

FREEDOM OF INFORMATION NEWS

African Declaration on Internet Rights and Freedoms Reaffirms Right to Information Online

Stakeholders on the African continent and their international partners met in Johannesburg, South Africa, on August 5 and 6, 2014, to finalize the text of an African Declaration on Internet Rights and Freedoms, a Pan African initiative to promote human rights online, which also reaffirms



Dr Nkosazana Dlamini-Zuma
African Union Commission (AUC) Chairperson

the right of everyone to information.

According to the Drafter's Group, "The development of the African Declaration on Internet Rights and Freedoms is a Pan-African initiative to promote human rights standards and principles of openness in internet policy formulation and implementation on the continent. The Declaration is intended to elaborate on the principles which are necessary to uphold human and people's rights on the internet, and to cultivate an internet environment that can best meet Africa's social and economic development needs and goals."

Principle 4 of the Declaration states that: "Everyone has the right to access information on the Internet. The Internet must continue to facilitate the free flow of information. All information, including scientific and social research, produced with the support of public funds should be freely available to all."

Continued on page 3

Right to Know Runs Radio Skits on FOI Act on Kapital FM

The Right To Know Nigeria (R2K) initiative has began a Freedom of Information (FOI) radio drama series titled "Your Right to Know Series" in an effort to increase public awareness about the Freedom of Information Act.

The drama series are run every Tuesday on Kapital FM 92.9 radio at 6.30pm and are sponsored by the Open Society Foundations(OSF).

Kapital FM radio can be received in the Federal Capital Territory, Abuja and across Nassarawa, Kogi, Niger and parts of Kaduna and Plateau states.

The series are also being live streamed on the radio station's website, ww2.radionigeria.gov.ng.

Mrs. Ene Enonche-Nwankpa,

National Coordinator R2K, explained that "these radio series will help increase and equip members of the public with requisite information that fosters better awareness of the provisions of the Act. R2K by this drama series intends to take advantage of radio's wide coverage and patronage to increase sensitisation especially in the rural areas; thus to ensure that information is not discriminatory and that all Nigerians can access the tools of empowerment for effective participation in governance."

According to R2K, "Your Right to Know Series" is an entertainment-education approach on radio geared towards demystify the principles and

Continued on page 4

Table of Content

* FOI News	1
* FOI Quotes	4
* FOI Hall of Fame	5
* FOI Lawyer's Profile	7
* FOI Litigation	9
* FOI Law Reports	10
* FOI Case Studies	13
* Upcoming FOI Events	14
* FOI Resources	15
* FOI Regional & International Developments	16
* FOI Tracker	17
* Standards and Principles	20
* Literature Review	23

SECRETARIAT

Edetaen Ojo

Executive Director

Jennifer Onyejekwe

Deputy Executive Director

Ayode Longe

Programme Manager

Adefoluke Adegbite

Programme Officer

John Gbadamosi

Programme Officer

Adesoji Fateye

Programme Officer

Mosun Oladapo

Legal Officer

Chioma Phibe Nwaodike

Legal Officer

Eseohé Ojo

Communications Officer

Oluwabunmi Bamiselu

Administrative Manager

Kingsley Aisagbonhi

Accountant

Ronke Akogun

Secretary/Receptionist

Khadijat Idowu Olanihun

Office Assistant

CONTACT US

The Editor

FOI Newsletter

Media Rights Agenda

14A, Fagba Crescent

Off Acme Road, Ikeja

P. O. Box 52113, Ikoyi

Lagos Nigeria

Tel: +234-1-7616803

E-mail: foi@mediarightsagenda.net

website: www.foicoalition.org

www.mediarightsagenda.net

MRA, JDPC Ijebu-Ode Train CBOs to Use FOI Act

Media Rights Agenda (MRA) in conjunction with the Justice, Development and Peace Commission (JDPC) of the Catholic Diocese of Ijebu-Ode carried out a three-day capacity building training on using the Freedom of Information (FOI) Act 2011 to ensure good governance.

The training took place in Ijebu Ode at JDPC hall held on July 8 to 11, 2014. 50 participants working at Community-based organisations were invited from 9 Local Government Areas (LGAs) out of the 20 LGAs in Ogun State. The identified LGAs are covered by the Catholic Diocese of Ijebu-Ode.



Edetaen Ojo,
Executive Director, Media Rights Agenda

The training aimed to improve citizen's knowledge of the FOI Act 2011 as a tool to engage government and thereby increase transparency and accountability in governance.

Presentations were made on Understanding the FOI Act; What is Freedom of Information? and Why is it important? Key features of the FOI Act, 2011; Proactive Disclosure under the FOI Act; and Information Exempted from

General Access under the FOI Act.

Other presentations focused on ensuring effective implementation of the law by monitoring public institutions' compliance with the FOI Act. Case studies of FOI usage from different parts of the world were also discussed at the meeting and

mechanisms for enforcing compliance with the FOI Act were highlighted.

Participants were trained on making requests for information especially in compliance with the law. Diverse Information Education Communication (IEC) materials

on the law were shared to all participants as well as documentaries on how the law has been used in other countries to access information.

Participants were grateful for the opportunity provided by the organizers to learn of the FOI Act and promised to ensure that the law is mainstreamed within other activities carried out in their respective organisations. They were encouraged to use the law and if need be contact MRA whenever they encounter challenges in carrying out activities in relation to the law. ■

African Declaration on Internet Rights and Freedoms

The Declaration builds on well-established African human rights documents including the African Charter on Human and Peoples' Rights of 1981, the Windhoek Declaration on Promoting an Independent and Pluralistic African Press of 1991, the African Charter on Broadcasting of 2001, the Declaration of Principles on Freedom of Expression in Africa of 2002, and the African Platform on Access to Information Declaration of 2011.

The idea for an African Declaration on Internet Rights and Freedoms was agreed at the 2013 African Internet Governance Forum held in Nairobi, Kenya, in September 2013. A broader meeting was subsequently convened in Johannesburg in February 2014 to commence drafting the Declaration.

The Johannesburg meeting was attended by participants from the Africa Centre for Open Governance, Article 19, Association for Progressive Communications (APC), CIVICUS, Collaboration on Internet ICT Policy in East and Southern Africa, Commission on Human Rights and Good Governance, DotAfrica, Eduardo Mondlane University, Global Partners Digital, The Institute for Social Accountability, Internet Society Ghana, Kenya Human Rights Commission (KHRC), Kictanet, the Media Foundation for West Africa (MFWA), Media Institute of Southern Africa (MISA), Media Rights Agenda (MRA), Paradigm Initiative Nigeria (PIN), Protégé QV, South African Human Rights Commission, Support for Information Technology and Web We Want (WWW).

A smaller Drafter's Group, led by Mr. Edetaen Ojo, MRA's Executive Director, developed the text of the Declaration in consultation with the partners in the project and based on feedback from the wider group, from an online public consultation, and from many eminent individuals and organisations from a range of African and international actors and institutions.

The Declaration notes that "The internet offers new opportunities to access official information, and for governments to communicate with people, through the use of open data. Open data and new forms of online consultation can empower people to take a more active part in public affairs."



Mohamed Ould Abdel Aziz
Chairman of the African Union

It therefore affirms that "Data and information held by government should be made publically accessible, including being released proactively and routinely, except where legitimate grounds for restricting access to such information exists in the relevant access to information legislation."

According to the Declaration, "Public and relevant private bodies have a duty to collect information on their operations and activities on behalf of their citizens. They also have an obligation to respect minimum

standards in relation to the management of this information to ensure that it may easily be made accessible to citizens. States and relevant non-state actors should demonstrate good practices in the management of data. The use and re-use of government held data and information should be available free of charge wherever practical, and if not, pricing should be transparent, reasonable, the same for all users, and not designed as a barrier to the use or re-use of the data."

It stipulates that "Copyrighted materials held by public bodies should be licensed for re-use in accordance with relevant access to information laws and licensing frameworks."

