

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

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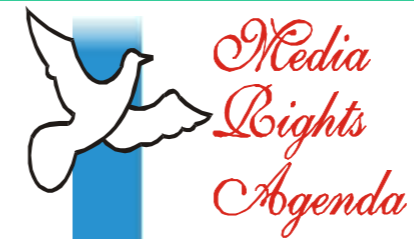


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Freedom of Information NEWSLETTER

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MRA, AFIC Ask Nigeria to Repeal Laws which Hamper Access to Information

Media Rights Agenda (MRA) and the Africa Freedom of Information Centre (AFIC) have called on the Nigerian government to repeal laws which hamper access to information.

The call, along with other recommendations, was made through a joint shadow report to the African Commission on Human and Peoples' Rights with whom both organisations have observer status. Based on Nigeria's 5th Periodic Country Report 2011 – 2014 on the Implementation of the African



Mr. Edetaen Ojo, Executive Director,
Media Rights Agenda

Charter on Human and Peoples' Rights in Nigeria, the report summarizes the current state of freedom of expression and access to information in the country.

The report focuses on the provisions of Article 9 of the African Charter on Human and Peoples Rights that seeks to guarantee the right to information, expression, and dissemination of ideas. The shadow report examined Chapter 7 of Nigeria's 5th Periodic Country Report.

The groups asked the Nigerian government to strengthen the

Continued on page 3

UNESCO Conference Calls on Member States to Protect Free Flow of Information

Member States of the United Nations Educational, Scientific and Cultural Organization (UNESCO) have been called upon to protect, promote and implement international human rights law on freedom of expression and the free flow of information and ideas on the Internet.

The call is contained in the "Outcome Document" adopted by more than 350 participants from all continents at UNESCO's Internet Conference - "CONNECTing the Dots: Options for Future Action" held at UNESCO headquarters in Paris on March 3 and 4, 2015.

The participants affirmed that the



Mrs Irina Bokova, UNESCO, Director-General

"fundamental human rights to freedom of opinion and expression, and its corollary of press freedom and the right of access to information" are enablers of the post-2015 development agenda.

They also affirmed that increasing access to information and knowledge across society, assisted by

Continued on page 2

Table of Content

- * FOI News
- * FOI Quotes
- * FOI Lawyer's Profile
- * FOI Hall of Fame
- * FOI Law Reports
- * FOI Litigation
- * FOI Regional & International Developments
- * Upcoming FOI Events
- * FOI Case Studies
- * FOI Tracker
- * Literature Review
- * Standards and Principles

Continued from page 1

UNESCO Conference Calls on Member States to Protect Free Flow of Information

the availability of information and communication technologies (ICTs), supports sustainable development and improves people's lives.

The participants identified options for UNESCO for fostering universal, open, affordable and unfettered access to information and knowledge, and narrowing the digital divide, including the gender gap in Internet access, encouraging open standards, raising awareness and monitoring progress.

They urged UNESCO to advocate for ICT policies that enhance access guided by governance principles that ensure openness, transparency, accountability, multilingualism, inclusiveness, gender equality, and civil participation, including for youth, persons with disabilities, marginalized and vulnerable groups.

The participants called on UNESCO to promote access to information and knowledge and ICTs by encouraging the creation of public access facilities, and by supporting users of all types to develop their

capabilities to use the Internet as creators and users of information and knowledge.

They reaffirmed the important contribution provided by open access to scholarly, scientific and journalistic information, open government data, and free and open source software towards the building of open knowledge resources.

The participants stressed that freedom of expression applies, and should be respected, online and offline in accordance with Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights (ICCPR) that any limitation on freedom of information must comply with international human rights law as outlined by Article 19(3) of the International Covenant on Civil and Political Rights.

They canvassed UNESCO's participation in discussions on Net Neutrality as relevant to the field of access to information and knowledge. ■

FOI Quotes

- * "Whenever the people are well informed, they can be trusted with their own government; that whenever things get so far wrong as to attract their notice, they may be relied on to set them to rights." - Thomas Jefferson, Jan. 8, 1789. From a letter to Richard Price.
- * "Everything secret degenerates, even the administration of justice; nothing is safe that does not show how it can bear discussion and publicity." - John Dalberg-Acton, 1st Baron Acton, letter (23 January 1861), published in Lord Acton and his Circle (1906) by Abbot Gasquet, Letter 24.
- * "Press releases tell us when federal agencies do something right, but the Freedom of Information Act lets us know when they do not." - Patrick Leahy, 1996. US Senator.

Continued from page 1

MRA, AFIC Ask Nigeria to Repeal Laws which Hamper Access to Information

FOI Act oversight body – the Attorney General of the Federation; sensitize public institutions on the implementation of the FOI Act; make budgetary provisions for the implementation of the FOI Act and; called on the public, civil society organisations and the media to monitor public institutions' compliance with their obligations in the FOI Act. The joint shadow report focuses on freedom of expression, media freedom and freedom of information. MRA and AFIC raised concerns on constitutional and administrative measures, legislative measures, freedom of expression and implementation of the FOI Act in Nigeria.

On constitutional and administrative measures, the groups contended that the right to freedom of expression guaranteed in Section 39 of the 1999 Constitution is a general right that does not guarantee any specific right to the media and that section 22 of the Constitution cannot be cited in defence of freedom of the press as it is not justiciable and therefore unenforceable. The report cited the Appeal Court judgment delivered by Justice Philip Nnaemeka-Agu, in the case of Senate of National Assembly vs Tony Momoh [1983] 4 NCLR, 269 which asserted that the right guaranteed by Section 39 is "one which belongs to all who have to hold opinion, receive and impart ideas, or disseminate information and contemplates no separate treatment to the mass media." They added that the same judgment contended that Section 22 was "only one of the fundamental objectives and directive principles of state policy which are not justifiable."

MRA and AFIC drew attention to the fact that the judgment is a subsisting one as it has not been vacated by a superior court and that Nigerian statutes still contain criminal libel laws which tend to censor the media. The report added that challenges of upholding Section 39 of the Constitution is further undermined by section 45(1) of the same Constitution which contains restrictions to the right to freedom of expression. On legislative measure, the report punctured holes in the implementation of the FOI Act contending that the office of the Federal Attorney-General which has oversight responsibility of the Act is not an independent information commissioner, saying it is a political



Mr. Gilbert Sendugwa, Executive Director, AFIC

appointment susceptible to political interference. It added that the oversight overburdens the Attorney General who also holds the office of the Minister of Justice. The report also pointed out that the Nigerian FOI Act does not provide for administrative redress mechanism for requests that are denied saying those denied information have only the court to go to seek redress.

The report reveals the fact that some activities of the Nigerian

government have indeed violated the laws protecting the rights of the freedom of expression. For instance, in 2013 the Nigerian government contracted with an Israeli organization to install an internet device to spy on the online activities of Nigerian citizens. The Nigerian government systems were also said to be part of the hindrances to the access to information in Nigeria as FOI cases in court have not been receiving adequate support from the judiciary. Rather than treat FOI cases summarily, judgments have been stalled and rulings have been dished out against FOI cases and applicants. This and other factors underlie the culture of secrecy among public institutions in the nation.

Concerns for Public institutions' low level of compliance with their obligations in the FOI Act were shown as the report stated that many public institutions are yet to put in place the necessary structures to ensure "an enabling FOI regime". The report states that in 2013, during the assessment carried out by Media Rights Agenda to determine the level of compliance by public officials with the Act, only 34 public institutions out of 125 cooperated with the research team by responding to the questionnaires administered.

Meanwhile, MRA and AFIC stress in their recommendations, the need for FOI sensitization to be extended to Public institutions and their officials so as to facilitate higher level of compliance with the Act and better access to information in Nigeria. Finally, the groups also urged the Nigerian government to sponsor a resolution at the UNESCO General Assembly to adopt September 28 as the International Rights to Information day. They recommended that the Federal Government of Nigeria lead effort by ECOWAS to adopt a regional framework treaty on access to information. ■

Secretariat

Edetaen Ojo
Executive Director

Jennifer Onyejekwe
Deputy Executive Director

Ayode Longe
Programme Manager

John Gbadamosi
Programme Officer

Mosun Oladapo
Legal Officer / Coordinator,
FOI Coalition

Chioma Phibe Nwaodike
Legal Officer

Eseohé Ojo
Communications Officer

Oluwatomi Aina
Programme 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.mediariightsagenda.net

Stella Anukam Appointed Head of FOI Unit in Federal Attorney-General's Office

Mrs. Stella Anukam has been appointed Head of the Freedom of Information Unit in the Office of the Attorney-General of the Federation and Minister of Justice. She takes over from the erstwhile head, Mrs. Justina Suwa.

In her capacity as Head of the FOI Unit in the Attorney-General's Office, Mrs. Anukam liaises with all ministries, departments and agencies of the Government of Nigeria on all matters relating to the Freedom of Information Act, 2011, particularly regarding their implementation of the Law.

