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Freedom of Information NEWSLETTER

Volume 1, No. 9, February 2015

FREEDOM OF INFORMATION NEWS

FOI Coalition Restructured, Elects Board of Governors

The Freedom of Information Coalition (FOIC) has been restructured to reposition it from its original advocacy function and enable it to play a more effective role in the coordination of implementation activities for the Freedom of Information Act, 2011. A Board of Governors has also been elected to manage the affairs of the Coalition.



Members of the Board of Governors of the FOI Coalition

were elected at the Second Freedom of Information Implementers Strategy Meeting held in Abuja on January 27 to 29, 2015, following the adoption of a new structure and framework for the Coalition by 120 participants in

attendance.

Members of the Board are: Mr. Yusuf Yakub Arrigasiyyu from the Muslim League for Accountability (MULAC) in Kaduna; Mr.

The pioneer members of the Board of Governors

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Access to Information is a Basic Requirement for Building Inclusive Knowledge Societies, Says UNESCO

Access to information is a basic requirement for building inclusive knowledge societies with strong foundations for lasting peace and sustainable development, according to a new draft report published by the United Nations Educational, Scientific and Cultural Organization (UNESCO), based on its Internet Study.

UNESCO notes in the report that "There has been a significant increase in access to the Internet, which reached just over three billion users in 2014, amounting to about 42 per cent of the world's population."

UNESCO, however, said in the report: "the digital divide continues to exclude over half of the world's population, particularly women and girls, and especially in Africa and the least

developed countries (LDCs) as well as several Small Island Developing States (SIDS). Further, individuals with disabilities can either be advantaged or further disadvantaged by the design of technologies or through the presence or absence of training and education."

The UNESCO Internet Study leading to the publication of the 96-page report titled "Keystones to foster inclusive Knowledge Societies: Access to information and knowledge, Freedom of Expression, Privacy, and Ethics on a Global Internet", was undertaken in response to the mandate given UNESCO's Secretariat by its 195 member states through Resolution 52, which was adopted at the 37th General Conference of UNESCO held in Paris, France, in November 2013.

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Access to Information is a Basic Requirement for Building Inclusive Knowledge Societies

The Resolution called for a comprehensive and consultative multi-stakeholder study within the mandate of UNESCO on Internet-related issues of access to information and knowledge, freedom of expression, privacy, and the ethical dimensions of the Information Society. A major aim of the study is to inform UNESCO input to the 38th General Conference in 2015 that will consider the implementation of the World Summit on the Information Society (WSIS) outcomes.

UNESCO is also convening the "CONNECTing the Dots: Options for Future Action", a multi-stakeholder conference on the Internet Study, which will be held at UNESCO Headquarters in Paris on March 3 and 4. About 300 experts and representatives from multi-stakeholder communities are expected to participate at the Conference.

Outlining the applicable principles, UNESCO said in the report that from its point of view "access to information is essential as a precondition for the development of Knowledge Societies", adding that "Access is also linked to the Universal Declaration of Human Rights Article 19, which affirms that the right to freedom of expression includes the freedom to seek and receive information and ideas through any media and regardless of frontiers."

But UNESCO conceded that its Member States "have long emphasized that access to information and information networks alone is not a sufficient requirement for the creation of Knowledge Societies."

It explained that access to knowledge entails learning in formal and informal education settings and also entails fostering the competencies of Media and Information Literacy (MIL) that



Mrs Irina Bokova, UNESCO Director-General

enable users to be empowered and make full use of access to the Internet.

UNESCO described its support for journalism education as an example of how it seeks to contribute to the provision of quality information accessible in cyberspace.

Saying that "access includes but goes further than establishing physical network infrastructure, or ensuring that citizens have the capability to connect to the Internet", it contended that the notion of access to information has had wide-ranging significance, including matters such as:

- " The development of specially broadband connectivity and affordable ICTs;
- " Universal access;
- " Freedom of information as the right to seek and receive information online, including scientific, indigenous, and traditional knowledge;
- " Transparency and openness of information, and building of open-knowledge resources, including open Internet and open standards, and availability of data;
- " The preservation of digital heritage;

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FOI Coalition Restructured, Elects Board of Governors

Isah Garba from the Bauchi State Coalition for the Improvement of Public Expenditure Management (BACIPEM) in Bauchi; Mr Terna Yankyaa of the Centre for Public Opinion and Media Research (CePOMeR) in Abuja; Mr. Bob Dum Lezina Amegua, a legal practitioner with Karibi-Whyte & Co (Coronation Chambers) in Port Harcourt; Mr. Walter Duru of the Media

Initiative Against Injustice Violence and Corruption (MIIVOC) in Owerri; Mrs. Motunrayo Alaka of the Wole Soyinka Centre for Investigative Journalism (WSCIJ) in Lagos; Ms Jennifer Onyejekwe of Media Rights Agenda (MRA) in Lagos.

They were sworn in shortly after their election with the administration of the oath of office on them by Mr. Adeleke O. Agbola, a Lagos-based legal practitioner and notary public, and member of MRA's Network of Freedom of Information Lawyers.

In an effort to improve the gender balance of the members, the Board has subsequently co-opted two new members, Ms Seember Nyager, the Chief Executive Officer of Public and Private Development Centre (PPDC) based in Abuja; and Mrs. Tope Olaifa, the Executive Director of Stephanie Peace Building and Development Initiative, based in Abeokuta, Ogun State.

MRA will continue to host the Secretariat of the Coalition, under the framework proposed and adopted by the meeting, until the Coalition is able to set up an independent office as its Secretariat.

The process of restructuring the Coalition began with the convening of the first Freedom of Information Implementers Strategy Meeting in Abuja in September 2013 to put in place a framework for coordination and collaboration among individuals and organizations implementing FOI activities around the country.

At the meeting, a Committee headed by Ms Bridget Osakwe of the West Africa Network for Peace-building (WANEP-Nig), was set up to fashion out a framework



Cross Section of Participants at the FOI Implementers' Strategy Meeting in Abuja

for the Coalition, based on discussions at the meeting and various proposals made. The Committee subsequently produced and submitted a report to the Coalition Secretariat.

The January meeting discussed the report and recommendations of the Committee, after which it voted to adopt a new structure for the Coalition, based largely on the Committee's recommendations.

Under the framework agreed at the meeting, the Coalition now has two categories of members, namely individual and organizational. Organizational members include civil society organizations, non-governmental organizations, faith-based organizations, professional bodies, companies and student bodies, including student clubs.

Organizations seeking membership of the Coalition must demonstrate a track record or strong interest in freedom of information issues or sustainable development; should be registered with relevant Federal, State or Local Government agencies; must have a verifiable physical address and should have been in existence for a minimum of two years.

Students, professionals or other interested persons may be admitted as individual members. For students seeking membership, they must have attained a minimum age of 18 years; should possess valid student identity card from a recognized academic institution at the tertiary level and should demonstrate a strong interest in freedom of information issues and the work of the Coalition.

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FOI Advocates, Implementers Call for Sensitization of Judges

Freedom of Information advocates and implementers rose from their three-day strategy meeting in Abuja in January with a call for the sensitization of judges in the country about the Freedom of Information Act in response to the situation where many of them are giving "decisions that are inconsistent with the spirit and letters of the Law."

In a communique at the end of the Freedom of Information Implementers Strategy Meeting, held at the Top Rank Hotel Galaxy in Abuja from January 27 to 29, they noted that cases are routinely taking more than one year to resolve in the courts of first instance despite the requirement in the Act that FOI cases should be dealt with summarily.

The meeting stressed that if the Act is going to be effective, the Bar and the Bench must play a more positive role in its implementation and that effective strategies should be put in place for addressing the legal and judicial challenges.

It therefore resolved that measures be taken to sensitize judges about the provisions of the Act and that agencies like the National Judicial Institute (NJI) and the Nigerian Institute of Advanced Legal Studies (NIALS) should be involved in such efforts.

The meeting, organized by Media Rights Agenda (MRA), was sponsored by the United Nations Development Programme's (UNDP) Democratic Governance for Development (DGD) II Project and attended by 120 participants from across the country made up of representatives of civil society organizations and legal practitioners litigating FOI cases.

The meeting observed that "there have been tremendous improvements in the implementation of the FOI Act in



Mr. Edetaen Ojo,
Executive Director of Media Rights Agenda

recent times as a result of their collective efforts as there is now more awareness about the Act as well as a significant increase in the level of usage of the Act by different people."

It however noted that the level of usage remained far too low, given the country's population and the issues which citizens ought to be engaging.

The meeting also expressed dissatisfaction with the current situation where it is impossible to tell how many people are actually using the

Act, what categories of people use it, or what types of information are being requested, saying that there is a need to collaboratively develop a mechanism for tracking all FOI requests across the country so as to provide reliable data and statistics about the usage of the Law.

The meeting commended the efforts of lawyers providing free legal assistance to individuals and organizations to vindicate their rights of access to information whenever they are wrongfully denied information and called on other legal practitioners to join such efforts.

It also urged the Nigerian Bar Association to come up with an arrangement to provide litigation assistance to citizens around the country who are wrongfully denied access to information.

The meeting noted that "Nigeria's hope of having a democratic process that is participatory and has the people at its centre depends on systems and mechanisms which enable citizens to engage with those in authority, to ask questions with the assurance that those questions will be answered and to have the belief that they matter," stressing that the effective working of the FOI Act can help the country to achieve this goal. ■

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Access to Information is a Basic Requirement for Building Inclusive Knowledge Societies

- Respect for cultural and linguistic diversity, such as fostering access to local content in accessible languages;
 - Access to a quality education for all, including lifelong and e-learning; and
 - Diffusion of new media and information literacy skills, and promotion of social inclusion online, including addressing inequalities based on skills, education, gender, age, race, ethnicity, and accessibility by those with disabilities.
- UNESCO suggested that "Wherever and whenever possible, rights-based legislation should be enacted to advance all these objectives."
- It noted that "different localities that have had different experiences with

fostering access; sharing information, expertise, and good practices in a multi-stakeholder environment can therefore help the promotion of access", adding that "Each actor has an important role to play in ensuring access to information: no single actor can ensure responsibility for deepening access across devices, platforms, services, languages, content and user capacities." ■

AAAN President Advocates Collaboration Between CSOs and Advertising Agencies to Promote FOI Act

The President of the Association of Advertising Agencies of Nigeria (AAAN), Mr. Kelechi Nwosu, has called for collaboration between civil society organizations and advertising agencies to promote the Freedom of Information Act.

Mr. Nwosu, who is also the Managing Director of TBWA/Concept Limited, an advertising agency in Lagos, spoke at the Second Freedom of Information Implementers Strategy Meeting in Abuja, organized by Media Rights Agenda and held on January 27 to 29, 2015.

He gave an in-depth overview of advertising strategies and practices as well as the evolution of the sector in Nigeria and globally over the years.

Describing an advertising agency as "a marketing communication business that creates, plans and handles advertising and branding services for its clients", he noted that such agencies combine their creative and research expertise with the input of the client to develop a campaign that appeals to customers or target audience.

