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Kenyans Deserve a Robust Right to Information System

CLD today released an Analysis of the draft Kenyan Freedom of Information Bill, 2014, which found that, although the draft is relatively robust, it is significantly weaker than the version which was proposed in 2012. The biggest change is the decision to scrap the dedicated oversight body, the Freedom of Information and Data Protection Commission, and instead delegate oversight responsibilities to the Commission on Administrative Justice.

“For a country the size of Kenya, a dedicated information oversight body is absolutely critical to successful implementation of the right to information,” said Toby Mendel, Executive Director of CLD. *“It is high time for Kenya to adopt a right to information law, but we want that law to be as strong as possible.”*

The Analysis was based on the RTI Rating (www.RTI-Rating.org), according to which the new law scores 105 points out of a possible 150, placing it in a tie for 20th position globally from among the 98 laws from countries around the world which have been rated. This is a good score but the 2012 draft scored 114 points, which would have put Kenya in 11th place globally.

Another troubling change is the fact that the 2014 draft does not contain a section stating that its provisions prevail over those in other legislation to the extent of any conflict. This would leave in place the pre-existing, overbroad secrecy regime, including the Official Secrets Act.

Many of the other problems noted in the Analysis are relatively minor, however, and could easily be corrected through small drafting changes. CLD urges the relevant stakeholders in Kenya to act quickly to strengthen, and then formally adopt, the Kenyan Freedom of Information Bill, 2014.

The full analysis, along with the RTI Rating score, is available at: www.law-democracy.org/live/kenyans-deserve-a-robust-right-to-information-system.

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