RECORDS MANAGEMENT AND ACCESS TO INFORMATION: KEY TO FOSTERING ACCOUNTABILITY, GOOD GOVERNANCE AND PROTECTION OF HUMAN RIGHTS IN TANZANIA

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Abstract

This article discusses the role of records in fostering accountability, good governance and the protection of human rights. The article addresses the inter-relationships between recordkeeping, accountability, good governance and the protection of human rights. It explores the issues of access to information contained in records and its role in the protection of human rights. The article also underscores the role of records management in the implementation of public service reform programmes in Tanzania and the role of the National Archives of Tanzania in promoting public accountability. The article noted that the absence of a records management policy and an access to information law in Tanzania has affected the records management practices and access to information. The article also established that due to lack of an access to information law, Tanzanian government ministries, and departments do not feel legally obliged to give citizens access to the vital information they hold. The article proposes a way forward which includes strengthening the records management practices, promotion of access to information laws and training of records management staff in the public service in Tanzania.

Keywords: Accountability, Good governance, National Archives of Tanzania, Protection of human rights, Records management, Public reform programmes

Introduction

Records are the indispensable foundation of the accountability process. Without reliable and authentic documentary evidence underpinning all essential accountability processes, government, civil society and the private sector cannot ensure transparency, guarantee accountability or allow for the exercising of good governance (Schenkelaars and Ahmad 2004). The availability of documentary evidence strengthens civil society by helping to protect legal rights and prevent human rights violations. Legal redress, voting rights, land registration and pension claims all depend upon the availability of records (Barata, Cain and Thurston 2000). In all accountability forums, records are consulted as proof of activity by senior managers, auditors, concerned citizens or by anyone inquiring into a decision, a process or the performance of an organization or an individual (Palmer 2000).

Government accountability is communicated through information contained in records. Records, and the evidence they contain are the instruments by which governments can promote a climate of trust and demonstrate an overall commitment to good government (Millar 2003; World Bank and International Records Management Trust 2000). Thus, well managed records, as documentary evidence, provide the foundation for good governance, accountability and the rule of law. They confirm the work of employees, their pensions and their rights, provide evidence when reviewing policies, provide citizen's rights and protect organizational interests and those of its staff and clients (Ngulube 2004). Without well managed records, officials cannot be held accountable and fraud cannot be prosecuted (Schenkelaars and Ahmad 2004).

However, the chaotic state of public records in many African countries, and the near collapse of recordkeeping systems in some of the countries makes it virtually impossible to determine responsibility for official actions and to hold individuals accountable for their actions (Wamukoya 2000). Public sector records, which are the most fundamental source of government information, are only just beginning to

be managed as a strategic resource, and there are still widespread problems in retrieving and storing them. In most public enterprises including government, records management has neither been integrated nor considered as a strategic management function with other information management functions of the enterprise (Katundu 2002). In this context, this article intends to ascertain the role of records to fostering accountability, good governance and the protection of human rights. The article explores the issues of access to information contained in records and its role in supporting transparency, accountability and the protection of human rights. The article underscores the role of records management in the implementation of a public service reform programme and the role of the National Archives of Tanzania in promoting public accountability in Tanzania.

The role of records management in fostering accountability, good governance and protection of human rights: a review of various studies

The records of government organizations are an important and often crucial source of data for accountability processes (Meijer 2001). Lack of proper records management may compromise accountability, good governance and the protection of human rights. Meijer (2001) noted that accountability can be complemented by looking at different phases of accountability processes: the information phase, the discussion phase and the sanction phase. In the first phase the forum gathers data from various sources and reconstructs what has happened. In the second phase actions and decisions are discussed and judged according to certain norms and criteria. In the third phase sanctions can be applied. Records are of primary concern in the information phase of accountability processes. It is assumed that before accountability forums can discuss or sanction government actions, they need to make a reconstruction of what would have happened (Meijer 2001).

Thus, proper records management is required for government accountability, good governance and the protection of human rights. Accountability processes cannot effectively be fulfilled unless the evidence of actions taken is made available through organized, secure, yet easily accessible means. To achieve this, consistent provision of reliable documentary evidence in the form of records

must be ensured (Schenkelaars and Ahmad 2004). Documentary evidence or records are an important component of all sets of accountabilities in public sector. Without records to provide evidence of its activities, no government or organisation can be held accountable. Thus, it is essential that organizations should have a systematic approach to managing records from their point of creation to their ultimate disposal (Ngulube 2004). This will enable the organization to trace all the activities which are taking place in the organization.

