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Freedom of Information NEWSLETTER

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FREEDOM OF INFORMATION NEWS

FOI Act Can Transform 'Clandestine System of Governance' in Nigeria, Says Federal Government

The Federal Government says the Freedom of Information Act, 2011 contains far-reaching provisions "capable of transforming the clandestine system of governance that has, until now, been the norm of Nigeria's public institutions."



President Goodluck Jonathan

In its fifth Periodic Country Report to the African Commission on Human and Peoples' Rights on the Implementation of the African Charter on Human and Peoples' Rights, the Government noted that "the underlying philosophy of the Act is that public officers are custodians of a public trust on behalf of the people who have a right to know what they do."

In the 154-page report issued on behalf of the Federal Government by the Attorney-General of the Federation and Minister of Justice, Mr. Mohammed Bello Adoke (SAN), covering the period 2011 to 2014, the Government stressed that the Act "promises to remove the aura of mystery and exclusion with which public servants clothe the ordinary operations of government and public institutions and manage

public records and information." The statements form part of Nigeria's report of the efforts made by the country towards the progressive realization of the basic rights

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MRA to Host 3 Day FOI Implementers Strategy Meeting in Abuja



Ms. Jennifer Onyejekwe,
Deputy Executive Director, Media Rights Agenda

Media Rights Agenda (MRA) will host a three-day Freedom of Information (FOI) Implementers' Strategy Meeting in Abuja on January 27 to 29, 2015 for civil society organizations engaged in FOI work in Nigeria to agree on a framework for coordination and collaboration.

The meeting is a follow-up to the first FOI Implementers' Strategy Meeting held in Abuja in September 2013 and is aimed at finalizing the proposals discussed during the first meeting for ensuring greater coordination and collaboration, as well as information, experience and skills sharing and exchange in FOI implementation activities.

The Keynote Address at the meeting will be delivered by Mr. Augustine Alegeh, President of the Nigerian Bar Association (NBA), while Mr. Kelechi Nwosu, President of the Association of Advertising Agencies of Nigeria (AAAN) will also address the

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OGP Calls for International Expert Panel Members

The Open Government Partnership (OGP) is seeking international members for its Independent Expert Panel. The Independent Expert Panel supervises the Independent Reporting Mechanism (IRM) and panel members are nominated through an open process and approved by the OGP Steering Committee.

The IRM is a medium through which stakeholders can monitor participating countries of the OGP through compiled biannual programme reports of participating countries. The progress reports include assessments of governments of participating countries as regards implementation of OGP action plans, progress in fulfilling OGP principles and recommendations for improvement.

The IRM is responsible for the writing and compilation of the reports as well as nominating the independent national researchers who would be responsible for writing and compiling the progress reports. This process seeks to promote accountability and stimulate dialogue between OGP participating governments and citizens.

To protect its processes from undue influence of OGP participating governments and other stakeholders, the OGP Articles of Governance provides a special status for the IRM which ensures that it can work closely with the OGP Support Unit and Steering Committee and allows IRM findings to be used to promote learning and continuous improvement across the partnership.

On July 24 2014, the Open Government Partnership issued its official call for nominations of persons to serve on the eight-member International Expert Panel (IEP) that will oversee the

Independent Review Mechanism (IRM). According to the OGP "The high-profile senior advisors will provide strategic advice during the initial development of the IRM's overall assessment approach, and will then play a major role in international and regional outreach on IRM report findings and implications". The review process itself has been defined by the OGP Steering Committee which ultimately will select the members of the expert panel

The panel members are to serve for a term of two years with the possibility of a one-year extension. The technical/policy expert panel members will be compensated for their time and high-profile senior advisors will be compensated for expenses. The current members of the IEP can be found here: http://www.opengovpartnership.org/sites/default/files/attachments/IEP_Membership.docx.

The call for nominations will be open from November 12 2014 to December 12 2014 and the final nomination list is scheduled for final approval by the steering Committee prior to March 2015. On its website, the OGP stated the characteristics of a well-rounded IEP:

- Have broad expertise across regions and topics.
- Be able to apply ethical and auditing standards to guide the IRM in cases of conflict of interest.
- Working closely with the IRM staff, help to refine and develop reporting methods and research products.
- Be able to help recruit researchers in a variety of national contexts.
- Be able to give strategic and communications guidance for the IRM both at the

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FOI Act Can Transform 'Clandestine System of Governance' in Nigeria, Says Federal Government

and freedoms of individuals and groups enshrined in the African Charter, in accordance with Article 62 of the Charter, which requires States Parties to the Charter to submit every two years, a report on the legislative or other measures taken, with a view to giving effect to the rights and freedoms recognised and guaranteed by the Charter.

The report is due to be considered by the African Commission on Human and Peoples' Rights at its 56th Ordinary Session which was scheduled to take place in Banjul, The Gambia, from December 1 to 17, 2014 but was postponed due to the prevailing public health situation in West Africa following the Ebola outbreaks in Guinea, Sierra Leone, Liberia, and Mali.

The Commission said it postponed the session as part of its own contribution towards the containment of the virus, and also to avoid putting the Commission's host country at any risk. New dates have not yet been fixed for the session.

The Federal Government highlighted in the report "the ten most significant provisions" of the Act as follows:

- That the Act supersedes the Official Secrets Act (OSA);
- Anyone can request for information under the Act;
- Response to access requests for information should be given within seven days;
- There are penalties for destruction of records;
- Fees may be charged to recover costs of duplication and transcription of records;
- Public institutions must keep proper records;
- Whistleblowers will be protected;
- Some categories of information are exempted



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

- from disclosure;
- There is a right of access to remedies, including judicial review; and
- The Federal Attorney-General oversees the proper implementation of the Act.

The Government said in the report that Nigeria was committed to the progressive realization of the basic rights and freedoms of individuals and groups as well as their duties enshrined in the African Charter through legislative, policy, judicial, administrative and budgetary measures.

It stated that efforts had been made within the period under review, 2011 to 2014, by Nigeria to improve on her obligation to promote and protect human and peoples' rights by enhancing the capacity and independence of the judiciary, relevant ministries and human rights institutions.

Such efforts, it said, include "direct intervention programmes and projects that seek to impact on the standard of living, quality of life, security and welfare of the individuals and groups within her jurisdiction."

The Government admitted that there are numerous challenges ahead in the effective promotion and protection of human and peoples' rights and in the realization of the time-bound Millennium Development Goals.

It is against this background, it said, that the "5th Periodic Country Report seeks to highlight the general and specific measures adopted in the implementation of the African Charter on Human and Peoples' Rights since 2011."

The Government expressed the hope that the experts of the Commission would "appreciate the progress made so far, the efforts being made to overcome the identified challenges and support Nigeria's commitment to sustain this momentum in the overall interest of Nigerians." ■

An Effective FOI Law Can Make the Journalist's Job Easier Says Edetaen Ojo

The Executive Director of Media Rights Agenda (MRA), Mr Edetaen Ojo, has called on journalists and other members of the society to use the Freedom of Information (FOI) Act to force public institutions in Nigeria to change their entrenched culture of secrecy.

Delivering the Keynote Address at the Editors' Seminar on Investigative Environmental Reporting in a Freedom of Information Regime, organized by Environmental Rights Action/Friends of the Earth Nigeria (ERA/FoEN), Mr. Ojo noted that since the ability to obtain and disseminate information is at the heart of the work of journalists, the FOI Act makes the prospect of getting information much more feasible for Nigerian journalists.

In his Keynote Address titled "Investigative Reporting in a Freedom of Information Regime" Mr Ojo described the nature of investigative journalism, saying it often entails digging for information to reveal a state of affairs not previously known by the general public.

According to him, such information may be obtained through official sources, such as interviews, or records and documents officially made available to the journalist by those who have custody of them, but they may also be obtained through unofficial sources that the journalist has cultivated.