The Declaration also stresses that "The existing obligation on public bodies to share all information produced with the support of public funds, subject only to clearly defined rules set out in law, as established by the Declaration of Principles on Freedom of Expression in Africa, shall extend to the proactive release of such information on the World Wide Web in openly licensed, freely re-useable formats."

The drafters of the Declaration say that their mission is for the Declaration to be widely endorsed by all those with a stake in the internet in Africa and to help shape approaches to internet policy-making and governance across the continent.

The Declaration will be launched at the Ninth Internet Governance Forum (IGF) scheduled to take place in Istanbul, Turkey, from September 2 to 5, 2014. ■

Right to Know Runs Radio Skits on FOI Act on Kapital FM

provisions of the FOI Act to the public; to make it easier for members of the public to relate with the value and usage of the Act.

R2K says the series are embedded with practical instances for simpler understanding, to increase



Mrs. Ene Enonche-Nwankpa of R2K

awareness, empower members of the public to utilise the provisions of the Act and help strengthen compliance of the Act on a wider reach, in recognition of Sections 3 (3) and (4) of the Act, which provides that all people have the right to access information.

Besides, it said, in a bid to ensure that all persons are cognisant of their right, and in recognition of the fact that there are members of the public who lack English proficiency, the programme will be aired in both English and Pidgin, to reach a wide and diverse audience.

R2K promised to also make available on its own website audio copies of the drama series.

Emperor Iwuala Heads Imo NUJ FOI Desk

The Imo State Council of the Nigeria Union of Journalists (NUJ) last month established a Freedom of Information Desk to assist journalists in the State utilize the Freedom of Information Act (FOI) Act in their work.



Innocent Igwe,
Chairman of the Imo State Council of the NUJ

The Chairman of the Imo State Council of the NUJ, Mr. Innocent Igwe, said the Desk will among other things, organise workshops, build the capacity of journalists to apply the Act and liaise with relevant Departments and Agencies towards the achievement of the objectives of the FOI Act by media practitioners in the state.

Inaugurated on July 23, 2014, the Desk is to be headed by the former Chief Press Secretary to the Imo State Deputy Governor, Mr. Emperor Iwuala, a lawyer and journalist, while Ahudia Onunuju, Emma Iheaka, John Kennedy Uzoma, Ngozi Ihekere and Ifeanyi Nwanguma will serve as members.

FOI QUOTES

"Secrecy is the linchpin of abuse of power, we discovered, its enabling force. Transparency is the only real antidote."

-Glenn Greenwald

"Secrecy, being an instrument of conspiracy, ought never to be the system of regular government."

- Jeremy Bentham, *On Publicity* from *The Works of Jeremy Bentham* volume 2, part 2 (1839)

"Without publicity, no good is permanent; under the auspices of publicity, no evil can continue."

Jeremy Bentham, 1768.

"Information is the currency of democracy." Attributed to Thomas Jefferson, but the website at Monticello, his home in Virginia, reports no evidence that Jefferson used this phrase and says it first appeared in 1971 in a speech by Ralph Nader.

"Let the people know the facts, and the country will be safe."

- Abraham Lincoln, 1861. 16th US President.

"As a general rule, the most successful man in life is the man who has the best information."

-Benjamin Disraeli, 1880. British Prime Minister.

"Government ought to be all outside and no inside... Everybody knows that corruption thrives in secret places, and avoids public places, and we believe it a fair presumption that secrecy means impropriety." - Woodrow Wilson, 1912. U.S. President. From his campaign book, *The New Freedom*.



LEDAP: Using FOI Act to Protect Human Rights and Promote Good Governance

The Legal Defence and Assistance Project (LEDAP) has made over 75 requests for information since the passing of the Freedom of Information Act in 2011, and ranks among the leading civil society organizations making targeted efforts to engage the FOI Act.

So far, LEDAP has been able to cover a wide range of fields by requesting information from public institutions spanning different sectors, including the National Assembly, the Economic and Financial Crimes Commission (EFCC), the National Security Adviser (NSA) to President Goodluck Jonathan, the Nigerian Electricity Regulatory Commission (NERC), among others.

LEDAP is perhaps most noted for its FOI request to the National Assembly, dated July 6, 2011, in which it asked for the details of the salaries, emoluments and allowances paid to all Members of the House of Representatives and Senators, in the 6th Assembly, from June 2007 to May 2011.

Following the failure of the National Assembly to provide the information, LEDAP challenged the refusal to provide it with the information at the Federal High Court in Abuja before Justice Balkisu Bello Aliyu.

The court gave its verdict on Monday, June 25, 2012 and upheld LEDAP's claims, ordering the National Assembly to disclose to LEDAP within 14 days from the date of the ruling detailed information on the salary, emolument and allowances paid to all Members of House of Representatives and Senators of the 6th Assembly, from June 2007 to May 2011.

LEDAP aims to use the law to protect human rights and promote good governance and engages the FOI law in an attempt to monitor spending of public funds and ensure compliance with the law by public institutions.

Out of over 75 written requests sent out by LEDAP, about 21 have been answered leaving over 50, a surprising 67 per cent unanswered and five currently pending.

LEDAP National Coordinator, Chino Edmund Obiagwu, notes that from the organization's experience in engaging the Act, the rate of compliance with the law among public institutions is still less than 10 percent. He also notes that most lawyers are not keen to litigate



Mr. Chino Obiagwu,
National Coordinator of the Legal Defence and Assistance Programme

cases for free and there is little or no pro bono culture in the country.

LEDAP has challenged all denials or deemed denials in courts resulting in 34 FOI cases with 32 pending. LEDAP however has two successful cases and one on appeal, in which the National Assembly is challenging the court order regarding details of the salaries and emoluments of members of the National Assembly.

LEDAP's staff strength includes 12 legal staff and therefore in-house lawyers are used in their litigation. LEDAP also uses volunteer lawyers who are enlisted as members of LEDAP.

Mr. Obiagwu notes that there is need for a request guide as most requests he has seen from journalists and NGOs do not disclose particulars of what is requested, so sometimes institutions are not clear on what is being requested. In the interest of clarity and leaving no room for maneuvers, requests should be well thought out, articulate and precise.

Information so far requested by LEDAP includes:

- Details of road contracts from Federal and State government

Continued on page 6

LEDAP: Using FOI Act to Protect Human Rights and Promote Good Governance

- .. Details of 2005, 2006 and 2013 air crashes investigation report from AIB (Accident Investigation Bureau)
- .. Details of loans taken by 21 state governments
- .. Details of security votes allocated and paid to state governors in all 36 states
- .. Details of asset declaration of all ministers and the president from the Code of Conduct Bureau
- .. Details of fund and disbursement of the National Ecological Fund
- .. Details of funds raised and disbursements from the National Refugee Commission of the Flood Disaster Relief Fund in 2012
- .. Details of salary and emoluments of legislators of the National Assembly and all state Houses of Assembly
- .. Details of funds allocated and released to State UBE by all state governments
- .. Details of allocations and disbursements by MDG office of the Presidency to State and Local Governments in 2011 to 2013
- .. Details of interest holders in DISCOS from the NERC
- .. Details of EIA of the Atlantic City from the Lagos State Ministry of Environment
- .. Details of daily income earned from the Lekki Toll plaza from LCCI used to test the enforcement of FOI on private institutions.
- .. Details of money spent by CBN in renovation of the CBN governor's residence in Abuja
- .. Details of aircrafts registered and operating in Nigeria from NCAA which was replied with the information provided.
- .. Details of admissions and scores from 10 federal universities for 2011/2012 and 2012/2013
- .. Audited account of the political parties for the 2011 campaigns from INEC which was responded and the reports were provided.
- .. Details of PPP contract for Abuja airport road



and Ibadan-Lagos expressway which was responded and provided by the Federal Ministry of Works

- .. Details of funds returned from abroad of Abacha loot from EFCC and NSA for which scanty information was provided and a suit was subsequently instituted.