Under the FOI Act, the Attorney General of the Federation has oversight responsibility for the implementation of the Act and is charged with ensuring that all public institutions to which the Act applies comply with the provisions of the Act, including submitting annual reports to him on their implementation of the Law.

A 1984 law graduate of Obafemi Awolowo University in Ile-Ife, Mrs. Anukam was called to the Nigerian Bar in August 1985 and became an Associate of the Institute of Chartered Secretaries and Administrators in 1993 and a fellow of the Institute in 1999.



Mrs. Stella Anukam, Head of FOI Unit at the Office of Attorney-General of the Federation and Minister of Justice

She started her legal career in the Federal Ministry of Justice in 1987 as a State Counsel. Since then, she has served as legal adviser to many ministries, including the Federal Ministry of Works and Housing, the Ministry of Power and Steel, and the Ministry of Communication. In 2003, Mrs. Anukam was appointed pioneer Legal Adviser and Secretary to the Federal Roads Maintenance Agency (FERMA).

Mrs. Anukam is a member of several professional bodies such as the Nigerian Bar Association (NBA), the International Bar Association (IBA), the Institute of Chartered Secretaries and Administrators (ICSA), the International Law Development Organization (IDLO), the International Federation of Female Lawyers (FIDA), the Inter-Pacific Bar Association, and the Association of Professional Negotiators and Mediators. She is also a Fellow of the Chartered Institute of Arbitrators of Nigeria.

She is currently the chairperson of the Abuja chapter of Institute of Chartered Secretaries and Administrators of Nigeria (ICSAN).

Mrs. Anukam has taken part in many national and international assignments. ■

PPDC's FOI Compliance Assessment Shows Poor Performance by Public Institutions

Result from the Public and Private Development Centre (PPDC) FOI compliance by Public Institutions has shown a poor performance by these Institutions.

In an effort to monitor compliance with the Freedom of Information Act 2011 and verify the performance of capital projects carried out by public institutions in 2014, PPDC requested records of payments of capital releases made to ninety-eight public institutions in 2014.

Only thirteen of the 98 institutions responded within the seven-day window stipulated by the Freedom of Information Act, 2011. Seven of these provided the required documents while six responded without any information.

The Nigerian Export Promotion Council (NEPC), The Veterinary Council of Nigeria (VCN), the Economic and Financial Crimes Commission (EFCC) and the Consumer Protection Council (CPC) were among the 7 institutions that provided the information requested within the 7-day period and can be classified within the parameters of this exercise

as responsive and compliant.

Details of responsive MDAs which provided records of their capital performance is available at <http://bit.ly/1CNgHmv>. Institutions such as the Federal Ministry of Transportation requested for an extension as provided for in section 6 of the FOIA; stating that the required documents would be provided within the stipulated extension period.

In their response, the Nigerian Export Promotion Council stated that they had no allocation for capital projects in 2014 and this was confirmed from the 2014 Capital Performance for MDA Report provided by the Office of the Accountant General and available at <http://bit.ly/1Cxfpe1>.

In addition to finding out how compliant public institutions are in providing access to procurement records, the efforts of PPDC in requesting for information is geared towards verifying how well public resources are being utilised towards public service delivery. ■

PIN and PPDC sue National Identity Management Commission

Paradigm Initiative Nigeria (PIN) and Public and Private Development Centre (PPDC), two non-governmental organizations have instituted a case at the Federal High Court, Abuja against the National Identity Management Commission (NIMC) for its failure to disclose information regarding the procurement, contract and records for the provision of payment solution by MasterCard for general multi-purpose card.



Mr. Gbenga Sesan, Executive Director, Paradigm Initiative Nigeria



Mohammed Bello Adoke (SAN), Minister of Justice and Attorney-General of the Federation

PIN and PPDC are asking the Court for a declaration that the failure and/or refusal of NIMC to disclose or make available the information requested constitutes a violation of their right of access to Information established and guaranteed by Section 1(1), & 4 of the Freedom of Information Act, 2011.

The NIMC disclosed at the World Economic Forum in Cape Town, South Africa in 2014 that MasterCard (an American multinational financial services corporation headquartered in New York) and NIMC under the government of Nigeria would form a partnership to provide a new identity card for every Nigerian. The purpose of the card, according to NIMC, is to compel all Nigerians to participate in the financial services sector under the control of MasterCard.

The card, it was revealed, has 13 applications



Ms. Seember Nyager, Chief Executive Officer, Public and Private Development Centre



Barr. Chris Onyemenam, DG/CEO of NIMC

including MasterCard's prepaid payment technology that will impose electronic payment solutions on the card holders and is expected to serve as voting cards in the country as from the 2019 general elections.

Consequent upon the disclosure, on September 4, 2014, PIN, on behalf of itself and the PPDC, wrote to NIMC and relying on the provisions of the Freedom of Information Act 2011, requested for copies of all documents relating to procurement and contract for the provision of payment by MasterCard for the general multi-purpose card

including the grant document and the grant agreement between MasterCard and NIMC, contract currency, the effective (start) date of the contract and the end date of the contract, the terms and conditions of the contract, payment schedule, the payment terms, etc.

In denying the request NIMC cited trade secret and national security as the reasons for the denial and claiming that the Information sought by PIN is exempt by the provision of section 15 of the Freedom of Information Act.

NIMC also claimed that the relationship between it and MasterCard is that of grant and not contractual, and therefore the contract and procurement records do not exist. ■

Law School Embarks on FOI Street Law Outreach

Students of the Yola Campus of the Nigerian Law School (NLS) and members of the Law Clinic embarked on a street law outreach program on the Freedom of Information Law on February 24 and 26, 2015 in Yola, Adamawa State.

The project was targeted at sensitizing the people of Yola town on their right under the Freedom of Information Act, 2011. The project was coordinated by Head of the Clinic, Mr Kazeem Azeez Idowu, a Bar Part II Student of the NLS Yola Campus in conjunction with the coordinator, Mr Rilwanu Muhammed Salmonu, a lecturer at the Campus. Other participants were all members of the Law Clinic and students of the NLS.



Members of the Yola Law Clinic

The Street Law Program began on February 24, 2015 with members of the Clinic dividing into convenient groups and targeting the audience on Wuro Hausa Street. The aim of this exercise was the education and sensitization of the target audience on their rights as enshrined in the Freedom of Information Act (FOIA) 2011 ranging from right to access information to the right to ask regarding the act of governance and the types of information people can have access to on demand, important aspects of the FOIA 2011 and its usefulness to their everyday life.

Members of the Clinic attempted to help their audience understand how the law works and how it can protect their interest as citizens. Feedback received at the end of the first day – Tuesday February 26, 2015 was encouraging as it indicated that the exercise made some impact and was able to educate the people of the town especially the residents of Wuro Hausa areas on the necessary things they needed to know in relation to the Act.

The exercise was also able to disabuse the mind of the people from the notion that the law protects only the rich. Residents of the town were educated on the mode of exercising the right of access to information and steps to take when the right is denied showing them that the right has been made available to anyone interested in its use.

Informed by the view that information is power and its importance cannot be over emphasized in the life of a nation, members of the Clinic believe the project to be a necessity towards ensuring accountability and good governance.

The members of the Clinic believe that the FOIA 2011 is an integral part of ensuring accountability which will in turn breed good governance which makes it an indispensable tool in a democratic dispensation. However, in order for ignorance not to impede the scope and efficiency of the Act, the members of the clinic believe that it is necessary to ensure the citizens are empowered to ask how they are being governed and monitor the development of their communities thereby affording them the opportunity to take part in the act of governing them as well as towards dispensing with unnecessary and undemocratic secrecy in governance.

The second leg of the exercise took place on Thursday February 26, 2015 in Wuro Ceke area of Yola in the same manner as the first. The Thursday program was coordinated by the Head of the Clinic, Mr Kazeem Azeez Idowu in conjunction with a different lecturer of the Campus, Mr Bobai Paul Ali.



Yola Law Clinic Outreach

The project was commended as a laudable one in view of the importance of the FOI Act 2011, the rights of access to information it guarantees and the strategies employed by the Law Clinic in the execution of the project. It is fervently believed that the project helped in assisting the spread of awareness on the Freedom of Information Act, 2011 and its importance in a democratic dispensation. It also aimed at ensuring that the Act, as good as it is, does not become illusory if it remains obscure and the citizens are not aware of the rights guaranteed under it. ■

Federal High Court Orders Two LG Councils to Disclose Budgets, Approved Projects

A federal High Court sitting in Asaba, Delta State on February 18, 2015 gave an order of mandamus compelling Oshimili South and Ika South Local Government Areas in the state to disclose their budgets from 2012 to 2014 and the projects duly approved for implementation in 2013. The Court adjourned the case against Oshimili North LG Area, whose lawyer had raised a preliminary objection.