Stressing that "investigative reporting is no magic", he argued that it "is simply the process of assembling evidence to substantiate or establish a fact or set of facts."

Mr. Ojo noted that public records and documents are critical and invaluable assets in investigative journalism, adding that "they are important in ensuring that the journalist has accurate and reliable facts; in helping the journalist to correctly report events that may have escaped public attention when they happened or where the full facts were not known."

He said public records and documents can also assist the journalists in bringing previously unknown facts to light and in verifying information obtained from anonymous sources, among other things.

According to him, "There are a multitude of documents covering a wide variety of issues, generated daily and being shared or held by various government ministries, departments and agencies."

But Mr. Ojo noted that journalists seeking to use public records or documents in investigative reporting face several challenges, including how to know if a particular piece of information is available, how to determine who has that information, and being able to obtain the record or document from that source.

He said although the first two elements – how to know if a particular information is available and how to know who has the information – are equally challenging, the biggest challenge of all used to be how to obtain the information and document in a manner that does not endanger the journalist.

He added that since government officials are inherently wary of releasing documents which do not favour them to journalists, anything that gives the journalist the ability to compel them to release such documents becomes an invaluable asset for the journalist.

Mr. Ojo recalled that for decades, the legal framework in Nigeria was built on a culture of secrecy, with numerous laws containing secrecy clauses forbidding the disclosure of information, usually under very broad "public interest" claims, even when no justification for such prohibition existed.

He said: "The situation was so bad that sometimes, even the courts of law were precluded from compelling the disclosure of such information."

Mr. Ojo argued that the situation insulated governments and their actions from public scrutiny until May 28, 2011, when the situation was dramatically altered with the signing into Law of the Freedom of Information Bill by President Goodluck Jonathan.

Describing Freedom of Information as "the right, which members of the public in any society have to request and access information, records or documents in the custody of government officials and institutions," he noted



Mr. Edetaen Ojo,
Executive Director, Media Rights Agenda

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An Effective FOI Law Can Make the Journalist's Job Easier Says Edetaen Ojo

that it is a fundamental human right established under international Law.

He also observed that in Nigeria, besides the FOI Act, there are a number of other laws with access to information provisions that can also be used to obtain information in specific sectors, including the Public Procurement Act, 2007; the Fiscal Responsibility Act, 2007; and the Nigeria Extractive Industries Transparency Initiative (NEITI) Act, 2007.

Mr. Ojo argued that compliance with the proactive disclosure provisions in the FOI Act by public institutions is critically important in ensuring the effective implementation of the Act, observing that "I believe that a journalist can even make a career of tracking and reporting on the level of compliance with these provisions by public institutions."

He stressed that the existence of a freedom of information law in itself will not solve the problems of access to information for journalists and other Nigerians as many government officials remain instinctively resistant to the idea of releasing information to the public.

According to him, "Government systems and process will only open up if people make use of the law to request information and push public institutions to become more open. So, once again, I believe it would be most appropriate for journalists, as part of their investigative reporting, to monitor the level of compliance by public institutions with their duties and obligations under the Act. It is certainly in their enlightened self-interest to do so as an effective freedom of information Law will make the job of the journalist much easier."

Besides, he said, "journalists and other members of the society must force public institutions to change their culture of secrecy that has become entrenched over the decades. Members of the public must also force them to adopt better methods of keeping their records and processing requests for information. If we do not force these changes, then the old order will remain even now that a freedom of information law has been passed."

Mr. Ojo said despite the lingering challenges, the enactment of a freedom of information law in Nigeria had removed most of the legal impediments which journalists used to face in trying to access information and records in the custody of government officials or government



Mr. Edetaen Ojo

departments and agencies. He contended that it has also neutralized the negative provisions and consequences of restrictive laws such as the Official Secrets Act, the Criminal Code and the Penal Code, and other such laws as well as overridden the secrecy clauses which pervade many laws in Nigeria and provides protection for public officers who take the initiative to release information to the media in the public interest from

official reprisals.

In his view, with the enactment of the law, public information ought to become more generally available to both the media and members of the public as it imposes an obligation on the government, its officials, departments and agencies, to provide public access to documents and information which will enhance the capacity of the media to report freely on the exercise of political power. Where public officers are reluctant to disclose information or release documents, the media can ensure that they are compelled to do so, he said.

He told the journalists that any of them who truly wants to carry out investigative reporting will find the FOI Act a very powerful tool in digging for information in government departments and agencies as the Law "opens up infinitely more possibilities for resourceful and creative reporters."

However, he said, the Act will not be of any assistance to a lazy journalist as it does not eliminate the necessity for tenacity and rigorous checking of facts.

If anything, Mr. Ojo argued, the enactment of the law in Nigeria imposes additional responsibilities on the media as the excuse of having no access to information and records is no longer available to the media and journalists will increasingly be subjected to higher standards of accuracy, fairness and responsibility in their publications or broadcasts.

He detailed various ways in which the media can use the FOI Act in their reporting, saying "by systematically using the FOI Act to target certain types of information, the media and individual journalists can help to reveal corruption, abuse of public trust, abuse of power or other forms of wrongdoings. Ultimately, this can help to push back on corruption and improve accountability." ■

UN Secretary General Speaks on the Inclusion of Freedom of Information, Media in New UN Global Development Goals

The United Nations Secretary-General, Ban Ki-moon, has endorsed freedom of expression, including freedom of information and media freedom, as an important enabler for the UN Post 2015- Development Agenda.

The UN Secretary-General's endorsement is contained in his report titled "The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet", thereby virtually guaranteeing the inclusion of freedom of expression, freedom of information and media freedom in the UN's next set of global development goals.

The "synthesis" report on the UN's post-2015 development agenda presented by the Secretary General to the General Assembly in New York states that "People across the world are looking to the United Nations to rise to the challenge with a truly transformative agenda that is both universal and adaptable to the conditions of each country, and that places people and planet at the center." The report also says that "Press freedom and access to information, freedom of expression, assembly and association are enablers of sustainable development,"

The report is a welcome support for what has been a lengthy challenge for press freedom and freedom of information advocates who have spearheaded initiatives to get these issues on the table at United Nations Open Working Group sessions.

The Secretary General's report pressed for the adoption in 2015 of the 17 new Sustainable Development Goals proposed by a 70-nation General Assembly working group, which involves countries' commitments to ensure public access to information and the protection of "fundamental freedoms" guaranteed by UN human rights treaties. The proposed goals also include commitments to the complete eradication of extreme hunger and poverty, strong new global environmental protection measures, the elimination of deaths from preventable diseases, and the fulfillment of past pledges on gender equality and universal childhood education.

An international coalition of non-governmental media development actors led by the Global Forum for Migration and Development (GFMD) has called for the inclusion of these issues in the post-2015 development agenda, including in the Nairobi Declaration on the Post 2015 Development

Agenda issued by the African chapter of the Global Forum for Media Development (GFMD) - an international body bringing together over 200 media development actors. "We have been saying for some time that a free press and open access to information of all kinds are essential to achieving these goals, and it is very encouraging to see that the Secretary General shares that view," said Leon Willems, GFMD's chairman.



Ban Ki-moon,
UN Secretary-General

The UN Secretary General's report states that the UN's advisors on the "data revolution" required for tracking and achieving the post-2015 goals have "underscored the importance of increasing access to quality data, remedying inequalities in the areas of access to information, data literacy, promoting civic space and enhancing the sharing of data and information."

The report also notes that the Secretary General's proposed annual "participatory, multi-stakeholder, and, importantly, universal review" of progress towards the new goals, under the auspices of a new "high-level political forum (HLPF)" at the United Nations would require a free flow of public information and independent debate and analysis in media and civil society.

