation describing it as costly and time-consuming, and therefore making it ineffective where the information sought is time-sensitive. For instance, journalists seeking information for a story may find that the story is no longer relevant or of interest to the public once the information has finally been obtained.

#### 4.3.2. Restrictions and self-censorship relating to FOE and ATI

Journalists and experts acknowledged that restrictions relating to security, confidential economic information, and privacy were universal. Even so, the restrictions stipulated in ministerial orders on the ATI law seemed to be general and may create confusion between the information holder and journalists in terms of their interpretation.

Concerning self-censorship, it was not clear to some journalists what was restricted or classified. As one chief editor noted, *“Some people are afraid to say in public what they think.”* Another stated: *“When you tell the truth, sometimes you can become a victim. Some people may misconstrue it as infractions, arguing that you’re belittling the public authorities and they refuse to serve you. Even in schools where your children study, you may refrain to ask some questions fearing that your children might become victims of what you have asked.”*

But a journalism institution leader brought in a new perspective submitting that the freedom of expression of ordinary citizens is the freedom of expression of journalists. *“There is some*

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<sup>31</sup> Official Gazette n° 10 of 11 March 2013 Law no 2/2013 of 08/02/2013 Regulating Media

<sup>32</sup> Official Gazette n° Special of 20/04/2017, Law n°12/2017 of 07/04/2017 establishing the Rwanda investigation bureau and determining its mission, powers, organisation and functioning

<sup>33</sup> Law N°30/2018 of 02/06/2018 determining the jurisdiction of courts

*information that citizens do not disclose to leaders but share with journalists; we assess before publishing whatever we get.” he said.*

Most of the respondents, mainly journalists and ordinary citizens, asserted that some leaders qualified everything they did not want to share as confidential. A media owner suggested that professionalism and ethical practice could help journalists overcome their fear.

#### **4.3.3. Preference for public media**

Private media journalists complained that some government institutions showed a preference for or gave information to the RBA and what they referred to as “the privileged private press”. Said one journalist: *“It is common to see private journalists getting belated authorization to cover a hearing in the courts while those of RBA will have been given all the information related to this hearing and published it before we get the authorization to enter the court.”*

Some informants reckoned that public leaders rely more on RBA because it reaches a bigger audience of the Rwandan population.

#### **4.3.4. Self-censorship by the personal and professional conscience clause**

In general, respondents acknowledged they practiced self-censorship, which they attributed to their personal and professional conscience. *“Censorship exists as a ‘conscience clause,’ but journalists are not using it appropriately,”* said one respondent. *“Some don’t care about the negative consequences of their actions.”* His view was that “self-censorship exists informally due to the Rwandan society and its background that obliges people to be introverted when expressing their opinions (*kuvuga uziga*)”.

Another one explained: *“There is self-censorship due to sensitive topics or due to the editorial line of the media outlet. There is no open censorship. There is hidden censorship based on the practice or influence.”*

### **4.4. Complaint handling mechanism related to FOE and ATI**

On the assessment of the complaint handling mechanism related to freedom of expression and access to information, the findings were diverse among respondents. Although most of the respondents said they were aware of the complaint handling mechanism, they had doubts about its implementation. *“The mechanism exists but is not well exploited by the media and citizens,”* noted one respondent. Another spoke of lack of solidarity among journalists and a tendency to play the blame game when some of them find themselves in challenging situations.

#### **4.4.1. Handling mechanism by judiciary services**

Journalists have no special treatment in court. Their issues are handled first by RMC and the Office of the Ombudsman. If these mechanisms do not succeed, the matter is escalated. According to one senior journalist:

*“The Office of the Ombudsman handles cases related to violations of the right to information. However, the law does not provide for a special court to handle cases relating to violations of the rights to freedom of expression.”*

A representative of the Office of the Ombudsman said they use the theory of mediation to handle cases related to access to information. He offered the following perspective:

*“Sometimes we notice that the information requested is not allowed to be given to journalists. In other cases, some leaders think that all information is confidential. Some journalists are refused the information due to the way (bad manners) they behave in requesting it.”*

In the case of an institution that refuses to provide information that should be published as per the access to information law, the Office writes to that institution requesting it to provide the information.