The key governance objectives of the organization cannot be attained without the availability of certain types of records to support them. To strengthen and safeguard the rule of law, for instance, proper legislative records, court records, police records as well as prison records must be maintained. In order to demonstrate transparency and accountability there must be proper accounting records, procurement records, tax records, customs records and electoral records. Pension records, land records, property records, social security records and birth and death records are essential to the protection of citizens' rights and their other entitlements (Wamukoya 2000). For instance, one of the most important aims of the United Nations programme of reinventing government is to promote good governance towards the realization of the United Nations Millennium Development Goals. Good governance implies public participation, transparency in decision making and accountability, which helps to promote the integrity of public service (United Nations 2006).

The United Nations Millennium Development Goals (MDGs) represent a global partnership that has grown from the commitments and targets established at the world summits of the 1990s. The MDGs consist of a number of targets including the eradication of extreme poverty and hunger, achieving universal primary education and the development of a global partnership for development (Economic Commission for Africa 2004). To achieve these goals, there is a need to have in place good recordkeeping systems which includes the presence of legislation, properly classified records with appropriate access and file tracking tools, recruitment and of trained staff, including measures to update their skills, and timely appraisal and disposal of records (Kemoni 2007).

Thus, to enable governmental bodies to function properly government has a responsibility to ensure that they create and have access to complete and credible information to enable the decision-making process to be in the best interest of the public (Ngoepe 2004). The quality of decision making and risk and cost assessment are all a function of the quality information supply in the form of records (Cain and Thurston 1998). Without such an information flow, and without the information system to carry that flow, there can be no accountability because of ignorance of the decision. The information will only be readily found if there are well managed records.

Hence, it is necessary to provide high priority to records management to avoid organizational problems that may arise owing to poor handling of office records. Proper records management ensures that comprehensive and complete records are created, inventoried, indexed, kept in a secure storage, retrieved when required to conduct business, disseminated to the right recipient at the right time, and disposed of in a systematic and orderly manner by either destruction or transfer to an archive. Transparency and accountability in organizations are ultimately achieved by giving the public the right of access to information and this can be achieved through sound records management and the appropriate legal framework (Ngoepe 2004; World Bank and International Records Management Trust 2000). Thus, open access to government records is the hallmark of a democratic government, and is crucial to the notion of accountability, good governance and the protection of human rights.

The general trend worldwide is towards liberalizing access to records and archives in order to foster good governance, accountability, transparency and protection of human rights. The rights and entitlements of citizens are based on records, and the ability of a government to continue to respect these rights and entitlements is based on the quality of the policies, standards, and practices employed for the care and access to those records (World Bank and International Records Management Trust 2000).

Under freedom of information (FOI) laws, citizens usually have the right to request copies of documents, not just the information contained within them. Many FOI laws provide that, where only a part of the information may be disclosed, agencies should provide a copy of the

document excluding the exempt information rather than refusing access (Pope and Transparency International 2000). However, the majority of governments in Africa have not made significant strides in making access to information a basic right for the citizens. In many countries very little information reaches citizens about the availability of public resources, their allocation and utilization. Accountability and openness cannot be achieved within an organizational culture that promotes confidentiality and secrecy (Cain *et al.*, 2001).

Access to information: global and African cases

Access laws are designed to promote accountability and transparency in government by providing citizens with a legally enforceable right to obtain full and accurate information about the activities and decisions of their government (Lipchak 2002; Millar 2003). For instance, in Canada, the Access to Information Act provides individuals with a right of access to information held by the federal public sector. The Act gives Canadians and other individuals and corporations present in Canada the right to apply for and obtain copies of federal government records (Banisar 2004). In the United Kingdom, the Freedom of Information Act gives any person a right of access to information held by a broad array of public authorities.

In the United States the Freedom of Information Act (FOIA) allows any person or organization, regardless of citizenship or country of origin, to ask for records held by federal government agencies. There are nine categories of discretionary exemptions, namely national security, internal agency rules, information protected by other statutes, business information, inter and intra agency memos, personal privacy, law enforcement records, financial institutions and oil wells data (Banisar 2004).

