

COMMUNIQUÉ ISSUED AT THE END OF A TWO-DAY NATIONAL CONFERENCE ON THE FREEDOM OF INFORMATION ACT 2011 ORGANISED BY RIGHT TO KNOW INITIATIVE (R2K), NIGERIA ON THE 30TH AND 31ST OF JULY, 2013 AT THE NEW CHELSEA HOTEL, ABUJA

INTRODUCTION

A National Conference on the Freedom of Information Act (2011) was held at the New Chelsea Hotel Abuja on the 30th and 31st of July, 2013, with the theme: “Nigeria’s Freedom of Information Act 2011, 2 Years After: Challenges & Prospects”. The Right to Know Initiative (R2K), Nigeria organised the conference with support from the Open Society Initiative for West Africa (OSIWA). The objective of the conference was to evaluate the status of implementation of the FOI Act and fashion out modalities for improving compliance by public institutions.

Participation was drawn from the general public, civil service, armed forces, paramilitary groups, and civil society organisations. The Office of the Honourable Minister of Justice and Attorney General of Federation, Mr Mohammed Bello Adoke; the Office of the Head of the Civil Service of the Federation, Alhaji Bukar Goni Aji, OON; were represented and made remarks at the occasion as well as the Chair of the House Committee on Reform of Government Institutions, Honourable Matthew Omegara, who was present at the occasion too. The Chair, Governing Council of the National Human Rights Commission, Prof Chidi Odinkalu, gave the keynote address.

Papers presented include: “Implementing Nigeria’s Freedom of Information: The Journey So Far” by Barrister Maxwell Kadiri; “The Role of Government Administrative Mechanisms in Compliance in Public Institutions with the FOI Act” by Mrs. Oti Ovwah; “National Security and the Freedom of Information in Nigeria: The Quest for Open Governance” by Kemi Okenyodo; and “The FOI Act As a Tool for Building Public Confidence in the Nigerian Police” by CSP Frank Mba. Other papers are: “Citizens and their Government: A Convergence Point on the FOI Act” by Ms. Cynthia Mbamalu; “Experience of the public Institution/Citizens on Utilising the FOI” by Barr. Adetokunbo Mumuni and Seember Nyage; “Institutional Challenges in Implementing the FOI Act” by Mrs Justina Suwa; and “The FOI Act, A Tool For Promoting Citizens Participation In Public Safety/Security in Nigeria” by Barr. Bamidele Aturu.

OBSERVATIONS

Within the two days, the conference participants deliberated on issues raised from the various paper presentations. They made the following observations:

1. That the FOIA is faced with lots of challenges that have bedevilled its implementation and slowed the level of compliance by government ministries,

departments and agencies (MDAs). Some of the challenges include the seven (7)-day time limit for disclosure of information to the requesting institution or person, a situation that has created inherent problems for MDAs, coupled with the mostly analogue record keeping system which makes retrieval and dissemination of information within the specified time limit under the Act practically difficult.

2. In 2011, only 25 MDAs complied with the annual reporting obligations required by the FOIA, while 28 MDAs made submissions in 2012. These figures demonstrate low compliance by MDAs, making it practically impossible to measure the success of the Act.
3. Secrecy, as a culture, still pervades the public service; the existence of the Official Secret Act (OSA) has been identified as challenging in the implementation of the FOIA in MDAs, as some of the provisions of the OSA exist in utter conflict with the FOIA.
4. Some civil society groups and media organisations have invoked the access to information law in many cases with mixed outcomes. Sadly, in mediating between the demand and supply sides, the recorded interventions from the Judiciary have been, at best, mixed or mostly troubling. Capacity building training on FOI for judicial officers and administrative staff of the Judiciary is required.
5. While the Federal Government must be commended for enacting the law and issuing a circular and guidelines for implementing the FOI Act, it has failed to review the existing record keeping protocol in the public service to align it with the provisions of the Act; it has failed to revise the processes and procedure for security classification of documents and records in the public service; and failed to revise the civil service rules and align it with the provisions of the Act. Also the government printers failed to mass produce copies of the Act, two years after its enactment.
6. Many public institutions such as the Consumer Protection Council (CPC), the Public Complaints Commission (PCC), the National Human Rights Commission (NHRC), and the National Planning Commission (NPC) have failed to fully appreciate the value of the FOIA to the effective realisation of their strategic objectives and core mandate, which would have made them to fully embrace the Act. Even the National Assembly (NASS), which enacted the law, has not fully complied with its provisions.
7. Most states of the Federation have failed to put in place the requisite machinery for either implementing the Act or enacting their own State level FOI laws, pursuant to the provisions of paragraph 5 of the concurrent legislative list.

RECOMMENDATIONS

At the end of the deliberations, the National Conference on the Freedom of Information Act (2011) made the following recommendations:

1. The forum calls for a strategic engagements on various platforms to ensure the Act works. This should take into consideration misgivings of public officers and the security agencies. Efforts should be made to ensure adequate provision of funds

to facilitate the sensitisation and training programmes of the FOIA in the MDAs and the zones.

2. The Judiciary should develop a set of practice directions aimed at giving full effect to the provisions of Section 21 of the Act, which requires speedy adjudication of FOI related disputes.
3. Security and law enforcement organisations should be encouraged to be more proactive in the disclosure of information. They must be ready to be transparent and accountable to the general populace.
4. The mass media needs to be well-informed about their responsibilities to make informed decision in a situation of diverse security threats to ensure balance and an enlightened and informed citizenry. Government and nongovernmental organisations should work to ensure that the media uses the FOIA to perform their roles efficiently.
5. In order to strengthen some parts of the Act to improve its efficiency, there is need to review the FOI. The conference called on the National Assembly to commence the review of the period within which information under the Act may be disclosed, from 7 to 14 days. Amendment should also provide for stiffer punishment on the individuals that violate the Act, not just the institution.
6. Civil society organisations should train and organise the public on the use of information obtained as a result of FOI request and from non-FOI sources. FOI officers within MDAs should make available their official contacts greater for access to information.
7. NGOs such as the Right to Know Initiative (R2K), Nigeria should maintain and publicise a database of lawyers offering *pro bono* services on the FOIA.
8. Sensitisation and awareness initiatives on the Act should be stepped up to include the rural areas and deliberating on issues that affect disadvantaged groups. More visuals should be placed on television, billboards, posters, etc. More copies of the FOI Act should be printed and distributed to all parastatals and the general public.
9. The National Universities Commission should consider integrating knowledge of the FOI into the curriculum of universities.
10. Officers of public institutions covered by the Act must endeavour to meticulously keep records of official transactions, as prescribed by the Act.

11. Every participant in the Conference made a commitment to reach out to civil groups, such as faith- and community-based organisations to spread messages about the FOIA in conjunction with NGOs.

Signed:

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