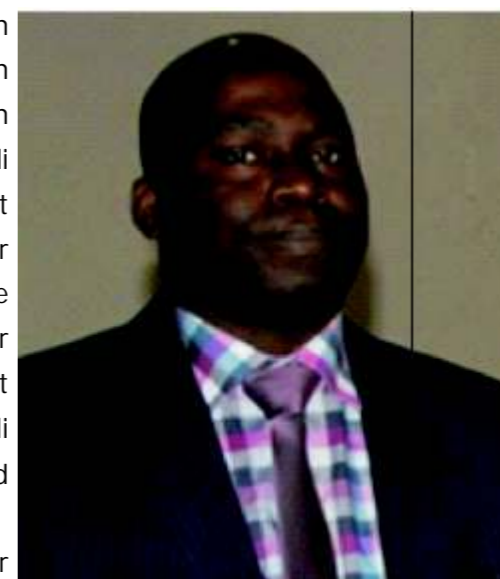
Justice Mojisola Olatoregun-Isola, in her ruling, ordered the two LG Areas to make available to Human Development Initiatives (HDI), a Lagos-based non-governmental organization the information it requested.

The court's decision was the culmination of a nine-month long litigation by HDI following the refusal of three Local Government Councils in Delta State to grant the requests it made under the Freedom of Information Act on February 24, 2014.

Following three separate suits filed on May 15, 2014 by Mr. Andy Isioma Ogbolu, a Lagos lawyer, on behalf of HDI against Oshimili South, Ika South and Oshimili North Local Government Councils, Justice Olatoregun-Isola granted HDI leave on May 21, 2014 to apply for:

- A declaration that the failure and/or refusal by the Councils to disclose and make available to HDI the information sought in its letters of request dated February 24, 2014 amounts to a violation of HDI's right of access to information as guaranteed by section 1(1) and section 4(a) of the Freedom of information Act, 2011.

- A declaration that the failure and/or refusal by the Councils to give HDI a written notice that access to all or part of the information requested would not be granted and stating reasons for the denial and the section of the Freedom of information Act upon which the Councils relied to deny HDI access to the information requested in its letters dated February 24, 2014 amounts to a flagrant



Prof Bolaji Owasanoye, Executive Director, Human Development Initiative (HDI)

violation of section 4(b), 7(1), (2) and (3) of Act and is therefore wrongful.

An order of mandamus compelling the Councils to disclose and make available to HDI as requested in its letters of February 24, 2014 the Councils' budgets for the years 2012, 2013 and 2014; documents detailing all projects duly approved for implementation in

2013; the locations of the projects; and the actual cost of each of the projects approved and/or implemented by the Councils in 2013.

At the day's proceedings, the lawyers to the three Councils were absent but Mr. Ogbolu urged the Court to allow him move the motions before the court and to adopt his written address since the Councils had been duly served with the court processes and were aware that the case was fixed for February 18.

He argued that it was the duty of the courts and every person in the country to hold governments accountable, arguing that ordinary citizens would be discouraged from using the FOI Act to hold governments accountable if judicial processes were unduly prolonged. Justice Olatoregun-Isola granted Mr. Ogbolu's request to be allowed to argue his case. He therefore moved the motion before the court and adopted his written address.

In a brief ruling, Justice Olatoregun-Isola granted all the prayers sought against Oshimili South and Ika South Local Government Councils. She however noted that in the suit against Oshimili North Local Government Area, the lawyer representing the Council had raised a preliminary objection, saying she would prefer to hear from him before proceeding further on that case.

The judge thereafter adjourned the third case to February 26, 2015 for hearing and ordered that the lawyer to the Council should be issued with a hearing notice advising him of the new date. ■

Media Rights Agenda Files Suit Against House of Reps over Records of Committee Investigation into Purchase of 2 Bulletproof BMW Cars

Media Rights Agenda (MRA) has filed a motion at the Federal High Court in Abuja seeking leave of the court to apply for an order to compel the House of Representatives of the National Assembly to furnish it with transcripts of the proceedings of the House Committee on Aviation at the hearing of the Committee on the procurement of two



Hon. Aminu Waziri Tambuwal, Speaker, House of Representatives

bulletproof BMW cars by the Nigerian Civil Aviation Authority (NCAA) through Messrs Coscharis Motors Limited.

Named as respondents in the motion exparte filed on its behalf by Mr. Godwin Chigbu pursuant to the Freedom of Information Act, 2011, are the House of Representatives, the Clerk of the House and the Attorney-General of the Federation.

Specifically, MRA is seeking leave of the court to apply for:

- * A declaration that the failure of the House of Representatives and the Clerk of the House to furnish MRA with certified true copies of the documents sought by the organization by its letter dated July 24, 2014 amounts to wrongful denial of information under the Freedom of Information Act, 2011; and
- * An order by the court compelling the House and the Clerk, jointly and severally, to within seven days of judgment in the suit furnish MRA with the certified true copies of the documents, namely: the transcripts of the proceedings of the House

Committee on Aviation at the hearing held by the Committee on the procurement of two bulletproof BMW cars by the NCAA through Messrs Coscharis Motors Limited and the transcript of the proceedings of the Committee held on October 30, 2013.

MRA is contending in the suit that the House of Representatives is a public institution by virtue of Section 2(7) and 31 of the Act and that it is subject to the Laws of Nigeria, including the FOI Act, while MRA is guaranteed the right to request for and obtain information from any public institution.

MRA stated that in 2013, the NCAA purchased two BMW armoured cars for the use of the then Minister of Aviation, Ms Stella Oduah, at the cost of N255 million from Coscharis Motors and that due to alleged irregularities and failure to follow due process of law as well as other controversies surrounding the purchase of the cars, the House of Representatives, in exercise of its oversight functions, instituted an investigation into the purchase of the vehicles through its Committee on Aviation.

MRA said the Committee conducted hearings on the matter on several days, including on October 30, 2013 and that on July 24, 2014, MRA wrote to the House of Representatives, requesting certified true copies of record of proceedings.

The organization complained that despite receiving the letter of request, the House and its Clerk have, without any lawful excuse, refused to furnish it with copies of the documents requested.

Hearing in the suit has been fixed for April 2, 2015. ■



Mr. Godwin Chigbu, Counsel to Media Rights Agenda

FOI Lawyer's Profile

Terence Vembe: A New Entrant into FOI Litigation Driven by Public Interest

Abuja based litigator, Terence Terfa Vembe ventured into the network of Freedom of Information litigators in Nigeria by handling a major case between National Identity Management Commission (NIMC) and two civil society organisations - Paradigm Initiative Nigeria (PIN) and Public and Private Development Centre (PPDC).

Although experienced in other areas of corporate and private legal practice including General Civil and Criminal Litigation as well as Alternative Dispute Resolution, Mr Vembe is driven by interest and passion to venture into Freedom of Information litigation in order to fight for the public interest. Mr Vembe, a fulltime private legal practitioner, has maintained an interest in using the law to drive development and seek public interest. Best described as a resourceful highly skilled, innovative and motivated gentleman who loves challenges and accepts responsibilities, Mr Vembe is a man of varied interests and abilities. He is a native of Benue State, began his education in the State at St. Peters LGEA Primary School, Gboko East, Benue State and went on to Mount Saint Michael's Secondary School, Aliade.

He attained his LL.B at the University of Ibadan, and went to the Abuja Campus of the Nigerian Law School where he received commendation from the Director General for participation in the Annual Criminal Moot trial 2008. He was called to the Nigerian Bar on November 18, 2008.

He attended the College of Advanced and Professional Studies, Makurdi where he attained his Certificate in Computer Studies and acquired high level computer skills including data base management, website design and management. He has also undertaken different levels of Alternative Dispute Resolution (ADR) Training. Mr Vembe is a member of the Nigerian Bar Association and the Association of Professional Negotiators and Mediators of Nigeria. He has also practised in multiple jurisdictions in Abuja, Kaduna, Niger, Plateau, Ekiti, Delta, Benue States and the ECOWAS Court.

He began practicing law as an Associate at Olumide Ayeni

and Co in November 2008 before moving on to Ola Olanipekun & Co (Prime Chambers) in September 2009 where he has moved from Counsel/Desk Officer (Publications) to Head of Litigation and Deputy Head of Chambers.

Mr Vembe is a devout practicing catholic who is happily married with children. He speaks English and Tiv and spends his spare time playing and coaching handball or soccer, swimming and cooking. He has a vast interest and engagement in sports especially handball. While at the University of Ibadan, he was a handball player, team captain and coach at various times.

A former editor and sports journalist, experienced sports administrator and veteran handball player, Mr Vembe is notably Ex-International Handball Player having played for the Junior National Team and the National League with the Benue State Handball team: Benue Buffaloes Handball Club, Makurdi. He has played at different times through different age grade teams including the U-12, U-16, U-18 and U-21 of the Benue State teams.