A RIB official stated:

*“There are more cases concerning FOE than ATI, mainly citizens’ complaints against media. The big challenge is that it is easy for anyone to call himself a journalist. It is not easy to distinguish between professional journalists guided by the code of ethics and deontology, and any citizen who wants to share his views and opinions through social media.”*

In his view, some people hide behind the label “journalist” to perform their activism, thus contradicting journalism’s ethics and deontology. Others simply commit penal offences while others are only money-driven, ignoring all basics of ethics. He offered the following examples:

*“One Youtuber with an RMC accreditation card collaborated with a sorcerer/traditional healer to make a so-called live video of spectacular miracles and healing done by the “sorcerer”. He attracted a lot of views, and the so-called traditional healer would get clients who would pay him a lot of money. In that case, the RIB arrested the journalist for rumours and fake news, while the “sorcerer” was punished for “kwambura ikintu cy’undi hakoreshejwe amayeri/ Obtaining the property of another person by fraud.”* He continued: *“Some journalists operate in a grey area, between professional misconduct and criminal offence. In these circumstances, RIB advises and collaborates with RMC on professional and ethical issues but warns the journalist not to go too far.”*

Regarding the absence of penal sanctions in the access to information law, a legal expert said:

*“Access to information is a fundamental human right and would require civil sanctions, including fines that the courts should determine. All sanctions related to freedom of expression, access to information and media should be civil sanctions except those related to hate speech.”*

An official of Rwanda National Police said they did not have any case concerning ATI or FOE. He said they orient citizens with such complaints to the RIB and RMC.

#### **4.4.2. Handling mechanism by self-regulation bodies**

Two institutions were mentioned in the context of support for journalists facing accusations relating to their work - Rwanda Media Commission (RMC) and Rwanda Association of Journalists (ARJ). Both were said to offer more support than the media houses. In terms of complaints, it was said that some citizens engage with RMC and others with the police. These institutions then refer the cases to the RMC which collaborates with the police and RIB to protect journalists. When RIB identifies a case as a professional problem, it refers it to RMC. However, if the case has nothing to do with professional conduct, RIB treats it like other civil or penal cases. One respondent had this to say:

*“I do not know any journalist accused due to his/her profession of journalism. All cases related to the profession have been oriented to RMC. For other cases which are not related to the profession of journalism, the journalists are considered as other citizens in the courts.”*

When RIB refers a case to RMC or a citizen complains to it about a journalist, it goes to mediation. If this fails, the chairperson of RMC appoints an ethics commission to conduct hearings and where necessary impose financial fines according to the code of conduct. But there is also an opportunity for appeal. At this level, the hearing for determining the case is done by the entire RMC board.

#### **4.5. Assessing FOE and ATI in view of emerging trends in social media**

When asked about the positive and negative effects of emerging social media trends on freedom of expression and access to information in Rwanda, the respondents described the access and sharing of information on time as a positive feature. The downside, they said, was the unregulated content on social media which allows malicious and abusive conduct.

##### **4.5.1. Positive effects of social media**

- According to a journalism and human rights expert: *“With social media, everyone can inform broadly.”* Social media plays a significant role in promoting freedom of expression in Rwanda. Respondents also acknowledged that social media provides a voice to the voiceless while the topics covered are varied and diverse besides allowing for a multiplicity of voices and divergent opinions. They also acknowledged the spontaneity and speed at which information is shared, including business news such as bank transactions, news and related social happenings. They also understood that social media has broken the digital barrier because it is possible to share videos with those that cannot read or write. For journalists, social media has allowed for investment in online media platforms, earning advertising revenue and broadening their audience.
- Concerning the contribution of social media in business, the PSF highlights social media’s positive effect on marketing. However, some business communities still consider social media expensive and are reluctant to invest in it.

- For people with disabilities, in particular, social media has allowed easy access to information. However, people with disabilities of blindness and deafness were not gaining much from it.

#### **4.5.2. Negative effects of social media**

According to one Journalism and human rights expert:

*“Content can be harmful to citizens not well equipped to analyze the information. Social media brought more fear than educative and informative content, mainly during Covid-19 lockdowns.”*

He added:

*“There is a problem of responsibility because some people use pseudonyms to publish anything to defame other people, to lie, and to destroy the morality of the youth, spreading rumours, fake news, hate speech, including genocide ideology, and violation of privacy because they have no editors.”*

However, he acknowledged that because there was no gatekeeping, it was possible to deliver all information without editing. On this note, he dismissed YouTubers as non-journalists and saw them as a threat to the reputation of professional journalism.