The road to final adoption of the SDGs faces significant roadblocks from authoritarian countries opposed to media's inclusion on the indicators. On another front, the SDGs have come under criticism of late for the 17 goals and 169 targets proposed, which some member states feel would be challenging to implement by 2030. The Secretary General's synthesis report, which highlights the necessity of these goals, comes as a strong recommendation for their adoption.

The Secretary General's report echoed civil society's calls for post-2015 commitments to freedom of information and media both as crucial rights-based ends in themselves and as practical necessities for monitoring progress towards all the proposed new goals. His report noted that the UN's advisors on the "data revolution" required for tracking and achieving the post-2015 goals have "underscored the importance of increasing access to quality data, remedying inequalities in the areas of access to information, data literacy, promoting civic space and enhancing the sharing of data and information." ■

Nairobi Declaration on the Post 2015 Development Agenda calls for Inclusion of Goal on Good Governance

African media experts and civil society activists have called on the United Nations (UN) to include a goal on good governance and effective institutions in the UN post-2015 Development Agenda.

At a meeting held in Nairobi, Kenya, they called for targets in the post-2015 Development Agenda to give practical effect to the public's right to information and requested that freedom of expression, freedom of information and media freedoms should also be included as goals.

The meeting of African and international media experts and civil society, styled African Regional Workshop on the Post-2015 Development Agenda, was held on November 14 at the instance of the Global Forum for Media Development (GFMD).

The aim of the meeting was to formulate an African advocacy program to have "Free media and access to information" in the UN's Sustainable Development Goals (SDGs) which is expected to be a replacement for the Millennium Development Goals (MDGs) at the end of 2015.

At the end of the workshop, which was attended by 36 African and international experts, participants adopted the "Nairobi Declaration on the Post-2015 Development Agenda", signed by 33 African and international media and civil society organizations.

The Nairobi Declaration on the post-2015 Development Agenda is an initiative by media and CSO leaders to encourage the UN to include a goal in the SDGs on good governance and effective institutions, which will include targets to give practical effect to the public's right to information and government data as well as the right of people to freedom of expression and access to free and independent media.

The participants at the meeting made a number of observations which include:

- Informed participation of people in governance processes require free flow of information to



Jeanette Minnie, African Representative on the GFMD Steering Committee

bring about sustainable development.

A free, professional and independent media is essential in helping countries shape their development goals and plans and in holding governments and powerful interests to account.

- The media enhances the ability of the public to participate in decision making particularly by minority and under-represented groups.
- The post-2015 Development Agenda will have little chance of success if people do not have unrestricted access to information from a variety of sources to enable them make decisions.
- The various sectors of society are legitimately concerned with the poor standards among media professionals in some countries. The media development communities and associations need to address capacity weakness and lack of professional standards.
- Information is essential for development at personal and communal levels and as such, freedom of expression, access to independent media and access to information are critical for democratic and economic development.
- The media do not directly recognize their capacity to contribute to the development of communities. Media community needs to make efforts to provide capacity building for journalists in analytically and critically reporting development policies and implementation plans in countries, again with the support of and investment by development actors.
- The absence in many countries of diverse media landscapes and sources of information, including the absence of alternative media, is inconsistent

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UNEP Seeks Comments on Access to Information Policy

The United Nations Environmental Programme (UNEP) is seeking comments on its Access to Information Policy, which was established in June 2014 by UNEP's Executive Director in accordance with paragraph 17 of Governing Council decision 27/2 of February 27, 2013.

Upon the release of the policy in June, UNEP's Secretariat announced that "the next year will represent a pilot phase for applying the policy", during which "consultations will be held within the UNEP secretariat with a view to sharing experiences and discussing ways to refine the policy, as well as with member States and relevant stakeholders in order to seek their views and receive relevant information based on their own experiences relating to similar policies elsewhere."

It then indicated that the policy will be reviewed within one year from the date of its establishment and that



Achim Steiner,
UNEP Executive Director and
Under-Secretary-General of the United Nations

"on the basis of the review, the policy may be updated or revised, as necessary." UNEP says it intends to issue a final version of the policy by the end of June 2015.

The policy will apply to the information in the custody of the UNEP secretariat but the secretariat says "certain information generated by or held in the custody of the secretariat of a given multilateral environmental agreement relating to the operation of the

agreement may be considered under the authority of the respective parties and therefore outside the scope of the policy or the disclosure of information may require the consent of the parties concerned."

The Policy is open for comments until February 28, 2015.

To read the Policy or comment on it, go to: <http://bit.ly/1BC9ypm> ■

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Nairobi Declaration on the Post 2015 Development Agenda calls for Inclusion of Goal on Good Governance

with the requirements for pluralistic media environments and should be addressed through policy, regulatory, legislative or other interventions.

Following their observations, participants recommended that:

- The SDGs should include the commitments to freedom of expression and media and the right of people to seek and receive information, which will also enable other rights and development.
- Media regulatory bodies, media professional associations and unions, as well as the media community in general, must take urgent steps to ensure that the media in different countries are ethical, professional and enjoy public trust and confidence in order to enhance their effectiveness in facilitating human development.
- As the United Nations lead agency in charge of communication and information, and

specifically given the mandate to promote free, independent and pluralistic media, UNESCO should take the lead in monitoring progress towards the achievement of this goal.

The signatories to the Nairobi Declaration on post 2015 Agenda include African Media Institute (AMI), Kenya, Right2Know Campaign (R2K), South Africa, Media Institute of Southern Africa (MISA), Namibia, Media Rights Agenda (MRA), Nigeria, International Federation of Journalists (IFJ) - Africa Regional Office, Senegal, Africa Freedom of Information Centre (AFIC), Uganda, Nigeria Union of Journalists, Nigeria, African Platform on Access to Information (APAI), African Freedom of Expression Exchange (AFEX), Global Forum for Media Development – Africa Region (GFMD), The High Commissioner of Ghana in Namibia amongst others.

International Organisations such as Deutsche Welle Akademie, UNESCO Regional Office: Eastern Africa, Embassy of Sweden Nairobi were also in attendance. ■



NULAI: Mainstreaming the FOI Act in Legal Education

The Network of University Legal Aid Institutions (NULAI) Nigeria is a non-governmental, non-profit and non-political organization established on October 16, 2003 committed to promoting clinical legal education, legal education reform, legal aid, access to justice in Nigeria and the development of future public interest lawyers.

NULAI has taken charge of spearheading the mainstreaming of the FOI Act into the curriculum of Law Faculties in Nigeria. It has also engaged in building capacities of community based groups on how to effectively use the FOI Act by partnering with campus based law clinics to organise outreaches in various communities using the street law approach.

The Objectives of NULAI Nigeria include:

- Promotion of Clinical Legal Education within Nigeria, and all over Africa
 - Generating sufficient interest in the legal education sector to encourage universities and law schools to establish and develop law clinics; and reform legal education.
 - Providing technical and institutional support to university/law school law clinics; a medium for exchange of ideas and peer review among law clinics; a link between and among law clinics and relevant institutions in Nigeria and similar organizations; access to training for law teachers.
 - Assisting law clinics to develop and sustain human rights based programmes such as human rights education, legal aid and access to justice that impacts on community development.
 - Promoting a culture of public/community service in budding lawyers through training a new generation of skilled law students committed to public service and justice
- With implementation of the FOI Act still at infancy at both institutional and civil society levels, NULAI commenced a Freedom of Information project for



Odinakaonye Lagi,
Senior Program Officer, NULAI Nigeria

law clinics in May 2012 by organizing a one day FOI workshop to discuss what roles law clinics can play in promoting the implementation of the law. The workshop resolved that there is need for law clinics to mainstream the utilization of FOI into law clinics' programme. Consequently after broad consultations, a template guide on approaches to achieve this was developed. Engaging local communities as end-users and drivers to use the law was highlighted in the template as a key role to be played by law clinics and a project was centred on this.