Mr Vembe is a former student's union leader who has successfully led and participated in several demonstrations against government and establishment as a student and youth activist. This has positioned him as a mediator in time of internal crisis. He maintains an interest in research, brainstorming and group discussions to provide him with knowledge and understanding of issues he wishes to engage. He has been conducting research on the application of DNA Technology particularly in Criminal Law/Trials since 2006.

Mr Vembe has notable publications on "The National Industrial Court As a Tool For the Enhancement of the Nigerian Industrial Dispute Resolution System" and "The Death Penalty". He has also received recognition from the Law Students Society at the University of Ibadan for contribution to the growth of the Society in various positions and National Union of Benue State Students (NUBESS) for contribution to the growth of the union in various capacities. ■



Mr Terence Terfa Vembe, Litigating a High Profile FOI Case



R2K Nigeria: Promoting Open Governance Through Advocacy for Implementation of FOI Act

Established in 2007, Right to Know (R2K) Nigeria is committed to promoting open and democratic governance in Nigeria through advocacy for full implementation of the Freedom of Information (FOI) Act.

R2K champions the right to access officially held information at all levels of government by public institutions and the establishment of legal standards for these rights in Nigeria. In promoting the implementation of the FOI Act, R2K carries out training, research, monitoring, capacity-building, public enlightenment and advocacy activities across the country.

R2K seeks to build a movement in support of open and democratic government in Nigeria comprising diverse sectors of the society - youth groups, organised labour, faith-based groups, communities, government institutions and professional bodies, among others, in whose name government claims legitimacy and whose active participation is required in holding the government accountable.

In 2014, Right to Know released the Freedom of Information video series titled "Understanding the FOI Act" which are available on the R2K website (www.r2knigeria.org) and their YouTube Page - Right to Know Nigeria (<http://bit.ly/1Gde3lc>). The 9-video series aims at increasing public awareness and participation on the implementation of the FOI Act in Nigeria. It features carefully selected topics on the FOI Act in an engaging, simple and educative style, providing bite-size exposition of the FOI Act and ancillary processes. R2K, through this project, seeks to ensure proper public education and enlightenment on the FOI Act for a broad audience irrespective of class, gender, profession or age, particularly targeting the demographic of ICT users.

In June 2014, Right to Know also commenced 'Your right to Know Series', a radio drama series on FOI which ran on Kapital FM 92.9. Kapital FM has coverage over the Federal Capital Territory, Nassarawa, Kogi, Niger, parts of Kaduna and Plateau states. The series was streamed live on the station's website (ww2.radionigeria.gov.ng) and R2K made audio copies available on its website.

The programme was aired in both English and Pidgin, to reach a wide and diverse audience. The series are an entertainment-education approach on radio geared to demystify the principles and provisions of the Act to the public; to make it easier for



Ms. Ene Nwankpa,
Executive Director, R2K

members of the public to relate with the value and usage of the Act. These series are embedded with practical instances for simpler understanding, to increase awareness, empower members of the public to utilise the provisions of the Act and help strengthen compliance of the FOIA on a wider reach.

R2K has produced copies of the FOI Act as well as developed Information Education and Communication (IEC) materials related to the Act. R2K's translation of the FOI Act includes English Language and widely-spoken Nigerian languages and dialects, namely; Hausa, Igbo, Yoruba, Pidgin English, Tiv and Ijaw. With these translations it hopes to promote accessibility and knowledge of the Act, battle literacy challenges and ensure proper education of grassroots communities on the principles, contents and utility of the FOIA.

Right to Know has made 10 written requests, six of which were answered and four ignored. R2K has requested for the annual FOI reports from the Attorney General of the Federation. Other areas of focus of their FOI requests include Proactive Disclosure compliance by Public institutions, incomes and expenditures, payment of pension from the Pension Fund Administrator to Pencom etc.

In contributing towards tracking FOI requests, R2K has a "Monitoring FOI Request In Nigeria" page on their website through which FOI requests and details are uploaded. This provides a valuable method of cataloguing and recording FOI requests. It also has The FOI Case Tracker, a platform for tracking and cataloguing cases and decision on FOI implementation in Nigeria.

The R2K website is a valuable resource for Freedom of Information in Nigeria containing FOIA IEC materials in various languages, valuable information, FOIA Case Tracker and Request Monitor, Frequently Asked Questions easily addressing questions most people have asked or are asking.

From experience Right to Know notes that it has gotten mixed reactions on FOI where some institutions granted requests, some granted past the timeline and some just stayed silent.

Contact Right to Know Nigeria at:
Organisation's Address: 413 New Water Complex, 22 I.T. Igban Street, Jabi, Abuja.
Email: info@r2knigeria.org
Telephone: +234929188795; +2348089761640; +2347066605609
Website: <http://www.r2knigeria.org>

FOI Law Reports

State High Court is the Proper 'Venue Jurisdiction' in Cases Against State Governments and their Agencies, Says Federal High Court Judge

In the Federal High Court
Holden at Lagos, Nigeria
On Monday, the 3rd Day of March, 2015
Before the Honourable Justice Saliu Saidu, Judge

SUIT NO: FHC/L/CS/57/14

In the Matter of the Freedom of Information Act, 2011

Between

The Registered Trustees of the Socio-Economic Rights and Accountability Project (SERAP)..... Plaintiff

And

The Executive Governor of Lagos State >
The Attorney-General of Lagos State >..... Defendants

Facts of the Case

The ruling is in respect of an Originating Summons dated and filed on January 16, 2014. The Plaintiff asked the Court for the determination of the following question: Whether by virtue of the provision of section 4(a) of the Freedom of Information Act, 2011, the First Defendant is under an obligation to provide the Plaintiff with the information requested for.

The Plaintiff sought the following reliefs:

A Declaration that by virtue of the provisions of section 4 (a) of the Freedom of Information Act 2011, the First Defendant is under a binding legal obligation to provide the Plaintiff with up to date information relating to the following:

- Spending for the past five years on the furniture in public schools in the state including Ewutuntun Grammar School in Mafoluku area of Oshodi; Ikeja Grammar School; Iloro Grammar School in Agege and Fagba Junior Grammar School, Iju Road.
- The spending of the World Bank loan of \$90 million to improve education in the 639 public secondary schools in the state.
- Details of projects carried out to improve infrastructure

and facilities across primary and secondary education in Lagos State.

An order of mandamus directing and/or compelling the First Defendant to rescind the suspension of anyone, including principals of any of the schools mentioned above, for blowing the whistle or allowing journalists to cover the decayed infrastructure across primary and secondary schools in Lagos State.

The Plaintiff supported the originating summons with an 18-paragraph affidavit with exhibits attached and a written address in argument of the application.

Responding to the application, the Defendants filed a counter-affidavit of 12 paragraphs and a written address in opposition to the Plaintiff's application. The Plaintiff then filed a further-affidavit in support of the Originating Summons and a Reply on Points of Law.

The Defendant, in addition filed a Notice of Preliminary Objection with a written address to which the Plaintiff filed a written address in opposition to the Notice of Preliminary Objection. The Defendant then filed a Reply on Points of Law to the Plaintiff's written address.

The grounds upon which the Preliminary Objection was brought are as follows:

- i. The Plaintiff/Respondent's claims are not within the contemplation of section 251 of the Constitution of the Federal Republic of Nigeria.

ii. The substance of the case of the Plaintiff is not constitutionally contained in the Exclusive Legislative List under the Second Schedule of the 1999 Nigerian Constitution to confer exclusive power on the Federal Government to make the law for the Federation.

The grievance of the Plaintiff is against the Lagos State Government, which is not an agency of the Federal Government.



Barr. Rahman Adeola Ipaye, Attorney-General
and Commissioner for Justice, Lagos State

Continued on page 12

State High Court is the Proper 'Venue Jurisdiction' in Cases Against State Governments and their Agencies, Says Federal High Court Judge

The Defendants in its Preliminary Objection raised one issue for determination thus: Whether this Honourable Court, having regard to the claims of the Plaintiff and the relevant constitutional and statutory provisions, has the requisite jurisdiction to entertain the Plaintiff's action as constituted.

The Defendants' counsel submitted that the jurisdiction to dismiss an action on this ground cannot be exercised by scrutinizing documents and facts to see whether or not there is a cause of action. Therefore, an application to strike out the statement of claims must accept the facts as averred and the court must determine the issue on the statement of claim alone. He referred to cases of *Menlock vs Moloney* (1965) WLRP 38 and *Ibrahim vs Osim* (1988) 3 NWLR (PT. 82) 257.

He argued that it is the claim of the Plaintiff that determines the jurisdiction of the court. He relied on the cases of *A. G. Federation vs A. G. Abia State* (2001) 11 NWLR (PT. 625) 689 at 740 C – D, *Maduokolu vs Nkemdilim* (1962) 2 SCNLR 341 and *Anyas vs Slyavi* (193) 7NWLR (PT. 305) 290.

