

Campaigning for Access to Information in Nigeria

A Report of the Legislative Advocacy Programme
for the Enactment of a Freedom of Information Act

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Foreword

The first Parliament of the Fourth Republic has ended its term and the second one has just been inaugurated. It is thus time for an assessment of our legislative advocacy programme. I believe that there is a wrong perception that the inability of civil society organizations to get any of their bills passed by the National Assembly in the last four years is an indication of failure in the legislative advocacy programmes embarked up by the various organizations, many of them supported by the International Human Rights Law Group. I think this perception is wrong.

Given the intense pressure from funders for “concrete outcomes”, many civil society organizations had been pushed into promising that their legislative advocacy programmes would produce the desired outcomes of their proposed bills being passed into law. There is therefore a sense of despondency among some of them that they have failed in their legislative advocacy endeavours. This view is short sighted.

When the work of the National Assembly over the last four years is reviewed however, a number of issues become clear. The business of making laws was secondary in their work. As soon as the National Assembly settled down after its inauguration in 1999, it began to face a number of problems, among them instability of the leadership, instability of the various committees and their heads, and an inability to devote time to legislative work. In the several months in which the crisis between the National Assembly and the Executive persisted, the meetings held by the respective chambers of the National Assembly were devoted essentially to devising ways and strategies of fighting the Presidency and resisting its influence or interference in the Legislature.

This battle itself was of significant importance as it was part of the process of the National Assembly asserting its authority and independence. For legislative advocacy to make sense there must be legislative houses that are not mere rubber stamp institutions for the Executive.

In this context, civil society organizations failed to incorporate the crises of the Legislature as a central aspect of their work since it had implications for their legislative advocacy programmes as well as for the wider democracy project. Since the issue was largely a political problem, civil society organizations had a duty to intervene.

However, one major consequence of the crisis was that only a few laws were passed by the National Assembly, over half of them being appropriation and supplementary appropriation laws. It was not only private members bills that suffered from the situation. A number of Executive bills, including bills aimed at domesticating various international human rights treaties, which Nigeria has signed or ratified, were also never treated before the National Assembly was dissolved.

The success of civil society legislative advocacy programmes ought therefore not to be measured by the number of bills that they succeeded in getting passed. What was most important was that civil society organizations developed the capacity to engage in legislative advocacy. Therefore, for many organizations to have succeeded in introducing bills into the National Assembly, getting them gazetted, following the bills through the relevant committees and in some cases, actively participating in public hearings, have been tremendous achievements made in the area of legislative advocacy over the last four years.

One such bill which made impressive showing despite not being passed is the Freedom of Information Bill. For the International Human Rights Law Group, the Media Rights Agenda and the Freedom of Information Coalition have been valuable partners in the task of promoting transparency and accountability in Nigeria. We hope that this partnership will continue during the life of the current Parliament. The lessons learnt from the vibrant legislative advocacy effort, which are captured in this book, will be valuable to other organizations as they continue or initiate their own legislative advocacy programmes.

Jibrin Ibrahim, PhD

Country Director, Nigeria

International Human Rights Law Group, Abuja

June 2003

Introduction

Since 1999 when Media Rights Agenda first presented the Freedom of Information Bill to some members of the House of Representatives to sponsor it in the National Assembly, the bill has made impressive progress through the legislative process, although it has fallen short of being passed.

Although the campaign efforts by Media Rights Agenda and its collaborating organizations for the enactment of the bill into law have not yet resulted in its being passed, they have successfully put the issues involved on the front burner of public discourse.

Initial support for the campaign for the enactment of the Freedom of Information Bill came from ARTICLE 19, the Global Campaign for Free Expression. Subsequently, the International Human Rights Law Group largely supported the campaign. The advocacy efforts on the bill have been conducted on a three pronged approach involving media campaigns, activities targeted at the legislators, and activities aimed at ensuring broad civil society involvement in the campaign, including the establishment of a Freedom of Information Coalition.

Media campaigns, which have been a crucial aspect of the advocacy programme, have involved visits to media houses to meet with journalists, editors and columnists to solicit their support for the campaign through the publication of articles, editorial comments and stories on the freedom of information issue; issuing periodic press releases to highlight developments on the issues; granting of press interviews on the issue; facilitating publication of feature stories and opinion articles.

The objective of these activities was to maintain a high level of public discourse on the issue of access to information in the expectation that such intense public debate would persuade the legislators about the desirability of passing the bill.

There were also direct advocacy activities targeted at the legislators, numerous meetings, both formal and informal, held by officers and staff members of MRA and other partner organisations with members of both the House of Representatives and the Senate, to solicit their support for the bill.

In order to ensure broad civil society support for the bill, a series of formal and informal meetings were also held with representatives of other NGOs and associations to coordinate the campaign for the enactment of the bill into law. MRA has also organized a number of stakeholders' meetings on the bill. One such meeting, held in September 2000, led to the formation of the Freedom of

Information Coalition.

Since the Freedom of Information bill was the first bill to be sponsored by a civil society organisation in the National Assembly after the restoration of democratic rule, this publication is intended to document the experience garnered by Media Rights Agenda and its partners in campaigning for the enactment of the bill into law in the hope that other organisations currently involved in similar advocacy work or intending to launch legislative advocacy projects would learn from the experience by avoiding any mistakes which may have been made in the campaign while being able to adopt those strategies that have worked.

Edetaen Ojo

Executive Director

Media Rights Agenda

Lagos, May 2003

Part One

Background

Origins of the Freedom of Information Campaign

The idea of a Freedom of Information law for Nigeria was conceived in 1993 by three different organisations, working independently of each other. The organisations, Media Rights Agenda (MRA), Civil Liberties Organisation (CLO) and the Nigeria Union of Journalists (NUJ), subsequently agreed to work together on a campaign for the enactment of a Freedom of Information Act.

The objective of the campaign was to lay down as a legal principle the right of access to documents and information in the custody of the government or its officials and agencies as a necessary corollary to the guarantee of freedom of expression. It was also aimed at creating mechanisms for the effective exercise of this right.

The consultations among the initial partner organisations were geared, among other things, towards determining the various interest groups likely to be affected by the legislation; those who should have a right or standing to request information under a freedom of information regime and under what circumstances information may be denied those seeking them; what departments or organs of government would be responsible for releasing information and documents to those seeking them; and determining the agencies and arms of government to which the legislation would extend.

