

# PROGRESS REPORT ON ATIA IMPLEMENTATION 2022

**STATUS, CHALLENGES & OPPORTUNITIES**

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# PRESENTATION OUTLINE

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- i. INTRODUCTION
- ii. BACKGROUND TO THE ACCESS TO INFORMATION ACT
- iii. Mandate of the Commission
- iv. ROLE OF THE MINISTRY OF INFORMATION
- v. ACTIVITIES IMPLEMENTED IN THE PAST TWELVE MONTHS
- vi. CRITICAL LESSONS AND OBSERVATIONS
- vii. CHALLENGES
- viii. RECOMMENDATIONS

# ABOUT THE COMMISSION

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MHRC is established under Section 129 of the Constitution.

Its operations are guided by the Human Rights Commission Act (Act # 27 of 1998).

The Commission has a Constitutional and statutory mandate to promote and protect human rights and investigate human rights violations in Malawi.

The Commission was given additional mandate to oversee the implementation of the Access to Information Act (ATIA).

# BACKGROUND TO ATIA

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ATI Bill was passed into law on 14<sup>th</sup> December 2016

President Assented to the Act on 10th February 2017

ATI Act was published in the gazette on 17<sup>th</sup> February 2017

The law remained non operational up to September 2020 (4 years)

A number of orientation sessions conducted by MHRC from 2017 to 2020

In August 2020 Minister of Information announced 30<sup>th</sup> September 2020 as commencement date for the Act

Regulations were published in 14<sup>th</sup> January 2021

The Act is now fully operational though institutions not fully compliant



# MHRC MANDATE ON ATIA

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- The Commission has oversight function in the implementation of ATIA under s7.

In exercise of that function it has the following powers and responsibilities:

- a) Raise awareness of the right of access to information among members of the public and information holders
- b) Give advice to Government and information holders regarding coordination and management of information.
- c) Review decisions of information holders and make recommendations regarding requests for information



# MANDATE OF THE COMMISSION

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- d) Recommend declassification of information which is exempt from disclosure.
- e) Recommend legal reforms to legislation relating to access to information
- f) Promote and protect the right to access to information and investigate violation of the right to access to information
- g) Give directions to all institutions in connection with performance of their duties and obligations

# MANDATE OF THE COMMISSION

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- h) Recommend fees payable to process information requested
- i) Review decisions of information holders regarding denials of disclosure of information or grant of access to information.
- j) Prepare information guides and manuals for use by information holders and information users
- k) Submit annual progress reports to Parliament

# ROLE OF THE MINISTRY OF INFORMATION



- Make regulations for the better implementation of the law [s55 (1)]
- Receive names of the information officers appointed by the Information Holders (ATIA Regulations)
- Publish names of the information officers in newspapers
- Advise Information Holders on publication of information
- Receive annual reports of compliance from Information Holders
- Submit annual progress reports to Parliament
- Prescribe uniform applicable fees for processing information
- Declassify cabinet records after 30 years

# PROGRESS OF IMPLEMENTATION





# REGIONAL TRAINING OF INFORMATION OFFICERS

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The Commission conducted one regional training of information officers and heads of institutions which was held in Mzuzu at Grand Palace Hotel on 1st February, 2022. The training aimed at orienting heads of MDA's and designated Information Officers on the legal framework of access to information. Specifically, the orientation focused on the roles and responsibilities of information holders and information officers, procedure for access to information and access to information monitoring tool.

**Note:** *The plan was to conduct regional orientation sessions in all the four regions but so far only one has been conducted and one is in the pipeline. There are resource constraints to do all the four regions.*



# **ORIENTATION OF CENTRAL MEDICAL STORES MANAGEMENT IN ACCESS TO INFORMATION.**

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The Commission conducted an orientation for Senior Management Staff of the Central Medical Stores Trust (CMST) on 11<sup>th</sup> January 2022.

15 members of the management were oriented in the Access to Information Act (ATIA) and Access to Information Regulations. The orientation was self-initiated by the CMST.



# **ORIENTATION OF THE CENTRAL REGION WATER BOARD MANAGEMENT.**

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In June 2022, Central Region Water Board Management and Staff were oriented in the ATIA and Regulations.

12 members attended the orientation. This orientation too was self-initiated by the water board.

# **ORIENTATION OF THE MALAWI PHARMACY AND MEDICINE REGULATORY AUTHORITY.**

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18 members of staff especially from the management section were oriented in the ATIA and Regulations on 12<sup>th</sup> August 2022.

This too was done upon the request from the institution.

# ORIENTATION ORGANIZED YOUTH AND SOCIETY



The Commission facilitated a training of councillors and CSOs on ATIA and Regulations which was organised by Youth and Society (YAS) in Chitipa, Rumphu and Kasungu.

The meetings were attended by 105 participants. Participants were trained on how to access public information from duty bearers using Access to Information Act and Regulations.



# DISSEMINATION OF IEC MATERIALS

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MHRC has disseminated about 600 copies of ATIA

MHRC has disseminated about 300 posters carrying messages in different languages for the ATIA have been distributed.

MHRC issued a press statement outlining steps to be taken for information seekers to access information but also to advise information holders to comply with the law.

MHRC has translated ATI Regulations into Chichewa and printed 100 copies for distribution.

