



Commonwealth Human Rights Initiative

NGO in Special consultative Status with the Economic and Social Council of the United Nations

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Executive Committee
B.G. Verghese
Chairperson &
Treasurer

Senator Ken Nnamani
President of the Nigerian Senate
National Assembly Complex, Three-arms Zone
P. M. B. 144, Garki
Abuja, Nigeria

5 October 2006

Maja Daruwala
Director

Dear Senator,

Re: Completion of work on the *Freedom of Information Bill 2004*

Members

R. V Pillai
Anu Aga
K. S Dhillon
B. K Chandrashekar
Mool Chand Sharma
Harivansh
Bhagwan Das
Poonam Muttreja
Sanjoy Hazarika
Nitind Desai

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.

I was pleased to read that the Ad Hoc Committee on the *Freedom of Information Bill 2004* (FOI Bill) has now completed its work and laid its report before the Senate. This progress is encouraging and I would like to take this opportunity to urge you to ensure the Bill is read a third time and debated as soon as practicable so that it can be passed as law.

CHRI considered the Bill in 2005 and provided our comments at that time. I have included a copy of these and a summary of arguments in support of a strong FOI law, which can be used by Senators to inform the debate of the Bill (Annex 1). I would be grateful if you could distribute these to all Senate members.

Nigeria has shown its commitment to the right to information through Article 39(1) of the Nigerian Constitution, and also as a signatory to both the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights, which recognise people's right to information. The passage of the FOI Bill through the Senate is now necessary to give the country's citizens the legal mechanism required for them to practically exercise their right to information. With elections coming up early next year, I urge you to read the Bill a third time and have it receive assent before Parliament expires and the Bill lapses.

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.
- Senator Ibrahim Mantu Deputy President of Senate, National Assembly Complex, Three-arms Zone, P. M. B. 144, Garki.
- 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

When presenting any Bill in Parliament, you may wish to draw on some common arguments as to why the right to information is so crucial to democracy, development and human rights. In fact, more than fifty years ago, in 1946 the United Nations General Assembly recognised that ‘Freedom of Information is a fundamental human right and the touchstone for all freedoms to which the United Nations is consecrated’¹ Soon after, the right to information was given international legal status when it was enshrined in Article 19 of the International Covenant on Civil and Political Rights which states: ‘Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and *to seek, receive and impart information and ideas through any media and regardless of frontiers*’(emphasis added). Over time, the right to information has been reflected in a number of regional human rights instruments, including the African Charter on Human and People’s Rights². This has placed the right to access information firmly within the body of universal human rights law.

In addition to the overarching significance of the right to information as a fundamental human right which must be protected and promoted by the state, the following arguments in support of the right should also be recalled when advocating the right to parliamentarians and other key stakeholders:

- *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

¹ UN General Assembly, (1946) Resolution 59(1), 65th Plenary Meeting, December 14.

² See OAU Doc. CAB/LEG/67/3 rev. 5, 21 ILM 58 (1982), 27 June 1981, Art. 9(1).

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 2004, of the ten countries scoring best in Transparency International's annual Corruption Perceptions Index, no fewer than eight 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.