Media Rights Agenda was designated the technical partner in the project under the arrangement agreed upon for taking the project forward. In keeping with this role, it was asked to produce a draft Freedom of Information Law.

Following extensive research, MRA's Legal Directorate headed by Mr. Tunde Fagbohunlu of the law firm of Aluko and Oyebode, produced in 1994 a draft bill entitled "Draft Access to Public Records and Official Information Act". The content of the draft drew substantially from the experiences of other countries operating freedom of information laws. But it was also based on consultations among the three organisations and suggestions made by practising Nigerian journalists in the questionnaires administered by Media Rights Agenda.

Consultative Process in Finalising the Freedom of Information Bill

The "Draft Access to Public Records and Information Act" produced by Media Rights Agenda in 1994 became the basis for further discussions and debates on the issue and was subsequently subjected to a series of review exercises involving various stakeholders.

The first of such exercises was a two-day technical workshop jointly organised by the three partner organisations on March 10 and 11, 1995 to examine and revise the draft, taking into consideration the views of other interest groups, which might use the proposed legislation. Participants in the workshop included human rights workers, journalists, lawyers, university lecturers and representatives of the National Broadcasting Commission and the Federal

Ministry of Information.

Chaired by eminent journalist and Nigeria's former Information Minister, Prince Tony Momoh, who is also a lawyer, the main objective of the workshop was to achieve a consensus among the various interest groups that are affected by the availability or otherwise of a legally protected right of access to government held information, on the need for a Freedom of Information Act in Nigeria and the content of such a law.

There was a common understanding among the various interest groups represented at the workshop that the legal regime governing access to government held information in Nigeria must undergo a structural transformation. Their conclusion was that since statutes which permit access to official information in Nigeria were few, the overall effect is that a culture of secrecy prevails in all government institutions, nurtured and given legal effect to by such laws as the Official Secrets Act and some provisions in the Criminal Code which make it an offence to disclose certain types of government held information.

The general consensus at the workshop was that this existing legal regime should be replaced with one in which there is a general right of access to government held information, unless such a right is specifically removed by statute in certain circumstances and to protect specific, statutorily recognised interests.

At the end of the workshop, the participants issued a 13-point Communiqué, *inter alia*, as follows:

Participants representing diverse interest groups, including the press, academia, government institutions, non-governmental organizations, the legal profession, unions, etc., met for two days, March 10th and 11th 1995, at the Nigerian Institute of Advanced Legal Studies, Lagos under the auspices of the Civil Liberties Organisation (CLO), the Media Rights Agenda (MRA) and the Nigerian Union of Journalists (NUJ) at a technical conference on the Freedom of Information Act to consider the first draft of a proposed legislation on Access to Public Records and Information. At the end of the conference, the participants agreed and resolved as follows:

1. That every person whether a citizen of Nigeria or not, should have a legally enforceable right to be given, on request, access to any record under the control of any government or public institution.
2. ***That the Access to Public Records and Information Bill should be enacted into law to give effect to Section 36 of the 1979 Constitution of the Federal Republic of Nigeria, which guarantees every person the right to hold opinions and to receive and impart ideas and information without interference.***
3. That Executive, legislative and judicial organs and institutions should be subject to freedom of information legislation.
4. That through a freedom of information culture which will engender openness, transparency and accountability in government, Nigerians can overcome the vicious circle of corruption, underdevelopment and political instability.
5. That all laws inconsistent with the realization of the ideal of free flow of information such as the Official Secrets Act, the Sedition law, the National Broadcasting Commission Decree, the Newspapers Decree, etc. should be reviewed.

6. The Draft of the Access to Public Records and Information Bill adopted by participants at the Conference should be enacted into law without delay.
7. That a Monitoring and Campaigns Committee (MCC), comprising the Civil Liberties Organisation, Media Rights Agenda and the Nigeria Union of Journalists be set up to, among other things:
 - i) Circulate the Access to Public Records and Information Bill and the Conference Report to all interest groups which should be involved in the advocacy for the enactment of the legislation and particularly: the Nigerian Bar Association (NBA); human rights organisations and other non-governmental organisations; environmental protection organisations; minority rights groups; professional bodies and associations; consumer rights protection groups; the business community; the academic community; the Nigerian Press Organisation (NPO); the Nigerian Institute of Public Relations; and the Newspapers Proprietors Association of Nigeria (NPAN);
 - ii) Urge the Nigerian Bar Association to put the Access to Public Records and Information issues on its agenda at all levels;
 - iii) Urge the Nigeria Union of Journalists to put the Access to Public Records and Information issue on its agenda at all levels;
 - iv) Formally contact the Nigerian Press Council with a view to securing its support and assistance in ensuring the enactment of the legislation;
 - v) Send the Draft Bill to the Federal Ministry of Information and the Federal Ministry of Justice with a view to having the Bill enacted into law; and
 - vi) Generally raise public awareness on the Access to Public Records and Information issue.
8. That the right to receive and impart information and ideas is a fundamental constituent of the right to freedom of expression and as such Nigerians should imbibe the culture of protesting any time they are deprived of information through the closure or proscription of media institutions.
9. That the duty to be fair and just is a corollary to a right of access to public records and information.

In accordance with the agreement reached at the workshop, Media Rights Agenda produced a revised second draft of the proposed legislation later that year to reflect the consensus of the participants and stakeholders regarding the contents of the proposed law. But the sponsoring organisations, the CLO, MRA and NUJ, however, continued to invite views and comments from stakeholders and other concerned parties within and outside Nigeria.

A Campaigns and Monitoring Committee was established in accordance with the resolutions of the workshop to carry out follow-up actions on the campaign for the enactment of the revised draft into law. However, although getting constitutional backing for the legislation was of crucial importance, and the National Constitutional Conference set up by the regime of the late Head of State, General Sani Abacha, was then still in session, it was agreed by the

participating groups that it would be inappropriate to lobby the Conference to provide constitutional support for the draft law. The rationale was that having rejected the Conference as lacking in credibility, a civil society advocacy directed at it would confer legitimacy on it and its work. Therefore, the draft was never submitted to the Conference. But it was sent to the Minister for Information, and the Attorney-General of the Federation and Minister of Justice.

Members of the committee also met with the then Attorney-General of the Federation and Minister of Justice, Dr. Olu Onagoruwa, to secure his support for the enactment of the draft into law. Although he was in principle supportive of the idea, it was clear that he lacked the political influence within the Abacha regime to push the draft through.