Funded by The United Nations Democracy Fund (UNDEF), NULAI undertook a project to build the capacities of community-based groups towards the effective use of the Freedom of Information Act in Nigeria.

Through this project, NULAI embarked on a number of activities to access public records through freedom of information community outreaches to 26 communities in 13 local government councils across Nigeria. Twenty-Six law professors and 650 Nigerian law students at 13 law clinics were targeted to be trained on Freedom of Information street law programmes.

NULAI provided support and educated about 10,400 primary beneficiaries including community members/groups to use the Freedom of Information Act. It also provided support to requests for information and community participation exercises. With an average of 400 per community, community members including men, women and youth groups in 26 communities located at local councils from the western, northern, eastern and southern regions of Nigeria were involved.

The main project activities included:

- Developing a street law educators' manual on FOI from field experience and project resources to ensure sustainability and project replication. It also sought to develop an FOI curriculum for law faculties/law clinics in Nigerian Institutions. A draft Street Law Freedom of Information Manual is available on the NULAI website at

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NULAI: Mainstreaming the FOI Act in Legal Education

<http://www.nulai.org/index.php/media1/downloads-resources/file/52-street-law-freedom-of-information-manual-draft>

Training law teachers on the FOI Street law programme. A report of the training is available for download at <http://www.nulai.org/index.php/media1/downloads-resources/file/51-freedom-of-information>

Training law teachers, law clinic coordinators and students on the FOI Act

Developing street law lessons and appropriate methodology for community outreaches

Freedom of Information as well as public enlightenment through the media, newsletters and leaflets.

Through the University of Abuja Law Clinic, NULAI has made an FOI request which is still pending to the Gwagwalada Area Council, Abuja on the budgetary allocation to Gwagwalada Area Council, Abuja from 2011 to 2014.

Enyinnaya Uwadi, Project Officer at NULAI Nigeria expressed satisfaction that the NULAI experience in engaging FOI in Nigeria has been interesting and challenging. She stated that "In the course of our engagement with the FOI act, we discovered that the rural communities in which our outreach programmes

were carried out were very happy and elated to know that they could get information about government activities, which will have the resultant effect of spurning the government to wake up to their duty."

The efficacy of the Act was demonstrated through the request made by Angwan Jeshi community in Gwagwalada Local Government Area of the FCT, though not yet answered, it elicited actions with the installation of two electrical

transformers, drainage system and the sinking of a borehole, all within a month in the community. This has made life more comfortable for the rural community and has shown how beneficial using the Act can be. The community is pleased with the efforts of the University of Abuja Law Clinic through NULAI in this regard.

With the current staff strength of 5 Permanent Staff, 3 Interns, 32 full time volunteers (Law Clinic Coordinators and Supervisors), NULAI is focusing on promoting access to justice through public interest lawyering in areas like women's right, children's right, rights of pretrial detainees etc. It is also working towards a pro bono network of lawyers, legal aid, technical support and capacity development.

For more information on NULAI Nigeria visit www.nulai.org

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Freedom of Information Street Law Teacher Training for Clinical Law Teachers, Abuja

Developing educational and communication materials on FOI to be used during community outreaches

Training law students and educating target communities on FOI through community outreaches to rural communities in all geo political zones in Nigeria,

Setting up FOI units in law clinics to provide support to community members/groups on access to information needs

Conducting practical projects through law clinics to support community members' access to/request for information of their needs

The review of the law clinics' activities in assisting communities' use of the FOI Act by NULAI.

NULAI has also been involved in a lot of research on

FOI Lawyer's Profile

Ugochi Okpe: Litigating FOI Cases to Advance Public Participation in Governance

Through her work with the Socio-Economic Rights and Accountability Project (SERAP) as Attorney and Programs Associate, Mrs Ugochi Okpe has become involved in Freedom of Information (FOI) litigation.

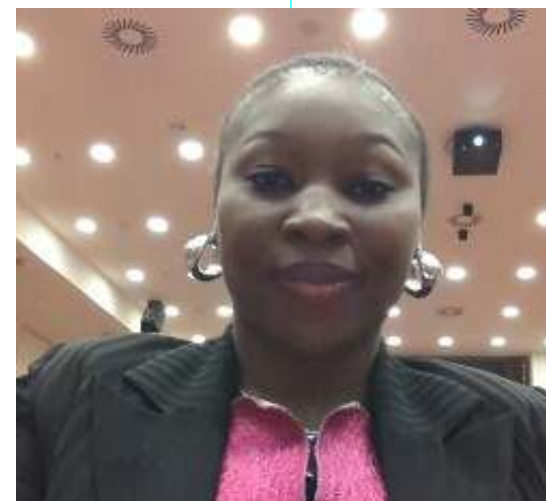
Mrs Okpe who now resides in Lagos State grew up in Ajaokuta, Kogi State, and studied in Enugu State. Largely influenced by her mother, Mrs Okpe is career focused, God fearing and amiable.

Having been introduced to FOI through SERAP, Mrs Okpe's knowledge and involvement with the FOI is targeted at using it as a tool to obtain information from the government on spending of public funds and towards ensuring transparency and accountability in government. In ensuring success in her pursuits, she researches information that aids and improves her knowledge and skills as well as makes her work more effective.

Mrs Okpe shares her discovery of politicians and government officials' inherited culture of hiding information from the public which has led to the necessary use of the FOI Act. She notes that effective engagement of the Act allows the public participate in government by granting them the right to ask for information on the issues that affect their lives. She cites an example of a community battling oil spillage with a government backed with the funds to ensure cleaning up of this problem but is yet to take action. She explains that the FOIA can be used to question why action is not taken and spark further reactions.

From her experience with FOI in Nigeria, she describes the present status of FOI development in Nigeria as a work in progress because most agencies of government do not seem to understand the operation of the law and some judges are yet to embrace the law. She also goes further to state that there is need for more awareness and enlightenment on the FOIA. Towards this end, SERAP has published a guide on Understanding the FOI which aims at contributing to sensitizing the public on the FOI Act and its provisions.

Mrs Okpe also notes that the fight for freedom of information in Nigeria is faced with specific challenges that



Mrs. Ugochi Okpe,
Attorney & Programs Associate at SERAP

need to be addressed. Among these challenges are the unwillingness of public institutions to provide full details of information requested, states refusing to accept that the FOIA is binding on them even though it is a national law and lack of FOI knowledge on the part of judges. She states that the law should have a binding effect on all states of the federation and this will go a long way to enhancing the use and effectiveness of the Act.

Speaking on her desire to work on FOI cases, she mentions Mr Adetokunbo Mumuni, the

Executive Director of SERAP as a great influence who motivates her work on FOI and human rights in general. She expresses her expectation that full and effective application of FOI in Nigeria would help enhance transparency and accountability which could contribute to transformation in the country.

Despite the challenges cited, Mrs Okpe says that there has been improvement in the courts regarding FOI as judges are developing interest in FOI cases as they have sought pertinent information on the Act in the course of handling cases. She expresses the hope that through FOI engagements, corruption in the society will be eradicated or at least reduced which will in turn reduce the negative effects they impact on the rights of the citizens. She however also worries that the government will make an attempt to negatively amend or repeal the FOIA to make it less effective.

Mrs Okpe speaks on SERAP v. The Executive Governor of Lagos State and The Attorney General of Lagos State as a challenging and inspiring case she has been involved in. She notes that like most cases filed against Lagos State, the case is not just defended by lawyers but largely by the Attorney General himself who appears in court and therefore when he is not available to appear, the case is adjourned. She however states that she has found the case inspiring as it has provoked action by the government. She explained that the government has openly disclosed the information it claimed before the court it could not do because the FOIA does not apply to Lagos State.