#### **4.6 Regulation of social media**

Respondents expressed the need to regulate social media to mitigate its harmful effects. However, it was pointed out that regulation by a single country was almost impossible and that it would require a universal law. There was also the issue of disparity in that what was allowed in one country was not necessarily acceptable in another.

A Rwanda Utility Regulation Authority (RURA) official said the consumer protection department could only regulate social media registered with and licensed by them.

A respondent from RIB said Rwandans were advised to respect the laws and raise awareness about certain current crimes flourishing on social media such as gambling and witchcraft. Still, the Government could not prevent people from posting whatever they wanted on their YouTube, Facebook or WhatsApp accounts.

According to one lawyer:

*“Regulating social media is impeding people to enjoy the freedom of expression, which is an obstacle to the development of a country. Those who have exceeded the limit of freedom of expression should be punished according to the existing laws. Others should be subjected to civil sanctions.”*

#### **4.7. Role of economic development and infrastructural capacity to support independent and pluralist media**

A majority of the respondents highlighted the motivating improvement of infrastructural capacity to support independent and pluralistic media. A journalism and freedom of expression expert offered this perspective:

*“Economic development and infrastructural capacity have helped citizens to access information from the media. For instance, in Rutsiro District, you find a teacher who uses Twitter or YouTube. YouTube is accessible in rural areas.”*

One senior journalist said that ICT had facilitated access to information, citing the regular publication of data by government institutions and NGOs on their websites, which could be accessed on mobile phones. Another one acknowledged this level of transparency and applauded the support that had helped independent and pluralistic media enjoy the benefits of access to information and freedom of expression.

*“Traditional media,” he noted “took time and thereby lost some originality, while online media has increasingly used freedom of expression and access to information and can help speed up information flow in a timely manner.”*

Other respondents pointed out the referral system to help citizens if not given the information needed or services by displaying the phone numbers of the supervisor to complain to if a public servant did not satisfy their request. Public institutions also have an obligation to display the complete addresses of the media and their websites.

#### **4.8 Contribution of FOE and ATI in Rwandan society**

##### **4.8.1. Promotion of media pluralism reflecting the diversity of Rwandan society**

A majority of the respondents confirmed that the freedom of expression and access to information legal framework had contributed to media pluralism, but not to the diversity of media content that could adequately reflect the true nature of Rwandan society. They said that almost all media programmes focused on sports, entertainment, women’s and men’s issues with little or no originality. The other observation was that all the media covered the same news as if it was one journalist serving the different channels. As one journalism and human rights expert noted:

*“Content is almost non-existent. For example, online media has very sensational titles that don’t reflect the message and content; most media are money-minded, but it is not professional.”*

Another said that the plurality of radio and TV had enabled some progress in exposing the wrongdoings of some officials. But there was still lots of room for improvement. According to one senior journalist, social media had enhanced diversity of content. She noted:

*“Traditional media such as radio, television and print are not well diversified (in their content); they have more entertainment because (other) information*

*is expensive. Also, investors in the media in Rwanda are more interested in music and entertainment that do not require many resources. However, there are issues covered by private media that RBA could never cover. They are an alternative voice of issues not covered by public media.”*

In his view, social media timely fill in the gap not covered by traditional media.

#### **4.8.2. Raising awareness of a better understanding of SDG**

Some journalists confirmed that traditional and social media do raise awareness as well as provide a better understanding of the UN Sustainable Development Goals (SDGs) in Rwanda. However, they pointed out that some journalists subconsciously covered issues related to SDGs without directly referring to them due to lack of training on how to do it professionally. One journalist stated that:

*“Almost all information published by the media in Rwanda concerns SDGs but the reporting on the issue is not reinforced. There is a long journey as long as the Government of Rwanda does not understand that the private media are its stakeholders.”*

A journalism and human rights expert described the media’s role in promoting SDGs as indisputable. Citizens believe in what is broadcast on radio. Public media play an essential role in the nation’s development, and social media can mobilize the youth, he said.

#### **4.8.3. Advancing the culture of informing the public about activities of duty bearers; public and private organs obliged by law**

A majority of the respondents confirmed that the legal framework related to FOE and ATI had somehow contributed to advancing the culture of informing the public about the activities of duty bearers. However, the journey was still long for different reasons. One journalism and human rights expert saw the big issue *“as the low professionalism of journalists who should help in informing the general population”*. Another said that some leaders acknowledged the law with no option but to comply with it.