The political situation in Nigeria deteriorated shortly afterwards as the Abacha regime became more repressive and brutal and the law was never passed.

Following the death of General Abacha in June 1998, the regime of Major-General Abdulsalami Abubakar which took over political authority in the country immediately embarked on a transition to civil rule programme under which elections were held into various levels of government between December 1998 and February 1999.

This development created the necessary political climate to revisit the issue. Another opportunity to review the draft law and its content came up in March 1999 when Media Rights Agenda, working with ARTICLE 19, the International Centre Against Censorship¹, in London; and the Nigerian National Human Rights Commission, organized a Workshop on Media Law Reform in Nigeria at Ota in Ogun State. Held between March 16 and 18, 1999, the workshop was attended by 61 representatives of the media, both independent and state controlled; regulatory bodies; the legal profession; international institutions; local and international non-governmental organizations; and other interest groups.

Participants at the workshop included the United Nations Special Rapporteur on Freedom of Opinion and Expression, Dr. Abid Hussain; a member of the European Parliament, Mrs. Glenys Kinnock; Judge John Oliver Manyarara, Chairman of the Board of Trustees of the Media Institute of Southern Africa (MISA); Justice Paul Kedi Nwokedi (rtd), the then Chairman of the Nigerian Human Rights Commission; Professor Auwalu Hamisu Yadudu, then Special Adviser to the Head of State on Legal Matters; Prince Tony Momoh, a former Minister of Information; then Senator-elect, Tokunbo Afikuyomi; Ms Bettina Peters, Deputy General Secretary of the International Federation of Journalists (IFJ) in Belgium; Mr Kabral Blay-Amihere, then President of the West African Journalists Association (WAJA); Ms Jeanne Seck of the United Nations Scientific and Cultural Organisation (UNESCO) in Paris, Ms Brigid O'Connor, Regional Information Coordinator for West Africa at the British Council; and Mr Olisa Agbakoba (SAN).

A substantial part of the workshop was devoted to discussion of the draft Freedom of Information law, which was further reviewed. In *The Ota Platform of Action on Media Law Reform in Nigeria*, a consensus document which emerged at the end of that workshop, further recommendations were made on the content of the draft law. The recommendations include the following:

- a. In addition to a constitutional guarantee of the right of access to public information, a Freedom of Information Act should be enacted at the earliest possible opportunity, reflecting the principle of maximum disclosure.

¹ Now renamed: ARTICLE 19, the Global Campaign for Free Expression.

- b. The Draft Access to Public Records and Official Information Bill published by Media Rights Agenda, the Civil Liberties Organisation, and the Nigeria Union of Journalists should be taken as the basis for discussion on this issue, but its provisions require further review.
- c. All legislation, which unduly inhibit or restrict the right of Freedom of Information, such as the Official Secrets Act, should be amended to reflect the principles of the Freedom of Information Act.
- d. The cost of obtaining public information should be affordable to the majority of citizens.
- e. The proposed Act should contain a provision, which stipulates that, the individual requesting the information need not demonstrate any specific interest in the information requested.
- f. Doctoring of public records before they are released to the person, entity or community requesting for them and obstruction of access to public records should be made a criminal offence.
- g. In the application of any exemption, there should be a presumption of access to public information in the proposed Act. Exemptions should be narrowly drawn and subject to a test of actual harm.

Following these recommendation, Media Rights Agenda revised the draft access to information law once again to give effect to the agreements reached at the workshop.

Part Two

Advocacy for the Passage of the Freedom of Information Bill

In keeping with the resolution of participants at the Ota Workshop that a Freedom of Information Act should be enacted at the earliest possible time, Media Rights Agenda launched an advocacy programme in mid-1999 to secure the passage of the bill.

Letters to President Olusegun Obasanjo and Ministers

Coincidentally, in his inaugural address on assumption of office on May 29, 1999, President Olusegun Obasanjo identified corruption as “the greatest single bane of our society today” and promised that under his administration, “all rules and regulations designed to help honesty and transparency in dealing with government will be restored and enforced.”² In addition, shortly after the inauguration of the new government, President Obasanjo announced his plan to present to the National Assembly for consideration and enactment into law, an anti-corruption Bill.

Given this background, the climate seemed ripe to also introduce the Freedom of Information bill to the National Assembly. On June 10, 1999, Media Rights Agenda wrote to President Obasanjo expressing support for his professed commitment to fight corruption in Nigeria and his plan to present an anti-corruption Bill to the National Assembly.

MRA observed that accountability and transparency in Government were crucial to any meaningful anti-corruption crusade, arguing that accountability and transparency could not be possible if citizens have no right of access to information held by the State or its agencies or if no mechanism exists for giving practical effect to the right to freedom of information.

It therefore requested President Obasanjo to also present the draft Freedom of Information Bill to the National Assembly as an Executive Bill for consideration along with his anti-corruption bill and support efforts to secure its enactment into law. The request was borne out of the organisation’s realisation that Executive bills would usually receive more serious and urgent consideration from the legislators than private members’ bills.

The organisation also wrote letters to the then Minister of Information, Chief Dapo Sarumi, and the Minister of Justice, Mr Kanu Agabi (SAN), apprising them of the existence of the bill, its contents and soliciting their support for its speedy enactment into law.

However, by a letter dated July 19, 1999, signed by his personal assistant, Mr. Ojo A. Taiwo, President Obasanjo declined to present the Freedom of Information bill as an Executive bill and, instead, advised Media Rights Agenda to send the draft directly to the National Assembly.

² See *The Guardian* newspaper, 30 May 1999, p.16.

Similarly, several months after its letter to the Justice Minister, on March 29, 2000, Media Rights Agenda received another letter dated January 20, 2000, from the Legislative Drafting Department of the Federal Ministry of Justice, in which reference was made to the organisation's June 10, 1999 letter to the President. In the letter signed on behalf of the Federal Attorney-General and Minister of Justice by Mrs. Christie Ekweonu, she said that she had been directed to inform Media Rights Agenda "to properly channel your cause through the Federal Ministry of Information which is the relevant governmental body that regulates the practice and dissemination of information. Your case will be duly considered if it originates from the relevant Ministry."