Mrs. Okpe encourages colleagues to remain committed, courageous and fearless in their FOI pursuits. ■

Retired High Court Judge Drags NJC to Court for Denial of FOI Request

Justice Charles Archibong, a retired judge of the Federal High Court, has dragged the National Judicial Council (NJC) before a Federal High Court in Abuja to challenge its refusal to avail him of his service records and judicial activities including all petitions against him and a certified record of proceedings of the NJC that resulted in its recommendation to President Goodluck Jonathan that he should be retired.

Specifically, Justice Archibong is seeking for a declaration that the refusal, by the NJC to release the information requested by him is a violation of the provisions of section 4(a) of the Freedom of Information (FOI) Act, 2011.

He also sought a declaration that by a true interpretation and construction of section 4(a) of the FOI Act, the NJC as a public Institution within the meaning of Sections 7 and 31 thereof, is under obligation to furnish to him with his demand for information concerning his service records, judicial activities, clearances, warnings and certified records of proceedings of the NJC that resulted in its recommendation to President Goodluck Jonathan that he be compulsorily retired and that NJC's refusal to comply amounts to a violation of section 7(1) of the FOI Act, 2011 and is therefore wrongful, illegal and



Justice Charles Archibong

unconstitutional.

Justice Archibong also sought a declaration that the refusal by the NJC to release the information requested by him on the above constitutes a breach of the duty of care owed him by the NJC at common law, in consequence of which his character and hard earned reputation have been severely tarnished by the libelous stories published in newspapers to the effect that he was compulsorily retired on the grounds of corruption and abuse of office, which stories he has been unable to refute with cogent and verifiable evidence due

to the NJC's refusal to release to him the information requested.

Following the NJC's recommendation to President Jonathan in February 2013 that Justice Archibong be compulsorily retired for wrong doing, he was retired. In order to clear his name, he applied for copies of records of his service and petitions against him but was denied the request hence he went to court to challenge the refusal.

The suit No. FHC/ABJ/CS/837/2014 dated November 12, was filed before Justice Abdul Kafarati. ■



Continued from page 1

MRA to Host 3 Day FOI Implementers Strategy Meeting in Abuja

meeting, as part of an effort to forge partnerships between professional bodies and civil society organizations in the implementation of the FOI Act.

The meeting is sponsored by the United Nations Development Programme's (UNDP) Democratic Governance for Development (DGD) II Project. The DGD II Project is 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), and the UNDP.

During a Freedom of Information Implementers meeting held in September 2013, a committee was set up to propose a structure and operational framework for a re-structured Freedom of Information Coalition.

The Committee submitted a report, incorporating a strategy document with recommendations on a series of steps to be taken and activities implemented to ensure the effective coordination and formal

establishment of the FOI Coalition.

The follow-up meeting will provide a platform where the recommendations of the Committee will be discussed, modified, where necessary, and adopted. It is also envisaged that the meeting will elect a steering committee with a chairperson to steer the affairs of the Coalition.

The meeting will be attended by over 100 participants, including from among member organizations of the erstwhile loosely structured Freedom of Information. ■

Failure of Respondent to Furnish Applicant with Information Sought Amounts to a Wrongful Denial of Information

In the High Court of Justice
Federal Capital Territory of Nigeria
Holden at Abuja

Before His Lordship: Honourable Justice
Olukayode A. Adeniji, Judge
Sitting at Court No. 26 Apo-Abuja
On Tuesday, 9th July, 2013

Motion No. M/3059/13

Between:

Public & Private Development Centre
LTD/GT (PPDC) – PLAINTIFF

And

Integrated Parking Services Ltd - RESPONDENT

Facts of the Case

Upon being granted leave of court on April 17, 2013, the Applicant filed a Motion on Notice, dated April 23, 2013, praying the court for:

- A Declaration that the failure of the Respondent to furnish Applicant with the documents/information sought vide Applicant's letter of December 13, 2012 amounts to a wrongful denial of information under the Freedom of Information Act, 2011.
- Order of the Honourable Court compelling the Respondent to forthwith furnish Applicant with the information and copies of the documents set out in the Schedule to the Application.
- And for such other order or orders as the Honourable Court may deem fit to make in the circumstances.

In the Schedule to the Application, the following documents/information were listed:

- a. How much has the Respondent realized from inception of engagement of her services by the FCTA till date?



**Ms. Seember Nyager, Chief Executive Officer,
Public and Private Development Centre (PPDC)**

- b. How much has the Respondent remitted to the FCTA till date and by what means was the money remitted?

- c. What are the terms of the Respondent's engagement by the Federal Capital Territory Administration and how much accrues

to the Respondent from this engagement?

- d. Certified copy of the accounts of the Respondent showing all moneys realized in the course of her services to the Federal Capital Territory Administration.
- e. Certified copy of the Respondent's contract of engagement with the Federal Capital Territory Administration.

Applicant also filed a Statement pursuant to Order 42 Rule 3(2) of the Federal High Court Rules, an Affidavit in support of the motion for mandamus in which it exhibited Applicant's letter to the Respondent, dated December 13, 2012; and also filed a written address in support of the motion for mandamus.

Ruling

His Lordship said he had carefully considered the application and also carefully examined the totality of the processes filed to support the application, including learned counsel's written submissions of arguments in support thereof.

He noted that pursuant to the ex-parte application of the Applicant, the court granted leave on April 17, 2013 to bring the application.

His Lordship said it is also to be noted as it is borne by the records of the Court that the Respondent has not responded one way or the other to the application, the

Continued on page 14

Failure of Respondent to Furnish Applicant with Information Sought Amounts to a Wrongful Denial of Information

implication being that she is not contesting the application and the affidavit deposed to in support of the same.

According to him, it is not in dispute that pursuant to the provisions of Section 1 of the Freedom of Information Act, the Applicant is not only competent to bring the application; but is also entitled to have access to the information sought by the application.

His Lordship said he was satisfied, by virtue of the provision of Section 2 (7) and Section 31 of the Freedom of Information Act, that the Respondent is under lawful obligation to disclose to the Applicant the information sought by the application.

He said further that upon proper examination of the affidavit filed to support the application and especially the documents attached thereto, being letter of December 13, 2012 by which the Applicant formally requested from the Respondent, the information as set out in the schedule to the application; which letter the Respondent failed to respond as requested, he is therefore satisfied that it is appropriate in the circumstances to grant the application as prayed.

His Lordship accordingly declared that the failure of the Respondent to furnish the Applicant with the information sought, vide her letter of December 13,



Barr. Godwin Ndubuisi Chigbu,
Lawyer to PPDC

2012, amounted to a wrongful denial of information and in violation of the provisions of Section 1 of the Freedom of Information Act, 2011.

He consequently issued an order of mandamus compelling the Respondent to furnish the Applicant forthwith, information required as set out in the Schedule to the application; namely:

- f. How much has the Respondent realized from inception of engagement of her services by the Federal Capital Territory Administration up to date?
- g. How much has the Respondent remitted to the Federal Capital Territory Administration till date and by what means was the sum remitted?
- h. What are the terms of the Respondent's engagement by the Federal Capital Territory Administration and how much accrues to the Respondent from this engagement?
- i. Certified copy of the accounts of the Respondent showing all moneys realized in the course of her services to the Federal Capital Territory Administration.
- j. Certified copy of the Respondent's contract of engagement with the Federal Capital Territory Administration.

