

# Botswana High Court Rules There Is no Right to Access Information without Legislation

*The High Court of Botswana has dismissed an application reviewing the WUC's refusal to release a report which researched water flow into the Gaborone Dam.*

GABORONE, BOTSWANA, September 27, 2023 /EINPresswire.com/ -- The High Court of [Botswana](#) in Gaborone has dismissed an application reviewing the Water Utility Company (WUC)'s refusal to release a report which researched water flow into the Gaborone Dam, case MAHGB-000361-17.

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*Melusi Simelane*

The applicant submitted that it was irrational to withhold the report and that section 12 of the Constitution – the right to freedom of expression – includes the right to access information.

The Court sided with the WUC in finding that the report

was intended for the benefit and aid of its operations and not for public consumption. The Court [concluded](#), “Botswana doesn’t have a freedom of information act. Parliament is yet to enact such a law.”

SALC’s Melusi Simelane, Civic Rights Programme Manager, said, “The decision is worrisome as [access to information](#) is crucial for personal development, democratic participation, economic progress and human rights. The WUC, as a publicly owned institution, should be transparent in disclosing pertinent information related to the Gaborone Dam, as it provides water to multitudes of families in Botswana. Given the impact of climate change, such information is critical for citizens. The right to access information should not be unenforceable pending future legislation.”

## Background

In 2014, the Sunday Standard newspaper carried a story entitled “The rich blocking water flow in Gaborone dam”, wherein it was reported that the WUC commissioned a study which allegedly revealed that dams are blocking the flow of water into the Gaborone Dam, resulting in lower water levels and water rationing.

The Water Utilities Corporation’s functions include supplying water and taking measures to

secure adequate water supplies. As part of its functions, the WUC operates the Gaborone dam located south of Gaborone along the Gaborone-Lobatse Road and provides water for both Gaborone and Lobatse. The effective catchment area covers 225 square kilometres drained by the Notwane, Taung, Metsemaswaane and Nywane rivers.

Botswana is highly vulnerable to climate variability and changes due to its high dependence on rain-fed agriculture and natural resources, high poverty levels – particularly in rural areas, and a low adaptive capacity to handle these expected changes. Climate change challenges are centred around water resource availability, changing precipitation patterns, accelerated evapotranspiration rates and increasing population demands, making communities vulnerable to food insecurity, unstable livelihoods and unsustainable agroecological systems, crop failure and unproductive rangelands.

The African Commission on Human and Peoples' Rights' Guidelines on the Right to Water in Africa (2019) requires that States "shall ensure that individuals and communities, especially vulnerable and marginalized groups, are given full and equal access, in an understandable and adapted manner, to information on their right to water and ways to exercise it and information concerning water management, water services and the environment, whether public authorities or third parties hold this information."

The Guidelines further require States to "ensure that requests for water-related information are to be processed rapidly and fairly, that an independent review of any refusals and complaints mechanisms is available and that applicants are provided with assistance if necessary."

The Botswana Gazette is represented by Tshiamo Rantao from Rantao Attorneys and supported by the Southern Africa Litigation Centre (SALC).

Full judgement here; <https://www.southernafricalitigationcentre.org/wp-content/uploads/2023/09/Gazzete-vs-WUC-judgment-.pdf>

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