Outlining the different models of communication used by advertising agencies, including persuasion, engagement, participation, facilitation and conversation, he said: "with the constant evolution of digital media channels and the rise of social media, these models have developed rapidly, making advertising an exciting field and a very useful communication tool."

Mr. Nwosu briefly traced the history of the Freedom of Information Bill until its passage into Law in May 2011, noting that it "owes its passage to civil society organizations as the government tried unsuccessfully to kill the Bill."

But he insisted that "It is now primary to educate Nigerians about the Act as it is currently couched and in force", adding that "We have to demand accountability from our public officers through the instrumentality of this Law."

Mr. Nwosu identified some of the challenges faced by the FOI Act as:

- Low awareness of the Act amongst the public
- Ignorance amongst the public institutions on the provisions of the Act
- Poor record keeping in Government and the culture of "Top Secret"
- Low level of usage and ignorance about its uses



Mr. Kelechi Nwosu,
President, Association of Advertising Agencies of Nigeria

Culture of fear and apathy, which he described as the mentality of "how can we challenge Government?" and "what can we do?"

The inadequacy of "champions" of the Law

He contended that the law has also been negatively affected by other issues such as poor civic pride and citizenship; the controversy over whether States need to "domesticate" the Act and lack of effective branding of the law to highlight its benefits to the

consumers and the public around a clear idea.

Besides, Mr. Nwosu said, there is a need for NGOs to engage in enlightenment campaigns as well as the training and re-training of stakeholders for the public to understand the provisions of the Act.

He advised them to also educate government officials on their roles in the implementation of the Act.

Mr. Nwosu advocated the need for NGOs to use "professionals to push the agenda", arguing that advertising agencies would bring sophistication to the communication strategy.

He outlined various ways in which the AAAN, advertising agencies and the advertising sector in general could boost the fortunes of the FOI Act by enhancing public awareness and knowledge about the Law.

He said the AAAN could assist NGOs in the selection of advertising agencies to develop and run the "right to know campaign" based on clear criteria that the NGOs would have outlined and that the association could also support other civil society initiatives.

Mr. Nwosu explained that advertising agencies can work with their NGO clients to develop creative and robust public enlightenment and engagement campaigns, using "an integrated model based on a big organizing idea".

He said they could also implement and monitor the campaigns across traditional and new media platforms and collect feedback while constantly iterating the campaign.

Such collaboration, Mr. Nwosu stressed, would bring benefits for civil society organizations, including improved

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All Lawyers in Nigeria Must Familiarize Themselves with the FOI Act, says NBA President

All lawyers in Nigeria have a duty to familiarize themselves totally and properly with the Freedom of Information Act, according to the President of the Nigerian Bar Association (NBA), Chief Augustine Alegeh (SAN).

Chief Alegeh spoke in Abuja on January 27 while delivering the keynote address at the second Freedom of Information Implementers Strategy Meeting organized by Media Rights Agenda (MRA) and attended by 120 participants from across Nigeria, made up of representatives of civil society organizations and legal practitioners litigating FOI cases.

Chief Alegeh noted that the role of lawyers in the implementation of the FOI Act cannot be over emphasized while the role of the Nigerian Bar Association also needs to be critically looked into.

According to him, "it is the lawyers that have the duty and the task of implementing and the task of interpretation and of directing their clients on how best to take benefit of the provisions of the law. We believe that every lawyer in Nigeria has a duty to familiarize themselves totally and properly with the Act."

Chief Alegeh observed that the FOI Act is not absolute and urged users not to think that they can use the Law to get any information they want without boundaries.

He said: "It is not a buffet that you can go there and take anything you want and how much you want. It is more like a la carte, where you ask and you are informed if they have enough for you or if they have a share for you."

Chief Alegeh advised FOI users to word their requests for information properly and properly address the requests in order to enhance their chances of getting the information they seek.

This, he said, is because "when there is misunderstanding of the Act, which invariably leads to refusal and rejection of request for information, both what you are entitled to and what you are not entitled to which are lumped up together in one request will get thrown out the same way."

Chief Alegeh suggested that there should be a lot of enlightenment about the FOI Act to create "more understanding so that all those who interact with the Act, who need the Act in the work they do, will be able to achieve a lot more."



**Chief Augustine Alegeh (SAN),
President, Nigerian Bar Association (NBA)**

He disclosed that "on our part at NBA, we are taking the FOI Act under our continuing legal education. We want to educate lawyers more to afford them opportunity to advise their clients correctly."

Chief Alegeh also announced that the NBA was critically looking at the FOI Act, saying "there is need to amend some certain sections of the Act."

He explained: "For those that have interacted with us on this issue before, you will find out that we use statutory interpretation. A certain parameter to the interpretation of the Act, you will see, is that it also creates challenges because when you have a definition for example, what is a public corporation? There is specific and there is general. You would like to rely on the general but those who want to give you information want to rely on the specific, to see if they are not included."

Chief Alegeh stressed that "the challenge so far is for us to have a fair understanding of the Act and identify the area of conflict."

He expressed the readiness of the NBA to "partner with all concerned to amend those sections that are problematic, to remove areas of conflict so that the implementation of the Act will be able to achieve its desired objectives."

Chief Alegeh argued that "it makes no sense to have an FOI Act with objectives of opening up governance, with the stated objectives to allow all of us to have access to information and yet in that Act we have many stumbling blocks that make it impossible to get information."

He also advocated the sensitization of judges around the country about the Act, observing that most judges were not familiar with the new Law while a few were only just beginning to interact with the Act.

The meeting was organized by Media Rights Agenda with support from 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), Canada Department of Foreign Affairs, Trade and Development (DFATD), and the UNDP. ■

Fourth Global Conference on Transparency Research Holds in June

The fourth Global Conference on Transparency Research will take place in Lugano, Switzerland, from June 4 to 6, 2015.

The Conference assembles academics, policy makers, and interest group representatives to analyze and discuss the ever-growing reach and impact of the logic of transparency and openness, including policies on access to information held by public entities, transparency relationships between organizations, transparency relationships between governments, private and non profit entities and citizens.

Previous editions of the conference have been held in Newark, New Jersey, in the United States in 2011; in Utrecht in The Netherlands in 2012; and in Paris, France, in 2013.

The event addresses an interdisciplinary community of scholars including disciplines such as law, business, economics, communication, sociology, political science, public administration, journalism, and philosophy, which are all connected through their interest in transparency.

The upcoming edition of the conference will be hosted by the Institute of Public Communication at the Università della Svizzera italiana, Lugano.



**Simonetta Myriam Sommaruga,
President of the Swiss Confederation**

As part of the Swiss Public Administration Network (SPAN), the University has a strong commitment to the study of public communication, administration and management.

Papers are expected to be presented on a wide variety of transparency issues, including "Transparency: concept and determinants", "Transparency and technology", the "Roots of transparency and critics", "Transparency and accountability", "Transparency and corruption", "Transparency, democracy and politics", "Transparency in developing countries", and "Transparency and FOI legislation".

Other topics are: "Transparency reform and governance", "Transparency and national security", "Transparency and Non-Government Organizations/International Organizations", "Open data", "Transparency and participation", "Transparency and regulatory compliance", "Transparency and privacy", "Transparency in the European Union" as well as "Transparency and trust".

It is also expected that there will be contributions regarding the realities and limits of transparency in the security and military sector. ■

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FOI Coalition Restructured, Elects Board of Governors

In the case of professionals and other interested persons seeking membership, they must possess proof of identity and should have demonstrable interest in freedom of information issues and/or sustainable development.

Organizations or individuals seeking membership are required to complete and submit application forms together with supporting documents for screening by management of the Coalition. Successful applicants will thereafter be provided with the rules and regulations of the Coalition; to sign a memorandum of understanding as proof of their commitment; and will be required to pay the prescribed membership fee and annual dues.

It was also agreed that the Coalition would have an independent Board of Governors whose members will serve a three-year term and be eligible for re-election for a maximum of one additional term.

The meeting also decided that the Board should have

representatives from all the six-geopolitical zones in Nigeria and should be gender balanced. The elected members of the Board were therefore empowered to co-opt at most two other persons to the Board to redress any gender imbalance and/or provide representation for persons with disabilities.

The first and second Freedom of Information Implementers Strategy Meetings were organized by Media Rights Agenda with support from 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), Canada Department of Foreign Affairs, Trade and Development (DFATD), and the UNDP. ■

Lawyers Seek Application of Summary Procedure in FOI Cases

Freedom of Information lawyers around the country have identified the non-application of summary procedure by courts in the hearing and determination of freedom of information cases as a major factor militating against the speedy disposal of such cases.

At their meeting held in Abuja in January, the lawyers recommended that judges should be sensitized on the need to adopt summary procedure in FOI cases as required by the Freedom of Information Act, 2011 and to deal with such cases urgently.



Mr. Adeleke O. Agbola

Other challenges identified were the disposition of lawyers defending FOI cases on behalf of public institutions who deliberately frustrate FOI cases by raising unnecessary objections; the attitude of some judges also frustrate the cases either by reason of ignorance about the FOI Act or prejudice for a variety of reasons against FOI cases.

The issue of financing FOI litigation was also identified as a challenge as most of the cases are undertaken by lawyers free of charge as ordinary citizens cannot afford to pay lawyers to take up FOI cases on their behalf. It was noted that most law firms are not yet

sufficiently comfortable economically to shoulder the financial burden of pro bono cases.

Besides, the lawyers said, even when they are willing to forgo their legal fees in the interest of ensuring the effective implementation of the FOI Act and encouraging citizens to use it, other expenses association with litigation still have to be paid and most FOI users are not in a position to cover such costs.

In addition, the meeting identified the attitude of court bailiffs as also posing a challenge as they frequently refuse to serve court processes on the defendants unless they are tipped by the litigant's lawyer even after the litigant has paid the official fees for service of processes. It was observed that judges also encourage and endorse this attitude of the bailiffs by blaming lawyers for non-service of their processes even when the lawyer has already paid for service and the judges know that the problem is with the court bailiffs.

There was also reference to the issue of court registrars who demand money from litigants or their lawyers before releasing court judgments or rulings to them as well as the problem of many judges having to type their judgments or rulings because they cannot trust their secretaries to keep their decisions confidential before delivery.

The meeting noted that most of these practical issues are applicable in all the states of the Federation.

In order to address the challenges, the meeting recommended that Media Rights Agenda, other non-governmental organizations and lawyers themselves should continue to assist in financing pro bono FOI cases.

It was also suggested that lawyers that are part of MRA's Network of Freedom of Information Lawyers should maintain platforms and avenues for the exchange of ideas and continued discussion of the issues affecting them. These platforms and avenues may also be

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Lawyers Seek Application of Summary Procedure in FOI Cases

extended to other lawyers outside the Network who are also involved in litigating FOI cases so that there can be wider exchange of ideas among all lawyers engaged in such issues.

The lawyers were also encouraged to be active members of the Nigerian Bar Association (NBA) where some of the issues can be addressed and that they should get their NBA branches to engage with FOI issues.

It was suggested that the Network should partner with the National Judicial Council (NJC) to sensitize judges on FOI issues generally, particularly those affecting the judges.