Ironically, at the time Media Rights Agenda received the letter from the Federal Ministry of Justice, the Freedom of Information bill had already gone through the first and second readings before the House of Representatives in the National Assembly and was already being considered in greater detail by the Information Committee of the House.

Introducing the Freedom of Information Bill into the National Assembly

Prior to the receipt of the July 19, 1999 letter from the President's office, Media Rights Agenda had began exploring other avenues for introducing the bill to the National Assembly and had distributed the draft bill and other relevant documents on Freedom of Information to numerous human rights groups, other civil society organizations and a few legislators in the National Assembly.

Following the receipt of the letter from the President's assistant, Media Rights Agenda intensified these efforts.

At an international conference on "Strengthening Democracy and Good Governance Through Development of the Media in Nigeria" organized by UNESCO from September 9 to 10, 1999, at the Ecowas Secretariat in Abuja Mr. Maxwell Kadiri, then a legal officer at Media Rights Agenda, was invited to make a presentation on "The Laws and Norms Governing the Press".

In the course of discussions on the "Public's Right to Know and Public Authorities Obligations", Mr. Kadiri spoke extensively about the draft Freedom of Information bill and the immense benefits it holds for both the media and the generality of the Nigerian populace. The conference was attended by several members of the House of Representatives, including Honourable Tony Anyanwu and Honourable Nduka Irabor.

After listening to Mr. Kadiri's presentation, Honourable Anyanwu, in subsequent discussions with him, agreed to act as sponsor of the Freedom of Information bill at the House of Representatives. He then requested that a copy of the bill be sent to him, which he would subsequently forward to the legal drafting unit at the National Assembly for their review and endorsement. He also advised that the organisation should send copies of the bill to all the members of both the House of Representatives and the Senate. Acting on this piece of advice from Honourable Anyanwu, Media Rights Agenda sent copies of the bill with a covering letter to all the 469 members of the National Assembly.

With this action, the Freedom of Information bill became the first private member's bill to get to the National Assembly after its inauguration and the first civil society organisation bill to be formally presented to the Federal Legislature.

From the commencement of the advocacy efforts to ensure the enactment of the Freedom of

Information bill into law by the National Assembly, Media Rights Agenda found in Honourable Anyanwu a staunch and tireless supporter of the bill.

Honourable Anyanwu gave generously of his time and energy to the process of planning and strategising for the bill's passage by the National Assembly, including visiting the Lagos office of Media Rights Agenda to hold discussions with the Executive Director and other members of staff of the organisation, as well as giving advice on several occasions which the organisation found very helpful in trying to secure the support of the legislators for the bill.

It is also because of Honourable Anyanwu's advice that Media Rights Agenda was able to tactfully avoid a major pitfall of including in the bill any provision that would have made the legislation fall victim to the common trend then in the National Assembly, which was the rejection of bills on the ground that having failed the "cost-benefit analysis", enacting such bills into law was not justifiable.

Honourable Anyanwu, on his own accord, also secured the signatures of 23 members of the House of Representatives cutting across all the parties, endorsing the bill and its contents, as well as volunteering to be co-sponsors. The legislators were Bala Kaoje, Sadiq Yar'Adua, Ibrahim G. Abubakar, Farouk Lawan, S. O. Obande, A.M. Bulkachuwa, Solomon Agidani, Ahmed Hassan, Abdullahi A. Gumel, P.N. Jiya, Ita Enang, A. Malherbe, Sunny Aguebor, Bello Abubakar, Usman Alhaji, Celestine Ughanze, Josiah B. Gobum, F.A.U. Okeke, Olabode Mustapha, Abdullahi Matori, Ibrahim Abdullahi, Nduka Irabor and Victor Lar.

Mediating Problems

Despite the fact that Media Rights Agenda wrote and sent copies of the bill to each of all the 469 members of the National Assembly to solicit their support, the only reaction the organisation got was a telephone call from Honourable Jerry Ugokwe.

Although this was initially disappointing, later developments showed that the telephone call from Honourable Ugokwe would have great significance for further legislative advocacy activity regarding the Freedom of Information bill at the National Assembly. In essence, the act of sending copies of the bill to all legislators had already yielded significant dividend.

Honourable Ugokwe's telephone call centred primarily on his concern that the Freedom of Information bill, which at this time was now being sponsored in the House of Representatives by Honourable Anyanwu, leading 23 other co-sponsors, was similar in its essence to another bill that he (Honourable Ugokwe) was also presenting to the House. Honourable Ugokwe explained that he had been working independently of the efforts of Media Rights Agenda and its partners to prepare and present to the House a bill on Freedom of Information based on his experience in the United States, where he studied and had lived for many years, of the importance of a freedom of information legislation.

Media Rights Agenda then realised that this development was responsible for the delay in the gazetting of the bill sponsored by Honourable Anyanwu and the other legislators in the House of Representatives and the lack of progress of the bill through the legal drafting department of the National Assembly.

There were divergent opinions from senior officials within the administrative structure at the National Assembly on which of the two draft bills should be cleared for gazetting by the Federal Government printers. The gazetting of a bill is a crucial stage for any bill entering the legislative process as all bills being considered by any of the chambers of the National Assembly must first be gazetted before it can be presented for the first reading.

In an effort to resolve this stalemate, a meeting was scheduled between Honourable Ugokwe and officials of Media Rights Agenda at his Lagos home in Ikoyi. The meeting was attended by Honourable Ugokwe, Mr Edetaen Ojo, Executive Director of Media Rights Agenda; Miss Josephine Izuagie, the Vice Chair; and Mr Kadiri.

The primary focus of the meeting was how both sides could work together to ensure the speedy enactment of a Freedom of Information Act by the National Assembly.

Honourable Ugokwe gave an account of how his interest in the concept of freedom of information began since his school days in the United States, where he was able to access certain information contained in public documents held by certain institutions in the US government, using the American Freedom of Information Act.

This development, according to him, fired his resolve when he returned home, to push for the enactment of a similar law in Nigeria if he ever got elected into the National Assembly. It was this desire, which he was now set to actualise with his draft Freedom of Information bill.

Mr. Ojo leading the team from Media Rights Agenda, explained that both sides had basically the same objective – that of ensuring the enactment of a Freedom of Information Act in Nigeria. He recounted the rich history behind the civil society movement that was clamouring for the enactment of a Freedom of Information Act in the country and the extensive consultations that had gone into the production of a final draft of the bill. He stressed that this background would give greater legitimacy to the bill as it would be seen to have emerged through a process of discussions and debates, which any legislation of such import and magnitude ought to have.

