



Records and Archives Legal and Policy Frameworks in Uganda: an analysis

By

Dr. C. Okello-Obura

Senior Lecturer

Makerere University

E-mail: obura2007@gmail.com

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Introduction and contextual background

- Records are the lifeblood of the organisation's businesses and therefore should be treated with the utmost concern.
- To avert the crisis in information provision and records and archives management, preservation and conservation of archival materials need to be anchored in with effective legislative and policy frameworks.
- Laws have a direct impact on the ways in which governments, organisations and individuals carry out their daily affair
- The legal and policy frameworks ensures a strategic approach to building capacity to capture, process, store, use, conserve and preserve records and national heritage

The Problem

- Despite the fact that Records and archives legislation is considered as an essential component of the wider legislative base of accountable and effective government, the issues of outdated records and archival legislation have not been given enough prominence in Uganda. Where the laws are in place, not much is done to ensure its implementation and effective functioning. The absence of legislation and the existence of ineffective and outdated laws can affect how records are managed. Worst still in the reluctance in implementing the existing laws

Objectives of the study

- highlight the existing legal and policy frameworks for records and archives management in Uganda
- examine the Uganda National Records and Archives Act, 2001
- propose interventions for effective implementation of The Uganda National Records and Archives Act, 2001 for efficient management of records and archives in Uganda.

Why records and archives legislation?

- No government can operate without records
- Government must also protect the rights of its citizens, the environment, land rights and territorial integrity.
- Past records must be used to plan for the future of the nation and serve as part of its national heritage.
- All these are possible if there are functional government legislation in place to ensure that its records and archives are appropriately managed and preserved over time for accountability and historical reasons.
- Legislation is expected to compel designated officers in records creation, processing and management to perform their duties.
- Imperative to assert that Records and Archives legislation is an essential component of the wider legislative base of accountable and effective government. It provides the essential framework that enables a national records and archives service to operate with authority in its dealings with other agencies of the state.

Identifying Records-related Legislation

In reality, however, virtually every piece of legislation created by a government can have record-keeping implications (IRMT 2009) E.gs include and not limited to :

- Access to information
- Archives and historical records
- Heritage management
- Computer use and misuse
- Human rights, Copyright, designs and patents
- Corporations and organisations
- Criminal code, Insurance
- Data protection and information security
- Labour relations, defence and security
- Education and training
- Records and document management
- Evidence and Privacy etc.

Identifying related laws cont'

Kennedy and Chander (2000) allude to the above argument and said that regulations of concern to records and archives management should include legislation which:

- specifies or implies the requirements to create and retain certain records
- specifies how long records should be stored if they are to be admissible as evidence in a court of law
- affects access to records, including the privacy and freedom of information legislation
- covers disposal of government records

Regulatory and Policy Issues

In a wide perspective, IRMT (2009) enumerates some of the important Records-related Regulatory and Policy Issues to cover the following:

- ❖ Acquisition of records
- ❖ Appraisal of records
- ❖ Contracting of IT services
- ❖ Data management and storage
- ❖ Database management and use
- ❖ Destruction of data on electronic storage devices
- ❖ Disaster recovery and business continuity
- ❖ Disposal of records
- ❖ Electronic mail management
- ❖ Electronic records creation and use
- ❖ Information technology procurement
- ❖ Network management
- ❖ Remote access to servers and networks
- ❖ Scanning and imaging of records
- ❖ Security and privacy
- ❖ Training of records staff
- ❖ Transferring and storing records
- ❖ Use of wireless computer devices
- ❖ Web access and use

Methodology

- Literature review was used for this paper. To qualify the information gathered through the relevant literature, LIS colleagues, records and archives practitioners were consulted to critique the paper. This engagement of practitioners helped to improve on the quality of the content of the paper.

Uganda Legal and policy provisions for Records and Archives: highlights

There are several Acts, Regulations and policy documents, which provide the framework for the creation, management and usage of data, records and information in Uganda: Some of these include:

- **National Records and Archives Act 2001.** (Divided into seven parts):
 - **Part 1-** gives the Preliminary (Short title, interpretation and reckoning of time.
 - **Part II-** gives the functions of a National Records and Archives Agency and how it should be established.
 - **Part III -** gives the responsibilities of the creators of public records for their proper management.
 - **Part IV-** Outlines the responsibilities of the Director of the National Records and Archives Agency for the management of public records and archives.
 - **Part V –** Local government records and access to archives
 - **Part VI –** gives financial provisions
 - **Part VII –** gives general issues regarding annual report, regulations, power of Minister to amend Schedules and repeal.
 - The National Records and Archives Act, 2001 provides for the rationalisation of the management of all government and other public records and archives under the supervision of one single body that is the Agency

Legal and policy provisions cont'

- **The Local Government Act, 1997 (with Amendment Act 2001).**

This act provides for the governance of district local entities. For purposes of accountability, the Ministry of Local Government expects the Councils to keep records of activities and transactions and the Act requires that councils keep proper books of accounts and other related records.