He noted that a perusal of the averments and reliefs contained in the Plaintiff's Originating Summons reveals that the substratum of the claim of the Plaintiff is a challenge to the legislative competence and executive actions of the Lagos State Government. The question then is whether a suit challenging the actions of a State Government comes with the statutory jurisdiction of this Court as statutes confer the jurisdiction of Court.

The Defendants' counsel submitted that the jurisdiction of the Federal High Court is as constitutionally provided for by section 251 of the Constitution. The jurisdiction is exclusive but limited. He went further to say for the Federal High Court to have jurisdiction in this case, the reliefs must be traceable to the provisions of section 251 of the Constitution, adding that the Plaintiff's claims are outside the statutory jurisdiction of the Court.

Counsel contended that the power granted under paragraph "C" of the concurrent legislative list relating to archives and public records is exclusive to both the Federal and State Government in their respective jurisdictions. This is underscored by the use of the expression "... public records of



Adetokunbo Mumuni,
Executive Director of SERAP

the federal" and "...public records of the Government of the State" in items 4 and 5 respectively.

Finally, he submitted that jurisdiction is the cornerstone of proceedings of the Court without which the proceedings are bound to fall like a pack of cards. He cited the case of the *State vs Onagoruwa* (1992) 2 NWLR (PT. 221) 33 at 48.

He urged the Court to strike out the case and referred it to the case of *Gombe vs P.W (Nig.) Ltd* (1995) 6 NWLR (PT. 402) 402 at 418.

The Plaintiff adopted the sole issue raised by the Defendant in response to the Preliminary Objection and submitted that the substance of the claim of the Plaintiff is not a challenge on the legislative competence and executive actions of the Government of Lagos State but that rather, the suit of the Plaintiff is requesting information under the Freedom of Information Act.

The Plaintiff's counsel noted that the issues at stake is what is the extent of the legislative competence of the states and the Federal Governments in a Federation like Nigeria? And where there is an overlap of legislative competence of both State and Federal Governments, who prevails in situation of conflict.

He contended that the extent of legislative competence is one that is defined and described by the Constitution in section 4(4). The exclusive list in the Second Schedule, Part 1 of the Constitution is reserved exclusively for the Federal Government. There is nothing in it that has any relationship with information or record. Therefore, anything pertaining to it is not within the exclusive legislative competence of the Federal Government.

The Plaintiff counsel submitted that the concurrent legislative list does not fare better as there is no express mention of information as an item under the list and there is no mention of archives under item C, adding that sections 4 and 5 of the Constitution are particularly instructive.

He noted that the sections of the Constitution show that the Federal legislative body makes laws in case of archives and public records of the Federation or any part thereof while by section 5 of the Constitution, the House

Continued on page 13

State High Court is the Proper 'Venue Jurisdiction' in Cases Against State Governments and their Agencies, Says Federal High Court Judge

of Assembly of a State may make laws for the State subject to the provision of section 4, which conferred legislative power on the National Assembly.

Counsel submitted that by the application of the legal doctrine of covering the field, the enactment of the FOI Act into law ipso facto renders it unnecessary for any of the 36 States to take any further action on the matter.

He contended that it is absolutely unnecessary for the States to make any law regarding this same legislation already enacted by the National Assembly, adding that where the State decides to make a law on the same subject matter, it must not be inconsistent with that of the National Assembly, otherwise the law made by the National Assembly shall prevail to the extent of the inconsistently noticed in the States law. He stressed that the law made by the National Assembly is directly applicable in all parts of the Federation regardless of whether there is any in the State or not.

Counsel further submitted that it is the same doctrine of covering the field that empowers anti-graft agencies such as the Economic and Financial Crimes Commission (EFCC) and Independent Corrupt Practices Commission (ICPC) to arrest and try any public officer for financial crime in any part of the country and referred to the cases of *Giremabe vs Bornu Native Authority* (1961) ANLR 492; *Doherty vs Balewa* (1961) ANLR 630; *A.G. of Ogun State vs A.G. of the Federation* (1961) 3 NCLR 166; and *A.G. Abia State vs A.G. Federation* (2002) 3 S.C. 152., where the Supreme Court enunciated and upheld the federal list as covering the field.

He argued that it is not always the case that any time a Federal and a State law exist, the doctrine applies. According to him, there must be an intention in the Federal law to completely and exhaustively cover the field and not merely supplementary to cumulative upon state law. He cited the cases of *Nigerian Breweries PLC vs The Governor of Oyo State & 2 Ors* (Suit No.: CA/1/45/2005) and *Independent National Electoral Commission vs Alhaji Abdulkadir Balarabe Musa & Ors* (S.C. 228/2002).

Counsel noted that the legislative competence of Lagos State is not under challenge rather, it is the constitutional power of the Federal Legislature that invested the National Assembly



Babatunde Raji Fashola (SAN),
Governor of Lagos State

with the power to make laws that will bind the States if the subject of the law is on the items that are stated in the concurrent legislative list.

He contended that the jurisdiction conferred on Federal High Court in section 251 of the Constitution is personal to the Court and that the power of the Federal High Court is also inclusive of section 251(s) and section 252(1) and (2) and that these provisions permit the addition of further power on the Federal High Court and such replica of this power can be in EFCC and ICPC and even

fundamental human rights cases.

In support of his argument that there were statutes that conferred jurisdiction on the Court, he cited the case of *Josiah Ayodele Adetayo & Ors vs Kunle Ademola* (2010) 3 – 5 S.C.

Finally, counsel argued that the Court has jurisdiction to determine the matter since the Freedom of Information Act in section 7 provides that where access to information is denied, applicant can approach the Court. The Act in section 31 states that "Court" means a High Court or Federal High Court respectively. He contended that there is concurrent jurisdiction on both State and Federal High Court.

Replying on points of law, the Defendants' counsel submitted that the issue of competence of the States and Federal Government and the doctrine of covering the field being discussed by the Plaintiff will only become relevant for adjudication, if the Court is clothed with requisite jurisdiction to entertain the suit.

He argued that the combined effect of section 251 of the 1999 Constitution and section 7 of the Federal High Court Act is that the Federal High Court has jurisdiction over specific matters, which do not include action of a State Government and in this case Lagos State Government.

He noted that a Court in which an action is brought has the power to hear and determine the issue between the parties by reference to the following: the Constitution;

Continued on page 14

State High Court is the Proper 'Venue Jurisdiction' in Cases Against State Governments and their Agencies, Says Federal High Court Judge

the geographical area; subject-matter of its operation; the reliefs sought; or a combination of any of these issues.

For the Federal High Court to have jurisdiction in any civil matter, according to him, there must be two vital conditions:-

- One of the parties must be Federal Government or any of the agencies of the Federal Government; and
- The subject matter must come within any of the items listed in section 251 (1) of the Constitution. He relied on NEPA vs Edegbenro (2000) 11 NWLR (PT. 679) 658; and Adetayo vs Ademola (2010) ALL FWLR (PT. 533) 1806

Counsel submitted that neither the Plaintiff nor any of the Defendants is an agency of the Federal Government as defined in the case of Edison Automotive Ind. Vs NERFUND (2009) ALL NWLR (PT. 477) at 124. In addition, he said, the subject matter must also be within the jurisdiction of the Court and there is no feature in the case which prevents the Court from exercising its jurisdiction. He cited the cases of Hakeem vs Unibadan (2003) 10 NWLR (PT 829) at 584; and Oladapo vs Nigerian Custom Service Board (2009) ALL FWLR (PT. 498).

His Lordship, Justice Saliu Saidu said he adopted the same issue raised for determination with respect to the objection, which is: Whether this Honourable Court having regards to the claims of the Plaintiff and the relevant constitutional and statutory provisions has the requisite jurisdiction to entertain the Plaintiff's action as constituted.

He said the argument before the court is reduced into two issues after considering it and that they are: Firstly, whether the Court has requisite jurisdiction to hear and determine issues brought under the Freedom of Information Act, 2011 and secondly, whether the Court is the venue jurisdiction of the instant case as constituted before the Court.

His Lordship said the issue takes him to the statute where the Court derives its jurisdiction, which is the grundnorm, that is the 1999 Constitution of Nigeria, as amended.

Section 251 (1) of the 1999 Constitution provides that: "Notwithstanding anything to the contrary contained in this constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other Court in civil cases and matters."

He noted that from clear and unambiguous interpretation of this provision of the Constitution, the court has jurisdiction in matters listed in section 251 (1) of the Constitution and such jurisdiction as may be conferred on it by the National Assembly. He said the Freedom of Information Act is an Act of the National Assembly which has conferred additional jurisdiction on the Court under Clause 20 of the Freedom of Information Act, 2011.