At the end of the meeting, both parties exchanged copies of their different drafts of the bills, with an agreement that they separately study or review the contents of both documents, identify all areas of similarities and differences with a view to exploring the possibility of harmonising the contents of both documents. The objective was to produce a single draft Freedom of Information bill which would retain the critical areas in each draft. The meeting adjourned to reconvene a week later at the same venue.

After a review of the draft produced by Honourable Ugokwe, it was apparent that it was a wholesale adoption of the US Freedom of Information Act to the extent of containing expressions and references to institutions and procedures that were alien to the Nigerian legal system and government structures.

Besides, except for the provision dealing with the issue of fees to be paid by applicants requesting for information, which was a lot more elaborate in Honourable Ugokwe's draft bill than the provisions contained in the draft being put forward by Media Rights Agenda, the civil society bill was clearly more robust in content and more relevant to the needs of the local Nigerian environment, apparently because it was "home grown".

At two subsequent meetings, where MRA's team was led by Miss Izuagie, in the absence of Mr Ojo, it was fairly easy to convince Honourable Ugokwe of this fact and to secure his agreement to work with Media Rights Agenda. The final bill that emerged from the harmonisation discussions between both parties was essentially a retention of the original civil society draft which included the more elaborate provisions relating to fees payable by applicants originally contained in Honourable Ugokwe's draft bill.

Despite this resolution, the bill was shortly after again enmeshed in another round of controversy, this time concerning who was to be the lead sponsor of the new “consensus” bill. Unfortunately, Media Rights Agenda was not aware of this development for a long time as none of the two parties involved, i.e. Honourable Anyanwu and Honourable Ugokwe, informed officials of Media Rights Agenda about this issue.

In the course of trying to ensure that the bill was quickly gazetted and listed in the order paper of the House of Representatives for consideration, officials of Media Rights Agenda had paid a series of advocacy visits to the National Assembly and developed a rapport with both legislators and members of the administrative staff of the House of Representatives. It was in the course of one of such advocacy visits that MRA became aware of this fresh stalemate.

The then Deputy Clerk of the House of Representatives, Mr Yemi Ogunyomi, who had developed a close working relationship with officials from Media Rights Agenda, revealed the reason for the lack of progress of the bill and suggested that MRA should organise a fence-mending meeting between the principal actors to the stalemate to resolve the issue so that progress could be made.

Mr. Ogunyomi subsequently assisted in arranging the meeting, which took place in his office at the National Assembly complex in Abuja, and facilitated the attendance of Honourable Nduka Irabor, and Honourable Ugokwe. Although Honourable Anyanwu was unable to attend the meeting, Honourable Irabor promised to communicate the decision of the meeting to him and prevail on him to abide by it. The meeting was also attended on MRA’s side by Mr. Ojo, Miss Izuagie and Mr. Kadiri.

It was agreed at the meeting that there should be three lead sponsors for the bill, namely Honourable Ugokwe, Honourable Anyanwu and Honourable Irabor. It was also agreed that whatever misgivings had previously existed between Honourable Anyanwu and Honourable Ugokwe regarding who takes precedence over the other as the lead sponsor of the bill, should be laid to rest. Honourable Irabor promised to ensure that the problem was permanently resolved. He also promised to deploy his vast media experience to see that the bill had a smooth ride through the National Assembly.

Following the successful resolution of the problem, activities geared towards ensuring the enactment of the bill into law took on renewed vigour. With the support of Mr. Ogunyomi, the gazetting of the bill was done speedily and it was published in Federal Government’s Official Gazette, No. 91, Volume 86.

Meetings With Key Officials of the House of Representatives

An important starting point for members of Media Rights Agenda in the advocacy for the Freedom of Information bill was to meet with key officers of the House of Representatives.

On December 1, 1999, Mr. Ojo led a three-person delegation from Media Rights Agenda, comprising Miss Izuagie and Mr. Kadiri, on a courtesy visit to the National Assembly to meet with principal officers of the House of Representatives and solicit their support for the bill. As the Speaker Honourable Umar Ghali Na’Abba, was then out of the country, the delegation had a formal meeting with the Acting Speaker, Honourable Chibudom Nwuche, and scores of other influential members of the House. Other members of the House in attendance included Honourable Anyanwu and Honourable Irabor (two of the three sponsors of the bill), Honourable Chidi Duru, Honourable Mao Ohuabunwa and Honourable Samuel Onazi

Obande.

Mr. Ojo told the Acting Speaker and other members of the House present at the meeting that they were in Abuja to solicit the support of members of the House for the enactment of the bill, which was already before the House. He said MRA and its other partners were keenly interested in the Bill as they believe that it will aid transparency and accountability in government as well as ensure public participation in the political process.

Mr. Ojo noted that the Executive arm of the Federal Government had repeatedly stated its commitment to these principles and the passage of the bill would facilitate the actualisation of this commitment.

He said the idea of a Freedom of Information Act appeared to enjoy popular support although there had been a little apprehension expressed about what use the media would put such an Act to.

But Mr. Ojo argued that such apprehension was unjustified as the proposed Act was not primarily for the media, but for the society at large, especially at a period when the Government was talking about transparency and accountability, anti-corruption and political participation.

Besides, he said, studies worldwide had shown that the parliamentarians in different countries around the world, which have freedom of information laws, put them to use far more than the media as it provides them with an additional avenue for getting information about the activities of the Executive arm of government.

He presented the Acting Speaker with documents outlining the international guiding principles of freedom of information laws and MRA's interest in the bill.

Responding, Honourable Nwuche said the bill could not have come at a more timely moment and promised that it would be passed into law within the shortest time possible. He said the House was committed to promoting transparency and accountability in governance and that although members of the House already have unlimited access to government-held information, they wanted to make this benefit available to the generality of Nigerians, whose right it is to also enjoy the prerogative of access to government-held information to enable them play a meaningful role in upholding and entrenching democratic principles.

Later that day, Media Rights Agenda also sought the permission of the Chairman of the House Committee on Information, Honourable Uche Maduako, to meet formally with him and members of the Committee, during their meeting, which was scheduled for that same day. Honourable Maduako initially agreed, however when the MRA delegation sought to brief the members during the meeting, some of them objected on the ground that it was inappropriate for the MRA officials to attend that particular meeting of the Committee because, according to them, the notice given to the Committee through the Chairman was too short.

