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Analysis of Draft Kenyan Freedom of Information Bill

The Centre for Law and Democracy today published its analysis of the draft Kenyan Freedom of Information Bill. The draft Bill was prepared following a wide stakeholder consultation in November 2011, and it represents a harmonised version of earlier government and civil society drafts. It is hoped that the current process will finally bring to fruition the long-standing campaign for right to information legislation in Kenya.

“The draft Bill is an impressive document which scored very highly on our RTI Rating”, said Toby Mendel, Executive Director of the Centre for Law and Democracy. “At the same time, we are recommending a number of further improvements to help ensure full implementation of the right to information.”

The draft Bill has a number of strengths, including its wide scope, the narrow regime of exceptions and the establishment of an independent and powerful oversight body. A number of CLD’s recommendations are fairly technical in nature, and should be relatively uncontroversial to implement. Some of our key recommendations are:

• The rules on access to information held by private bodies should be better integrated into the law.
• The right of access should apply to everyone, not just citizens.
• The scope of the proactive publication obligations should be extended.
• Some of the exceptions should be further limited.
• It should be clear that public authorities bear the burden of proof in appeals against their decisions.
• The rules on punishment for obstruction of access should be extended.
• A full system for improving record management standards should be put in place.

The full Commentary is available at: http://www.law-democracy.org/?p=1600

The RTI Rating, developed by CLD and Access Info Europe, is available at: www.RTI-rating.org.

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