Besides litigation, LEDAP also trains lawyers on litigating FOI requests. LEDAP estimates cost implications of their litigation process to be about N150,000 from filing to conclusion for High Court proceedings while the Appeal Court proceedings are about N250,000 per case.

Mr. Obiagwu says journalists rarely follow through on requests and the long period of litigating a denial of FOI request discourages potential litigators. He also notes that there is so far still no sanction for defaulting institutions.

For more information, contact LEDAP at:
 11b Christ Avenue
 Off Admiralty Road
 Lekki Phase 1, Lagos
 Email: info@ledapnigeria.org; ledap@hyperia.com
 Phone numbers: +234 1 7611852, 2802009, 08036913264, 08074952798, 07028053366
 Fax: +23412802009
 Website: www.ledapnig.org ■

FOI Lawyer's Profile

Bamidele Aturu: A Tribute to a Pioneer FOI User, Litigator in Nigeria

Bamidele Aturu, student leader, physicist, lawyer, social commentator, human rights activist, and patriot, lived his relatively short life with a sense of purpose and urgency. In everything he did until his untimely death last month, July 9, 2014, Aturu acted like he knew that he had only a short time to achieve all the goals he set for himself in his crusade to rescue the nation.

Less than two weeks after the Freedom of Information Bill became Law, Bamidele Aturu lodged the first known FOI request in Nigeria on June 7, 2011 on behalf of the Committee for the Defence of Human Rights (CDHR) before the Economic and Financial Crimes Commission (EFCC), seeking the names of member of the CDHR alleged by the EFCC to have collected a bribe.

The EFCC had in a statement accused the civil society organization of collecting N52 million from some of the suspects being investigated by the Commission in order to weaken and campaign against the Commission.

Less than 30 days after he lodged the request and after the EFCC had failed to provide it with the information, Bamidele Aturu launched the first FOI case in Nigeria when in the morning of July 6, he filed Suit No: FHC/L/CS/ 784/2011 on behalf of Olasupo Ojo (for himself and the Committee for the Defence of Human Rights) at the Federal High Court in Lagos, seeking an order of mandamus directing the EFCC to make available to the Applicant details of the information that the leadership of the CDHR collected the sum of N52 Million from an unnamed suspect being investigated by the EFCC.

In a statement he issued on the day he filed the suit, Aturu said the EFCC's refusal to comply with the request he made on behalf of the CDHR compelled him "to have recourse to section 20 of the Freedom of Information Act, 2011" and that his action was "in fulfillment of our promise to use the Act responsibly but



Late Barr. Bamidele Aturu

unhesitatingly." Aturu then went on to "encourage all Nigerians to do likewise."

On July 18, 2011, a Nigerian court heard the first ever FOI case in the country as Aturu, leading Mr. Chukwuyem Atewe and Mr. Ode Abah, argued his ex parte application on behalf of the CDHR for leave to apply for an order of mandamus to compel the EFCC to disclose the information requested.

That same day, Justice Binta Fatima Nyako of the Federal High Court granted the first ever leave under the Freedom of Information Act in the suit.

On March 1, 2012, Aturu won the first FOI case in Nigeria as Justice Nyako granted his application for an order of mandamus to compel the EFCC to disclose to the CDHR:

- The name of the suspect or suspects that gave N52 Million to the leadership of the CDHR;
- Persons in the leadership of the CDHR to whom the money was given; and
- The manner in which the money was paid, that is, when, where and how.

In another statement he issued that day announcing the victory, Aturu said: "Nigerians must make use of the Act to expose corruption and corrupt or reckless public officials."

Aturu himself remained an avid user of the FOI Act. For instance, On June 13, 2012, Aturu applied to the Minister of Aviation pursuant to Sections 1, 3 and 4 of the FOI Act, seeking access to the reports of all the air crashes, accidents/and or incidents that occurred within the Nigerian Airspace between November 20, 1969 and June 3' 2012.

Following the failure of the Minister to provide the information, Aturu filed a suit against the Minister and the Aviation Ministry on June 22, 2012, at

Continued on page 8

FOI Lawyer's Profile

Continued from page 7

Bamidele Aturu: A Tribute to a Pioneer FOI User, Litigator in Nigeria

the Federal High Court in Abuja, seeking an order of mandamus to compel them to make the information available to him.

Again, on December 31, 2012, Aturu made an FOI request on behalf of another lawyer, Anthony Itedjere, to the Governor of the Central Bank, seeking from him the following information:

- a. How much is your total remuneration (that is salary plus allowances) per month?
- b. Do you charge the Bank or the Federal Government of Nigeria any fee outside your monthly remuneration? If so, state any such fee you have received since becoming the Governor of the bank?
- c. Do you travel business class or economy within Nigeria?
- d. Do you travel first class, business class or economy when travelling out of Nigeria?
- e. Have you ever used chartered plane for any of your travels within and outside Nigeria?
- f. If your answer to the above is in the affirmative, kindly list all such instances specifying the dates, the airline(s), the cost and the duration of the charter?
- g. Does the Bank own an aircraft? If so, what is the cost of the craft and the cost of its servicing and maintenance?
- h. How many drivers are attached to your office by the bank?
- i. How many cleaners are attached to your office by the bank?
- j. How many drivers are attached to your house by the bank?
- k. How many cleaners are attached to your house by the bank?
- l. How much is your monthly imprest?
- m. When you travel within Nigeria, how much is your allowance?
- n. When you travel outside Nigeria, how much is your allowance?
- o. When last did you spend your personal money on purchasing fuel since you became the Governor of the bank?

The Central Bank partially responded to the request on February 1, 2013, providing only some of the information requested.

Aturu was called to the Nigerian Bar in 1995 after completing his LLB programme from Obafemi Awolowo University, Ile-Ife in 1994 and his studies at the Nigerian Law School in Lagos. He then proceeded to the University of Lagos, where he did his postgraduate studies and obtained his LLM in 1996.

Born on October 16, 1964, Aturu attended Adeyemi College of Education in Ondo, where he studied Physics graduating with a First Class degree. He was the student union president at Adeyemi College of Education. He had a brief stint as a classroom teacher before he went to study Law. While at the Obafemi Awolowo University, he was Vice President of the National Association of Nigerian Students (NANS).

Aturu first came to limelight in 1988 when, during the passing-out parade of the National Youth Service Corps (NYSC), he refused to shake hands with Colonel Lawan Gwadabe, the then Military Governor of Niger State, because, according to him, it was the military that had caused great harm to the democratic aspirations of Nigerians.

He was a member of the Democratic Alternative (DA) which later metamorphosed into a political party through which he sought to pursue the institution of democratic principles in Nigeria. He was a founding member of Youths Against Misguided Youths (YAMY) that opposed the government-sponsored Youths Earnestly Ask for Abacha (YEAA) group led by Daniel Kalu, which organized the infamous one million man march in support of the then military dictator, the late Gen. Sani Abacha.

Aturu was a staunch supporter of the campaign for the enactment of the Freedom of Information Bill into Law.

He wrote a number of books including "A Handbook of Nigerian Labour Laws" and "Nigerian Labour Laws and Elections and the Law." He was also a columnist with various newspapers at different times.

The Nigerian Freedom of Information Community salutes Aturu for his contribution to the advancement of the Law and the development of Nigeria. ■

FOI Litigation

Public And Private Development Centre (PPDC) Vs The National Security Adviser (NSA)

A federal High Court in Abuja has granted the Public and Private Development Centre (PPDC) leave to apply for an Order of Mandamus to compel the National Security Adviser (NSA) to President Goodluck Jonathan to disclose details of contracts awarded by the NSA's Office in 2013 for the installation of Closed Circuit Television (CCTV) Cameras in Abuja.

The Applicant, PPDC asked the Court in a motion ex parte for leave to apply for the order compelling the Office of the National Security Adviser to disclose the names of each project for which capital warrants were approved in the 2013 fiscal year, the dates payment approvals and releases were made, the amount utilized for each of the listed projects within the 2013 fiscal year and the level of completion of each project.