The meeting also discussed the most appropriate method for initiating FOI cases and agreed that since the Act did not specify the method to be used in filing FOI cases, each lawyer should follow his or her preferred method.

It was also suggested that Nigerian universities should include freedom of information in their curriculums and that a uniform curriculum for freedom of information should be developed for law faculties in Nigeria.

The meeting discussed the applicability of the FOI Act to States and Local Governments in Nigeria and agreed that until the appellate courts make a decision, the situation will remain unsettled.

But it was decided that since appeals on the subject are already pending before different divisions of the Court of Appeal, in order to avoid risk of conflicting decisions from the Court of Appeal divisions in Ibadan and Lagos, the Network of FOI Lawyers should be engaged to draft a strong brief of argument and file an application in both appeals to intervene as amicus curiae (friend of the court). It was agreed the issue to be formulated for determination



Muhammed Mahmud, Chief Justice of Nigeria (CJN)

should be whether the FOI Act is applicable to the state and not competence of the National Assembly to make laws for the States.

MRA was mandated to assist the Network of FOI Lawyers in obtaining the records of appeal and other documents required to file the amicus application.

The meeting discussed how to ensure enforcement of the provision of section 7(5) of the FOI Act, which makes wrongful denial of access to information a criminal offence and

prescribes a fine of N500,000 for any public officer or institution convicted of the offence.

The meeting recommended that the Attorney General of the Federation should be joined as a party to the suit in all such cases where the provision is sought to be enforced and that judges should be urged to recommend to the Attorney General to initiate criminal proceeding against public institutions.

It was also agreed that the public officers of the public institutions who signed the letter denying any request for information should also be joined as a defendant in such suits seeking to enforce the section of the Act.

The meeting was organized by Media Rights Agenda with support from 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), Canada Department of Foreign Affairs, Trade and Development (DFATD), and the UNDP. ■

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AAAN President Advocates Collaboration Between CSOs and Advertising Agencies to Promote FOI Act

stakeholder engagement in public communication; innovation and diversity in the communication of their public policy campaigns; participation in the development and deployment of public campaigns; and the development of "world class public communication in line with best global practices."

The Freedom of Information Implementers Strategy Meeting was organized by Media Rights Agenda with

support from 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), Canada Department of Foreign Affairs, Trade and Development (DFATD), and the UNDP. ■

ABSU FOI Seminar advocates Capacity Building at Community Level

A Freedom of Information (FOI) Seminar held at the Abia State University (ABSU) Law Faculty highlighted the lack of adequate use of FOI at community level and advocated efforts towards empowering community and individual end users.

The Seminar themed “Building the Capacity of Community-Based Groups for the Effective Use of Freedom of Information Act in Nigeria” was hosted by the Law Clinic on January 26, 2015 in Uturu.

The Seminar sought to train students by educating them on the contents and provisions of the Freedom of Information Act. The seminar also sought to prepare the students for participating in street law i.e. training other members of the community on their rights provided by the Act.

During the Seminar, it was noted that the passage of the law promised 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 Seminar however identified challenges of the FOIA such as little or no usage at community level to audit community development projects or even hold political office holders to account despite the fact that one of the prime beneficiaries of the Act should be the local populace at the community level.

It was also observed that low level of public awareness about the Act, its provisions and how to use it is due to the fact that prime beneficiaries of the law are yet to



Resource Persons and Facilitators at the Seminar

fully appreciate the enormous benefits to be derived from more active application of the law.

At the Seminar, it was expressed that before the passage of the FOIA on May 28, 2011, there was no clear and definite legal framework, mechanism or process guaranteeing Nigerian citizens the right to access public records and information. This promoted non-transparency and a clandestine system of governance at all levels of government.

Although it was anticipated that the FOI Act would improve citizens' participation in public governance leading to promotion of transparency, democratic values, accountability and community development, at the Seminar it was expressed that this was unfortunately not the case.

It was stated that years after the passage of the law, the Act is yet to make in-roads in changing the dynamics of citizen participation in public governance.

The lack of use of FOI at the community level was attributed to the fact that FOI is relatively a new law and awareness of its existence is yet to be spread at this community level. In addition, the seminar identified that while efforts are being put in place to build institutional capacities of government agencies coordinated by the AGF, no concrete efforts has been directed to local communities.

The training at the Seminar is to be a first step aimed at building the capacity of the community based groups to effectively utilize the FOI Act in accessing public records and information as communities and individual end users



Cross section of Participants

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Toby Mendel Finds Legal Design of RTI Laws Can Facilitate Implementation

In his research on effective Right to Information (RTI) implementation, international freedom of expression lawyer, Mr. Toby Mendel finds that the design of RTI laws plays an important role in facilitating its implementation.



Toby Mendel,
Executive Director, Centre for Law and Democracy

With over 100 countries having adopted freedom of information laws and its global recognition as an international human right, Toby Mendel in his Working Paper aims to tackle the challenge of implementation and reduce the significant policy-practice gap caused by a failure to effectively implement these laws.

“Designing Right to Information Laws for Effective Implementation” is Working Paper No. 3 in the World Bank Right to Information Series. The Series brings forward current and ongoing research on issues related to transparency and the right to information and aims to encourage the exchange of ideas and provide information on policy, practice, experience, and frontier issues related to public sector openness and transparency, including the underlying functions and outcomes of open government efforts.

This paper takes a look at the different areas where better or more careful legal design might reduce the burden on public authorities and others tasked with implementing RTI laws while also ensuring strong respect for this human right. It points out these areas where careful thought can be applied in the designing of RTI laws to ensure that full effect is given to the right without placing heavy burdens on the public authorities who are the obligation bearers. The areas includes Direct Impacts, Central Support Bodies, Bureaucratic Integration and Fit and Proactive Disclosure.

The first area, 'Direct Impacts' or issues looks at the direct relationship between the rules and how they are supposed to be implemented as mandated by definitions, the regime of exceptions and the procedures for processing requests. The main recommendation stemming from this is to focus on the need for clarity and limits on administrative discretion while promoting strong overall standards.

Next, Central Support Bodies looks at the roles accorded in the law to different central bodies, including internal support bodies (nodal agencies) and external support

bodies (independent administrative oversight bodies and courts). The paper analyses the three main roles undertaken by these bodies – dealing with complaints, supporting supply-side or internal implementation and public awareness-raising and support – and assesses various institutional design and role allocation options. It recognises that, ultimately, the ability of these bodies to discharge the three roles is in many cases more dependent on resources than anything else, but it also points to a number of design features which can help to optimize efficiency while facilitating access.

The third area is Bureaucratic Integration and Fit which looks at how legal design can better be adapted to ensure fluid integration of RTI obligations into internal bureaucratic systems. This part of the paper devotes significant attention to issues relating to the information officer function within public authorities, or the individuals/units that bear primary responsibility for many RTI implementation tasks. Issues addressed here include structural features such as how the information officer function is formally designated and its relationship with the rest of the public authority, and incentives and sanctions. This part of the paper also addresses a number of the systems that are needed to meet RTI obligations, such as records management, training and reporting.

The fourth and final area, proactive disclosure looks at different legal design options relating to this important RTI obligation. It points to the challenges and benefits of the open data initiative/alternative to proactive disclosure. It also looks at extensive proactive disclosure obligations imposed in developing countries which might leave public authorities struggling to comply and end up in breach of the law which undermines it. In higher-capacity settings however, the reverse might be the case where proactive obligations become outdated and insufficient to information needs. Here, the recommendation is to replace or supplement fixed obligations with a more flexible system monitored by an independent administrative or oversight body.

The paper also addresses a key issue of proactive disclosure which is lack of strong enforcement mechanisms.

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Toby Mendel Finds Legal Design of RTI Laws Can Facilitate Implementation

The paper ends by concluding that careful thought is needed when adopting or amending RTI legislation to ensure that the law is designed in a way that will facilitate, as far as possible, ease of implementation. It however notes that this cannot come at the expense of strong standards of respect for this international human right and striking an appropriate balance between these two competing demands will remain a challenge not only for legal design but for implementation efforts.

The paper includes a number of recommendations and points to areas where more research is needed. A critical recommendation is the reduction of administrative discretion which can lead to differential application of the law by different authorities, undermine public confidence, abuse of such discretion to prevent disclosure of information and generate unmet expectations. Instead, he calls for clear definitions of exceptions providing a list of non-exclusive examples of what sorts of public interests might override exceptions and not qualifying the definition of information in ways that would require officials to consider whether the qualification has been met. He states that discretion can impose a burden on officials, as they struggle to define what is needed in any given situation.

Other recommendations seek to promote approaches to institutional design, systems for annual reporting, records

management, training and proactive disclosure. It also includes recommendations that seek to ensure that implementation of the RTI law is integrated well with other, pre-existing systems.

The benefits targeted include efficiency, more robust protection of the right, fairness and fostering consistency of application across different public authorities, among others. This covers, among other things, the way in which the RTI rules and systems are integrated into bureaucratic planning and regulatory systems, including in relation to sanctions, as well as the relationship with secrecy provisions in other laws.

The paper notes that there is no one-size-fits-all solution to the systems but experience with different approaches has helped to identify at least some of the pros and cons of each. Recommendations in the paper relate to the way implementation systems are designed as well as to the structure, power and roles of the independent administrative oversight body, the nodal body and the information officer function.

Toby Mendel is the Executive Director of the Centre for Law and Democracy and Chair of the Freedom of Information Advocates Network (FOIANet). ■

ABSU FOI Seminar advocates Capacity Building at Community Level

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have been identified as lacking the knowledge, understanding and capacity to use the law to meet the objectives anticipated with its passage.

Another identified problem is the lack of adequate human and material resources needed to educate the local communities as there is not enough pool of human resources to reach rural locations. Ensuring effective use of the law was noted to require a process that can break down the law for easy understanding and provide education about its values, objectives and how it can be used by communities.

The Seminar highlighted that as the government is yet to take serious steps to create awareness about the law, the project hopes to do so through the available pool of law students in the ABSU Law Clinic.

A strong component of the ABSU Law Clinic is its street law programme through which it hopes to educate community members through outreaches. The street law approach includes training of law teachers to develop FOI street law training programmes for law students.

The programme begins by training the trainers i.e. the law teachers who will train students that work at the law clinic on the FOI Act. Law students are the project vehicle and resource pool for the street law outreaches and will benefit from the skills acquired in carrying out this project.

The project especially targets rural communities and will provide the needed qualified human and material resources to break down the law to the level of target communities. Skills taught will include but not be limited to those needed to carry out the community outreaches.

The street law programme goes beyond creating awareness as students are expected to develop lesson plans and appropriate methodology to educate target communities. This approach hopes to tackle lack of awareness knowledge, understanding and capacity of community members to use the FOI Act because students will breakdown the law using methodologies such as drama in local languages, video clips and other interactive approaches that will ensure easy understanding. ■

FOI Lawyer's Profile

Olukayode Majekodunmi: Promoting Transparency, Accountability in Public and Private Sectors

Through Freedom of Information litigation, Mr Olukayode Olatunji Majekodunmi, Legal Practitioner and Senior Staff Attorney with the Socio-Economic Rights and Accountability Project (SERAP), has worked towards promoting transparency and accountability in the public and private sectors.