His Lordship directed that the order be served on the Respondent forthwith. ■

Upcoming FOI Events

31 January 2015: Deadline on NULAI Call for Papers on Lawyering with Integrity

The Network of University Legal Aid Institutions is calling for essays in honour of Professor Ernest Ojukwu, SAN. NULAI invites well-researched articles and reviews in Clinical Legal Education, Practical Lawyering, Freedom of Information, Access to Justice and Social Development for

publication in a collection of essays. Submissions should comply with appropriate referencing rules and exclusively submitted for the subject publication. For more information and full guidelines, visit <http://t.co/6H4XgxUeDP> Articles should be submitted as

ane-mail attachment to essays4hon@gmail.com by January 31 2015. Editors will endeavour to notify authors of the outcome of review of submitted work within four weeks of submission not later than February 27, 2015. ■

SEC Report Reveals Information on the Whistleblowers Program

The United States Securities and Exchange Commission (SEC) runs a valuable whistleblower program and whistleblowers have proven to be of immense use to the SEC.

The assistance and information from whistleblowers who know of possible securities law violations has shown itself among the most powerful weapons in the law enforcement arsenal of the SEC.

Through the whistleblowers' knowledge of the circumstances and individuals involved, whistleblowers have helped the Commission identify possible fraud and other violations much earlier than might otherwise have been possible. This has in turn helped the Commission minimize the harm to investors, better preserve the integrity of the United States' capital markets, and more swiftly hold accountable those responsible for unlawful conduct.

The Office of the Whistleblower was established to administer the SEC's whistleblower program. The Commission is authorized by Congress to provide monetary awards to eligible individuals who come forward with high-quality original information that leads to a Commission enforcement action in which over \$1,000,000 in sanctions is ordered. The range for awards is between 10 percent and 30 percent of the money collected.

The whistleblower program was created as a result of the power given to the SEC by the 2010 Dodd-Frank Wall Street reform law. Consequently, the agency can reward people who report misconduct, if the tip leads to the collection of monetary sanctions that amount to over \$1 million.

Since its inception in 2011, the program has given out

awards to 14 whistleblowers and more than 40 percent of those individuals have been current or former employees of the company involved in the related enforcement action. An additional 20 percent of the whistleblowers were contractors, consultants or were solicited to act as consultants.

The SEC announced in September an expected award of more than \$30 million to a whistleblower who provided key original information that led to a successful SEC enforcement action. This award is to be the largest made by the SEC's whistleblower program to date and the fourth award to a whistleblower living in a foreign country, demonstrating the program's international reach.

The U.S SEC started the whistleblowers program three years ago and has since received thousands of tips from whistleblowers. The Commission announced in its November 17, 2014 report that it received more than 3,500 tips this year, the highest number since the inception of the program.

The agency often withholds information of individual whistleblowers award and keeps the name of the enforcement action to which the award was tied under wrap but this year's report gave more information on the whistleblower award recipients than in years past. The agency's report says that there has been a 12 percent rise in the numbers of whistleblowers from 3,238 in fiscal 2013 to 3,620 in fiscal 2014.

Following a Freedom of Information Act request, the Wall Street Journal reported that a diverse group of people have submitted tips to the program including four adult entertainers, 138 engineers, some pilots and a Pastor. ■

FREEDOM OF INFORMATION NEWS

Continued from page 2

OGP Calls for International Expert Panel Members

- national and international level.
- Represent the IRM at international and national events.
 - Maintain regular and collegial communication amongst one another, the IRM team in Washington, DC, and the IRM researchers working at the national level.
 - Represent the diversity of OGP membership

The qualities of a well-qualified IEP

member were outlined as:

- Expertise and strong reputation in at least one area relevant to OGP.
- Flexibility to work on reporting across national contexts, including in countries that may be relatively unfamiliar.
- Strong eye for detail, including ability to identify areas of reports that need additional evidence.
- Demonstrated ability to provide constructive feedback.

- Availability to turn around documents within a strict timeline.
- Willingness to travel up to three times per year and attend monthly virtual check-in meetings.

Due to the OGP's conflict of interest policy, some categories of individuals were mentioned as ineligible for the IEP nominations. See more at the OGP website <http://www.opengovpartnership.org/node/5623> ■

FOI Regional and International Developments

UN Working Group on UPR Asks Angola to Amend, Strengthen its FOI Law

The United Nations Human Rights Council Working Group on the Universal Periodic Review (UPR) last month asked Angola to amend its Freedom of Information Law to bring it into compliance with regional and international standards.

The UPR Working Group's recommendations are based on the statements and observations by national delegations that participated in the review process.

The Working Group on the UPR was established in accordance with Human Rights Council resolution 5/1 of June 18, 2007. On January 15, 2014, the UN Human Rights Council selected a group of rapporteurs made up of Chile, Congo and France, to facilitate the review of Angola.

The Working Group held its 20th session from October 27 to November 7, 2014, during which it undertook a review of Angola at its 8th meeting held on October 29, 2014.

The Angolan delegation to the review was headed by Mr. Rui Jorge Carneiro Manguera, the country's Minister of Justice and Human Rights, and had 27 other members.

The review began with a presentation by the Angolan delegation, followed by an interactive dialogue, during which 101 national delegations made statements.

At its 14th meeting held on November 4, 2014, the Working Group adopted the report on Angola containing the summary of presentations and statements by Angola and other national delegations as well as its conclusions and recommendations.

The Working Group adopted the recommendation that Angola should strengthen independence and transparency of its Electoral Commission and deal with flaws in the voters' register and with problems with the media coverage.

It also called on the country to comprehensively address the issue of corruption and further promote transparency; to fully respect freedom of expression, opinion, association and peaceful assembly in

accordance with Angola's obligations under the International Covenant on Civil and Political Rights; amend its laws to protect freedom of expression, including freedom of press; and improve the space for free operation of independent media, including state media, reinforce monitoring and sanctioning of abuses of media legislation and create an enabling working environment for journalists.

The Working Group also urged Angola to take measures to fully guarantee the respect of freedom of expression and of freedom of association and assembly; create and maintain, in law and in practice, a safe and enabling environment, in which human rights defenders,

journalists and civil society can operate free from hindrance and insecurity, in accordance with the UN Human Rights Council's Resolutions 22/6, 27/5 and 27/31; and respect, protect and promote freedom of expression of journalists, in particular with regard to the well-established international human rights principle that public officials should tolerate more, rather than less, criticism than private individuals.

Other recommendations by the Working Group are that Angola ensures freedom of expression and media freedom by bringing national legislation in line with international standards, including by decriminalizing defamation and related offences in relevant national laws; ends the practice of using criminal defamation laws to restrict freedom of expression and peaceful assembly and association in accordance with international obligations; and that it repeals criminal defamation laws, particularly those providing special punishment for alleged defamation.

Besides decriminalizing press offences, Angola was also asked to allow private radio broadcasting at the national level and ensure that journalists and human rights defenders are not intimidated.

The Working Group also called upon Angola to invite the UN Special Rapporteur on Freedom of Expression to visit Angola in order to demonstrate the country's commitment to foster an environment where journalists, civil society, and opposition members can operate freely and independently. ■



Rui Jorge Carneiro Manguera,
Angola's Minister of Justice and Human Rights

FOI Regional and International Developments

AFIC Welcomes UN Human Rights Council Recommendation to Angola to Amend FOI Law

The Africa Freedom of Information Centre (AFIC) has welcomed the United Nations Human Rights Council Universal Periodic Review (UPR) draft recommendation asking the Government of Angola to amend and strengthen the country's freedom of information law as well as promote citizens right to information through various actions.

In a statement in Kampala, Uganda, Mr. Gilbert Sendugwa, AFIC's Coordinator and Head of Secretariat, noted that "despite the importance of the right to information in advancing good governance, democracy and accountability and glaring deficits of the same in Angola, the previous UPR did not address itself to the situation of citizens' right of access to information in Angola."

The organization also observed that despite the country's enormous natural resources, two of every three people in Angola live in absolute poverty while the country's leaders and people close to power are rated among the richest in the world.

Besides, AFIC said, in spite of having adopted a freedom of information law in 2002, the secretive character of government business has not changed.