Seember Nyager, C E O of PPDC

It also sought leave to compel the Office of the National Security Adviser to disclose the names of companies to which the contracts for the procurement of the CCTV cameras were awarded in 2013, the number of units of the cameras that was awarded to each company to be supplied, the plan for installation of the CCTV cameras, the locations where the cameras were installed or are to be installed, the current status of implementation of the contracts, a copy of each contract document executed by the parties in respect of the contracts and records showing the procurement method adopted in the selection of the contracts.

In the statement filed along with the motion, PPDC stated that the office of the National Security Adviser is a public institution as defined by the FOI Act, 2011. The statement explained that the NSA's budget in 2013 included N150 million naira approved to cover the procurement and installation of the CCTVs in the FCT.

The proceedings followed the applicant's request for the

information in a letter dated May 27, 2014 and the subsequent refusal by the NSA to provide the information and documents requested.

The information was denied in a response by the office of the NSA to PPDC's letter which stated that disclosure of such information may be injurious to ongoing efforts to secure the country.

Procurement monitors have stated that the NSA failed to show how release of details on public expenditure,



**Colonel Sambo Dasuki,
National Security Adviser to President Goodluck Jonathan**

would be injurious to national security and since the documents in question are not expressly exempted from

disclosure by the FOI Act, the Office of the NSA had no basis for refusing to disclose the information.

On 10 July, 2014, PPDC was granted leave to apply for the order compelling the Office of the NSA to disclose the names of each project for which capital warrants were approved in the 2013 fiscal year, the dates payment approvals and releases were made, the amount utilized for each of the listed projects within the 2013 fiscal year, and the level of completion of each project. Also granted was leave to apply for an order compelling the Office of the NSA to disclose the names of companies to whom the contracts for procuring the CCTV cameras were awarded in 2013, the number of units of the camera that was awarded to each company to be supplied, the plan for installation of the CCTV cameras, the locations where the cameras were installed or are to be installed, the current status of implementation of the contracts, a copy of the each contract document executed by the parties in respect of these contracts and records showing the procurement method adopted in the selection of the contracts.

The court ordered that a hearing notice be issued on the NSA and the case was adjourned to September 24, 2014 for hearing. ■

The FOI Act Creates Legal Rights Without Corresponding Legal Duty, Says Judge

In the Federal High Court of Nigeria
In the Abuja Judicial Division
Holden at Abuja

On Wednesday, the 3rd Day of July, 2013
Before his Lordship, the Hon. Justice G. O. Kolawole,
Judge

Suit No. FHCABJ/CS/402/2013

Between:

In the Matter of Paradigm Initiative
Nigeria
PLAINTIFF

And

Dr. Reuben Abati
RESPONDENT

On June 6, 2013, the court heard the oral submissions of the Applicant's counsel, K. Nnajiaka, Esq. on a Motion *Ex-parte* dated June 5, 2013.

The Motion *Ex-parte* seeks “leave to apply” for “an Order of Mandamus compelling the Respondent to make available to the Applicant detailed information of the contract set out in the Statement setting out the Name and Description of the Applicant, the Reliefs sought and the Grounds on which they are sought”.

In the Statement filed pursuant to order 34 Rule 3(2) of the Federal High Court (Civil Procedure) Rules, 2009, the Applicant who describes itself as “a Nigerian Civil Society Organisation registered with the Corporate Affairs Commission” seeks two declaratory reliefs and an Order of Mandamus – as an ancillary order in furtherance of the substantive declaratory reliefs which are sought pursuant to the provisions of the Freedom of Information Act, 2011.

His Lordship, Justice G.O. Kolawole, noted that the Freedom of Information Act is a new legislation in Nigeria which, in his view, forms part of the government's policy as a response to the yearnings of Nigerians and such groups as the Applicant to entrench transparency in public administration, and perhaps as a follow up to such other new legislation like the Public Procurement Act or the Fiscal Responsibility Act.

He said all of these are incidental to the practice of democratic governance to facilitate accountability in the spirit and letters of the provisions of Section 14(1) & (2) (a); (b) & (c) of the Constitution of the Federal Republic of Nigeria, 1999, as amended.

The Applicant's Counsel drew the Court's attention to the process filed and adopted the written address filed

in its support. In the written address, the Applicant's Counsel referred to the provisions of Order 34 Rule 3(1) of the Federal High Court (Civil Procedure) Rules, 2009 and submitted that under the Freedom of Information Act, an applicant “needs not demonstrate any specific interest in the information being applied for”.

His Lordship noted that the Applicant's Counsel was

however silent on the status or position of the Respondent to make him amenable to an order of mandamus in the event that leave sought is granted.

He said in the light of the novel nature of the rights that the Freedom of Information Act has created in every citizen, notwithstanding the provision of Section 45(1) (a) & (b) of the Constitution of the Federal Republic of



Dr. Reuben Abati,
Special Adviser to President Jonathan on Media and Publicity

Continued on page 11

The FOI Act Creates Legal Rights Without Corresponding Legal Duty, Says Judge

Nigeria, 1999, as amended, he adjourned the ruling so as to study the processes filed vis-à-vis the provisions of the Act “which is yet to garner sufficient judicial decisions on its provisions”.

The judge noted that unless adequate statutory safeguards are embedded in the Freedom of Information Act, the underlying intention of the government when it enacted the Law may be undermined or subverted as irate individuals or busy bodies will abuse the rights which it has created with regard to information on public administration.

He said: “I should not be seen as an advocate for a restrictive or secretive process in public administration, but I do not think that there is any country in the world, where access to all forms of public records are thrown open even to an Applicant who is not required to show any specific interest in the information requested from a public body.”

The judge continued: “The United States of America, that prides itself as the leader of the 'free world' and the champion of 'electoral democracy' is currently engaged in a battle of wit with one of her citizens, one Mr. Edward Snowden who had without authority, leaked confidential NSA security information on surveillance the United States allegedly conducted on security issues of some of its allies, including European Union countries. The point I am trying to make is that the responsibility to use the Act by Nigerians responsibly as an instrument to ensure transparency in governance should not be left so loose and at large without any form of checks and perhaps, balances.”

According to him, “The checks or safeguards may be legislative in nature or judicial in form as was the case in the provision of Order 34 Rule 3(4) of the Federal High Court (Civil Procedure) Rules, 2009 which requires an

Applicant for any of the prerogative orders for judicial review to demonstrate that he has 'sufficient interest in the subject matter to which the application for leave relates'”.

The judge noted that the “safety valve as a judicial instrument to prevent abuse of a resort to the provision of Order 34 of the Federal High Court (Civil Procedure) Rules, 2009 has been exempted from the operation of the Freedom of Information Act!”

He stressed that: “I believe in transparency with regard to the processes of governance, whether it is legislative, administrative or judicial. But, it is my view,

that it is also part of transparency that rights created by enactments such as the Freedom of Information Act, 2011 are themselves not abused by irate litigants or those one may describe as 'busy bodies'”.

He said: “I really cannot see any logic in terms of correlative duties and of jural relations between an Act that creates and vests a right in a person on the one hand, and the same Act, on the other, states that such person does not have to demonstrate any specific interest in the information being applied for! The Act has created legal rights without a corresponding legal duty. This is to create a situation where scarce public resources, time and energy are permitted to be squandered in attending to a request for information which the person applying for it need not show that he needs if he is excused by the Act from showing that he has any specific interest in the information being applied for. It is time that the National Assembly undertakes a review of the Act so as to ensure that access to information is only made available to such Applicants who genuinely need it for specific purpose(s).”



Gbenga Sesan, Executive Director, Paradigm Initiative Nigeria

The FOI Act Creates Legal Rights Without Corresponding Legal Duty, Says Judge

The judge noted that reading through the processes filed, the Applicant merely stated in paragraph (iii) of the Statement filed that the Respondent is the “Special Adviser to the President on Media and Publicity” but did not state that the Respondent in that capacity was being sued as one who awarded the contract in issue.