Justice Saidu went further to say that the word Court in Clause 20 of the Freedom of Information Act 2011 has been interpreted in Clause 31 of the same as High Court or Federal High Court, adding that the intention of the National Assembly to confer jurisdiction on the Court has been clearly and unambiguously expressed in the interpretation clause to the Freedom of Information Act, namely Clause 31 of the Act.

He said in the interpretation of statute, it has to be given the ordinary grammatical meaning; he cited the Supreme Court cases of Nyama vs Federal Republic of Nigeria (2010) 7 NWLR (PT. 1193) 344 at 399; and

Action Congress vs Independent National Electoral Commission (2007) 12 NWLR (PT. 1048) 226 at 318.

His Lordship agreed that the Constitution allows the National Assembly to confer additional jurisdiction on the Court and that the National Assembly has exercised this power in the Freedom of Information Act, 2011, as the National Assembly has done in the past on the EFCC Act, NDLEA Act, ICPC Act and even in Trafficking in Persons Act.

Justice Saidu therefore held that the Court has jurisdiction on any matter arising from the Freedom of Information Act, 2011.

His lordship said the second issue to consider is whether the Court is the proper venue of the instant case as presently constituted.

Continued on page 15



Justice Saliu Saidu
of the Federal High Court, Lagos

Francis Mgbo Vs Nigerian National Petroleum Corporation (NNPC)

A Federal High Court sitting in Abuja and presided over by Justice Abdul Kafarati has fixed March 26, 2015 for hearing in an FOI case instituted by Francis Mgbo against the Nigerian National Petroleum Corporation (NNPC) for its refusal to disclose its crude oil swap contract with Taleveras Group Ltd.

The adjournment is to enable Mgbo's counsel reply to the Preliminary Objection filed by NNPC urging the court to dismiss the suit for want of jurisdiction.

Mgbo had, through two separate letters dated April 4 and May 7, 2014 and relying on the provisions of the Freedom of Information Act, requested NNPC to provide him with details of the crude oil swap deal with Taleveras Group Ltd which saw the company importing refined products into Nigeria. The NNPC failed to provide the requested information.

He therefore prayed the court for a declaration that the

"refusal by the NNPC to make available full details of the Crude Oil Swap deal with Taleveras Group of Companies Ltd is a violation of Sections 2, 3(3), 4 and 5 of the Freedom of Information Act, 2011."

He also sought an order of mandatory injunction directing NNPC to make available full details of the Contract with documentation and N50 million in damages against the NNPC.

He said the Pipelines and Products Marketing Company (PPMC) Limited, a subsidiary company of the NNPC, in a reply dated May 14, 2014

claimed the "NNPC and by implication its subsidiary company, PPMC does not come within the meaning and definition of a public institution under the Act."

The NNPC also claimed that the information sought by the lawyer is not subject to the FOI Act because it involves third parties against whom the "disclosure may cause harm". ■



Dr Joseph Thlama Dawha
Group Managing Director (GMD) of NNPC

Continued from page 14

State High Court is the Proper 'Venue Jurisdiction' in Cases Against State Governments and their Agencies, Says Federal High Court Judge

The word "Court" in clause 20 of the Freedom of Information Act, 2011, according to His Lordship, has been interpreted in clause 31 of the same to mean High Court or Federal High Court. By this, the Act has conferred jurisdiction on both the State High Court and Federal High Court.

He noted that in the instant case, the case has been brought against the Lagos State Government and the Attorney General of Lagos State. He said the question that comes to mind is: will the State High Court assume jurisdiction if the information sought is from the Federal Government or any of its agencies. He said the answer is "no".

His Lordships said the issue has been resolved in the cases of Tukur vs Government of Gongola State and Adetayo vs Ademola (2010) ALL FWLR (PT. 533) 1806. He also cited the recent decision

of the Court of Appeal, Lagos Division, in the case of Dr. Erastus Akingbola vs Federal Republic of Nigeria & Anor (2014) LPELR – 24258 (C.A.), where the Court of Appeal referred to Niki Tobi JSC in Onwudiwe vs Federal Republic of Nigeria (2006) 10 NWLR (PT. 988) 382, where the Supreme Court held that there is need to examine the parties in litigation as well as the subject matter of the litigation for close scrutiny in resolving the issue.

His Lordship held that the State High Court is the proper venue jurisdiction of the instant case.

He therefore struck out the case for lack of venue jurisdiction.

Olukayode Majekodunmi, for the Plaintiff; Ade Ipaye, Attorney General, Lagos State, with O. Akinsola and O. Ibrahim, Senior State Counsel, for the Defendants. ■

Requester	Information Requested	Public Institution	Date	Outcome of Request	Current Status
Socio-Economic Rights and Accountability Project (SERAP)	Information relating to the sources of spending on electoral campaigns and other operations linked to the February 2015 general elections.	All Progressives Congress (APC) National Chairman, Chief John Odigie-Oyegun	November 18, 2014	Failure, refusal and/or neglect to provide information requested	A suit was instituted in court in December 2014 over failure to disclose APC's sources of spending on its electoral campaigns and other operations linked to the February 2015 general election.
Socio-Economic Rights and Accountability Project (SERAP)	Information relating to the sources of spending on electoral campaigns and other operations linked to the February 2015 general elections.	Peoples Democratic Party (PDP) National Chairman, Alhaji Ahmadu Adamu Mu'azu	November 18, 2014	Failure, refusal and/or neglect to provide information requested	A suit was instituted in court in December 2014 over failure to disclose PDP's sources of spending on its electoral campaigns and other operations linked to the February 2015 general election.
Socio-Economic Rights and Accountability Project (SERAP)	Information relating to the spending of alleged missing N30trillion, which represents some accruable income to the federal government in the past four years.	Minister of Finance	February 2, 2015	Failure, refusal and/or neglect to provide information requested	A suit before the Federal High Court in Lagos against the Minister of Finance, Dr. Ngozi Okonjo-Iweala for allegedly failing to provide information
Institute of Human Rights and Humanitarian Law on behalf of Omano Edigheji	Relevant details of the doctorate qualifications of President Goodluck Jonathan	University of Port Harcourt (UNIPORT)	February 3, 2015	In a letter dated February 26, 2015, The University declined the request stating that the management carefully considered the request vis-à-vis the FOI Act and a request for President Jonathan's academic records did not fall within the provisions of the FOI law.	Refusal to provide information.
Centre for Development Support Initiatives	* Whether or not the Corporation adheres to the National Broadcasting Commission (NBC) Code and the Electoral Act * Information on special	Rivers State Broadcasting Corporation	February 18, 2015	The Corporation responded on March 3, 2015 stating that as an organization committed to the growth and	Successful access to information

Continued on page 17

Continued from page 17

Requester	Information Requested	Public Institution	Date	Outcome of Request	Current Status
	programmes and programme schedules for election related issues * Details of plans to build the capacity of journalists on conflict sensitive reporting before, during and after the 2015 elections * Measures taken to ensure objectivity, impartiality and neutrality in coverage of election related issues and activities * Details on funds to cover the elections and enlightenment activities * Mechanisms in place to guarantee safety and security of personnel in view of the possible volatility of elections and electioneering reportage * Policy towards providing equitable airtime or media space to all political parties contesting in the 2015 elections.			development of the nation especially as concerns the 2015 general elections, the corporation is willing to work towards the success of such projects. It however stated that cooperation is only discretionary and not an obligation due to the non-domestication of the law. In answer to the questions raised by the request, the Corporation stated that as a state government and parastatal under the supervision of the Rivers State Ministry of Information and Communications, the operations are also guided by the broadcast code of the NBC. It also states that the NBC regulates the operations of the Corporation as relates to the 2015 General Elections and issues raised in the request are strictly adhered to by the Corporation.	
Centre for Development Support Initiatives	Measures put in place to ensure the adequate safety of people and materials during the 2015 Elections, assurance that the police authority will be non-partisan, what parts of the state are considered flashpoints and measures taken to combat the breakdown of law and order.	The Commissioner of Police, Rivers State Police Command	February 18, 2015	On February 25, 2015, the Police responded stating that it was mindful of its mandate and has taken steps to ensure violence and hitch free elections. It states that it will provide adequate protection and security and maintain law and order. It gives details of deployment and sensitization of personnel. It also states that the Police is nonpartisan and will work to provide a level playing ground for parties and candidates.	Successful access to information

Upcoming FOI Events

May 18 – 19 2015: UNT Open Access Symposium 2015 – Open Access, The Law and Public Information

The University of North Texas (UNT) Dallas College of Law is to host the 2015 Open Access (OA) Symposium which will examine aspects of how the law relates to the open access movement, including copyright law, privacy law, access to government information, and access to and use of legal literature online.