According to AFIC, "Many citizens are not aware about their right to information and how this could be exercised through the law. During the last national election, thousands of eligible voters did not have basic information about the exercise, hence inability to participate effectively in choosing the country's



Mr. Gilbert Sendugwa,
AFIC's Coordinator and Head of Secretariat

leaders." AFIC recalled that in 2012, it analysed Angola's Freedom of Information Act on the basis of regional and international standards and established that some of the problems affecting implementation of the law arise from the law itself.

AFIC said the main areas of concern include limited scope of the law, which excludes private bodies, wide exemptions, ambiguity, lack of specific obligations on establishing, keeping and disseminating records, language and accessibility.

AFIC said it was also "concerned that despite being among the first countries to adopt the law, Angola has not implemented it. The Monitoring Commission to oversee implementation has not been established, training of officials and creating awareness of the population, among other key aspects are lacking."

It also disclosed that during the pre-session of the UPR on Angola held at the beginning of October 2014, it addressed diplomats in Geneva, Switzerland, on these issues and called on them to consider recommendations on the matter.

AFIC said the Government of Angola had acknowledged the problems.

AFIC therefore welcomed the recommendations and called upon the Government of Angola to expedite amendments to the Freedom of Information Act in close consultation with civil society, pledging that it remained "committed to support the country in realizing this recommendation." ■

Mumbai University to start Certificate Course on RTI

The department of civics and politics at Mumbai University is taking a strong lead by taking steps to start a six month certificate course on the RTI Act to empower effective use of the Act. The course is scheduled to start from January 2015 and hopes to bring together social activists, journalists, bureaucrats and members of civil society to ensure more effective use of the tool.

Dr Surrendra Jondhale, Head of Department of civics and politics, Mumbai University informed that the idea of a course was conceived recently and the department

is working on its details. An expert committee is likely to be set up to work out the details of the course like the syllabus and if all goes as planned, the course can be expected to kick off in January 2015.

Noted RTI activist and former central information commissioner Shailesh Gandhi said a recent survey has found the alleged claims of "misuse" of the Act to be misleading and former Mumbai police commissioner Julio Riberio has emphasised the need for strengthening the underused Right to Service Act, along with the RTI. ■

The Supreme Court Of Appeal Of South Africa Delivers Judgment Against Steel Company

On November 26, 2014 the Supreme Court of South Africa delivered its judgment on an Appeal from the judgment of a South African High Court filed by Company Secretary of Arcelormittal South Africa Ltd (AM) against Vaal Environmental Justice Alliance (VEJA).

The issues here, represents in juxtaposition, two competing interests namely industrial activity and its concomitant significance for the country's development and economy as against concerns about the preservation of the environment for the benefit of present and future generations.

VEJA, a non-profit voluntary association, characterizing themselves as advocates for environmental justice through her attorneys wrote two letters dated December 15, 2011 and February 13, 2012 to AM requesting for a copy of AM's Environmental Master Plan and several information relating to Vaal dump site respectively.

According to VEJA the requested information became necessary for the protection of section 24 of the Constitution which provides the right to an environment not harmful to health or wellbeing.

There were exchanges of correspondence between AM's Attorneys as well as VEJA's Attorneys on the information requested. AM rather than grant the information requested asked VEJA's Attorneys to provide their mandate to act on VEJA's behalf, sought for VEJA's Constitution and finally asked how VEJA came about the existence of the documents requested.

AM also contended that VEJA was usurping the role of the relevant regulating authorities in ensuring AM's statutory compliance.

VEJA's Attorney noted that Government departments did not have adequate resources to monitor compliance at all production facilities in the country and that the public, including VEJA, can play an active role in that regard.

AM's Attorneys finally wrote VEJA's Attorneys that VEJA has not set out the right which it is entitled to protect or exercise as required in terms of Section 50 (1)(a) of the Promotion of Access to Information Act, 2 of 2000. AM



Mr. Jacob Zuma, President of South Africa

then refused to grant the requests sought. That refusal led to the application in the High Court for an Order declaring the refusal invalid, and directing that the information sought be supplied.

Carstensen AJ delivered Judgment in favour of VEJA, recognizing among other things that the participation of

Public interest groups is vital for the protection of the environment. The Court also rejected the contention of AM that VEJA was usurping the State's role in order to directly enforce regulatory provisions of environmental legislation. The Court ordered AM's Secretary's decision to refuse to grant the VEJA the requests sought as invalid and set same aside.

The Judge directed AM's Secretary to supply VEJA with copies of all the records it requested in its letters of December, 15, 2011 and February 13, 2012 within 14 days from the date the order was made while AM was ordered to pay the costs of the application, including the costs of two Counsels.

It was against these orders that an Appeal was directed to the Supreme Court of Appeal of South Africa.

AM contended that the Master Plan requested for by VEJA was stated in its 2010 Annual Report as out-dated and irrelevant and for that reason, it cannot assist VEJA in the exercise of its right to monitor AM's compliance with environmental legislation. AM further argued that the Master Plan was found to be scientifically and technically flawed.

VEJA responded by stating that the basis for refusing the Master Plan for the fact that it was out-dated was without merit and argued that the Master Plan would provide what it calls a valuable baseline of data in respect of the pollution levels at Vaal site. VEJA went on to say that the fact that Master Plan is out-dated does not follow that it is irrelevant. The Court agreed with VEJA and held its view on this issue.

The Supreme Court of Appeal finally held that no material flaw was found in the essential reasoning of the High Court and hence dismissed the appeal with costs including the costs attendant upon the employment of two Counsels. ■

New UN Special Rapporteur on Freedom of Expression, David Kaye includes Access to Information in his Agenda

David Kaye, the new UN Special Rapporteur on Freedom of Expression while introducing his goals at the 69th session of the UN Assembly stated that he was going to be focusing his attention on the protection of journalists and access to information, vulnerable groups, and online freedom issues (such as internet regulation, corporate responsibility, and surveillance). In 1993, the United Nations Commission on Human Rights established the mandate of the Special Rapporteur on the promotion



Frank La Rue,
Former UN Special Rapporteur on Freedom of Expression

and protection of the right to freedom of opinion and expression. David Kaye introduced his goals for the mandate in the Third Committee of the UN General Assembly and presented the final report of his predecessor Frank La Rue. He highlighted two main items on his agenda as new UN rapporteur, which included the right to seek, impart and receive information and ensuring freedom of expression on the internet.

David Kaye was appointed UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression in August 2014. The Clinical Professor of Law at the University of California teaches international human rights law and international humanitarian law. He is also known for his research and writings on serious human right abuse and the law governing use of force.

Rapporteurs bear a specific mandate from the United Nations Human Rights Council to "examine, monitor, advise and publicly report" on human rights problems through "activities undertaken by special procedures, including responding to individual complaints, conducting studies,

providing advice on technical cooperation at the country level, and engaging in general promotional activities."

With the Human rights Council having adopted an important resolution on the protection and safety of journalists, David Kaye seeks to build on the



David Kaye,
New UN Special Rapporteur on Freedom of Expression

efforts and critical work already done by UNESCO, other agencies and NGOs in order to ensure the protection of the rights of journalists. He also stated that he will be focusing on the protection of the freedom of expression of women, religious and ethnic minorities and indigenous people.

In his statement to the 69th session of the UN assembly, David Kaye stated that to carry out his mandates as a special rapporteur, he will embark on country visits and make reports on the outcomes of his visits. The country visits are absolutely essential to enable the rapporteur engage in dialogue with key actors, whether governments, non-governmental actors, academics, or others for the purpose of promoting and protecting freedom of expression from up close.