Mr Olukayode Majekodunmi,
Legal Practitioner & Senior Staff Attorney with SERAP

Mr Majekodunmi grew up in Lagos Island and began his education at the Holy Trinity School Ebute Ero, Lagos Island before moving on to Dolphin High School also in Lagos Island. He then went to Obafemi Awolowo University in Ile Ife, where he earned his LLB Law degree in 2002 before proceeding to the Nigerian Law School.

He was admitted to the Nigerian Bar in 2004. Subsequently, he studied at the University of Notre Dame, where he obtained a master's degree in International Human Rights Law. For his compulsory National Youth Service, Mr Majekodunmi worked as Staff Counsel at Eko Akete Chambers and then progressed to the Ministry of Justice, Lagos State where he started out as Senior State Counsel. Following this, he was made Personal Assistant to the Solicitor General/Permanent Secretary of the Ministry.

In 2005, he joined SERAP having left the Ministry but was first involved with Freedom of Information in the Ministry where as a Principal Counsel in the Civil Litigation Department, he was asked to present a paper on the applicability or otherwise of the then FOI Bill to States in Nigeria.

At SERAP, Mr. Majekodunmi has been actively involved in human rights advocacy and litigation on social, economic and cultural as well as political rights not only in Nigeria but in the West Africa sub region.

Best described as calm and loyal, Mr Majekodunmi cites his late grandmother as his greatest childhood influence. He also cites his present boss, the Executive Director of SERAP, Prince Adetokunbo Mumuni as a strong influence on his desire to work on FOI cases.

Speaking on the present status and development of FOI in Nigeria, he states that the law is still evolving and as such, people are getting used to it and judges are beginning to

know the value inherent in the application of the Freedom of Information Act 2011.

According to Mr Majekodunmi, legal technicalities have been a primary challenge in the fight for freedom of information. He explains with an example of having commenced an action and doing everything possible to ensure the defendant is aware of the commencement of the action but still refuses to come to court. However, the court still requires that hearing notice be served on the defendant. Such tactics seek to frustrate and discourage legal action.

Mr Majekodunmi expresses his personal philosophy on what needs to be done to enhance usage and effectiveness of the law in Nigeria encouraging continued usage of the law in its present form but also proposing partnership with the National Assembly towards the amendment of some parts of the law. He especially points to the requirement of judicial review as the method of commencing an action as needing amendment as it is cumbersome.

Looking to the future, possible changes and improvements, he articulates that in such a near future as five years, he expects the volume of usage of the law to have increased tremendously.

While an optimist, Mr Majekodunmi still expresses concern spurred by the attitude of the judicial system to the rot in the society. He explains that he is yet to see the judicial system as taking a firm stand as the vanguard of the fight to sanitize the system.

Mr Majekodunmi states that his most challenging case so far has been the case against the Lagos State government on the demolition of Maroko by the Government of the State. The experience of having to defend the demolition of this settlement proved a challenge.

While not working, Mr. Majekodunmi spends time at home with his family or takes time out at the cinemas.

He encourages colleagues in FOI related litigation and young lawyers to continue to see FOI work as part of their contribution to societal good. ■



JPDC: Deploying the FOI Act to Foster Good Governance

The Justice Development and Peace Commission (JDPC) is a faith based organisation aimed at addressing human development, democracy and human rights towards ensuring peace, security and social conditions that enable people live in dignity.

With a staff strength of 41 individuals, JDPC focuses on Good governance, Legal Aid, Agricultural Development, micro credit facilities, Women and Youth empowerment.

JDPC operates three main programmes: Diocesan Agricultural Development Programme (DADP), Human Rights Programme (HRP) and the Gender Equity and Women Empowerment Programme (GEWEP) through which it employs the empowerment approach and looks to enhance effective structural transformation of the society without any form of discrimination.

The JDPC Human Rights Programme involves working to combat corruption and enhance accountability and transparency in public finance which is a vital aspect of efforts to combat poverty and human underdevelopment. JDPC has been able to incorporate the use and engagement of the Freedom of Information Act 2011 in addressing its core issues.

So far, JDPC has undertaken Capacity Building for Community Based Associations and Leaders, Public enlightenment to different associations and professional bodies and Litigation activities using FOI. In 2014 and 2015, JDPC made 32 written FOI requests; 4 were answered, 14 ignored and 14 sent in February 2015, still pending.

The JDPC Ijebu-Ode is located in the town of Ijebu-Ode, Ogun State in the south-western region of Nigeria. It covers the geographical area of the Catholic Diocese of Ijebu-Ode, which embraces 24 parishes, nine of the 20 local government areas in Ogun State of Nigeria, and a population of over 1.8 million people.

A principal aim of JDPC's human rights programme is the empowerment of the poor and other vulnerable social groups towards becoming active forces in the defence and promotion of their human rights and entering into the political process as an organised force to advance their own interests. JDPC pursues this through a range of strategies including enlightenment, education, and the

provision of legal advisory and representation services. A second aim of the unit is to help eliminate corruption and other unethical economic practices that hamper human development and perpetuate the problem of poverty in Nigeria. The strategies employed in this regard include the monitoring of budget cycles to enhance their transparency through all their stages: budget formulation, implementation, and retirement.

For the development of the culture and structures of democratic governance in Nigeria, JDPC does election monitoring, democracy education, and legislative advocacy.

JDPC carries out Human rights education; Promoting popular participation; Monitoring budgets and budget processes; Promotion of good governance and democracy; Enhance gender awareness and empower women to participate actively in governance; Litigation/ Alternative dispute resolution and Research, documentation and publications.

FOI requests made by the Commission so far have been focused on Procurement information, Local Government expenditure and Local Government budget. With the

use of an in-house lawyer, the Commission has also challenged two instances of denial of access to information in court though the cases were pending due to the strike by the judiciary. However, filing and serving costs have amounted to about sixty thousand naira so far.

Requests made by JDPC include:

- .. Request for 2014 expenditure and 2015 budgets in 13 LGA
- .. Request to Ogun State INEC on information concerning PVC distribution
- .. Request for Copy of the Procurement Plan from Federal Polytechnic Ilaro and Ogun Oshun River Basin Dev. Authority, Alabata Road, Abeokuta. It requested from the two institutions for copies of the advertisement or solicitations for bids in the year 2013 and 2014, published in at least two national newspapers as well as the procurement journal; the bidding documents issued to all bidders in respect of procurement including bid submission register, bid return

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Rev. Fr. John Patrick Ngoyi, Director, JDPC

FOI Law Reports

Failure to Issue Pre-Action Notice on Public Institution, Where Required, Renders FOI Suit Incompetent, Says Court

In the Federal High Court of Nigeria

In the Abuja Judicial Division
Holden at Abuja
On Monday, the 23rd Day of December
2013
Before His Lordship Hon. Justice A.R.
Mohammed (Judge)

Suit No: FHC/ABJ/CS/278/2013
Between:

Public and Private Development Centre
Ltd/GTE (PPDC)
- APPLICANT

And

1. Nigeria National Petroleum Corporation (NNPC)
2. The Group Managing Director (NNPC)
- RESPONDENTS

Facts of the Case

The process was filed on April 31, 2013 at the instance of the Applicant, Private and Public Development Center (PPDC), against the Nigeria National Petroleum Corporation (NNPC) and the Group Managing Director, NNPC. The Applicant, by a motion dated April 30, 2013, prayed for the following reliefs:

- A Declaration that the failure of the 1st and 2nd Defendants to furnish the Applicant with the procurement documents sought vide Applicant's letter of 21st March, 2013 amounts to wrongful denial of information under the Freedom of Information Act, 2011.
- An Order of the Court compelling the Respondents jointly and severally, within seven days of the judgment herein, to furnish the Applicant with the information and copies of documents sought vide Applicant's letter of 21st March, 2013 which information and documents are set out in the schedule hereto.

In the schedule to the Application, the following documents were listed:

- a. Copies of the procurement plans and information,



Dr. Joseph Thlama Dawha-
Group Managing Director of the NNPC

including needs assessment and evaluation, identification of goods and works required for the bid.

- b. Copies of advertisements of invitation for bids published in at least two national dailies and the Federal Tenders Journal.
- c. Evidence of the advertisement on NNPC website and notice board
- d. Copies of bid submission register and duplicate copies of receipts issued to bidders on submission of bids.
- e. Minutes of public bid opening

for technical and financial proposals

- f. Copies of standard bidding documents issued to bidders in respect of the procurement.
- g. Copies of bid evaluation report by the technical sub-committee of the Tenders' Board.
- h. Copy of the minutes of the meeting of the Tenders Board approving the winning bidder.
- i. Copies of rejection letters or notices (if any).
- j. Copies of notices of acceptance of bids issued by the procuring entity (NNPC) to the successful bidder immediately a winner was selected (if any).
- k. Letter of notification of award of contract (if any).
- l. Signed contract document (if any).
- m. Copy of formal protest letters by bidders and the decision in such complaints/appeals (if any).
- n. Copy of summary of details of contract published by NNPC and BPP (if any).

The application was supported by a statement, which contained the reliefs sought and the grounds upon which the reliefs were sought. The application was also accompanied with 12 paragraphs affidavit deposed by one Ilo Nkemdili, the Applicants procurement officer, and exhibits marked "A", "B" and B1 respectively. In addition to the application, was a written address dated May 30, 2013 but filed on May 31, 2013.

In response to the application, the Respondents filed a counter affidavit on June 31, 2014, deposed to by Victor Omoluabi, a manager in the legal department of the Respondents. The Respondents' counter affidavit was also supported with a written address.

In addition, the Respondents filed on July 2, 2013 a notice of preliminary objection dated June 5, 2013. The Applicant

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on the other hand opposed the Preliminary Objection while the Respondents filed a Reply on Points of law to the Applicant's written address.

The Applicant's counsel in the application for an order of mandamus submitted one issue for determination: Whether the Applicant has met the conditions for the grant of this application.

Supporting his argument on the conditions that must exist for grant of order of mandamus, learned counsel for the Applicant referred to the cases of Fawehinmi vs IGP (2002) 7NWLR Part 767, 606 at 674, 686, 694 and 697-698 and Atungwu vs. Ochekwu (2000) 1NWLR Part 641 507.

The Applicant's counsel submitted that by virtue of section 1, 2(6) and 7 of the Freedom of Information Act, any person has the right to access or request for information which is in the custody of any public official, agency or institution however called without showing any specific interest in the information applied for. According to him, any person entitled to the right to information under the Freedom of Information Act shall have the right to institute proceedings in a court to compel any public institution to comply with the provisions of the Act.

He further argued that the 1st and 2nd Respondents were public institutions and public officers respectively by the provisions of section 2(7) of the Freedom of Information Act.

He also said that the Applicant has done all that it is required to do by the Act on the information and documents requested from the Respondents, but the Respondents without any reason have refused to provide the Applicant with the documents in breach of its right under the Freedom of Information Act. He contended that by section 4 of the Freedom of Information Act, the Respondents have a legal duty to provide the Applicant with the requested document and information within 7 days of the receipt of the request.