# PUBLIC AWARENESS THROUGH THE MEDIA

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MHRC developed and aired radio jingles

111 slots were aired through Radio MBC 1 between November and December 2021).

The Commission also hosted a panel discussion on ATIA on ZBS TV and PLF Radio.

Live coverage of the launch of access to information awareness on Times Radio was done in Mzuzu.

In addition, the Commission participated on the TV panel discussion on access to information organised by the Department of Civic Education on Liwu Langa Programme on MBC TV.



# MONITORING OF INFORMATION HOLDERS

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The monitoring exercise was conducted to assess levels of compliance on ATIA by public institutions in three regions of the country.

So far 40 institutions (majority of which are based in Lilongwe) have been assessed.

Precisely, the activity aimed at establishing mechanisms put in place by the institutions in compliance with ATIA, identify knowledge gaps in the ATIA and to appreciate challenges faced by institutions in providing access to information.

The exercise established that overall compliance with the law is less than 40% (detailed information will be provided in the presentation on this activity).

# INFORMATION GUIDES AND PROCEDURES

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The Commission has managed to develop important instruments/documents in discharging its duties under ATIA.

These documents include the Procedure for Review of Decisions by Information Holders, Data Collection and Reporting Tool and the Information Guides. The information guides once will be distributed to information holders to facilitate access to information.



# REQUESTS FOR REVIEW OF DECISIONS

The Commission conducted an investigation into the request for review of a decision by the Central Medical Stores Trust. The Commission made a determination which was communicated in writing and the trust fully complied.

This matter prompted CMST to request for an orientation on ATI for its senior management team and the Commission happily accepted the request.

The Commission also received one request for a review of a decision by the OPC. The Commission provide guidance on the information seeker to follow the correct procedure on summiitting the request for information

# INTERNATIONAL ACCREDITATION

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The Commission has been accredited by the International Conference for Information Commissioners (ICIC).

ICIC is an international body which is a network for organisations that promote and protect the right to access information. It directly works under the UNESCO.



# SUBMISSION OF ANNUAL REPORT TO PARLIAMENT

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In line with its responsibilities under the ATIA, the Commission has produced an annual report for 2021 which has been submitted to Parliament through the office of the Clerk of Parliament.



# CRITICAL OBSERVATIONS AND LESSONS

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- (i) There is hunger for accessing public information but many are not willing to take necessary steps in demanding that access to information.
- (ii) Working in partnership with other organisations have helped to build on each other's strength and achieve more in terms of implementation.
- (iii) Access to information law if well utilised can be an important tool in fighting corruption, mismanagement of resources and other vices.
- (iv) Institution based orientation on ATIA is cost effective and not time consuming.



# CHALLENGES



# Low demand for access to information



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Information gathered from the monitoring visits to institutions and apparently lack of appeals for review clearly show that people are not using the law to demand access to information. This can be attributed to inadequate awareness about the law.

# NONCOMPLIANCE WITH THE ATIA BY INFORMATION HOLDERS



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The law obliges information holders to perform certain tasks in facilitating access to information such as appointing or designating information officers. However, many institutions are not adhering to that. Unfortunately, the law does not provide penalties for such non-compliant institutions.

# FAILURE TO PUBLISH LIST OF INFORMATION OFFICERS



The law mandates the Ministry of Information to publish names of the appointed or designated information officers at the beginning of each financial year.

But since the operationalisation of the ATIA in 2020, a list of information officers has not been published by the Ministry. This has also affected the plans by the Commission to conduct comprehensive training for all the designated information officers, bearing in mind that they play a crucial role in the implementation of all activities pertaining to Access to Information in their respective organisations.

The Commission has made several follow ups with the Ministry but with little impact.



# FUNDING

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The ATI Unit is underfunded by the government more especially in the current financial year whereby the Unit has been allocated only eight million kwacha, a reduction from about sixty million in the 2020/2021 financial year. Coincidentally, this resources from our traditional donors such as the EU Chilungamo Project were also affected by the end of the project in June 2022.

Meanwhile, the Commission has been reaching out to other implementation partners and fortunately, it was successful in securing some funding through Oxfam and this funding enabled the Commission to implement some of the planned activities.

# CAPACITY OF THE ATI UNIT



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The Commission has an established Unit which is managed by designated officers that have their core duties and responsibilities different from the ATIA.

On the other hand, the Commission in general is also understaffed. This situation affects the functions of the Unit.



# RECOMMENDATIONS

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- i) Increase awareness on access to information through media and other means. This can be possible if more funds are provided and or relevant partners work together with the Commission to synergise the efforts.
- ii) Parliament should intervene on how to make noncompliant institutions comply with the provisions of the law.
- iii) Parliament should engage the Ministry of Information on fulfilling their obligations under the ATIA.
- iv) Parliament should lobby for more funding to the Commission especially the Access to Information Unit should have a separate allocation.
- v) Parliament should lobby for capacitating the ATI Unit with relevant staff/portfolios.



# CONCLUSION

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Despite the multiple challenges and constraints, the Commission has endeavoured to perform its obligations under the law.

The Commission acknowledges the support that it has received from Govt and other partners that has enabled it to perform its roles and duties under the Act

# End of Presentation



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# Thank You