He questioned whether it was sufficient that by his being a “Special Adviser” to the President on Media and Publicity, he was by any extant law involved in the award of the contract on which information, the particulars of which were stated in paragraph (iv) 1(a) – (h) and 2(a) & (b) of the Statement is requested.

He also questioned whether it is the case that even as “an officer of the Federal Government in charge of information”, he was involved in the award of the alleged contract even though, on the face of the processes filed, he was sued *eo nomine* as a “private citizen”.

The judge said he was not aware of any legislation by which the “Office of a Special Adviser to the President on Media and Publicity” was created as to make “the Respondent as sued in the Motion *Ex-parte* to be seen as a public body, authority or officer who is *prima facie* amenable to prerogative orders of mandamus which are judicial instruments to enforce the performance of public duties.”

He explained that his reason for expressing this view is based on his “understanding of a community reading of the Act which is the fulcrum of the right being sought by the Applicant to enforce by way of an order of mandamus.”

According to him, “Reading through the Act, my view is that it is essentially enacted to create an enforceable rights against public institutions and bodies established by law and not against private individuals as citizens. Who is Dr. Reuben Abati? The initiating processes, except paragraph (iii) of the Statement filed, which enjoys similar status as a pleading in proceedings initiated by a Writ of Summons where Statement of Claim is filed, was silent on the capacity in which he was sued as a Respondent.”



Dr. Reuben Abati

He held that “it will be an injudicious exercise of my discretion, pursuant to the provisions of Order 34 of the Federal High Court (Civil Procedure) Rule, 2009 to proceed by granting leave to the Applicant to apply for an order of mandamus against a Respondent who has not been sued or shown to be a public institution or authority, and even as an ‘officer of the Federal Government in charge of information’, that has not been shown to have awarded any contract and to be amenable to the issuance of prerogative writs of mandamus to compel the performance of a public duty after a refusal to do so has been established.”

The judge held further that “to do otherwise, is to authorize the Applicant to initiate a legal action against a presumably private citizen and to be required to make available to the Applicant, information on award of a contract that has not been shown to have been awarded by a public body, institution or authority.”

He said for these reasons, he was “unable to accede to the Applicant’s Motion *Ex-parte*” and accordingly refused it.

He therefore struck out the Motion.

K. Nnajiaka, Esq., holds brief for K. Amole, Esq. for the Applicant. ■

U.S. FOI Act Reveals Michelle Obama's Trip to Ireland Cost Over USD7.9m

In the United States, a response to a Freedom of Information (FOI) request revealed that the First Lady, Michelle Obama's three-day trip to Ireland in 2013 cost taxpayers over USD7.9 million.

Air Force documents obtained after a law suit filed by Judicial Watch, Inc. following an FOI request, revealed that Michelle Obama, her daughters and their entourage cost



U. S. First Lady, Michelle Obama

taxpayers USD7,670,476.80 in flights to, from and around Ireland during their June 17 to 19 trip in 2013.

Judicial Watch is a conservative educational foundation that aims to promote transparency

, accountability and integrity in government, politics and the law and it seeks to fulfill its educational mission through litigation, investigations, and public outreach.

Documents from the Department of Homeland Security obtained by Judicial Watch further revealed that the total cost for "security and/or other services" for a side trip to Dublin by Michelle Obama and her entourage was USD251,161.86.

The amount included the sum of USD55,004.85 spent at the Shelbourne Hotel and USD70,855.44 at the Westbury Hotel.

The documents revealed that taxpayers spent a total of at least USD7,921,638.66 on the First Lady's trip.

She departed for the Dublin tour aboard Air Force Two after accompanying President Barack Obama on a meeting with Northern Ireland youths.

Other documents obtained in another instance, also using the U.S. FOI Act, showed that the First Family's vacation to Martha's Vineyard in 2013 cost USD1,164,268.60 in flight expenses.

The First Family's official trip to African in 2013 cost USD8,104,224 in flight expenses.

The First Family's Christmas vacation in Honolulu in 2013/2014 cost USD7,781,361.30 ■

Computer Operator Uses New RTI Law to Get His 'Missing' Job

In Pakistan, a 28-year-old job seeker, Sabahat Ghaznavi, applied for a position in December 2013 as a computer operator at the Bureau of Agriculture Information in Khyber Pakhtunkhwa (formerly called North-West Frontier Province), one of the four provinces of Pakistan.

According to "The Express Tribune" newspaper of Pakistan published on July 18, 2014, after the test and interview for the post, the merit list was displayed and Ghaznavi's name was on it as a successful candidate. The list was put up on the notice board at the department but was removed after a short



Sabahat Ghaznavi

while.

Ghaznavi was suspicious but when he asked why the merit list was removed, he was told that due to unknown circumstances the job offer has been cancelled and that it would be re-advertised in February 2014.

The job was, indeed, re-advertised in March 2014 in the daily Aaj newspaper. But Ghaznavi was not convinced and used Khyber-Pakhtunkhwa's new law on the Right to Information to apply for information, asking for access to the minutes of the test and interview and the merit list that was produced afterwards.

After he was given the documents, he filed a suit at the Peshawar High Court challenging the cancellation and the court ruled in his favour. He joined the Bureau as a computer operator on June 25, 2014.

Ghaznavi said afterwards "I got my right through the RTI law," adding that "I am here because of the RTI law and I will always spread the word about it to inform other people about using it to beat corruption in society." ■

Upcoming FOI Events

September 10, 2014: RTI Implementation: Requests and Appeals Webinar

The World Bank will hold an e-webinar on September 10, 2014 at 10 a.m. EST on a forthcoming report concerning the findings of a study on RTI requests and appeals data published by central reporting bodies in eight countries: South Africa, the United States, Thailand, Jordan, India, Mexico, Brazil, and the United Kingdom. Register at <http://eoinstitute.worldbank.org/ei/webinar/rti-implementation-requests-and-appeals>.

September 15-25, 2014: Global Legislative Openness Week

A week of openness activities around the world, with events hosted by the Legislative Openness Working Group of the Open Government Partnership and members of the parliamentary openness community takes place from September 15 to 25, 2014. More information can be found on <http://openparl2014.org/>

September 22 – 28, 2014: Right to Know Week

September 22-28 is known as Right to Know Week 2014 around the world with activities being scheduled for the week as well as September 28, the International Right to Know Day. Each year on September 28, approximately 100 countries and non-governmental organizations around the world celebrate Right to Know Day.

Call for papers for the Transparency and Open Government Panel

The Transparency and Open Government Panel will be held at the next International Research Society for Public Management (IRSPM) Conference in Birmingham, the United Kingdom. The organisers are inviting proposals for papers to be given at Conference. Applications from doctoral researchers either into the main panels or the New Researcher's stream are welcome.

Please go to www.irsmpm2015.com to see the wide range of panels being offered at this Conference

and submit your proposals. The closing date for paper proposals is October 15, 2014

October 13 to 15, 2014: Nigerian Institute of Advanced Legal Studies Training on FOI Act and its Application

October 13 to 15, 2014: The Nigerian Institute of Advanced Legal Studies holds Training Course on the Freedom of Information Act and its Application. This training course on Freedom of Information and its Application centres on addressing issues which hamper the optimal functionality of the Freedom of Information Act in different sectors, namely: The Judiciary, Journalism, Legal Practice, Activism, and Research, among others. The objective of the training course is to offer a comprehensive understanding of the Freedom of Information Act amid the challenges affecting its optimal application in Nigeria today.