Finally, the Applicant's Counsel submitted that the courts have the duty to enforce the mandatory provisions of the law and cited the case of Inyang vs Ebong (2002) 2NWLR Part 751 284 at 331 in support of his submission and urged the court to grant the application.

In the Respondents' written address in support of their counter affidavit, one issue for determination was formulated: Whether in the absence of compliance with the condition precedent for the grant of an order of mandamus, the application of the applicant is not liable to be struck out and dismissed for lack of merit?



Hon. Justice A. R. Mohammed of the Federal High Court, Abuja

The Respondents' counsel opposed the grant of the application on the basis that the court must be satisfied that the Applicant has complied with all the conditions precedent to the grant of order of mandamus and that there is no other remedy available to him.

He said that as a discretionary order, the court will decline to grant it if there are other remedies available and effective, and that an Applicant has sufficient interest and the respondent has a duty of a public nature to perform and has refused to perform on demand to perform it. He referred the cases of Fawehinmi vs IGP supra, at pages 697-698 and Layanju vs Araoye (1959) 1NSCC 143 at 146.

He submitted that the Applicant failed to show that he has made a demand of the documents referred to in its motion, as there was no evidence of receipt of the letter exhibited by the Applicant by the Respondents. He argued that the person who signed as Kinsley O. is not a person known to or in the employ of the Respondents as neither does the document bear the stamp of the Respondents as is the practice of the Respondents in respect of document received by it.

He argued that the Applicant has failed to show that there was ever any publication made by the Respondents inviting bids for the procurement of an insurance broker for the insurance of the NNPC Oil and Aviation Assets for the year 2013/2014 and that the Applicant only succeeded in exhibiting document showing a publication made via "Tenders in Nigeria" www.tenders.nigeria/invitation for qualification, website which the Respondents' counsel said was unknown to the Respondents and does not bear the logo of the Respondents

He further submitted that the failure to fulfill a condition precedent to instituting an action has the effect of

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robbing the court of jurisdiction to hear the matter and cited the case of ORAKUL Resources Ltd vs. N.C.C (2007) 16 NWLR Part (1060) 270 at 278. Finally, he submitted that the application was incompetent and liable to be struck out as the Applicant has failed to comply with the condition precedent for order of mandamus against the Respondents.

In the Applicant's reply on point of law, the Applicant's counsel argued that as shown in Paragraph 3 and 5 of its supporting affidavit, in December, 2012, the Respondents commenced the process for the procurement of an insurance broker for the 1st Respondent's oil and aviation asset and also the specific date for the closing of bids in respect of the procurement.

However, he said, none of these fact deposed were specifically denied, adding that the Respondents only denied paragraphs 5 (a-c) of their counter affidavit, which relate to publishing the invitation for bids on the website of Tenders Nigeria. He therefore urged the Court to hold that the Respondents have admitted those facts, having not denied the conduct of procurement for the engagement of an insurance broker. He referred to the case of Ogunsola vs Usman (2002) NWLR Part 788, 636 at 657.

He further argued that the Respondents did not state any law, which says that an acknowledgment copy of a letter delivered to the Respondents without the Respondents' official stamp amounts to non-delivery.

According to him, the Applicant filed a further affidavit on July 2, 2013, deposed to by a staff of Neuron Express deliveries Ltd, who stated that when he took the Applicant's letter (exhibit B) to the office of the Group Managing Director of NNPC, he was directed to Kinsley O. who said it was his work schedule to receive letters meant for the 2nd Respondent. Kinsley O. also stated that it was the practice of the Respondents to acknowledge letters in the manner shown on exhibit B, without his position and the Respondents' official stamp.

In the Respondent's Preliminary Objection, the Respondents, counsel formulated the following two issues for determination:

1. Having regard to the fact that the requisite Pre-action Notice was not served on the 1st



Ms. Seember Nyager,
CEO of Public and Private Development Centre (PPDC)

Respondent prior to the institution of this suit, whether the suit is not altogether fundamentally defective and incurably incompetent.

2. Whether this Court has the jurisdiction to entertain the suit?

The Respondents counsel canvassed his argument by making reference to section 12(2) of the NNPC Act Cap N123 LFN 2004, saying that it is mandatory for anyone who intends to commence an action against the 1st Respondent in a court of law to first issue and serve on it a pre-action notice and that the requirement of a pre-action notice is a condition precedent which must be fulfilled before any legal proceeding can be initiated against the 1st Respondent.

be initiated against the 1st Respondent.

He concluded that failure on the part of the plaintiff to issue and serve a pre-action notice before this suit was commenced renders the suit incompetent. He referred the cases of Mobil (Nig) Ltd vs LASEPA (2002) 18 NWLR Part 798 at page 30; Gambari vs. Gambari (1990) 5 NWLR Part 152; Umukoro vs. NPA (1997) 4 NWLR Part 502, 656; Atolabe vs. Awuni (1997) 9 NWLR Part 522, Page 536 and Amadi vs. NNPC (2000) 10 NWLR Part 674, 76.

On the second ground of objection, the Respondents' counsel contended that the action of the Applicant is based on conjectures, assumptions and imagination with reference to paragraph C of the Applicant's grounds for the application for mandamus and paragraph 3 of the Applicant's supporting affidavit.

Finally, he submitted that courts of law do not act on academic postulations and referred to the case of Anambra vs. A.G Federation (2005) 9 NWLR Part 931, 572 at 610.

The Applicant's counsel, in its written address in opposition to the respondents' Preliminary Objection, formulated this question:

Considering the provisions of the Freedom of Information Act, 2011, (the Act), does the Legislature intend the pre-action Notice of one month to be served on the Respondents herein before an action could be commenced against them under the Freedom of Information Act, 2011?

The Applicant's counsel contended that the NNPC Act was enacted in 1973, while the Freedom of Information

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Act was enacted in 2011 and that the Freedom of Information is the later of the two Acts and that in making the Freedom of Information Act, 2011, the Legislature would have taken into consideration the provisions of the NNPC Act, 1973.

He referred to section 4 of the Freedom of Information Act, 2011 which is to the effect that a public institution to which a request is made for information must furnish the Applicant with the said information within seven days of the receipt of the request. By section 7 of the Act, he said, such information is deemed denied where the institution fails to furnish the information within 7 days, while in section 20 of the Act, any person who is denied such information may seek redress from the court within 30 days of such denial or deemed denial.

He submitted that the operation of section 12(2) of the NNPC Act will operate to deny an applicant the right of access to court because by the time the pre-action notice prescribed by the NNPC Act would have elapsed, the time allowed for an applicant under the Freedom of Information Act to seek redress would have elapsed.

He further submitted that it is well-established principle of interpretation of statutes that there is a presumption against unreasonable and inconvenient result, or a presumption against intending what is inconvenient and unreasonable. He referred to the case of Ibrahim vs. Sheriff (2004)14 NWLR Part 892, 43 at 65-66

He submitted that by virtue of section 1(1) of the Freedom of Information Act, 2011, the right of access to information is guaranteed and is not subject to the provisions of any Act or law, including the NNPC Act.

He finally submitted that the Respondents were not entitled to any pre-action notice from the Applicant before the institution of the suit.

In the Respondents' reply on points of law, the Respondents' counsel submitted that from the submission of the Applicant's counsel, it was conceded that no pre-action notice was served or issued on the 1st Respondent as required by law.

Responding to the Applicant's argument that the legislature never intended the requirement of pre-action notice under any circumstance under Sections 1(1), 4, 7(4) and 20 of the Freedom of Information Act, 2011, Respondent's counsel submitted that Section 12(2) of the NNPC Act contains



Mr. Augustine Alegeh (SAN) Lawyer to NNPC

provision specifying that pre-action

notice must be served on the 1st Respondent.

According to him, Section 12(2) of the NNPC Act is a specific legislation as against the general provisions of Freedom of Information Act, 2011. He supported his argument with the case of A.B.S.U vs Otosi (2011) 1 NWLR Part 1229, 605.

On the case of Ibrahim vs. Sheriff, Respondents' counsel stated that the case is not all fours with the case at hand, because Ibrahim vs. Sheriff was an interpretation of the Electoral Act, 2002 on the requirement of signing a petition.

He also submitted that the requirement of pre-action notice is not a denial of the Applicant's right but a condition precedent which the law considers very essential given the character of the Respondents. He added that if the Legislature under the Freedom of Information Act, 2011 had intended that no pre-action notice would be applicable, it would have expressly and specifically stated so.

Finally, he urged the Court not to exclude the provision of statute, which has specifically dealt with a subject in contention. According to him, Section 1 (1) of the Freedom of Information Act guarantees the right of access to information, while Section 12(2) of the NNPC Act regulates access to court as it pertains the NNPC by creating a condition precedent. He said that Section 12(2) of the NNPC Act cannot be subjected to or be subservient to the provisions of the Freedom of Information Act, because the two provisions, are mutually exclusive.

His Lordship, Justice Mohammed said the position of the law is that where the Court has taken argument on issue of jurisdiction together with the substantive suit, the Court must first of all express its views on the issue of jurisdiction and if the issue of jurisdiction succeeds, the Court should terminate the proceedings at that stage. He added that where, however, the issue of jurisdiction fails, the Court would then proceed to determine the merit of the substantive suit.

He said in the present case, the first ground of the objection is to the effect that the Applicant has not issued or served the 1st Respondent (NNPC) in this suit with a pre-action notice as required by Section 12(2) of the NNPC Act. He said the provision of Section 12(2) of the NNPC

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Act is a condition precedent to the institution of any action against the 1st Respondent and noted that the Applicant's counsel is however of the view that in view of the provisions of Sections 1(1), 4, 7(4) and 20 of the Freedom of Information Act, the Legislature never intended that pre-action notice shall apply to matters brought under the Freedom of Information Act, 2011.

His Lordship said in determining this issue, recourse must be made to the provision of Section 12(2) of the NNPC Act. Section 12(2) provides thus:-

"No suit shall be commenced against the corporation before the expiration of a period of one month after a written notice of intention to commence the suit have been served upon the corporation by the intending Plaintiff or his agent; and the notice shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending Plaintiff and the relief which he claims."

According to him, a careful reading of Section 12(2) of the NNPC Act above would show that it is a specific provision which places a duty on any intending Plaintiff that wishes to institute legal proceedings against the 1st Respondent (NNPC) to first of all issue and serve pre-action notice on it.

He said the general trend in the wordings and intendment of statutes is for the Legislature to make specific provisions on certain subject matter so that the issue is not left to speculation.

According to him, the requirement of pre-action notices and provisions of statute of limitation were specifically provided not to apply to actions or suits brought under the Fundamental Rights Enforcement Rules 2009. However, the previous Fundamental Rights Enforcement Procedure Rules, 1979 did not have a similar provision ousting the application of pre-action notice and limitation period.

His Lordship said he had read the provisions of Sections 1(1), 4, 7(4) and 20 of the Freedom of Information Act, 2011 relied upon by the Applicant's counsel and noted that he understands the sections to be on right to information and right to access to court when such information requested is denied.

