



Commonwealth Human Rights Initiative

NGO in Special Consultative Status with the Economic & Social Council of the United Nations

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National Assembly Complex, Three-arms Zone
P. M. B. 141,
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Maja Daruwala
Director

2 February 2007

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Dear Honorable Mr Speaker,

Re: Urgent conclusion of work on the *Freedom of Information Bill 2004*

I am writing from the Commonwealth Human Rights Initiative (CHRI), an independent, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights in the countries of the Commonwealth. CHRI's Right to Information Programme assists Commonwealth member states to develop and implement strong right to information laws as well as to promote transparency and accountability.

In November last year I was pleased to read that Nigeria's Senate had, after much consideration, passed the Freedom of Information Bill 2004. The passing of the Bill by the Senate signified a great step forward in the seven year battle by Nigerians to have their freedom of information law enacted and implemented. However, there is now a well-founded concern that the hard work will be jeopardised and the Freedom of Information Bill will not become law.

As you are well aware, Nigeria's next Presidential and Parliamentary elections are looming and this poses a tight deadline for the long-awaited enactment of the Bill. After this time, there is a danger that the seven years of effort to enact the right to information in Nigeria would be entirely undermined. Therefore, I urge you to prioritise the concurrence process between the National Assembly Chambers in order for the Senate and House of Representatives to adopt the concurrence report – allowing President Olusegun Obasanjo to give his assent and make the Bill law.

A well implemented and utilised FOI law is something that many Nigerians have long given their support for and has many social, economic and political benefits. Access to information is essential to a working democracy as it enables participation by the people, allows for informed elections and has is a proven tool in good governance. It promotes equitable economic growth and is key to exposing corruption – a high priority of the current Government who has initiated much change in this area. I have attached a more detailed summary of the benefits of freedom of information at Annex 1.

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Supported by: Commonwealth Journalists Association, Commonwealth Lawyers Association,
Commonwealth Legal Education Association, Commonwealth Parliamentary Association,
Commonwealth Press Union, Commonwealth Broadcasting Association.

A Freedom of Information law will also satisfy Nigeria's many obligations to implement an effective and enforceable right to access information, including via:

1. Explicitly implementing Article 39(1) of the Constitution which includes the right to receive and impart ideas and information without interference as part of the right to freedom of expression.
2. Implementing commitments made through the forum of the United Nations, having ratified both the International Covenant on Civil and Political Rights (Article 19) and the UN Convention Against Corruption (Article 13 and others).
3. Implementing commitments made through the forum of the Commonwealth, which recognised the right to information as early as 1980 and in 1999 through the adoption of the Commonwealth Freedom of Information Principles by the Commonwealth Law Ministers.
4. Implementing commitments made through the African Union as a signatory to the African Charter on Human and Peoples' Rights, which explicitly recognises the right to receive information. In 2002, the African Union's African Commission on Human and Peoples' Rights adopted the Declaration of Principles on Freedom of Expression in Africa and reiterated that 'public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information'.

The enactment of the Freedom of Information as law deserves the upmost priority of the Chambers of the National Assembly in the upcoming months. I strongly urge you to facilitate the concurrence process as soon as possible, allowing each Chamber to adopt the concurrence report and finally allow President Olusegun Obasanjo to give his assent. Nigerians can then finally realise the benefits of their right to access information.

Yours sincerely



Maja Daruwala, Director

CC:

- Olusegun Obasanjo, President of the Republic of Nigeria, Office of the President, Aso Rock Villa, Asokoro District, Abuja, Nigeria.
- Rt. Hon. Austin A. Opara, Deputy Speaker of the House of Representatives, National Assembly Complex, Three-arms Zone, P. M. B. 141, Abuja, Nigeria.
- Chidi Anselm Odinkalu, Senior Legal Officer, Open Society Justice Initiative, Plot 1266/No.32 Amazon street, Maitama, Abuja, Nigeria.
- Edetaen Ojo, Media Rights Agenda, Executive Director, 10, Agboola Aina Street, Off Amore Street, Off Toyin Street, Ikeja, P.O. Box 52113, Ikoyi, Lagos, Nigeria.
- Osaro Odemwingie, FOI Coalition, c/o Media Rights Agenda, 10, Agboola Aina Street, Off Amore Street, Off Toyin Street, Ikeja, P.O. Box 52113, Ikoyi, Lagos, Nigeria.

Annex 1: Arguments in support of the right to information

- *It strengthens democracy:* The right to access information gives practical meaning to the principles of participatory democracy. The underlying foundation of the democratic tradition rests on the premise of an informed constituency that is able to thoughtfully choose its representatives on the basis of the strength of their record and that is able to hold their government accountable for the policies and decisions it promulgates. The right to information has a crucial role in ensuring that citizens are better informed about the people they are electing and their activities while in government. Democracy is enhanced when people meaningfully engage with their institutions of governance and form their judgments on the basis of facts and evidence, rather than just empty promises and meaningless political slogans.
- *It supports participatory development:* Much of the failure of development strategies to date is attributable to the fact that, for years, they were designed and implemented in a closed environment - between governments and donors and without the involvement of *people*. If governments are obligated to provide information, people can be empowered to more meaningfully determine their own development destinies. They can assess for themselves why development strategies have gone askew and press for changes to put development back on track.
- *It is a proven anti-corruption tool:* In 2006, of the ten countries scoring best in Transparency International's annual Corruption Perceptions Index, no fewer than nine had effective legislation enabling the public to see government files. In contrast, of the ten countries perceived to be the worst in terms of corruption, only one had a functioning access to information regime. The right to information increases transparency by opening up public and private decision-making processes to scrutiny.
- *It supports economic development:* The right to information provides crucial support to the market-friendly, good governance principles of transparency and accountability. Markets, like governments, do not function well in secret. Openness encourages a political and economic environment more conducive to the free market tenets of 'perfect information' and 'perfect competition'. In turn, this results in stronger growth, not least because it encourages greater investor confidence. Economic equity is also conditional upon freely accessible information because a *right* to information ensures that information itself does not become just another commodity that is corralled and cornered by the few for their sole benefit.
- *It helps to reduce conflict:* Democracy and national stability are enhanced by policies of openness which engender greater public trust in their representatives. Importantly, enhancing people's trust in their government goes some way to minimising the likelihood of conflict. Openness and information-sharing contribute to national stability by establishing a two-way dialogue between citizens and the state, reducing distance between government and people and thereby combating feelings of alienation. Systems that enable people to be part of, and personally scrutinise, decision-making processes reduce citizens' feelings of powerlessness and weakens perceptions of exclusion from opportunity or unfair advantage of one group over another.