Sebina (2007) noted that when most, if not all African countries which were former dependencies of the United Kingdom (UK) attained independence, they adopted independence constitutions which encouraged secrecy of the governance process. These constitutional guarantees encouraged secrecy in the sense that access to information was only associated with free expression and the process was not considered a right in itself. African governments were empowered by these constitutions to determine the appropriate time to inform

citizens and to select the information which they felt citizens needed to access as well as choose the mode of communication necessary to relay the information. These constitutions did not provide citizens with recourse to corroborate the information which governments provided to them. The option available to citizens was for them to wait until some selected government files became archives where they could possibly gain direct access to them. Alternatively, they could seek court intervention to force governments into providing direct access to records they wish to access (Sebina 2007).

Many African countries are considering enacting laws to promote access to information. South Africa has taken the lead with the promulgation of the Promotion of Access to Information Act (PAIA) in March 2001. The PAIA is intended to "foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information" and "actively promote a society in which the people of South Africa have effective access to information to enable them to fully exercise and protect all of their rights." (Arko-Cobbah 2007; Banisar 2004). The Act also includes a unique provision (as required in the Constitution) that allows individuals and government bodies to access records held by private bodies when it is necessary to enforce the people's rights.

Public Service Reform Programme and the records management situation in Tanzania

Records management is a key aspect of public sector reform programmes that have been initiated in developing countries (International Records Management Trust and World Bank 2003; Millar 2004). The Public Service/Sector Reform Programme (PSRP) emerged from the macroeconomic and fiscal reforms that were embedded in structural adjustment programs (SAPs) sponsored by the World Bank and International Monetary Fund (Economic Commission for Africa 2004; Lienert and Modi 1997; Mhone 2003).

In line with PSRP, the Government of Tanzania launched the Civil Service Reform Programme (CSRP) in 1991. The overall objective of the programme was to achieve a smaller, more affordable, efficient and effectively performing civil service. Despite the achievement in terms of structural and institutional reforms, little was done to trans-

late these results into improved services for the people of Tanzania. As a result, the Government adopted a more comprehensive programme, the Public Service Reform Programme (PSRP). The PSRP aimed to transform the public service by changing its capacity, systems and culture. The goal was to deliver high quality public services under severe budgetary constraints. In recognizing that the government is a service delivery organization, it must accept that the demand for accountability will increase and, as a consequence, it will need to allow citizens to question actions taken on their behalf (Routledge, Cain and Barata 2000). Thus, well managed, reliable and accurate records are essential components for the government to function effectively, develop and implement policies, increase performance, provide quality service to the general public as well as achieve productivity, transparency, and accountability (Manyambula 2007).

Through the management information system component of the PSRP, it was recognised that public service managers needed information that was accurate, reliable and timely in order to be effective decision makers (Manyambula 2007; Mazikana 2007). However, it was realized that information available to address the new demands to provide better services to the public was not accurate, readily accessible and usable. Some of the outcomes expected from the management information system component of the reform were (Mazikana 2007; United Republic of Tanzania 2003):

- Public service managers and decision makers who would be able to direct and manage modern information and communication technology systems to improve the efficiency and effectiveness of their operations;
- Reorganized archives and registries with improved records quality, retrieval and access;
- A national records centre to reduce congestion in registries;
- A legal framework for managing paper and electronic records; and
- Modern information and communication technology systems to interlink Government ministries and departments to enable them to communicate more easily with the outside world.

Consequently, a records management improvement programme focusing on subject files was undertaken in 24 ministries to decongest and restructure central registries, introduce improved guidance and procedures and train registry staff between 1997 and 2003 (International Records Management Trust and Techtop Consult (Tanzania) Ltd. 2006). During this period, the number of graduate and professionally qualified staff at the Records and Archives Management Department was increased. The adoption of a comprehensive scheme of service opened the way for establishing a comprehensive and integrated view of knowledge and skills requirements across the records and archives field (International Records Management Trust and Techtop Consult (Tanzania) Ltd. 2006). Further, a new legislation, the Records and Archives Act Number 3 of 2002 was passed. A standard "keyword filing system" was also installed replacing the old system "theme filing system" (Manyambula 2007).