The Judge noted that Sections 1(1), 4, 7(4) and 20 simply guaranteed the right to request for information and where it is denied, an Applicant may approach the court to seek for redress.



Mr. Godwin Chigbu, Lawyer to PPDC

However, he said, where in the exercise of the right to approach the court for redress, if there is another legislation that places some conditions before one can ignite the court's jurisdiction, such requirement cannot by any stretch of imagination be regarded as impeding right of access to court. He referred to the case of Amadi vs NNPC (2000) 10 NWLR Part 674, Page 76 at page 113, where the Supreme Court held as follows:-

"It is instructive therefore that compliance with the provisions of Section 12 (2) of NNPC Act 1977 is a condition precedent to instituting a suit against the Respondent. Cases

constantly occur in which, although everything has happened which would at common law prima facie entitle a man to a certain sum of money or vest him a certain right of action, there is yet something more which must happen, in the particular case, before he is entitled to sue, either by reason of the provisions of some statute or because the parties have expressly so agreed. This is something called a condition precedent. It is not of the essence of such a cause of action, but it is essential. It is an additional formality superimposed on the law."

He also cited the case of Bakare vs. NRC (2007) NWLR Part 1064, 606 at 636, 656.

The Judge held that from the above pronouncement by the apex Court reproduced above, it is crystal clear that provisions in statutes regarding pre-action notices are held to be proper.

He said as the Applicant has not shown the Court that it has issued and served a pre-action notice on the 1st Respondent in the suit in accordance with the mandatory requirement of Section 12(2) of the NNPC Act, a condition precedent to the institution of this action has not been fulfilled.

This failure, he said, has consequently rendered the suit incompetent and by extension robbed the court of jurisdiction to entertain the suit.

He said that in consequence of the above finding, the suit is struck out for being incompetent.

He made no order as to costs.

G. N. Chigbu, Esq., for the Applicant. ■

REGIONAL AND INTERNATIONAL DEVELOPMENTS

UNEP Calls for Comments on its Access-To-Information Policy

The United Nations Environment Programme has now released its Access-To-Information policy on its website and is calling for comments.

The pilot access to information policy was first issued by UNEP on June 6, 2014 and is subject to review within a year. This interim period will give room for further considerations on the contents of the policy within the UNEP secretariat for possible refinement.

The Policy was uploaded on the UNEP website on November 15, 2014 for comments from members of the general public. The deadline for comments was extended to March 31, 2015.

UNEP describes itself as "the voice for the environment within the United Nations system ... acting as a catalyst, advocate, educator and facilitator to promote the wise use and sustainable development of the global environment." An access to information policy therefore falls squarely within UNEP's own mission and could serve as a powerful tool to help the vast number of stakeholders who rely on the organization. UNEP drafted the policy in order to "enhance transparency and openness" in the organization's work.

The UNEP access to information policy comprises of principles and procedures that guide access to



Achim Steiner - Executive Director, UNEP

information at UNEP and have been practiced for a long period of time but have never been in any written document. The major principle on which the policy is centered is that anyone can have access to the information in the custody of the UNEP secretariat, in a manner consistent with the relevant policies and practices of the United Nations Secretariat.

While the UNEP is still open to comments on the policy, this will be a good opportunity for representatives of civil societies to make contributions to the structuring of UNEP's access to information and through this transparency of the United Nations Environment Programme. The comments from individuals and civil society on the policy will help to improve the policy to better articulate how the UNEP secretariat would put in extra efforts to make information on environmental matters accessible to a target community or the broader public with a view to making such information a catalyst for achieving environmental sustainability.

To view the policy and to comment, visit:

<http://www.unep.org/environmental-governance/UNEPsWork/policy/tabid/794452/Default.aspx>

Continued from page 14



JPDC: Deploying the FOI Act to Foster Good Governance

sheet for procurement and attendance sheet; a list of all the Contractors that submitted bids for the proposed contract or procurement. The list should indicate the value (i.e the contract sum) of each bid; copies of bid evaluation report by the committee of the Tenders Board and minutes of the Tenders Board approving the winning bidder; and copies of letter of award, and the final contract award documents for the award of the contract(s) undertaken in the year 2013 and 2014.

The Commission notes that their use of the FOI Act has proven quite interesting especially pointing out that when government officials are met in different programmes and FOI issues are mentioned, they can be shaken and jittery.

Community based associations trained through JPDC are already using their training by making FOI request from the Local Authority. Some of the groups trained have called on their Local Government Chairman to give account of stewardship.

JPDC can be contacted through:

1, JPDC Street, (Bishop Emeritus Compound), GRA, Erunwon Road, P.O Box 1923, Ijebu-Ode, Ogun State, Nigeria

Tel: (+234)037-430702 / 037-432268

Email Address: info@jdpcijejuode.org

Web Address:

<http://www.jdpcijejuode.org>

Up Comming FOI Events

March 26 and 27, 2015: Breaking Down the Walls: The Fight for Open Government

A Freedom of Information conference at the University of Florida: "Breaking Down the Walls: The Fight for Open Government" is scheduled to hold on March 26 and 27, 2015.

The national panel discussions will include, "Hitting the Wall: Reports from the Frontline of the FOIA Battlefield", "Dismantling the Wall: FOIA Challenges and Opportunities on the Federal Level" and "Breaking Down the Walls: Identifying Problems and Possible Solutions."

Participants include several nationally-known journalists, as well as Florida-based journalists; attorneys who specialize in open government issues; and Freedom of Information officials.

The goal of the conference is to identify major issues, nationally and in Florida, and develop plans for improvements to laws and compliance by government officials.

The conference is funded by proceeds from Seasoned CBS reporter Sharyl Attkisson's book "Stonewalled: My Fight for Truth Against the Forces of Obstruction, Intimidation, and Harassment in Obama's Washington" and co-sponsored by the proceeds from University of Florida College of Journalism and Communications, the Joseph L. Brechner Center for Freedom of Information, and the law firms of Thomas & LoCicero and Holland & Knight.

March 31, 2015: Submission deadline for presentation of abstracts for the Open Research Data Conference, Poland

Proposals for short presentations about open research data are now welcome for the Open Research Data Conference, Poland.

Presentation abstracts should be submitted by e-mail to conference@pon.edu.pl in English, the official language of the conference.

The length of an abstract should not exceed 400 words and each presentation will last 10 minutes and will be followed by a 5-minute discussion. The topics of the conference fall into three broad sessions.

The sessions will cover but are not limited to the following sub-points: Data sharing, data publishing: policies, strategies and incentives; Tools and methodologies for opening data; and Re-use of data for science and society: opportunities and challenges.

The deadline for submission of abstract is March 31, 2015. All submissions will be reviewed by April 15, 2015.

April 30, 2015: Deadline for Registration and Conference fee payments for the Open Research Data Conference, Poland

Registration is now open for the conference "Open Research Data: Implications for Science and Society". Registration will be online and the registration deadline is April 30, 2015 though registration may close earlier if venue capacity is reached.

The conference fee of 40 Euros or 165 Polish Zloty covers admission, meals, coffee breaks and an evening social event on Thursday, May 28, 2015.

Payments are to be made by bank transfer not later than April 30, 2015. Bank account details will be included in the registration confirmation e-mail.

Registration fee waivers are available for conference attendees who do not have funds to cover the costs. For more information, visit <http://opendataconference2015.pon.edu.pl/>

May 28-29, 2015: Open Research Data: Implications for Science and Society – Warsaw, Poland

The Open Science Platform, an initiative of the Interdisciplinary Centre for Mathematical and Computational Modelling at the University of Warsaw, is set to hold the "Open Research Data: Implications for Science and Society" Conference in May 2015.

The Conference will be held at the University of Warsaw Library to provide a forum for a broad debate on all issues related to opening research data.

The topics covered will include: Data sharing, data publishing: policies, strategies and incentives; Tools and methodologies for opening data; and Re-use of data for science and society: opportunities and challenges.

With the growing tide of data, issues of preservation, annotation and sharing are gaining importance and there is an increasing need for common solutions both on the technical and political level.



PHOTO GALLERY

FOI Implementers' Strategy Meeting, Abuja



(L-R) Mr Edetaen Ojo, Media Rights Agenda (MRA); Mr Akin Akingbulu, Institute for Media and Society (IMESO); Amas Edobor Osariemen, West Africa Network for Peacebuilding – Nigeria (WANEP)



(L-R) Olanrewaju Suraju, Civil Society Network Against Corruption (CSNAC); Ayomipo Ogundeyi, Legal Defence and Assistance Project (LEDAP); Olukayode Majekodunmi, Socio-Economic Rights and Accountability Project (SERAP); Tope Olaiya, Stephanie Peacebuilding and Development Foundation



(L-R) Alimi Adamu, Momoh, Momoh, Adamu and Co; Ayodeji Acquah, Ayodeji Acquah and Co; Nurudeen Ogbara, Citizens Assistance Centre; Chioma Onyenuchey-Uko, International Federation of Women Lawyers



(L-R) Chioma C. Anowai, WDPC; Dr Tola Winjobi, CAFSO, WRAG for Development; Matthew Ato, Paul Belabo Justice Foundation



(L-R) Stanley Achonu, BudGIT; Adeyinka Onabolu, WARD; Ayode Longe, MRA



Kelechi Nwosu, President of the Association of Advertising Agencies of Nigeria (AAAN)



(L-R) Olukayode Majekodunmi, SERAP; Godwin Chigbu, A&E Chambers; Seembar Nyager, PPDC; Ayodeji Acquah, Ayodeji and Co; Kingsley Nnajiaka, CSJ; Andy Ogbolu, Andy Isoma Ogbolu and Co

FOI Tidbits

Britain Clare's Law Allows Citizens Find Out Partners' Domestic Violence History

A new domestic violence disclosure scheme introduced in Britain allows people find out from the Police about their partners' history of violence before getting married to them and also allows the Police to also disclose such information.

According to Home Secretary, Theresa May, the scheme is designed to provide victims with information that may protect them from an abusive situation before it ends in tragedy. The scheme allows the police disclose information about a partner's previous history of domestic violence or violent acts.

The scheme, Clare's law was named after 36-year-old Clare Wood who was murdered by her ex-boyfriend in 2009. Clare Wood who had made several complaints to police about her ex-boyfriend was strangled and set on fire by her violent and obsessive ex-boyfriend George Appleton who already had a history of violence against women.

Following a 14-month pilot in Gwent, Wiltshire, Nottinghamshire and Greater Manchester, Clare's Law was rolled out nationally in March 2014, and was made to coincide with the International Women's Day by the Home Secretary of the United Kingdom.

With the use of Freedom of Information laws, the Press Association discovered at least 1,335 disclosures have been made across England and Wales under the law following 3,760 applications for disclosure.

In the British Queen's inspectorate of Constabulary report of 2014, Over a thousand cases of domestic violence victims were handled and with "alarming and



British Prime Minister, David Cameron

unacceptable weaknesses" by the police force across England and Wales. There were 269,700 domestic abuse-related crimes in England and Wales between 2012 and 2013, the report said, with 77 women killed by their partners or ex-partners in the same period.