The new UN rapporteur also mentioned that the internet is no longer a new technological innovation as it was twenty years and that every issue of freedom of expression is amplified online. As regards the regulation of the internet, he stated that he will make efforts to alter the status quo and ensure that freedom of expression concerns are taken as high priority. He explained how the government as well as non-state actors have roles to play in the regulation of the internet and how he will be addressing corporate responsibility issues while building on the efforts of his predecessors. ■

Misa Salutes UNHCR Recommendation to Angola to Amend and Implement its National Access To Information Law

The Media Institute of Southern Africa (MISA) has expressed satisfaction at the call on the government of the Republic of Angola to amend and strengthen the national Access to Information law by the United Nations Human Rights Council (UNHRC). MISA expresses its pleasure at the "UN body's recognition of the importance of Freedom of Information for the overall state of a country's human rights, being an underpinning of democracy and a necessity for the fulfilment of various other fundamental rights."



Ms. Zoe Titus, Regional Director for MISA

enable or protect the right of access to information articulated in these standards".

Based on this findings, AFIC recommended that:

* Angola should, in line with recommendations made at the previous review, improve the state of freedom of expression in the country, through the decriminalisation of press offenses, enhancement of media freedom and plurality and improvement of working conditions for media practitioners.

* Angola should, in close

In October of this year, Angola presented the Cycle II on Defence of the Universal Periodic Review of Angola to the UNHRC. Through a draft report from its Working Group on the Universal Periodic Review (UPR), the UNHRC called on the government of Angola to effect the necessary changes towards a better Access to Information law in the nation to guarantee citizens' right to access information freely.

MISA, a member of the African Freedom of Information Centre (AFIC), agrees with the recommendations of AFIC given at a presentation to the UNHCR by Gilbert Sendugwa, Executive Director of AFIC during the UPR meeting in October, addressing the importance of a strong access to information law for good governance as well as national development.

Based on its 'Analysis of the Access to Information Law of the Republic of Angola', AFIC came to the conclusion that "the Angola Law falls short of regional standards in several important respects".

Compared to African regional standards for access to information as set out in the African Platform on Access to Information (APAI), the Declaration of Principles on Freedom of Expression in Africa, and the Draft Model Law for AU Member States on Access to Information, AFIC found that "the Angola Law fails to

cooperation with civil society organisations, develop and implement a comprehensive Freedom of Information Action Implementation Programme with clear actions, time frames and resources to advance the right to information in the country.

* The Freedom of Information Monitoring Commission, provided for under the current law, should be established immediately.

* The Freedom of Information Act should be amended, in consultation with civil society and the wider public, in order to comply with regional and international standards.

Through its call, the UPR, a mechanism used under the auspices of the UNHRC to monitor and evaluate UN Member States' adherence to their human rights' obligations, throws its weight behind these recommendations.

Aimed at fostering compliance with said obligations and improving a country's overall state of human and citizens' rights, the outcome report which follows each session includes recommendations made to the country under review which should be implemented before the next review process.

Angola is now charged with the implementation of these recommendations. ■

Requester	Information Requested	Public Institution	Date of Request	Outcome of Request	Current Status
Youth Alliance on Constitution and Electoral Reform (YACORE), a youth coalition on Constitution Review and electoral reform of over 60 youth civil society organizations	a) The actual budgetary appropriation for the ongoing Constitution review. b) The actual budgetary allocation to the Senate and House Committee on Constitution Review c) A financial report of expenditures made so far from the budget on Constitution Review and funds received from donor organizations. d) The voting records of constitutional amendments by the Honourable members.	Rt. Hon. Aminu Tambuwal, Speaker of the House of Representatives and Rt. Hon. Emeka Ihedioha, Deputy Speaker and Chair, House Committee on Constitution Review	September 18, 2013	The National Assembly Legal Services Department requested for extension of time on the matter as the request was being considered. The House of Representatives Ad-Hoc Committee on the Review of the Constitution responded quoting the figures for the budgetary allocations for the Constitution Review and to the House Committee on Constitution Review. It also listed activities undertaken by the Committee which have required expenditure. Lastly, it referred to the "Votes and Proceedings of the House of Representatives of July 28, 2013" in which the voting records of constitutional amendments by Honourable members of the House can be found.	Successful Access to Information.
Say No Campaign	a) The name(s) and/or register of staff of INEC who has/have been disciplined for dereliction of duty b) The name(s) of staff of the INEC who has/have been prosecuted for engaging in electoral malfeasance and/or offense.	Prof. Attahiru Jega, Chairman, Independent National Electoral Commission (INEC)	February 25, 2014	In a letter dated March 4, 2014, the Commission responded to the letter of February 25, 2014 acknowledging receipt of the letter but stating that they will be unable to comply immediately with the request as the period of time covered by the request was not stated. On June 24, 2014, the Commission acknowledge receipt of the request for information on June 9, 2014.	Response acknowledging receipt of the request for information but the requested information was not provided.
	a) The name(s) and/or register of staff of INEC who has/have been disciplined for dereliction of duty during the 2011 general elections and the last Kogi, Edo, Sokoto, Ondo and Anambra gubernatorial elections. b) The name(s) of staff of INEC who has/have been prosecuted for engaging in electoral malfeasance and/or offense during the 2011		April 1, 2014		

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Requester	Information Requested	Public Institution	Date of Request	Outcome of Request	Current Status
	general elections and the last Kogi, Edo, Sokoto, Ondo and Anambra gubernatorial election.				
	Information in the previous letters dated February 25, 2014 and April 1, 2014.		June 9, 2014		
Paradigm Initiative Nigeria (PIN) and Public and Private Development Centre (PPDC)	Copies of all documents relating to Procurement and Contract for the Provision of Payment by MasterCard for 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.	National Identity Management Commission (NIMC)	September 4, 2014	NIMC responded on October 24, 2014 and refused to grant the applicant their request citing Trade Secret and National Security as reasons for denial.	Denial of Access to Information. The Applicants have indicated interest in suing NIMC over its refusal.
Public and Private Development Centre (PPDC) and International Centre for Investigative Reporting (ICIR)	Detailed records and information on the procurement and contract documents for the contracting process whose award was made by the embassy to Mercury Public Affairs LLC for the contract sums of US \$300, 000 and US \$400, 000 for jobs that have been described as basic diplomatic functions that could easily be handled by the embassy staff. Mercury Public Affairs LLC were to provide consulting services to government of Nigeria including "provide government affairs counsel and arrange meetings with key executive and legislative branch officials and staff on issues of importance to Nigeria; arrange meetings with US and Nigerian officials to further deepen business, economic and security ties, and facilitate and arrange US visits for Nigerian officials" and "strategy development; liaised with US officials and relevant organizations to enhance the	The Ambassador, The Embassy of the Federal Republic of Nigeria, Washington, DC United States of America	September 12, 2014	The institution is yet to furnish a response to the request for information.	Deemed denial of access to information.

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Requester	Information Requested	Public Institution	Date of Request	Outcome of Request	Current Status
	US/Nigerian relationship". Documents requested included: Copies of the Budgetary appropriation where the contract was included as a line item; Copies of Procurement plans and information, including needs assessment and evaluation, identifying this specific consultancy as required; Evidence of advertisements of invitation for bids published in at least two national dailies apart from the Federal Tenders journal and a relevant internationally recognized publication; A Copy of the Standard Bidding Documents that was issued to all bidders; A list of all bids tendered on this project from when advertised till the closure of bid advertisement; Letter of notification of contract award; Signed final contract document and documentations showing Schedule of payments.				
Concerned Group for Environment, Population and Development in Nigeria	Records of the approved observer groups of the 2015 elections, the total number of polling units approved in each Local Government Area of Imo State, among others.	Resident Electoral Commissioner of the Independent National Electoral Commission, Imo State.	November 10, 2014	In a letter dated November 17, 2014, the institution responded answering among other things that there have been no new polling units approved in Imo State and therefore polling units stand at a total of 3523, clarification on collection of voters card and referred the applicant to the Abuja INEC headquarters for the approved observer groups as it was yet to be released.	Successful access to information