They therefore suggested that Media Rights Agenda should make a formal application to the Committee to meet with it after which a date for the meeting would be communicated to the organisation.

The rationale behind the attempt to meet with the Information Committee members ahead of when the bill is eventually referred to them by the entire House, was based on the need to

provide a soft landing for the bill, by already explaining the content to the committee members as well as responding to any questions that the members might have, including providing clarification on any grey areas where necessary. However, although the meeting could not take place, the attempt had not been a waste of time as it provided a linkage for future interaction between the Information Committee members and officials of Media Rights Agenda. This linkage proved useful when the Committee of the whole House eventually referred the bill to the Information Committee.

Advocacy Targeted at Other Members of the House of Representatives

Representatives of Media Rights Agenda carried out numerous advocacy visits to the National Assembly for several months meeting with individual members of the House of Representatives and later the Senate.

In the main, the advocacy visits were in the form of door-to-door enlightenment campaigns targeted at members of the House of Representatives, both in their offices in the National Assembly in Abuja and in some other parts of the country, and at their homes in the Apo Legislative Quarters in Abuja. This exercise gave MRA officials the opportunity to interact with as many of the legislators, as possible, on the issue of the bill and to address whatever concerns or reservations they had.

Building on this strong rapport which Media Rights Agenda had established with members of the House, representatives of the organisation held discussions with officials of both the Rules and Business Committee of the House, which was then chaired by Honourable Musa Elayo (who is now the Minister of State in the Federal Ministry of Justice) and the then Deputy Clerk of the House of Representatives, Mr Ogunyomi, to facilitate a speedy scheduling of the bill for its first and second reading. This helped in a large measure in ensuring that the initial hearings on the bill were done timeously.

After undertaking several advocacy visits to the National Assembly, MRA realised that it would be extremely difficult to meet with all the members of the National Assembly through such one on one meetings especially because the window for such meetings was often very narrow as members usually had series of other engagements during intervals between their sitting period at the National Assembly and the period they left for home or other activities.

There was, thus, the need to devise ways of meeting with a large number of the members in one venue to plead the cause of the bill.

Besides, in the course of some of the one on one discussions with the legislators, there were veiled hints on the need to embark on “financial lobbying”. Media Rights Agenda had neither the resources nor the inclination to go down this route. But it faced a serious dilemma as the first reading of bill was fast approaching and not much ground had been covered in terms of having effective one on one discussions with a large majority of the members of the House.

In trying to navigate this problem, Honourable Ugokwe then advised that the organisation should consider organising a function for all the legislators at which issues concerning the bill would be discussed in a relaxed and informal environment.

Acting on this advice and ahead of the scheduling of the bill for first reading, Media Rights Agenda, with support from ARTICLE 19, organised a cocktail reception for members of the House of Representatives. The event took place in the evening of February 16, 2000 at the

Ladi Kwali Hall of the Abuja Sheraton Hotel and Towers. It was attended by about 250 legislators, led by the Deputy Speaker of the House of Representatives, Honourable Nwuche, who was the special guest of honour. Present to receive their colleagues at the event were two of the lead sponsors of the bill, Honourable Anyanwu and Honourable Ugokwe, as well as the then Chair of the Information Committee, Honourable Maduako.

The team from Media Rights Agenda was led by Mr Tunde Fagbohunlu, the Director of Legal Services. Other members of the team included two Executive Committee members, Miss Izuagie and Mr Austin Agbongsuremi, as well as three staff members: Mr. Osaro Odemwingie, Publications Officer; Miss Adeola Ademola and Mr. Kadiri, both legal officers.

The event lasted for about two hours and provided a highly interactive platform for the legislators and MRA personnel to discuss issues relevant to the bill and its enactment. Representatives of Media Rights Agenda used the occasion to further explain the principles behind the bill and to impress on the legislators the need for its speedy passage.

In a welcome address, Mr. Fagbohunlu said Media Rights Agenda was proud of the working relationship it had established with the legislators on the project. He expressed the hope that the bill will eventually get the endorsement of the House.

In his speech at the occasion, Hon. Maduako pledged the Information Committee's commitment to ensuring transparency and accountability in governance and its members' belief in the indispensability of access to government information in achieving these objectives. He assured the gathering that members of the House were favourably disposed towards the bill.

Honourable Anyanwu also made a commitment to continue to work towards the enactment of the bill, saying that his commitment was informed by a personal desire to promote accountability and a belief that the media is best placed to ensure this.

Other speakers at the event agreed that accountability in governance could not be guaranteed in the absence of a freedom of information regime and therefore pledge unflinching support for the enactment of the bill into law.

Thereafter, the legislators and MRA representatives present broke into small informal groups where further discussions on issues in the bill went on as the reception progressed.

Other Advocacy Efforts and Activities

Seminar on the 'Freedom of Information Act in Nigeria'

The Seminar on the Freedom of Information Act in Nigeria was organized by the Media For Democracy (MFD) project, comprising Media Rights Agenda, the Independent Journalism Centre (IJC), Journalists for Democratic Rights (JODER) and the International Press Centre (IPC), in conjunction with the Nigeria Union of Journalists. The Seminar was held from December 16 to 18, 1999 at the Gombe Jewel Hotel in Kaduna.

The objective of the seminar was to facilitate a better understanding of the content of the bill by journalists who would be among the principal users and seek, through them, to engender greater public awareness of the bill and the relevant issues. It was also aimed at emphasizing the overall importance of the bill to civil society and how it could promote transparency and accountability and contribute to the overall development of the country.

The participants were mainly journalists from print and broadcast media houses in the northern part of Nigeria. In all, 22 journalists attended the seminar which had eight sessions of paper presentation, lectures and group discussions. Topics and issues addressed at the seminar ranged from the theoretical, analytical to the professional. The various sessions were facilitated by lawyers, journalists and member of the National Assembly.

In a resolution at the end of the seminar, the participants commended the Media For Democracy group for organizing the seminar and also praised members of the National Assembly, particularly the sponsors of the bill in the House of Representatives, for their interest and support for the Bill.

The participants noted that President Obasanjo's promise to run an open transparent administration and fight corruption would remain a dream because accountability and transparency in government would not be possible if the government's books are not open to members of the public, including the media.