The Symposium is to hold at UNT Dallas College of Law from May 18 to 19, 2015 and bring together researchers, librarians, administrators, scholars and other OA stakeholders with an interest in engaging the topic and improving the public's access to legal and government information

Presentations will include topics in IR deposit of public and legal information, web harvesting and preservation of the government web domain, the Uniform Electronic Legal Materials Act, and federal mandates for preserving research data. Broad issues of ensuring public access to legal, government, and other varieties of public sphere information will be explored in the 2015 symposium.

For more information, visit <http://openaccess.unt.edu/symposium/2015>

June 4 – 6, 2015: 4th Global Conference on Transparency Research, Lugano, Switzerland

The Global Conference on Transparency Research is to assemble again, for the fourth time, hosted by the Institute of Public Communication at the Università della Svizzera italiana, Lugano. The Conference is expected to assemble academics, policy makers, and interest group representatives to analyze and discuss the ever-growing reach and impact of the logic of transparency and openness: policies on access to information held by public entities, transparency relationships between organizations, transparency relationships between governments, private and non profit entities and citizens. The event is to addresses an interdisciplinary community of scholars including disciplines such as law, business, economics, communication, sociology, political science, public administration, journalism, and philosophy – all connected through their interest in transparency. This has always been the approach of the Conference in the previous editions in Newark (2011), Utrecht (2012) and Paris (2013).

As part of the Swiss Public Administration Network (SPAN), the University has a strong and continuous commitment to the study of public communication, administration and management. For more information, visit www.usi.ch.

August 26 – 28 2015: 13th workshop of the Study Group VII: "Quality and Integrity of Governance" of the European Group for Public Administration (EGPA) Toulouse, France

The Permanent Study Group on Quality and Integrity of Governance is to hold its 13th Workshop in Toulouse, France from August 26 to 28, 2015. The Group brings together academics and practitioners interested in the ethical dimension of administration and organization. The group's mission is to establish a long-term network aimed at stimulating research on the quality of the public sector.

The Study Group was launched at the 2003 EGPA Annual Conference and had an average attendance of about 40 participants in the 12 subsequent annual meetings. The group also co-organized two specialized conferences: the 2005 Transatlantic Dialogue in Leuven and the 2009 Global Dialogue in Amsterdam. The 2015 Annual Conference of the European Group for Public Administration will be held in Toulouse, France from 26 to 28 August.

The aim of the annual sessions is to present an overview of the cutting-edge academic research on quality and integrity of governance with relevance for the practice of European governance and government.

The Study Group particularly wants to contribute to making progress in comparative research, building on previous initiatives in transnational and global dialogues and the increasing cooperation between researchers around the world.

Practical information on the EGPA 2015 conference and online submission can be found on the conference website: <http://egpa-conference2015.org>

For more information on the study group, check the website: www.egpa-ethics.eu

To join the International Transparency and Secrecy Research Network listserv go to https://email.rutgers.edu/mailman/listinfo/itsrn_l ■

FOI Case Studies

FOI Requests reveal Increase in Number of British Soldiers with Mental Illness

Figures released by the United Kingdom Ministry of Defence (MoD) under Freedom of Information laws reveal 5,076 soldiers were found to have "mental health disorders" in 2013 which was 28 per cent higher than in 2011. Early statistics from the first half of 2014 also suggested that the number is set to rise again.

The increase which came after British forces were involved in a decade of intense fighting in the Middle East, is amidst concerns about the impact of defence spending cuts.

Rising by almost a third, official Ministry of Defence figures show the number of armed forces personnel with "mental health disorders" has risen from 3,927 in 2011 to 5,076 in 2013. The number of soldiers found to have post-traumatic stress disorder, depression and other mental health issues can also be expected to rise to a new high.

Experts have raised concerns about the long-term impact of fighting in Iraq and Afghanistan and veterans charities suggested the fierce fighting in Iraq and Afghanistan could partly be behind the rise. However, a spokesman for the Ministry attributed the increase to the drive to make soldiers more aware of mental health and discuss any concerns with doctors.

Nick Clegg, the Deputy Prime Minister of the United Kingdom had expressed the view that there was an "unspoken bias" in Britain that prioritises physical illness ahead of concerns about mental health. However, Stuart Tootal, a former army Colonel who campaigns on mental health, said the rise was a "by-product" of Britain's fighting in the Middle East.

"You cannot ignore the fact that the Army has just spent over 10 years on intensive operations in Iraq and Afghanistan," said Col Tootal, who led troops

into Helmand Province in 2006.

"We have come a long way. There is better recognition of mental health and more awareness, but more can be done. We have to remember that the mental scars of war are just like the physical scars."



Mr. David Cameron, British Prime Minister

Col Tootal urged the Government to create a "continuity of support" for soldiers with mental health issues as they move from active service into retirement.

Since 2011, more than 12,000 service personnel have been made redundant under restructuring outlined in the Coalition's strategic review in 2010. The regular Army will be reduced from

102,000 in 2010 to 82,000 in 2018, while the reserves will go up to 30,000. It is hoped £10.6bn of savings will be made.

Between one in four and one in five soldiers are believed to have a "common mental health disorder", according to the MoD – broadly the same proportion as found among the general public.

A spokesperson for the ministry said: "We are committed to providing all our personnel with all the support they need. Our mental health services have been configured to meet the requirements of the Armed Forces, and include 16 Departments of Community Mental Health across the UK with additional centres overseas."

"In addition, we are running campaigns such as 'Don't Bottle It Up' to encourage more of our personnel to come forward. It is possible that any increases in personnel presenting are due to a combination of factors, including a reduction in stigma."

The MoD has committed £7.4 million to ensure there is mental health support in place for soldiers. ■

UNESCO releases Open Access Curriculum online

As part of its efforts to enhance the capacities to tackle Open Access issues, UNESCO recently launched Open Access (OA) curricula for Researchers and library schools. UNESCO adopted the objective of "Building Inclusive Knowledge Societies Through Information and Communication" for its Medium-Term Strategy, acknowledging that knowledge plays a key role in economic growth, social development, cultural enrichment and democratic empowerment.

The Open Access programme avails people the opportunity to read and become educated at no cost, the information is unrestricted and much of the data is available online. UNESCO Open Access Curricula for Researchers and Librarians is an excellent resource which offers course modules that are customized to meet the educational needs for various institutions. The UNESCO curricula which was released in 2014 is quite robust and sophisticated, and required consultation with over 50 experts to develop the source material. These OA curricula include a set of customized modules which can easily be fitted with the educational needs of different stakeholders and can be integrated with any sensitization programmes of OA.

UNESCO's Open Access Programme was greatly influenced by its members' decision and the organisation received a mandate to work on issues regarding the Open Access policy, bridge knowledge pools on OA across the world and build capacities to better understand Open Access. The Open Access curricula consists of carefully designed set of modules for the use of researchers, library and information professionals; they are based on two needs assessment surveys, and several rounds of face-to-face and online consultations with relevant stakeholders.

UNESCO is currently in partnership with other organizations, working to improve awareness about the benefits of OA among policy makers, researchers and knowledge managers. The organization promotes Open Access (OA), with a particular interest and focus

on scientific information (journal articles, conference papers and datasets of various kinds) emanating from publicly funded research.

Since its creation 70 years ago, UNESCO has championed the causes of education, culture, natural sciences, social and human sciences, communication and information, globally. With its ongoing Open Access initiatives, the organisation renews its commitment to free and universal knowledge for the benefit of innovation and socio-economic development. UNESCO

employs the use of its global network of Field Offices, Institutes and Centers, for the facilitation of the development and the adoption of policies that enable Open Access. UNESCO also engages in global OA debates and cooperates with local, regional and global initiatives in support of OA.

UNESCO plans to develop and convert the Open Access curricula into self directed e-learning tools which can be used by users to evaluate their knowledge. Users can also use it to initiate learning and direct learning pace themselves.

The curriculum for Library schools consists of four modules:

- .. Introduction to Open Access
- .. Open Access Infrastructure
- .. Resource Optimization
- .. Interoperability and Retrieval

The research curriculum on the other hand consists of five modules:

- .. Scholarly Communications
- .. Concepts of Openness and Open Access
- .. Intellectual Property Rights
- .. Research Evaluation Metrics
- .. Sharing your Work in Open Access

Full details of the modules are downloadable on the official UNESCO website. ■



Mrs Irina Bokova, UNESCO, Director-General



Internet Manifesto 2014



1 Library and information services and the Internet

1.1 Library and information services are vibrant institutions that connect people with global and local information resources. They provide access to ideas and creative works and make the richness of human expression and cultural diversity available to everyone.

1.2 The Internet enables individuals and communities throughout the world, whether in the smallest and most remote villages or in the largest cities, to have greater equality of access to information to support personal development, education, cultural enrichment, economic activity, access to government and other services, and informed participation in a democratic society as an active citizen. At the same time the Internet creates opportunities for all to share their own ideas, interests and culture with the world.

1.3 Library and information services should be essential gateways to the Internet, its resources and services. Their role is to act as access points which offer convenience, guidance and support, whilst helping overcome barriers created by differences in resources, technology and skills.