The Domestic Violence Protection Orders (DVPOs) were also introduced in England and Wales. These DVPOs enable police and magistrates' courts to provide protection to victims immediately after a domestic violence incident. The aim of the DVPOs is to provide victims with immediate protection following an incident of domestic violence and gives

them time to consider what to do next. Advice and support will be given to the victims by local specialist services in the process

In her address on International Women's Day, the Home Secretary of the United Kingdom, Theresa May said "Clare's Law and DVPOs are just two of a raft of measures we have introduced to hand control back to the victim by ensuring they can make informed decisions about their relationship and escape if necessary." Mrs May also voiced out her determination to see a society where violence against women and girls is not tolerated, where people speak out, and where no woman or girl has to suffer domestic abuse

As a result of the Clare's law, there has been a huge change in attitudes of the Police force; domestic violence were ignored in the past but is now taken seriously. The implementation of Clare's Law and DVPOs are among the successful measures introduced to tackle violence against women and girls and is a constitutive element of the government's Call to End Violence against Women and Girls' Action Plan 2014. ■

FOI Resources

NULAI FOIA Videos on YouTube

The Network of University Legal Aid Institutions (NULAI) Nigeria has uploaded five brief Freedom of Information Act videos on YouTube. The YouTube videos are targeted at increasing knowledge of the law as NULAI notes that though the FOI Act has been passed since May 2011, knowledge by Nigerians remains very low.

The videos are in major Nigerian languages: English, Hausa, Igbo, Yoruba and Pidgin English which spreads

out the reach of the videos as it is capable of breaking down the law to Nigerians across the nation.

The videos are simple one-minute explanations of the Act. NULAI encourages the general public to listen and play video to members of their community, friends and family.

The videos are available at https://www.youtube.com/playlist?list=PL7-9mXsShZXxlHjT83QUQzAV0-E7_dd3 ■

Washington Examiner Obtains Records Revealing that Agency Spent \$31m on First Class Flights

Documents obtained by the Washington Examiner through a Freedom of information Act request reveal that the Department of Health and Human Services (DHHS) spends frivolously on flights under questionable circumstances.

An inquest into the spending in the DHHS of the United States of America between 2009 and 2013 reveals that DHHS officials have spent \$31 million on about 7,000 first class and business class flights.



U. S. President, Barack Obama

Centers for Medicare and Medicaid Services, which manages Obamacare, took 50 upgraded flights, including a trip from Baltimore to a three-day conference in Phoenix where a first class ticket cost \$3,000 each way. On another equally expensive trip to Baltimore, CMS' Joseph Fine said first class travel was "required because of agency

The U.S department of Health and Human Services came into being for the purpose of helping the poor, aged and sick but the department has deviated from its purpose as hundreds of its top executives spend taxpayers' money through luxury travelling expenses.

The obtained records also show that on occasions when supervisors could have travelled on economy in several trips, they preferred to fly in luxury at an expensive cost. Although federal workers were allowed to fly first or business class if the duration of flight is over 14 hours, only 1,400 of the 7,000 flights could be categorized as long distance trips.

Some of the flight records included the price of a coach class ticket for comparison, showing that DHHS spent \$18.5 million on travels when it could have spent only \$4.9 million if its officials had taken coach like most Americans.

For 5,100 of the flights, the government executives claimed they had to take first or business class flights because they had one medical disability or the other. Others cited "exceptional security circumstances", that no coach tickets were available, that a non-federal source was footing the bill, that first or business class was "required because of agency mission."

It has also been discovered that the DHHS is not the only department guilty of wasting money on luxury travels. An Examiner review of 14 federal agencies' travel spending for 2012 and 2013 showed that "these agencies alone spent an estimated \$8.7 million on 1,903 upgraded flights in those two years. That was about \$6.4 million more than the same coach and government-rate flights would have cost." An example is the National Aeronautics and Space

Administration (NASA), obtained upgrades that cost as much as 112 times coach fares on the same flights.

mission."

Executives with the Food and Drug Administration also enjoyed flying in style, with a bill totaling \$14 million for 2,000 upgraded flights. One first-class flight cost \$26,469, with the employee citing medical disability as the reason for the upgrade. Another flight to Germany cost \$23,000, with the executive also claiming he was medically infirm.

FDA inspector David Heiar reportedly traveled to India on a \$30,000 round-trip ticket with the taxpayer footing the bill while FDA Inspector Robert Horan flew to Hong Kong for \$21,427 when economy would have cost just \$5,021. Another inspector went to Australia for \$12,344 when coach was just \$543. ■

FOI Quotes

* "When information which properly belongs to the public is systematically withheld by those in power, the people soon become ignorant of their own affairs, distrustful of those who manage them, and – eventually – incapable of determining their own destinies." - Richard Nixon, 1972. US President.

* The best project prepared in darkness, would excite more

alarm than the worst, undertaken under the auspices of publicity. - Jeremy Bentham, On Publicity from The Works of Jeremy Bentham volume 2, part 2 (1839).

“Power always has to be kept in check; power exercised in secret, especially under the cloak of national security, is doubly dangerous.” - William Proxmire. US Senator.

| Requester | Information Requested | Public Institution | Date of Request | Outcome of Request | Current Status |
|--|--|--|------------------|--|--|
| Justice, Development and Peace Commission | The 2014 Ijebu-Ode Local Government Budget | The Executive Chairman, Ijebu-Ode Local Government, Iloro. | May 16, 2014 | On August 25, 2014, the Local Government responded forwarding a copy of the approved budget. | Successful access to information. |
| Justice, Development and Peace Commission | The 2014 Ijebu-East Local Government Budget | The Executive Chairman, Ijebu-East Local Government, Ogbere. | May 16, 2014 | On June 19, 2014, the local government responded stating that the budget is an official document which cannot be released without the formal approval from the higher authority and directed that the request be channeled through the Ministry of Local Government and Local Government Chieftancy Affairs, Oke Mosan, Abeokuta. | Response to information request without releasing the information requested. |
| N o b l e Organisation on Solidarity and Development | Whether or not the broadcast house adheres to the National Broadcasting Commission Code and the Electoral Act Information on special programmes and programme schedules for election related issues Details of plans to build the capacity of NTA 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 | Nigerian Television Authority, Calabar | October 17, 2014 | In a letter dated October 21, 2014, NTA gave an extensive response stating that it adheres to these regulations and that guidelines on political broadcasting is clearly displayed in the newsroom and Servicom offices amongst others to guide staff in addition to the regular reminder on the do's and don'ts from the National Broadcasting Commission. It also gave details of scheduled special programmes, stated that staff capacity is built through training at zonal centres. The letter stated that station is not funded by political parties for neutrality and that funding comes | Successful access to information |

Continued on page 26

FOI Tracker

Continued from page 25

| Requester | Information Requested | Public Institution | Date of Request | Outcome of Request | Current Status |
|--|---|---|------------------|--|--|
| | .. Station policy towards providing equitable airtime or media space to all political parties contesting in the 2015 elections. | | | directly from NTA headquarters. | |
| N o b l e Organisation on Solidarity and Development | .. Whether or not the Corporation adheres to the National Broadcasting Commission (NBC) Code and the Electoral Act .. Information on special 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. | The Cross River Broadcasting Corporation (CRBC) | October 17, 2014 | In a letter dated November 24, 2014, the CRBC responded providing answers to questions raised including that the CRBC is a member of the NBC and follows the Code religiously. It stated that media houses have programme schedules that can be altered to suit prevailing conditions. CRBC acknowledges that it owes a public responsibility to inform, educate and entertain and operates specific programmes which it mentioned. It expresses its commitment to objectivity, impartiality and neutrality. | Successful access to information. |
| Concerned Group for Environment, Population and Development in Nigeria | .. List of all approved private health facilities and their addresses by Local Government Area in Imo State.- .. Ministry records stipulating the penalty(ies) for operating unapproved .. List of staff positions and their roles within the State Ministry of Health | Imo State Ministry of Health | December 3, 2014 | In a letter dated January 30, 2015, the Ministry responded stating that the request was ambiguous and the request should be streamlined to the extent to which it affects the Office. | Response without information provided. |

Continued on page 27

FOI Tracker

Continued from page 26

| Requester | Information Requested | Public Institution | Date of Request | Outcome of Request | Current Status |
|---|--|--|-------------------|--|-----------------------------------|
| Concerned Group for Environment, Population, and Development in Nigeria | Comprehensive list of all disallowed words in the Business and Company name registration in Nigeria including incorporated trustees, list of record of requirements for registration of a privately held firm or company including current financial requirements, list of staff positions and their roles in the CAC | Corporate Affairs Commission (CAC) | December 5, 2014 | On December 19, 2014, the CAC responded including an attached copy of the Commission Customers' Guide which included requested information. | Successful access to information. |
| C h r i s t i a n Foundation for Social Justice and Equity | Information on advertisement for bids for the renovation of the residences of the Director of Research and Director of Studies as well as the bids and financial documents. It also requested contract agreements, contract award letters, and evidence of payments for mobilization of the contract awards, among others. | National Institute for Policy and Strategic Studies | December 12, 2014 | On January 6, 2015, the National Institute for Policy and Strategic Studies in full cooperation responded with a letter and attached the documents requested. It also went on to point out what parts of the attached documents were relevant to each part of the request. | Successful access to information. |
| C o n n e c t e d Development | Information on the N9,287,250,000 (N9.2bn) approved by the Federal Government of Nigeria during the Federal Executive Council meeting on Tuesday, November 25, 2014 for the procurement and distribution of 750,000 clean cookstoves and 18,000 Wonderbags for rural women. Information sought includes a workplan to aid meeting up with the deadline | Integra Renewable Energy Services (A private institution allocated public funds) | January 14, 2015 | In a letter dated January 23, 2015, the institution expressed an interest in transparency and accountability as well as encouraged future correspondence. It clarified and explained the extent of the role it played in the Clean Cookstoves and Wonderbags project. It stated that a contract has not been signed and no funds released therefore giving them no obligation yet. It also explained that the selection of beneficiaries would be by the Federal Government and the institution is just to aid in logistics. | Successful access to information. |

Freedom of Information Baseline Assessment (Report from MRA FOI Audit of Federal Public Institution, 2012-2013)

In 2014, Media Rights Agenda (MRA) issued a research report of a project which assessed and monitored the level of implementation of the Freedom of Information (FOI) Act 2011 by government institutions in Nigeria. The report titled; "Freedom of Information Baseline Assessment (Report from MRA FOI Audit of Federal MDAs in Nigeria, 2012- 2013)", was a two-year research report that covered over 100 federal government institutions in the country.



Senator Pius Anyim Pius,
Secretary to Government of the Federation,

The research provides a scientific baseline assessment of the prevailing conditions within government institutions relating to public access to information as provided for in the Act. The report explains that "in Nigeria with over 800 public institutions at the federal level, most of them are yet to set in place structures to promote an effective FOI regime. They have placed restrictions which contravene the expectations as contained in the FOI Act."