Some informants had a different view. According to them, the ATI law had not contributed enough because people had not yet understood that access to information was a right of the public and an obligation of the information holders to provide it to the public. One media expert said:

*“There are some leaders of the local government’s institutions who must deliver information but do not provide it to the journalists and public. Some leaders are open, but others are not accountable. ATI law has not made a big change in the accountability.”*

One citizen stated:

*“Very often, the local leaders do not provide us with information except the information related to perform community work (umuganda) or pay ‘mutuelle*



*de santé.’ In general, they give us the information related to our duties and obligations but not information related to our rights.”*

#### **4.8.4. Ensuring expenditure of public funds is subject to effective management**

Most of the respondents indicated that the access to information law had not yet enabled the citizen to get a better understanding of how public funds were spent. In fact, some media published information related to the global annual budget of the Republic of Rwanda and the report of the Auditor General with no details by department or institution. According to one lawyer:

*“the problem is the skills of journalists. They are afraid of reporting on economic issues because they do not understand them. Not all financial topics are taboo. As far as I know, until now, no journalist has done deep analyses and interpretation of the available data and economic statistics beyond the communiqué from concerned officials from the government or private institutions.”*

Ordinary citizens and opinion leaders at the local level confirmed that they did not think they could go to the Mayor's office to ask how the district's budget had been used.

#### **4.8.5. Keeping the public regularly and adequately informed**

Many of the respondents confirmed that the FOE and ATI laws had played a role in allowing people to get some information on, for instance, dangers to public health or safety or the environment. However, not all the information needed was available. In this regard, an expert in journalism and human rights said:

*“Our media cover almost all topics, even though some are superficial, but there are a few other pieces of information on health, safety or environment that they deliver to the public.”*

One senior journalist added that *“most of the private media provide diverse views on some issues that RBA does not broadcast”*.

A majority of the respondents confirmed that access to information law had helped citizens and journalists get some information. One senior journalist stated:

*“The ATI law helps citizens get some information, but it is not enough because some leaders think that citizens cannot understand well. Sometimes, leaders select what they think is important to citizens. However, what is important information for leaders is not important information for ordinary citizens.”*

According to local opinion leaders who participated in the FGD, private radio stations help ordinary citizens express their opinions and access more information than public stations do.

A journalism expert said that some people know the access to information law but do not want to release the information they hold. Sometimes they ask journalists to submit their questions

in advance of an interview. On the other hand, some journalists request information impolitely, thus putting off the information holders.

#### **4.8.6. Media as a platform for democratic discourse and founded public debate**

A majority of the respondents stated that the media do dare to organize democratic debates. According to one ATI legal expert, *“some audio-visual media outlets dare to organize democratic debates, but there are still some limits in the criticism and content. Freedom of expression has a big room for improvement.”*

Some respondents acknowledged that media pluralism had led to exciting debates. However, it was observed that some issues remained too sensitive and complex to be debated in public.

A journalism and human rights expert said;

*“Some media do their job accordingly, but others are just doing sensational journalism. Journalists are not using the laws accordingly, they are not opening debates but rather they take sides.”*

Another expert opined:

*“Thanks to the diversity of the media, people are no longer afraid of speaking. They engage leaders, including the President of the Republic, members of the government, RNP, and RIB, mainly using Twitter.”*

Thus, media like Twitter, radio, and TV, play a significant role in democracy in Rwanda.

A chief editor of an online outlet spoke about the many components of democracy such as expressing opinions on what is well done and criticizing what is poorly done being evident in the media in Rwanda.

*“In our online newspapers,” he said, “we publish many comment; YouTube publishes a lot of information, Facebook publishes many ideas and comments that are read by leaders so that citizens participate in the decision-making as required by democracy.”*

The point being made here was that the media had given Rwandans a platform on which to participate in government policy-making, and that through the media Rwandans were no longer passive but active citizens. Other responses offered varying perspectives. A media experts reported that,

*“Yes, the access to information law has contributed to promoting public debate but with poor quality due to low professionalism and lack of information on the law obliging leaders to provide information,”*

Explaining that the media in Rwanda responds to the consumption behaviour of content, he contended that society liked listening more than reading in-depth analyses.

However, one senior journalist seemed to disagree with this view. He said that investigative journalism was shallow.