October 15 to 19, 2014: Media Rights Agenda and the Transition Monitoring Group Workshop on FOI and Elections for North-East Zone

October 15 to 19, 2014: Media Rights Agenda (MRA) and the Transition Monitoring Group (TMG) will hold a Freedom of Information and Elections Training Workshop for TMG members from states in the North East Zone. The workshop will take place in Bauchi. Previously planned for September 8 to 12, 2014, the workshop is being rescheduled due to the ongoing security challenges in the zone. Accordingly, the Bauchi workshop will be the last of the six zonal workshops being organized by MRA and TMG under the FOI and Elections Project, supported by the United Nations Development Programme's (UNDP) Democratic Governance for Development (DGD) Project, a joint donor-funded project managed by UNDP in support of deepening democracy in Nigeria and is funded with contributions from the European Union, the UK Department for International Development (DFID), the Canadian International Development Agency (CIDA), the Korea International Cooperation Agency and the UNDP. ■

FOI International Right to Know Events Map is Up!

A map of planned International Right to Know Events is now up at <https://mapsengine.google.com/maps/d/viewer?mid=zOB5i3bQFtCQ.k9q5MTAl5JYQ>. This map shows different events taking place around the world to celebrate International Right to Know Day on 28 September 2014.



International Right to Know Day celebrated on and around September 28 by organisations and activists from around the world aims to raise awareness about the right of access to information held by government and public bodies. To include your #IRTKD2014 event, fill out the form at <https://docs.google.com/forms/d/1QsfNdkqOi1QXpQ30XvnwcxwM5zq25msbSAsRFgw7oU/viewform> and get on the map!

such as book presentations, activist and citizen workshops, film screenings, radio programmes, conferences on local access to information laws, awards ceremonies and ombudsman events.

Find more resources for International Right to Know Day, at: <http://www.foiadvocates.net/en/right-2-know-day> ■

Many events will be taking place all over the world,

FreedomInfo Compiles List Of Freedom Of Information Quotes

An online portal called FreedomInfo has prepared a collection of 67 freedoms of information quotes which express the importance of access to information globally. The entries are arranged chronologically from as far back as the 18th century to very recent times. The latest addition to the compilation is from Aruna Roy which simply states, “The right to know is the right to live.”

The list which can be found on their website includes credits and caveats as a variety of sources from which the list was derived was disclosed. The FreedomInfo list was also tightened to drop political promises, time-limited assessments and quotes about related matters, such as freedom of expression.

Suggestions to help expand and improve the list are welcome. Submissions should be sent to freeinfo@gwu.edu. According to FreedomInfo, the goal is to have an evolving list that will be updated periodically. However, they request that precise citations are needed and agreed that the list could use more regional variation as well as ponderous material from the preambles of laws. The many internet collections of quotations are said to lack sourcing and

are sometimes inaccurate.

For more information, visit the FreedomInfo site for the **FreedomInfo.org List of Quotes on Freedom of Information** at : <http://www.freedominfo.org/resources/freedominfo-org-list-quotes-freedom-information/>.

FreedomInfo is a portal that aims to describe “best practices, consolidates lessons learned, explains campaign strategies and tactics, and links the efforts of freedom of information advocates around the world. It contains crucial information on freedom of information laws and how they were drafted and implemented, including how various provisions have worked in practice.” Since the site was first launched in June 2002, *freedominfo.org* is calculated to have received over 1 million hits from more than 160,000 unique visitors. It is a virtual network that links Freedom of Information movements throughout the world, providing an online institutional memory of freedom of information campaigns throughout the world. ■

Pakistan Press Foundation files 60 R TI Requests to Get Details of Journalists' Murder Cases

In a bid to know about the progress and status of the cases of journalists murdered across the country in the line of duty between 2002 and 2013, Pakistan Press Foundation (PPF), an independent media research, documentation and training center in Karachi, Pakistan, filed 60 Right to Information (RTI) requests.

The Secretary General of PPF, Owais Aslam Ali in a statement noted that Pakistan was amongst the most dangerous countries in the world for journalists and violence against journalists in Pakistan goes unchecked because those who are involved and who attack journalists enjoy complete immunity. He explained further that cases of journalists' murders are not being properly investigated and prosecuted, therefore to check the status of cases, police investigation report of journalists murdered during 2002-2013 in all four provinces and FATA, the PPF sent information requests to the Interior Ministry Government of Pakistan and Home departments of Sindh, Punjab, Khyber-Pakhtunkhwa,



Owais Aslam, Secretary-General of PPF

and Balochistan provinces.

According to statistics, nine requests were sent to Interior Ministry under the Freedom of Information Ordinance-2002, fifteen requests to Home Department, Government of Sindh under the Sindh Freedom of Information Act 2006, four requests to Home Department, Government of Punjab under the Punjab Transparency and Right to Information Act 2013, 14 requests to Home and Tribal Affairs Department, Government of

Khyber Pakhtunkhwa under the Khyber Pakhtunkhwa Right to Information Act 2013, and 18 requests were sent to Home and Tribal Affairs Department, Government of Balochistan under the Balochistan Freedom of Information Act 2005.

Owais Aslam said that by getting the required data, the PPF can get the exact position of journalists' cases and then advocacy at the government level and journalists associations will be conducted to raise their voice against violence against journalists and ensure freedom of press in Pakistan. ■

India's Information Commission Says Wife Has Right to Know Husband's Salary

The decision of the Central Information Commission of India granting wives the right to know their husband's salary was prompted by an application filed by Jyoti Seherawat, seeking the salary slip of her husband who is employed at the Home (General) Department in New Delhi. The Public Information Officer (PIO) of the Home Department had refused to give the details, saying the applicant's husband had stated in writing to the Department that such information should not be provided to anyone.

The Central Information Commission, New Delhi after hearing Jyoti Seherawat's petition declared that wives of government servants have a "right" to know salary particulars of their husbands.

Seherawat had also sought details of her husband's travel allowance, other allowances and HRA benefits. The Commission held that these details should also be made public by their offices as mandated under suo-moto disclosure clause of the RTI Act.

Information Commissioner M Sridhar Acharyulu in his

order stated "Every spouse has a right to information about the particulars of salary of other spouse, especially for the purpose of maintenance. More so, the wife has a right to know the salary particulars of the husband, who is an employee of the public authority,"

The Commissioner further said that the details about a government employee's salary is no third party information and these have to be voluntarily disclosed under Section 4(1)(b)(x) of the RTI Act. He reasoned that the salary paid to the public authority is sourced from the tax paid by the people in general and it has to be disclosed mandatorily under the RTI section.

Acharyulu warned the Home Department of the Delhi government that such denial of information will be wrongful and could incur penalty. The case processes are available at:

http://www.rti.india.gov.in/cic_decisions/CIC_AD_A_2012_003341-SA_M_122918.pdf ■

FOI Tracker

Requester	Information Requested	Public Institution	Date	Outcome of Request	Current Status
Ayode Longe Kayode Ajulo, Chairman, Board of Trustees/Executive Director, Egalitarian Mission Africa	Medical reports Of H. E. Rauf Aregbesola (The Governor Of Osun State) From 27th Nov. 2010 – Date	The Personal Physician of the Governor of Osun State, Osun State Government House Clinic The letter was also sent to the Presidency, National Assembly, State Security Services, among other agencies.	16th March, 2012	No response to the letter	Instituted action against the Personal Physician to Aregbesola, the Speaker of the Osun State House of Assembly, The Attorney General of Federation and Minister of Justice, Inspector General of Police and the Director General of State Security Services to the Federal High Court, Abuja division.
Ayode Longe Programme Manager, Media Rights Agenda	Information and records on Nigerian Export Promotion (NEPC) Properties Nationwide	Nigerian Export Promotion Council	May 30, 2013	Information requested was given.	Successful access to information
Youthhub Africa, a Nigerian based Pan-African web portal	<p>The letters amongst other specific sought the following information –</p> <ul style="list-style-type: none"> The Ministry's Budget for 2011, 2012, 2013; Location of ALL youth centres across Nigeria established or being constructed by the ministry; The Ministry's budget performance report for the period 2011 to 2013. <p>The disclosure of transactions involving the sale of Crude Oil, the</p>	Ministry of Youth Development	11th February, 2014 and 14th March, 2014.	Letters were not replied	The organization has written to the office of the Attorney General of the Federation and the National Human Rights Commission on this violation of rights being perpetrated by the Ministry of Youth Development and with support from the Public and Private Development Centre (PPDC) would be seeking a legal redress.