2 Freedom of access to information and freedom of expression are essential to equality, global understanding and peace. Therefore IFLA asserts that:

2.1 Freedom of access to information and freedom of expression, regardless of format and frontiers, is a central responsibility of the library and information profession.

2.2 The provision of unhindered access to the Internet by library and information services forms a vital element of the right to freedom of access to information and freedom of expression, and supports communities and individuals to attain freedom, prosperity and development.

2.3 Access to the Internet and all its resources should be consistent with the United Nations Universal



Donna Scheeder - IFLA President

declaration of Human Rights, and especially Article 19:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

2.4 Barriers to the flow of information should be removed, especially those that prevent individuals from taking advantages of opportunities that will improve their quality of life and can result in inequality and poverty. An

open Internet is essential, and access to information and freedom of expression should neither be subject to any form of ideological, political, or religious censorship, nor to economic or technological barriers.

3 The role and responsibilities of library and information services

3.1 Library and information services have a vital role in ensuring freedom of access to information and freedom of expression, and have a responsibility to:

- serve all of the members of their communities, regardless of age, race, nationality, religion, culture, political affiliation, physical or mental abilities, gender or sexual orientation, or other status
- provide access to the Internet in an appropriate environment for all users
- support users, including children and young people, to ensure they have the media and information literacy competencies they need to use their chosen information resources freely, confidently and independently
- support the right of users to seek and share information
- strive to ensure the privacy of their users, and that the resources and services that they use remain confidential
- facilitate and promote intellectual, cultural and economic creativity through access to the Internet, its resources and services.

3.2 In common with other core services, access to the Internet and related technologies in library

Continued on page 23

Manual on Freedom of Information and Elections

By Media Rights Agenda

The “Manual on Freedom of Information and Elections” is a handbook for civil society organisations on using the Freedom of Information Act, 2011, to request for information from relevant Public Institutions which, if analysed, will indicate the preparedness or otherwise of federal institutions carrying out different roles in the conduct of elections in Nigeria.

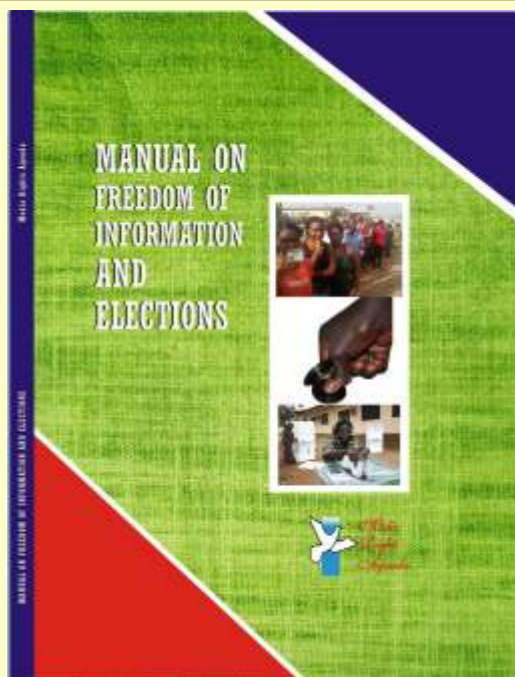
Information gathered from such requests will show if these institutions are prepared for the conduct of elections or not and ultimately work towards guaranteeing the integrity of the election.

Other manuals may have been produced on monitoring or observing elections in Nigeria but none on monitoring actions and inactions of the relevant Institutions, prior to elections, that will demonstrate whether these agencies are prepared for a credible election or not. This manual does just that, acknowledging that preparations prior to elections are vital to the credibility of such elections and must be monitored. It advises against the ritual of post mortem examination of elections when the harm may have been done but advocates for proactive monitoring that will ensure the integrity of elections.

Written by Media Rights Agenda (MRA), the 96-page manual contains five chapters and two appendices. Chapter One which is the introduction cites the African Charter on Democracy, Elections and Governance to which Nigeria is a state party and which expresses the Continent’s desire for “a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national election bodies.”

Harping on transparency, the Introduction notes that through the Charter, African leaders affirm their determination to “promote and strengthen good governance through the institutionalization of transparency, accountability and participatory democracy.”

The manual points out that “if civil society groups and other election observer groups, adopt a view to save, monitor or influence the entire election process, then these groups do



not have to wait till Election Day to find out if INEC and other institutions and agencies of Government which have various roles to play in the process are adequately prepared for the elections.”

Chapter Two cites the example of MRA’s pilot FOI and the Elections Project which employs this method of checking preparation for the elections and takes a look at the benefits of invoking the FOI Act to ensure the transparency of elections in Nigeria.

Chapters Three, Four and Five do detailed analyses of access to information and the Freedom of Information Act, 2011 to ensure understanding of the philosophy

of access to information and in particular, Nigeria’s FOI Act. These chapters do not merely gloss over the provisions of the FOI Act but go beyond that to analyse them based on international best practices.

Chapter Three which deals with ‘What is Freedom of Information’ lays a brief ground work for what FOI is and its essence. It goes beyond the FOI Act, 2011, to explain what FOI means, the philosophy behind the law as well as its purpose and objectives. It touches briefly on different aspects of the FOI Act, 2011, including the right that the Act guarantees; obligations of public institutions to maintain records; definition of public institutions; information exempt from the general right of access; mode of accessing information under the Act; and the proactive publication obligations of public institutions.

Chapter Four looks at “Ensuring Compliance by Public Institutions with Proactive Publication Obligation.” The chapter points out one challenge with the FOI Act: it has no specific mechanism for monitoring compliance with the proactive disclosure obligations of public institutions. It however points out that the Act in Section 2(6) gives everyone the right to institute a case in court to compel public institutions to comply with their proactive disclosure obligations under the Act.

Chapter Four makes the point that civil society and the media have roles to play to ensure that the FOI Act not only works but helps to strengthen Nigeria’s democracy.

Continued on page 23

Manual on Freedom of Information and Elections

By Media Rights Agenda

it says the media and civil society can monitor the obligations of public institutions under the law and how they are complying with them and goes further to give an exhaustive list of every aspect of public institutions’ obligations that civil society and the media can monitor. The manual also says what they can do with their findings from the monitoring including publicizing it, carrying out advocacy on the matter or taking the institution to court to compel it to comply. It also makes the point that a civil society or media need not monitor everything but restrict it to its areas of work; state, local government or town of operation etc.

Chapter Five which deals with “Making a Request for Information”, is a step-by-step approach to making a request. It starts with who can apply for information; the types of information that can be applied for; public institutions under the FOI regime; and steps to actually making a request for information.

Chapter Five also looks at whether a requester needs to give reasons for requesting for information, the timeframes for responses, fees payable for information and types of responses to expect.

It also goes on to list the public institutions involved one way or the other in the conduct of elections in Nigeria which citizens and groups can approach request for information on their preparedness for elections.

Appendix One contains a list and web links to domestic, regional and international instruments governing the conduct of elections while Appendix Two contains draft of

FOI requests fine-tuned for Nigeria’s 2015 General elections. The requests are categorized according to the different institutions that have roles to play in the conduct of elections in Nigeria. Some of them are specific to geo-political zones while others are specific to states.

The manual is a practical, vital all-time relevant manual as it can be used in any election that will ever be conducted in Nigeria. It can also be adapted by civil society groups in West Africa, Africa and the developing world to help ensure the integrity of their elections.

As Chapter Two advocates, the process of using the FOI Act to monitor elections can be complemented with other activities which include developing a framework for collecting and analyzing information received from such requests; production and dissemination of newsletter that highlights the inadequacies or otherwise of the agencies; appropriate advocacy activities targeted at relevant institutions to compel them to address identified lapses.

On the whole, the manual comes at a very crucial time in the political life of Nigeria and the developing world. It pinpoints an aspect of election that has been overlooked by others but which is very crucial to the integrity and credibility of any election. As the saying goes, ‘proper prior preparation prevents poor performance’, the manual advocates monitoring of planning to draw attention to failures that may result if there are no proper planning.

Every civil society should have a copy of the “Manual on Freedom of Information and Elections” in its library and its electronic database of important resource materials. ■

Continued on page 21



STANDARDS AND PRINCIPLES

Internet Manifesto 2014



and information services should be without charge.

4 Implementing the Manifesto

4.1 IFLA encourages all governments to support the unhindered flow of Internet accessible information and freedom of expression, to ensure openness and transparency by opposing attempts to censor or inhibit access, and ensure that surveillance and data collection are demonstrably legal, necessary and proportionate.

4.2 IFLA calls upon library and information services to work with states, governments, or religious or civil society institutions, to develop strategic policies and plans that support and implement the principles expressed in this manifesto through the development of public access to the Internet in library and information services across the world, and especially in developing countries.

Endorsed by the IFLA Governing Board, August 2014 ■