Access to information: the situation in Tanzania

It is increasingly recognized that the right to information is a key to open the door to the fulfillment of other rights. Without recognizing the right to information, it is impossible for citizens to enjoy their right to participate in political life and their right to self determination, among others. For instance, the Constitution of the United Republic of Tanzania (1977) stipulates an obligation on the part of the Government to keep citizens informed as a basic right. The Article 18(2) of the Constitution of the United Republic of Tanzania of 1977 stated that (United Republic of Tanzania 1997):

> Every citizen has the right to be informed at all times of various events in the country and in the world at large which are of importance to the lives and activities of the people and also of issues of importance to society (United Republic of Tanzania 1997).

However, in practice, the extent to which these constitutional mandates are enjoyed by most citizens is far from certain (HakiElimu, LHRC and REPOA 2005). The public lacks awareness about how to obtain information, particularly from government. Part of the problem is that many public servants find it difficult to know whether information is confidential and therefore whether to allow access to it or not (Cain *et al.*, 2001). In addition, many lack the resources to litigate for

the protection of these rights (Cox and Wallace 2002; Pope and Transparency International 2000). Mechanisms have not been enacted to provide guidance to citizens on exactly how to access government information. As it is the case in many African countries, the Tanzanian government ministries and departments do not feel legally obliged to give citizens access to the vital information they hold (Mwakyembe 2000). The majority of government records held in registries are classified confidential with no standard procedure in place to declassify them. The high proportion of classified information runs counter to sentiments about the citizen's right to be informed (Cain *et al.*, 2001). The Tanzanian government has the right to withhold information for reasons of national security and legislative provision.

For instance, the Records and Archives Management Act Number 3 of 2002 was established to provide the proper administration and better management of public records and archives throughout their life-cycle. Part IV, section 16 of the Records and Archives Management Act Number 3 of 2002 stipulated a thirty year rule of accessing public records. The Act explained that public records in the National Archives, under the control of the Director may be available for public inspection after the expiration of a period of thirty years from their creation. Under this situation, the public is denied their right of access to information contained in records that are less than 30 years. The absence of explicit records management policies has also affected the records management practices and access to information in Tanzania.

The role of the National Archives of Tanzania in managing records

An essential part of accountability is to assign to the National Archives, legislated responsibility for the management of records throughout their life-cycle. A National Archives is and should be recognized as an administrative unit of government able to improve efficiency, ensure accountability and reduce public expense through the effective management of records (Millar 2003). National archival institutions as the centralizing agencies for official records in their countries are mandated to facilitate the proper management of public

records so that the information contained in them remains accessible (Ngulube and Tafor 2006).

The Government of Tanzania has taken some measures to provide administration and better management of public records and archives throughout their life-cycle through the National Archives of Tanzania under the Records and Archives Management Department (Manyambula 2007; World Bank and International Records Management Trust 2002). As a means of strengthening the Department and giving it greater visibility and wider inter-ministerial powers to oversee records management activities throughout the civil service, the National Archives was transferred from the Ministry of Education and Culture to the President's Office Public Service Management (Manyambula 2007; Mnjama 2005). This effectively brought the management of all registries under the umbrella of the National Archives.

Conclusion

Strengthening the recordkeeping system will help to ensure that there is an effective national regulatory and physical infrastructure for managing official records. In order to foster accountability, good governance and protection of human rights, there must be reliable and accurate records and a free flow and access to relevant information; this includes knowing what information is available, how to obtain it and how to appeal to government if information is withheld. Emphasis should be directed toward ensuring that the underlying records and information systems are in place, that a civil service culture of openness is promoted, that reforms are relevant to wider government programmes for poverty alleviation and that there is a political will to sustain the programme.

It is also necessary to establish a career structure for records staff to ensure that records management is treated as a management function. Individual ministries, department and agencies must be held responsible for ensuring that their recordkeeping systems are appropriate and well maintained. There is a need of having a records management policy and access to information laws in Tanzania. That will help to strengthen the records management practices and the provision of access to information. By strengthening the records management practices and access to information, it may be possible

to establish the link between accountability, good governance and the protection of human rights.

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