They observed that the Code of Conduct for Ministers issued by President Obasanjo to members of his Cabinet as well as the Code of Conduct for Public Officers contained in the Fifth Schedule to the 1999 Constitution would be meaningless and unenforceable if citizens have no right of access to information held by the State or its agencies and if no mechanism exists for giving practical effect to the right of freedom of information.

They argued that all over the world, a strong feature of a responsible and responsive government is its ability to enable the citizens and interested individuals to know the happenings in government and that information is not just a necessity, but an essential part of good governance.

They asked that Nigerians should put pressure on the National Assembly and the Federal Government to enact a Freedom of Information Act by asking legislators to support the bill and by prevailing on President Obasanjo to give his assent to the bill when it comes to him for signature, as a mark of his administration's commitment to transparency and accountability in governance.

The participants noted that the Nigerian press has an important role to play in ensuring that the bill is passed into law by enlightening the government and members of the public on its relevance to the sustenance of the various democratic structures. They also asked the press to ensure the enactment of the bill by focusing on the issues involved in order to generate the necessary public opinion which will further pressurize members of the National Assembly into supporting the bill and passing it into law.

World Press Freedom Day Workshop on Freedom of Information Act

On May 3, 2000, Media Rights Agenda organized a workshop on the Freedom of Information Act in Nigeria, in collaboration with the United Nations Information Centre (UNIC) in Lagos, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Nigerian Television Authority (NTA) Channel 10.

The one day workshop, which was held as part of activities to mark that year's World Press Freedom Day, took place at the Peninsula Resort Centre, Ajah, in Lagos State. The principal objective of the workshop was to formulate a plan of action to push for the enactment of the Freedom of Information bill and the outcome was expected to give impetus to the campaign

to sensitize legislators and concerned citizens in Nigeria that peace and security can only be built through legal instruments that ensure transparency and accountability in governance.

About 72 participants representing UN agencies in Nigeria, the media, the legal profession, human rights organizations, the Legislature, the Judiciary, academic institutions and international human rights organizations attended the workshop.

The brief opening ceremony was chaired by Mr. Lanre Arogundade, Co-ordinator of the International Press Centre in Lagos. He was supported by Mr. Finjap Njinga, Director of the United Nations Information Centre (UNIC); Mr. Emmanuel Apea, UNESCO Director; Mr. Tive Denedo, Acting Executive Director of Media Rights Agenda; Mr. Mohammed Sani Umar, Chief Public Affairs Officer of the National Human Rights Commission; Honourable Ajishola Owoseni, Chairman of Olorunda Local Government Council in Osun State, and Mrs. Dupe Ajayi-Gbadebo, a veteran journalist.

In a welcome address, Mr. Denedo, reminded participants of the burden that secrecy has foisted on the nation, saying that one way of guaranteeing the development of the country is for the government to be transparent, open and accountable through the enactment and implementation of the Freedom of Information Act.

In his remarks, Mr. Njinga said African States and governments should be encouraged to enact and enforce national laws that ensure transparency. He said the UN supports efforts of the media to consolidate the positive changes taking place on the continent and would encourage genuine intervention to promote divergent views in the compressed global village.

In a joint statement by Mr. Kofi Annan, UN Secretary-General; Mr. Koichiro Matsuura, the Director-General of UNESCO; and Mrs. Mary Robinson, UN High Commissioner for Human Rights, which was read by Mr. Apea, the UN officials noted the relevance of press freedom to transparency, good governance and the rule of law. They asked all states to ratify the relevant international human rights instruments and scrutinise their domestic legal systems with a view to bringing them in line with international standards governing the right to freedom of opinion and expression.

The participants rose from the workshop with a 10-point communiqué and an eight point plan of action that should improve the advocacy efforts for the enactment of the bill into law.

Advocacy Visits to Government Departments by the National Human Rights Commission

In March 2003, the National Human Rights Commission, working with representatives of civil society organisations, also carried out advocacy visits to key Federal Government departments and agencies in Abuja asking them to support the passage of the bill into law.

The weeklong programme of advocacy visits embarked upon by the Commission began on March 24, with a visit to the management of the National Orientation Agency (NOA).

Mr. Tony Iredia, the Director-General of the Agency and his team of executive directors received members of the advocacy team, led by the Executive Secretary of the National Human Rights Commission, Mr. Bukhari Bello; and which included MRA's Maxwell Kadiri; Mr. Mike Aruleba of the African Independent Television and RayPower Radio; Mr. Eze Anaba, Deputy News Editor of the *Vanguard* newspaper and a board member of MRA; Mr. Wale Fapohunda, managing partner of the Legal Resources Consortium; and Mr. Tony Ojukwu, also of the Commission.

Mr. Bello told the NOA officials that the advocacy team was at the Agency to solicit their support for the passage of the bill and expressed the hope that they would use their medium to disseminate information on the bill and sensitise the Executive, members of the National Assembly and the generality of Nigerians on the need for the bill to be passed into law.

This, he said, would facilitate the realization of the country's dream of having a corruption-free society, where qualitative governance reigns.

Responding, Mr. Iredia pledged the support of his Agency in seeing to the realization of the objective and offered the services of the Agency's officers in all the local government areas of the country to assist in disseminating the message contained in the bill to Nigerians all over the country.

The advocacy visits continued the next day when the team met with officials of the Broadcasting Organizations of Nigeria (BON), the Voice of Nigeria (VON); and the Federal Ministry of Information and National Orientation.

They were received by the Executive Secretary of BON, Mr. Osita Nweke, other top officials of VON and the Ministry of Information who expressed strong support for the initiative on the bill and pledged their willingness to assist in ensuring that the present National Assembly passes the bill into law.

A roundtable discussion session with the public sector on the bill was held on March 26. Those in attendance included Mrs. Maryam Uwais, a lawyer and wife of the Chief Justice of the Federation; Dr. Nana Tanko, country coordinator for the Open Society Initiative for West Africa (OSIWA); Mr. Godwin Omole, Executive Secretary of the Nigerian Press Council, and Mr. Bello.

Mr. Kadiri presented a lead paper for discussion at the roundtable session which centred on the theme: "The Context and Content of the Freedom of Information Bill, Which Way Forward." The presentation was then followed by a panel discussion.

The advocacy visits continued on March 27, when the team met with the Attorney General of the Federation and Minister of Justice, Mr. Kanu Agabi (SAN), as well as officials of the Federal Ministry of External Affairs.