*“There is no investigative journalism in Rwanda because of journalists’ bad habits of only looking for hard stories or current news and don’t want to use the benefits of the access to information law for investigative journalism,” he said.*

#### **4.9. Role of FOE and ATI law in making the Government accountable**

A number of respondents said that the access to information law had made the Government accountable. One chief editor gave the model of the regular press conferences with the President at which journalists ask questions:

- o At one such press conference, a citizen asked the President a question related to excessive property taxes and the President gave guidelines on how to handle the issue appropriately.
- o Journalists advocate the rights of victims of injustice. In this regard, the President cited the case of a soldier’s widow who had not received her dues from the social security fund. His online media published an article about her problem. Subsequently, the Ministry of Defence (MINADEF) contacted the widow via online media to solve her issue.
- o A senior journalist confirmed that journalists hold government institutions accountable because public debates are open with live interviews by citizens due to the access to information law. Nowadays, ordinary citizens have easy access to resolutions taken by leaders and they are well-informed. According to him, social media make the government more accountable.

##### **4.9.1. Citizens’ participation in decision-making**

A majority of the respondents confirmed that FOE and ATI laws made citizens aware of decisions that affect their lives. However, the two laws had not yet enabled them to participate in decision-making. A journalism and communication expert noted

*“people are not well informed, for instance, concerning expropriation for public interest; Government institutions decide without debate with the concerned people to analyse whether what will be done concerns the public interest.”*

Many ordinary citizens who participated in FGD in the five districts mentioned that most leaders do not consult citizens for their views, even for performance contracts. Citizens are vaguely informed during the implementation of the performance contracts with very few participating in their drafting.

On the question of the media’s role in facilitating citizens to make decisions that affect their lives, most of the respondents suggested that through social media platforms like WhatsApp, Twitter and Facebook, they should be able to influence decision-makers. One respondent said that although some executives did not provide comments on social media posts, they did nevertheless consider the comments when making decisions. On leaders’ failure to consult the citizens, the respondents cited the example of performance contracts. Apparently, these were

signed by District mayors without the people's input, while they were not known to the inhabitants of the same District because they were not involved in their development.

Besides, most of the respondents indicated that the ATI law had not helped enough citizens have their voices heard, participate in society, and play an active role in the development of Rwanda. But there had been considerable improvement since 2013.

## **5. Citizens' trust in media and journalists in Rwanda**

The RMB 2021 gives public trust in Radio a rating of 70.2%. A majority of those interviewed said they trusted journalists and the media because they championed their issues, conveyed their messages and provided them with information they could trust. However, some said their trust was not absolute, *"because public journalists only publish the good side of the news"*. Besides, others said sometimes journalists harmed people for nothing through defamation via social media. Other reasons given for low trust in the media included the perception that some journalists were simplistic, parochial and subjective, while others misreported stories which bordered on sensationalism and were often characterized by sloppy editing. It was said that some stories lacked facts, were subjective and discriminatory.

A journalism expert offered the following perspective regarding journalists' performance:

*"Some journalists confuse journalism with sensational news items. They are not capable of selecting what can really help the audience. Very few are doing proper advocacy. Some tend to satisfy some people and harm others. Journalism is losing its credibility because of a lack of professionalism. The problem in Rwanda is that the label "journalist" is so vast and includes reporters, sports and music entertainers, animators, YouTubers, etc."*

And according to an online chief editor, some readers did not trust private media and delivered their information only to public and foreign media. He explained that:

*"Some private media outlets publish without cross-checking, while public media verify before publishing information. Other journalists do not do field research while others solicit bribes (brown envelope to cater for lunch/communication/transport facilitation fees) which compromises their editorial independence. Others use language that violates Rwandan culture and taboos, sometimes injecting their personal opinion in the story or violating the non-disclosure clause of the code of conduct, which could harm the information provider."*

## **6. How journalists respect their professional code of conduct**

Most of the respondents, mainly journalists, heads of regulatory bodies and heads of public and private institutions acknowledged the existence of the code of professional conduct for journalists in Rwanda. According to one senior journalist:

*"In general, journalists respect the code of conduct, but it depends on each individual. The issue is that some are so-called journalists for their personal interests."*

Some of the issues that came out were that the code had not been reviewed since 2014 when it was drafted and adopted by journalists and that most journalists respect the confidentiality of sources. That way, people express their opinions anonymously. In some cases, however, journalists do not protect sources due to external pressure.