Continued on page 18

FOI Tracker

Requester	Information Requested	Public Institution	Date	Outcome of Request	Current Status
Mr. Osita Okechukwu A Chieftain of the All Progressive Congress (APC)	Crude Oil Swap Variant and the certification of subsidy for the importation of Kerosene and PMS by the Nigerian National Petroleum Corporations, NNPC from January 2012, to date.	Ministry of Petroleum Resources	March 14, 2014 March 20, 2014	Refusal, failure and/or neglect to disclose information	The applicant instituted an action in the Federal High Court, Abuja against Mrs. Diezani Alison Madueke, Honourable Minister Of Petroleum Resources Of The Federal Republic of Nigeria over her refusal to allow him access to information.
Seemba Nyager CEO, PPDCFor PPDC and BudgIT	Details of capital expenditure for 2013	Ministry of Defence (MOD)	March 17 2014	Provided information and a hard copy and CD copy of the information requested.	Successful Access to Information
Kingsley Nnajiaka for the Centre for Social Justice, CSJ, a transparency advocacy and rights group	Information concerning the recruitment examination into the Nigeria Immigration Service, NIS, which turned out to be a death trap nationwide. Information requested includes: the total number of applicants that applied for the recruitment exercise; the total amount realised from the fees charged and paid by the applicants; the bank and the account number into which the money realised from the applicants has been paid and the signatories to the said account or, in the alternative, whether the money realised has been paid into the Federation Account and the details of the payment (date, time, cheques, letters of transfer or other evidence of payment,) into the Federation Account, details of the crowd control measures put in	Minister of Interior, Abba Moro	March 18, 2014	Response received provided scanty information	A suit was instituted at the Federal High Court, Abuja and is now at the hearing stage.

Continue on page 19

FOI Tracker

Requester	Information Requested	Public Institution	Date	Outcome of Request	Current Status
	place for the nationwide exercise held on March 15 2014 and of the security agencies involved in the crowd control, including letters written to get them on board; whether there was any drill(s) and rehearsal(s) prior to the recruitment exercise and the details (Names, sex and addresses) of persons who lost their lives across the nation while attending the recruitment exercise.				
K i n g s l e y Nnajiaka for the Centre for Social Justice, CSJ, a transparency advocacy and rights group	Provision of hard copies of the 2013 reports received from all ministries, departments and agencies or, alternatively, to declare whether they have been published online or at a single electronic access point and to state where ifso.	T h e Attorney General of t h e Federation, Mohammed Bello Adoke,	18th March 2014	R e s p o n s e received provided scanty information	A suit was instituted at the Federal High Court, Abuja and is now at the hearing stage.
P u b l i c and P r i v a t e Development Centre (PPDC), B u d g I T Information Technology Network (BudGIT) and Connected Development (CODE)	Information on a contract between LEVICK Communications, LLC (LEVICK) and the News Agency of Nigeria (NAN) for a contract of sum of One Million Five hundred thousand Dollars (1,500,000 USD) to assist with a range of government affairs and public relations matters to the Government of Nigeria. Information requested included information on the budgetary appropriation where the contract was included as a line item, copies of procurement plans including needs assessment documents, evidence of advertisements, copies of standard bidding documents issued to all bidders, a list of all bids tendered from the period of the advertisement till the closure of the bid advertisement, letter of notification of contract award, final contract documents and documentation showing schedule of payment.	N e w s Agency of Nigeria (NAN)	18th of July, 2014. ber 9 2013	N A N duly responded to the FOI request thanking the organizations for their letter and informing them that the information sought is domiciled with the office of the National Security Adviser (NSA)	In accordance with Section 5 of the Freedom of Information Act, 2011, the request has been forwarded to the ONSA.

Introduction

A two-day Africa Regional Conference on Freedom of Information Implementation bringing together over 100 state and non-state actors from Cote d'Ivoire, Kenya, Liberia, Niger, Nigeria, Sierra Leone, South Africa, Uganda and Zimbabwe, was held in Abuja, Nigeria.

The conference discussed and identified some emerging positive trends and clear challenges impeding effective implementation of freedom of information laws in the respective African countries.

Among the key emerging trends are: a growing recognition on the continent that citizens have a right of access to information; the adoption of a Model Access to Information Law by the African Commission on Human and Peoples Rights; a burgeoning access to information community of practice that is willing to offer assistance both in-country and across the region; and an encouraging speed in passage of progressive access to information laws.

Challenges identified include:

- “ Lack of critical understanding of the access to information laws by public officials and citizens;
- “ Poor documentation, record-keeping and archival processes;
- “ Inadequate funding of oversight mechanisms and freedom of information units in public Institution
- “ Most public institutions are not in compliance with access to information law obligations. Non compliance is largely on the issue of proactive disclosure and timely reporting about the extent to which they have implemented the laws; and
- “ In most of the countries, there are no

dedicated oversight mechanisms and where there are, procedures of appeal are not well spelt out.

The conference reiterated the need for countries without comprehensive access to information laws to speedily pass such laws. It also pointed out the need for amending and/or repealing laws and policies that continue to hamper access to information regimes. The conference deliberated and proposed the following strategies as necessary minimums for effective implementation of access to information laws

Public Enlightenment and Awareness

There is need for oversight bodies and mechanisms in the various countries to take the lead in their promotional mandate to run outreach, education and awareness programmes clearly targeting different sections of society to raise awareness and

understanding of the law. Some of the illustrative tools that could be employed include train the trainer programmes, stakeholders/key operators-analysis, town hall meetings, town criers, road shows, serialised dramas and plays in various languages, social media, visual aids, and experience sharing.

Similarly, the media and a broad section of civil society should embrace access to information laws as a necessary tool in advancing their work.

Access to information laws should be simplified and/or translated into local languages to make them accessible to broader sections of the population.

Sensitization and Training of Public Institutions and Officials

To change the bureaucratic inertia and resistance, deliberate efforts should be made to sensitize public



Major-General Chris Olukolade,
*Director of Defence Information for Nigeria and
Keynote Speaker at the Conference*

Continue on page 20

Final Statement: Africa Regional Conference on FOI Implementation

institutions and officials at all levels of government about the rights of the public to access information held by public institutions. Sensitization should not be limited to freedom of information officials alone but should include all staff so that they are able to direct members of the public on how to locate the Freedom of Information Desk within their institutions.

Record Keeping and Information Management

Public institutions should be required to document their proceedings and formally keep records about all their activities, operations and businesses in order to ensure that the access to information law is not deliberately undermined through the non-creation of records.



Special Guest: Mr. Bolaji Adebisi,
Special Assistant to President Goodluck Jonathan on media

In addition, public institutions must strengthen existing internal information and record management structures to ensure they are digitised for ease of archival and retrieval processes.

Funding

Public institutions should develop and make specific budgetary requests to help in proper discharge of their obligations under the freedom of information laws.

African governments should as a matter of priority allocate resources in national budgets to fund Freedom of Information units in each public institution; and where adequate budgetary allocations are not made, parliaments and parliamentary bodies must seek to ensure such allocations are made to ensure effective implementation of access to information laws.

Proactive Disclosure

Proactive disclosures reduce the burden on public

institutions to process numerous individual requests for information from members of the public under the access to information law. Accordingly, public institutions should take advantage of this important mechanism in national laws to make information available to the public as this will also enhance citizens' trust in them.

Public institutions should use electronic records management systems to enhance the implementation of national access to information laws. In particular, they should take advantage of



Mr. Olawale Fapohunda,
Attorney-General and Commissioner for Justice for Ekiti State of
Nigeria chaired the Opening Session

the Internet, ICT and social media tools in receiving, processing and responding to requests for information as well as in fulfilling their proactive disclosure

obligations, including using infographics to present and explain complex data. Governments should however put in place facilities and infrastructures to ensure the availability and effectiveness of such tools.