- **Access to Information Act 2005**

Other legal and policy documents

- ❖ Human Resources Management Manual for Local Governments in Uganda, 1999.
- ❖ Ministry of Public Service Records Management Policy 2008
- ❖ Public Service Commission Guidelines to District Service Commission,
- ❖ Public Service Act 1969,
- ❖ Public Service Regulations 1994,
- ❖ Inspector General of Government Statute 2001,
- ❖ Leadership Code of Conduct, Government Standing Orders,
- ❖ Income Tax Act,
- ❖ The Constitution of the Republic of Uganda,
- ❖ Finance and Accountability Act 2003,
- ❖ Electronic Records Management Policy,
- ❖ The E-mail policy and the Web content management policy
- ❖ Information security policy

Analysis of The Uganda National Records and Archives Act, 2001

- Act was enacted in 2001 to “provide for the rationalized management of all Government and other public records and archives under one single authority, for the preservation, utilization and disposal of such records and archives, for the repeal of the Records (Disposal) Act and for other connected matters”
- Part II of the Act stipulates the Establishment and Functions of A National Records and Archives Agency and the Agency shall be managed by a Director. The Act states that the Director and the other staff of the Agency shall be **officers in the public Service** of the Republic of Uganda and shall be appointed by the appropriate appointing authority.
- *I find this section weak in that it does not take into consideration the expertise of appointee in records and archives management as the Director. To achieve political gain, the appointing authority can ignore this crucial need for a Director.*

Analysis cont'

- Section 22, subsection 3, states that Any person who **borrow**s any public records or archive material from an organ of state, or from the National Archives or any other centre or archival repository under the control of the Director or from a place of deposit... and **refuses** to **return** such **borrowed** item commits an **offence** and is liable on conviction to a fine not exceeding one hundred currency points (A currency point is equivalent to twenty thousand Uganda shillings or approximately USD10) or imprisonment not exceeding two years or both.
- *The subsection is weak in that it does not only fail to state the **duration** someone is expected to take for him or her to be considered as has **refused** to return the item but promotes borrowing of archival materials outside the building. This is dangerous to the security of the archival materials. Archival materials should not be taken outside the Archive building for proper protection.*

Analysis cont'

- Part VI Section 24 (b) says that the funds of the Agency consist of grants, gifts, donations and loans that may be received by the Agency from any source within or outside Uganda.
- *This provision is too open that it allows even soliciting or receiving funds from countries considered hostile to Uganda. Sometimes donations from hostile countries have hidden strings attached that should be avoided.*

Analysis cont'

- Since Section 32 gives the Minister powers with the consent of the Cabinet, to amend the schedules to this Act by statutory instrument, this section should be urgently revoked to address the above loopholes.

Implementation of the Act

- Uganda is the only country in East and Southern Africa that does not have an independent national archive, although the institution was established by law and the first archived records acquired and preserved in 1955 in Entebbe
- Part II of the Act, spells out the establishment and functions of a National Records and Archives Agency that should be headed by a Director. Ten years now, there is no Agency and Director in place. How can then the Act be implemented? Political will from the government is required.

Conclusion and Recommendations

*“A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or perhaps both. **Knowledge** will forever govern **ignorance**: and a people who mean to be their own governors, must arm themselves with the power which knowledge gives.”*
- James Madison, 4th President of the United States of America 4 August 1822.

Way to achieve this is to make records and archives laws operate

Recommendations

- As a matter of urgency, the National Records and Archives Agency as stipulated in Records and Archives Act 2001 should be established and the Director appointed to execute the duties assigned.
- The Government of Uganda should consider information, records and archives as a cornerstone to ensuring democratic governance, accountability and promotion of human rights and allocate resources for the construction of the National Records and Archives Center.
- Part VI Section 24 (b) of the Act says that the funds of the Agency consist of grants, gifts, donations and loans that may be received by the Agency from any source within or outside Uganda. This provision as earlier noted is too open that it allows even soliciting or receiving funds from countries considered hostile to Uganda. Sometimes donations from hostile countries have hidden strings attached that should be avoided. This section should be amended to exclude countries considered hostile to Uganda.

Recommendations

- The Records and Archives Act 2001 states that the Director and the other staff of the Agency shall be officers in the public Service of the Republic of Uganda and shall be appointed by the appropriate appointing authority. As earlier noted, I find this professionally unacceptable. There should be a statement indicating that these officers should be with adequate education, training and experience in information, records and archives management.
- While parliament may pass a strong access law, **bureaucrats** can effectively undermine its impact by promulgating regulations or implementing internal rules which restrict its ambit. *To avoid this kind of scenarios, government bureaucrats should widely consult when designing policy documents to operationalize relevant records and archives legislations.*

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