Still, there were those who felt that the code was not well respected by journalists. One journalist reported that some journalists do not know the code of conduct for the practice of journalism and therefore go beyond what it stipulates. Others are lazy and do not read media or ATI law. He opined:

*“Journalists behave as they want, depending on who they are. Some violate the code of conduct through defamation and violation of privacy. Some are not convinced that RMC has power and disciplinary authority. Worse still, they lack solidarity amongst themselves and instead of defending colleagues in trouble with the authorities, journalists wait for the intervention of Reporters without Borders (RSF).”*

The Rwanda Investigation Bureau had the following to say:

*“Most journalists in recognized media outlets are professional and very strong partners of the RIB. There are a few of them who need to improve. The issue is those money-minded ones, especially Youtubers, who only aim at high viewership.”*

The RIB representative suggested that the Rwanda Media Commission should establish a solid social media ethics committee that could mete out severe punishment beyond reply rights or the withdrawal of an article. There should be serious fines and membership card suspension for certain periods for badly intentioned journalists: *“RMC should cease to be “intare itontoma itaryana (a lion that roars without devouring)”* he suggested.

According to the RIB officer, a strong self-regulation body was better than RIB or any other government organ. The RIB respects FOE and ATI, but within the limits set by the law. Ethical issues are dealt with by RMC. He said that some journalists interfered in investigation by displaying information that may allow a wrongdoer to escape. Still, many others did share with RIB offence-related information rather than publishing it in the media.

## **7. Impact of contracts and business interests of the media and journalists**

Private media journalists said that contracts and business interests impeded their enjoyment of freedom of expression, which in turn hindered the citizens from enjoying the right to access information.

*“Except classified information,” one respondent said, “journalists are allowed to gather all other information. Sometimes we get sensitive information, but the information holder calls our boss telling him that if the information is published their advertisement contract with his media outlet will be ended immediately.”*

In such situations, journalists did not publish information as it should be done because of fear of dismissal. One journalist recalled meeting a colleague who had gathered information he

knew he could not publish because it was not in line with the editorial policy of his media house. However, since he was convinced the public had a right to know, he shared it with him.

A chief editor spoke of the correlation between financial dependence and the application of ethics.

*“It’s almost impossible,” he said, “to criticize an institution that helps to cover the salary of the employees. It is challenging to criticize an institution or company that has signed a memorandum of understanding with your media outlet. When you are aware of some bad information about your partner institution, you inform the institution instead of publishing that information.”*

Another informant asserted that:

*“Many journalists working for private media have no written contracts. Many media houses provide press cards to their journalists and tell them to fend for themselves. Those are ‘freelancers’, sometimes called ‘free-lunch’ as they survive on transport fees and lunch during workshops and seminars.”*

In such cases they can hardly be impartial. The respondent continued:

*“Some journalists are not independent and impartial due to their contracts. Some contracts do not give journalists suitable conditions. Some journalists are obliged by their contracts to find the money for covering news and even some of the material they need. This mainly affects freelancers and reporters. Sometimes, when they don’t have them, they compromise with the sources to participate, impacting their independence and impartiality. Other contracts protect the media owner’s interests more than the journalist’s work, and the journalist is obliged to work for the owner’s interests than for his profession.”*  
(Media owner)

Interestingly, a private media outlet owner revealed that they did not yet have a contract with big telecommunication companies as they did not want to compromise their ethics.

It is important to note that Articles 21 to 27 of the code of ethics governing journalists, other media professionals and media in Rwanda, adopted in 2011 and updated in 2016, stipulate the rights of journalists that should help them work professionally and ensure their protection.

## **8. Effects of Covid -19 on utilisation of ATI and FE opportunities**

From the responses, the containment measures for the Covid-19 pandemic had both positive and negative effects on freedom of expression and access to information in Rwanda.