Citizens, civil society organizations and the media should systematically monitor compliance by public institutions with their proactive disclosure obligations under national access to information laws. Whenever non-compliance is revealed by such monitoring, efforts should be made to apply remedies available in the law as well as lodging reports to the oversight body or mechanism and parliaments or parliamentary bodies given responsibility to oversee or supervise the implementation of the law.

Monitoring, Enforcement and Oversight Mechanism

Monitoring the implementation of access to information laws should be regular and systematic with the aim of generating reliable data on all aspects of the

Continued on page 22

Final Statement: Africa Regional Conference on FOI Implementation

implementation of the law.

Enforcement of access to information laws should not be confined to already overburdened courts alone, or to legislative bodies. There should be a system or mechanism for internal review and parties should have the option to appeal to an administrative body for review of decisions. Where necessary, access to courts should be simple, fast and cost-effective.

Functions of the designated oversight bodies and mechanisms should include monitoring and regulating public institutions and private entities covered by the law; receiving annual reports from such institutions on their compliance with and implementation of the Law; to hear appeals against denial of access to information; to undertake audits to assess the level of compliance; impose fines and/or other sanctions for non-compliance; carry out search and seizures in appropriate cases; produce reports on implementation; promote awareness of the Law and provide advice to strengthen the Law and its implementation. National access to information frameworks should progressively move towards empowering oversight bodies and mechanisms to perform all of these functions.

Oversight bodies should be adequately funded, staffed and equipped to ensure that they provide effective oversight in the implementation of the law and should not be subject to partisan political control.

Oversight bodies and agencies should be properly trained to ensure that they understand their functions and powers under the Law and to enhance their ability to perform their functions effectively. In this regard, oversight bodies and agencies in



Cllr. Mark Bedo-Wla Freeman,
Independent Information Commissioner for Liberia



Mrs. Marie-Paule Yace,
Chief of Staff at the Ministry of Communications of Cote d'Ivoire

Africa should create a platform for networking, and knowledge and experience sharing. Civil society organizations should systematically monitor oversight bodies and their operations to assess their level of independence and effective functioning and where public institutions are not in compliance, CSOs must develop and support public interest litigation to enable information requesters' access information and justice.

The conference was organized by Media Rights Agenda (MRA) in Nigeria and sponsored by the United Nations Development Programme (UNDP) Democratic Governance for Development (DGD) II project. This is a joint project funded with contributions from the European Union, the UK Department for International Development (DFID), the Canadian International Development Agency (CIDA), the Korea International Cooperation Agency and the UNDP.

The conference had participants representing Freedom of Information oversight bodies, public institutions, the military, anti-corruption agencies, civil society organizations, professional bodies, academic institutions, the media and other interest groups.

The above Statement was unanimously adopted by the Africa Regional Conference on Freedom of Information Implementation in Abuja on the 19th day of March, 2014. ■

FOI Literature Review

Ask and You May Receive: Report from Monitoring of Access to Information in West Africa

Ask and You May Receive is a publication from a research conducted by Media Rights Agenda (MRA) and national partners in four West African countries in August 2010 which focused on the scope of access to public information granted to citizens and other members of the public by laws other than Freedom of Information Laws.

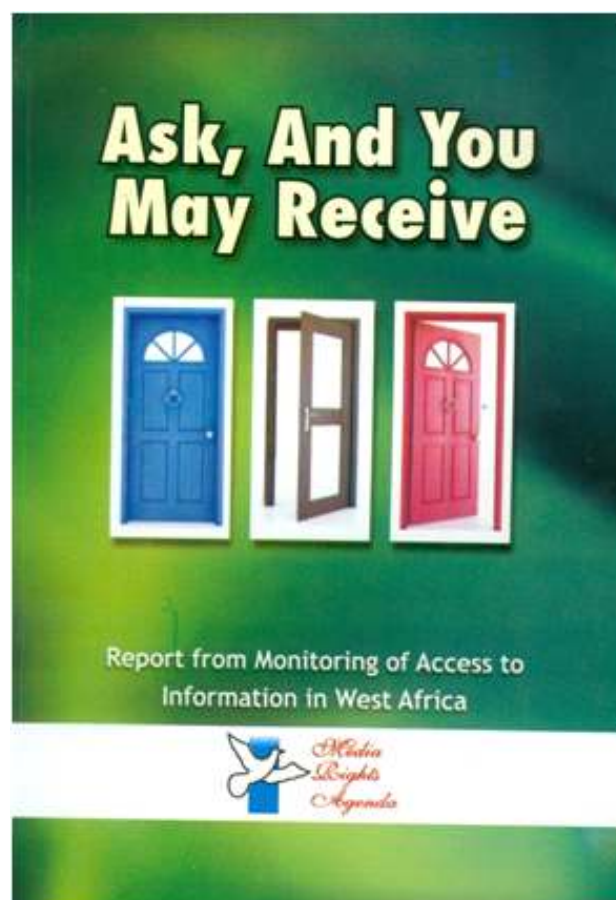
The research was motivated by the need to explore possibilities for citizens and other members of the public in these countries to exercise their rights of access to information under the Law even in the absence of a comprehensive Freedom of Information Laws.

The research was conducted in selected countries in West Africa namely: Sierra Leone, Ghana, Liberia and Nigeria. The publication is the report of the record and analysis of a total of Three Hundred and Ninety-Three (393) requests for information and records in these countries.

The book explained that, although at the time of publication, only very few countries on the continent had clear and specific guarantees of the right to information in their constitutions. Such countries include: Cameroon, the Democratic Republic of the Congo (DRC), Ethiopia, Ghana, Madagascar, Malawi, Mozambique, Senegal, South Africa, Tanzania and Uganda. However, most of these countries do not have comprehensive freedom of information laws to elaborate this right. Only three of them – South Africa, Uganda and Ethiopia – had freedom of information laws to give effect to this right.

As the research noted, many reasons have been advanced for the slow pace of adoption of Freedom of Information laws in Africa, including:

- .. Lack of political will on the part of leaders who ideally have the responsibility for putting such laws in place.
- .. A culture of secrecy in government which makes the notion of public scrutiny an alien concept.
- .. A “messiah complex” among political leaders who believe that they have come to save the people and that they know what is best for them and have all the answers to the problems.
- .. The limited capacity within civil society to conduct effective advocacy for the adoption of freedom of information laws in the respective countries beyond mere sloganeering.
- .. Other competing priorities in many countries where the argument is frequently made that when placed against the need to provide other services and infrastructure such as health, education, water, roads, etc., the requisite institutional arrangements and resources necessary to adopt and implement freedom of



- information laws will be too costly.
- .. The low levels of awareness among members of the public which severely limits public demand for adoption of freedom of information laws.

Regardless of lack of concrete Access to Information Laws in the identified countries for the research, the project relied on the provisions contained in the respective laws on access to information for the research.

Clearly from the publication, transparency is in peril and accountability cannot be guaranteed. It also means that public participation in the governance process will be difficult if not impossible to sustain.

Based on the analysis and feedback received during the survey from the four countries, the publication made recommendations, one of which was that governments should carry out institutional reforms and make clear to officials and all other relevant personnel in public institutions with access to information provisions that discrimination in treatment of information requests and in provision of information is unacceptable.

The publication suggested that civil society should monitor compliance with the access to information provisions in these public institutions to see if the practices conform to acceptable standards provided for in the laws. ■

For more Information, Contact

Media Rights Agenda

14A, Fagba Crescent

Off Acme Road

Agidingbi, Ikeja

P. O. Box 52113, Ikoyi

Lagos, Nigeria

Tel: +234-1-7616803

E:mail: foi@mediarightsagenda.net

Website: www.mediarightsagenda.net

www.foicoalition.org

 @MRA_Nigeria

www.facebook.com/pages/Media-Rights-Agenda/

www.facebook.com/FOICoalitionNG



Canadian
International
Development
Agency

Agence
canadienne de
développement
international

KOICA
Korea International
Cooperation Agency