The report notes that only 34 of the institutions responded to the baseline assessment out of over 100 government institutions approached. In order to ensure the FOI Act meets up with the expectations of the law, the research stated that, "Public institutions need to be monitored to determine the level of compliance by public officials to their obligations under the Act and to ensure they comply with their obligations in the FOI Act, 2011. The research identified these restrictions and challenges faced in the implementation of an effective FOI regime and proffers appropriate solutions to the various stakeholders which include government, public officials, the Attorney-General of the Federation, civil society, the media, and the international community etc."

The report identifies issues such as secrecy, bureaucracy and bad record keeping as daunting challenges faced by the Act. The report recommends that public institutions should immediately designate FOI Officers and calls on the Office of the Head of Service, the Attorney General of



Mr. Danladi Kifasi,
Head of the Civil Service of the Federation

the Federation and the Secretary to the Government of the Federation to collaboratively sensitize the entire civil service about the FOI Act and its mechanisms. It also recommends the development of a digitized process and proper use of ICT for record keeping as well advocacy to the heads of these institutions to institute an effective FOI regime within their offices.

The report also calls for a directive from the Office of the Head of Service, the Attorney General of the Federation (AGF) and the Secretary to the Government of the Federation (SGF) to the civil service for officials to respond to FOI requests contrary to the provisions of the Official Secrets Act. The report notes that, "there is a window of possibility that such directives will tear the veil of secrecy in the civil service and wake the MDAs from their bureaucratic slumber. The FOI Act can be activated with every form of support that it can get from these two offices to ensure that implementation becomes more efficient as the Act gets into the third year of usage."

The report notes that there seems to be a long hard road to travel in the process of effectively implementing the Act. It says it is not all gloomy as the research had begun the process of, hopefully, an irreversible partnership and collaboration with public institutions. It also notes that, "the survey has provided the first ground for assessing the challenges being faced by the public institutions in the transition from a regime that has thrived for decades on secrecy and darkness into that of openness, transparency, accountability and public participation."

The survey identifies and makes recommendations on how to improve access to information in the public sector. It concludes that by improving access to information in public institutions, there will be improved supply in the public right to information. This, it says, will lead to demand for adequate infrastructures, sufficient resources and executive support to drive the process to run smoothly in the years ahead. ■

Freedom of Information Training Manual for Civil Society Organisations *By Media Rights Agenda*

Since the passage of the Freedom of Information Act in May 2011, scores of training activities have been carried out by various actors to improve understanding, knowledge and usage of the Act. Such training activities have had varying degrees of success and quality as many of those conducting the training have neither a good understanding of the Act nor the requisite skills to deliver training on it.

In response to this situation, Media Rights Agenda (MRA) published in 2014 a training manual on the Freedom of Information Act for civil society organizations, to serve as a guide for those carrying out training activities targeted at civil society organizations or their representatives.

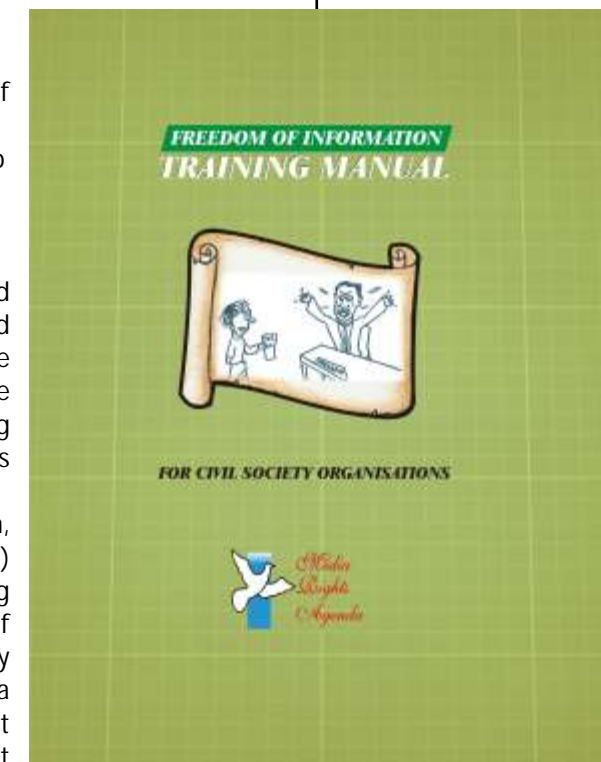
The manual was created for groups intending to carry out capacity building workshops, meetings and trainings on using the FOI Act to ensure accountability and transparency in government and to educate citizens on the their right to access information.

The manual is aimed at ensuring that a significant number of people from different parts of the country, especially at the grassroots and community levels, are trained to use the FOI Act and create a multiplier effect by fostering the emergence of a large corps of trainers in the sector.

The manual provides guidance for civil society organizations and their representatives, particularly those who have already been trained on the FOI Act, to conduct step-down training for community-based or grassroots organizations and ordinary citizens in the communities where they are based to enable such organizations and individuals to also make requests for information from public and private institutions covered by the Act.

The Manual contains a step-by-step approach to delivering FOI training in very simple language and procedures.

It is designed to enable the delivery of FOI training programmes or activities to small groups of people as well as larger meetings and can be used for groups ranging



from 5 people to 50 persons or more for training sessions which may also range from as short as half-day training programmes to workshops running into days.

This is intended to make it easy for organizations to incorporate such training activities into their regular events such as conferences, workshops, seminars, General Meetings, etc., which will not require significant additional funds where such activities are already planned or funded.

The Manual also seeks to ensure that step-down training activities are conducted in a manner that guarantees that they are of good quality, of high standards and that the

information which is passed on to participants at such step-down training events are as consistent as possible. It is expected that the manual will in this way help to ensure uniformity in the knowledge shared and impacted across different groups in diverse localities.

It begins with an overview and introduction, after which it elucidates suggested pre-training activities that need to be carried out in order to proceed with the training.

The sessions are broken down under the different FOI provisions and expectations as contained in Act such as: the global and legal status of FOI Law; essentials and requirements of a good FOI Law; understanding the features of Nigeria's FOI Act; exempted information under the Law; enforcing and monitoring compliance under the FOI Act, etc.

Each session is speckled with questions and exercises to ensure that participants are carried along during the training. The manual concludes with an annex of questionnaires, test questions and proposed agendas in carrying out an FOI training.

The manual was developed and produced by Media Rights Agenda with support from the MacArthur Foundation. ■

Lyon Declaration on Access to Information and Development

Introduction

The Lyon Declaration is an advocacy document that seeks to positively influence the content of the United Nations post-2015 development agenda. It was drafted by the International Federation of Library Associations and Institutions (IFLA) and a number of its partners in the library and development communities between January and May 2014.

The Declaration calls upon United Nations Member States to make an international commitment through the post-2015 development agenda to ensure that everyone has access to, and is able to understand, use and share the information that is necessary to promote sustainable development and democratic societies.

The Declaration was launched at the IFLA World Library and Information Congress in Lyon, France, 18 August 2014.

The Declaration is intended to form the basis of advocacy between September 2014 and September 2015. The IFLA plans, in partnership with signatories, to organise events and activities to raise the profile of the Declaration at national, regional and international levels, with the intention of ensuring that access to information is recognised in the framework to be launched by the United Nations at the end of 2015.

Principles

Sustainable development seeks to ensure the long-term socio-economic prosperity and well-being of people everywhere. The ability of governments, parliamentarians, local authorities, local communities, civil society, the private sector and individuals to make informed decisions is essential to achieving it.

In this context, a right to information would be transformational. Access to information supports development by empowering people, especially marginalised people and those living in poverty, to:

- .. Exercise their civil, political, economic, social and cultural rights.



Donna Scheeder,
President, International Federation of
Library Associations and Institutions (IFLA)

- .. Be economically active, productive and innovative.
- .. Learn and apply new skills.
- .. Enrich cultural identity and expression.
- .. Take part in decision-making and participate in an active and engaged civil society.
- .. Create community-based solutions to development challenges.
- .. Ensure accountability, transparency, good governance, participation and empowerment.
- .. Measure progress on public and private commitments on sustainable development.

Declaration

In accordance with the findings of the High Level Panel on the Post-2015 Development Agenda, the post-2015 consultations of the United Nations Development Programme (UNDP) and the Open Working Group Focus Area Report, all of which identified the crucial role of access to information in supporting development, we, the undersigned, recognise that:

1. Poverty is multidimensional, and progress in eradicating poverty is linked to sustainable development across a variety of areas.
2. Sustainable development must take place in a human-rights based framework, where:
 - a. Inequality is reduced by the empowerment, education and inclusion of marginalized groups, including women, indigenous peoples, minorities, migrants, refugees, persons with disabilities, older persons, children and youth.
 - b. Gender equality, along with full social, economic and political engagement, can be significantly enhanced by empowering women and girls through equitable access to education.
 - c. Dignity and autonomy can be strengthened by ensuring access to employment and decent jobs for all.
 - d. Equitable access to information, freedom of expression, freedom of association and assembly, and privacy are promoted,

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Continued on page 30

Lyon Declaration on Access to Information and Development

protected and respected as being central to an individual's independence.

- e. Public participation of all is ensured to allow them to take ownership of change needed to improve their lives.

3. Increased access to information and knowledge, underpinned by universal literacy, is an essential pillar of sustainable development. Greater availability of quality information and data and the involvement of communities in its creation will provide a fuller, more transparent allocation of resources.

4. Information intermediaries such as libraries, archives, civil society organisations (CSOs), community leaders and the media have the skills and resources to help governments, institutions and individuals communicate, organize, structure and understand data that is critical to development. They can do this by:

- a. Providing information on basic rights and entitlements, public services, environment, health, education, work opportunities, and public expenditure that supports local communities and people to guide their own development.
- b. Identifying and focusing attention on relevant and pressing needs and problems within a population.
- c. Connecting stakeholders across regional, cultural and other barriers to facilitate communication and the exchange of development solutions that could be scaled for greater impact.
- d. Preserving and ensuring ongoing access to cultural heritage, government records and information by the public, through the stewardship of national libraries and archives and other public heritage institutions.



Jennefer Nicholson, IFLA Secretary General

- e. Providing public forums and space for wider

civil society participation and engagement in decision-making.

- f. Offering training and skills to help people access and understand the information and services most helpful to them.

5. Improved ICT infrastructure can be used to expand communications, speed up the delivery of services and provide access to crucial information particularly in

remote communities. Libraries and other information intermediaries can use ICTs to bridge the gap between national policy and local implementation to ensure that the benefits of development reach all communities.

6. We, the undersigned, therefore call on Member States of the United Nations to acknowledge that access to information, and the skills to use it effectively, are required for sustainable development, and ensure that this is recognised in the post-2015 development agenda by:

- a. Acknowledging the public's right to access information and data, while respecting the right to individual privacy.
- b. Recognising the important role of local authorities, information intermediaries and infrastructure such as ICTs and an open Internet as a means of implementation.
- c. Adopting policy, standards and legislation to ensure the continued funding, integrity, preservation and provision of information by governments, and access by people.
- d. Developing targets and indicators that enable measurement of the impact of access to information and data and reporting on progress during each year of the goals in a Development and Access to Information (DA2I) report.

Developed by the International Federation of Library Associations and Institutions (IFLA), the Lyon Declaration has been signed by 522 other organizations and institutions, including Media Rights Agenda. ■