### **8.1. The positive elements**

Media consumption increased significantly during the Covid-19 lockdowns, according to one private media owner. Another respondent said the restrictive environment inspired closer collaboration with GOR organs, mainly the RNP and local leaders, to facilitate information sharing with citizens in their respective residences. Other positive effects included increased use of social media to search for and share Covid-19 related information. One PSF official said:

*“Covid-19 has increased the use of media, including social media. We ensured that all our members get information on time. We organized online meetings, and the IMANZI centre was launched during a lockdown.”*

## **8.2. The negative elements**

The spreading of rumors and negative messages was highlighted as a major negative effect of the Covid-19 lockdowns, largely blamed on the lack of regulation. Other notable effects were:

- A lot of sensational news and stories angled wrongly.
- A lot of friction and fear.
- Little emphasis on educational and informative content.
- Survival seemed to have taken precedence over everything else with people worrying about where the next meal would come from.
- Restrictions of free movement affected access to information, which in effect undermined the public's right to diverse information.
- Access to information decreased because only one source was available, the communiqué of MINISANTE.
- Decreased access to information because some people used the pandemic as a pretext to refuse to give information.
- Media were not recognized among the essential services.
- Community awareness campaigns on ATI law stopped.
- Journalists were not able to go to the field to collect information due to financial challenges.
- *“Covid 19 impacted the freedom and access to information negatively. They learned that information is something necessary for the public and the life of a country”.* (media owner)
- For people with disabilities, the big challenge was how to access information on Covid-19 preventive measures. The visually and hearing impaired had a particularly difficult time as some could not communicate with police officers when the need arose.
- A representative of NUDOR indicated that they mitigated these communication-related challenges by hiring staff-to support PWDs depending on their disabilities.

## **9. Lessons learned and good practices related to FOE and ATI**

- The following attributes were highlighted:
- The legal framework, although it was said to be appreciated by experts and journalists, ordinary citizens did not seem to be aware of it. It was also noted that it could be improved.

- A general appreciation by leaders that publishing information is in their interest as well as the public's.
- Citizens have opinions and they want to express them.
- Private media, including TV and radios, were doing an excellent advocacy job.
- Media diversity at a high level but not enough content or creative diversity.

However, there were also some negative attributes:

- Little financial investment in journalism.
- A culture of money-mindedness among some journalists and a tendency to abuse the right of freedom of expression.
- General citizens' challenge of differentiating between journalists and bloggers, YouTubers and "citizen journalists".
- Confusing concept of confidential/classified information.
- The ambiguity of RMC's legal personality as well clarity of its powers hampers its effectiveness.
- There are only a few online news platforms that can competitively communicate in other languages besides Kinyarwanda, thus limiting diversity of opinions beyond the national borders.
- Citizens' lack of awareness of their rights of FOE and ATI, thus limiting their ability to participate actively in public discourses.



## **Conclusion and recommendations**

It is evident, from the analysis of the legal and institutional framework underlying freedom of expression and access to information in Rwanda, that the respective laws, policies, and guidelines have been implemented. Specific areas for improvement were noted, in particular, contradictions of specific clauses between some laws. It is also clear that many ordinary citizens and some local opinion leaders are not aware of the FoE and ATI laws while some journalists neither have complete information about these laws nor a good grasp of their profession's legal framework.

Regarding how freedom of expression and related laws are respected in Rwanda, positive progress in guaranteeing and respecting the legal framework has been demonstrated. However, this assessment has noted gaps and challenges in implementing the FOE law, the ATI law, and related laws. These hindrances are mainly due to the personal interests of some stakeholders, and unprofessionalism and lack of capacity among some journalists.

The assessment of the complaint handling mechanism linked to freedom of expression and access to information revealed that different institutions were put in place to deal with journalists and media matters. Nevertheless, this mechanism lacks effectiveness as no serious sanctions are enforced for non-compliance.

On the effects of social media on FoE and ATI, the assessment found that there are both positive and negative. On the positive side, information is obtained and shared on time and can reach a broad audience. But it also has a downside as it is prone to being used to spread fake news, rumours, and hate speech which are detrimental to social harmony. The assessment also found that regulating social media is not that easy in a country like Rwanda. It requires international legislation and collaboration with the owners of social media outlets and global technology firms.

This assessment has noted that where ATI and FoE laws are effectively implemented, the opportunities they offer are well utilised by media and citizens. It is possible to quickly intervene in cases of national/global outbreak of diseases such as the Covid-19 pandemic. Social media platforms have, for example, been effectively used to sensitize the public on self-care to prevent the spread of COVI-19 in Rwanda.

Despite of the role that media played during the 1994 Genocide against Tutsi and the reservation of the Rwandan society to express itself openly owing to its own cultural predisposition and historical experiences, there was a general consensus of the critical importance of freedom of expression and access to information in governance, service delivery, pursuing of human rights and democracy and general national development.

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