At both meetings, the officials said they appreciated the need for the bill and expressed their support for it. They, however, expressed some reservation about what they called the "wide powers" given by the bill to the media, whose conduct, they claimed, had not been above reproach.

Members of the advocacy team explained to them that the bill was not for the media alone but for the generality of Nigerians, arguing that it was crucial for the nation's emancipation from the shackles of corruption and other corruption-related vices.

Freedom of Information Coalition Meeting with Editors and Political Correspondents

In March 2003, the Freedom of Information Coalition launched a new phase in its campaign to secure the enactment of the bill into law by seeking to introduce the issue into the electioneering campaigns.

Members of the Coalition met in Lagos firstly with editors from the print and broadcast

media and subsequently with political correspondents, soliciting their assistance in making the enactment of the bill an electoral campaign issue.

The meetings with editors and political correspondents were organized in the context of the electioneering campaigns towards the 2003 general elections. The main purpose of the meetings was to solicit the support of journalists in ensuring that politicians contesting elections into various offices were required to make public statements on their position on the twin issues of transparency and accountability in government, and also make a commitment to support the efforts to enact the Freedom of Information bill into law.

The meeting with the editors was organized by MRA, on behalf of the Coalition, in collaboration with the Nigerian Guild of Editors (NGE), one of the earliest bodies to endorse the campaign for the freedom of information law in Nigeria. It was held at the Lagos Airport Hotel in Ikeja.

The meeting was attended by the President of the NGE, Mrs. Remi Oyo, and editors from some major media establishments. Members of the Coalition present included Mr. Ojo; Mr. Sola Isola, Executive Director of the Independent Journalism Centre (IJC); Mr. Lanre Arogundade, Coordinator of the International Press Centre (IPC); and Mr. Osaro Odemwingie, Coordinator of the Freedom of Information Coalition.

In an opening address, Mr. Ojo informed the participants that the meeting was necessitated by the need to continue to mobilize support for the enactment of the bill. Tracing its history, he explained that it was one of the very first bills to be sent to the National Assembly at the inception of this government and expressed disappointment at the failure of the National Assembly to pass it after nearly four years, despite the widespread public support for it.

He requested the editors to consider impressing it on their political correspondents and reporters to constantly ask politicians to state their positions on the issue of access to public record, which is at the heart of accountability and transparency. He noted that in this way, politicians would be sensitized to the existence of the bill and forced to make a commitment to support efforts towards its passage when they assume office.

In her address, Mrs. Oyo noted that the Guild was very much in support of the advocacy for the enactment of the bill into law, explaining that the support of the Guild stemmed from its belief that a Freedom of Information regime will not only serve to strengthen the media, but would also help in consolidating Nigeria's democracy.

Following discussions at the meeting, a 17-point agreement was reached by the participants on how to further the campaign for the enactment of the Bill into law.

Some of the agreements include that more professional bodies and associations cutting across all sectors of the society should be encouraged to become involved in the campaign for the enactment of the bill and possibly join the coalition; that journalists would make it a point of duty to use every opportunity to ask politicians to state their positions on the issue of transparency and accountability in government in general and specifically on the enactment of the bill into law.

The meeting with political editors and correspondents, held at the Lagos Travel Inn in Ikeja, followed a similar pattern.

The meeting was attended by scores of political correspondents and reporters from some

major media establishments. Members of the Coalition present also included Mr. Ojo, Mr. Isola, Mr. Arogundade, Mr. Odemwingie; and Ms. Lilian Ekeanyanwu, National Coordinator of the Zero Corruption Coalition (ZCC)

Mr. Ojo observed that although it took the National Assembly less than three months to initiate and conclude a process of drafting and passing a new Independent Corrupt Practices and Other Related Offences Act to replace the existing one, the same National Assembly had neglected for nearly four years to pass the Freedom of Information Bill despite the public support for it.

He explained the efforts so far made to secure the enactment of the bill into law and requested the political correspondents and reporters to constantly ask politicians to state their positions on the issue of access to public record.

At the end of the meeting, many of the journalist participants made commitments to work towards the enactment of the bill into law. A 17-point agreement was also reached, many of them similar to those reached at the meeting with editors.

Freedom of Information Coalition Letters to the 30 Political Parties

The Freedom of Information Coalition, acting through its secretariat at Media Rights Agenda, wrote to the chairmen and secretaries of all the political parties as well as their presidential candidates early in April 2003 asking them to make the campaign to secure the right of Nigerians to have access to public records and information a cardinal policy of their parties and asking them to support the enactment of the Freedom of Information bill into law

The letters, signed by MRA's Executive Director, Mr. Ojo, explained that the Coalition believed that the existence of such a legislation was crucial to entrenching a culture of transparency and accountability in government and in ensuring effective public participation in the democratic process.

He expressed the hope that the party officials and their presidential candidates would work towards ensuring that the right of Nigerians to have access to public records and information becomes a cardinal policy of their parties and that they would make a clear and unequivocal commitment to support the enactment of the Bill into law.

MRA also provided the parties and their candidates with materials on access to information, including copies of the bill, a series of documents giving background information to the bill and a document entitled "The Public's Right to Know", published by ARTICLE 19, which sets out the ways in which governments can achieve maximum openness in line with the best international standards and practices.

Mr. Ojo urged them to share the information and documents with other members of their parties.

Media Advocacy

Media campaigns have been a crucial aspect of the advocacy programme. They include visits to media houses to meet with journalists, editors and columnists to solicit support for the campaign through the publication of articles, editorial comments and stories on the freedom of information issue; issuing periodic press releases to highlight developments on the issues; granting of press interviews on the issue; facilitating publication of feature stories and

opinion articles. Media Rights Agenda produced briefing packs for journalists containing materials and information about the bill and freedom of information issues generally.

As a result of these efforts, several newspapers have published editorial comments in support of the bill. Others have published news and feature articles, opinion articles, and other reports on the bill. The text of the bill has also been published in full in several newspapers as paid advertisements in order to ensure widespread awareness about the bill and its content.

Apart from scores of articles on the Bill that have appeared in many newspapers and magazines, there has also been an impressive use of the broadcast media to sensitise the Nigerian people on the bill and the principles behind it.

Many radio and television stations have held numerous discussion and other programmes where guests have appeared to promote the Bill and explain the principles behind it.

Some of the broadcast station in which MRA personnel, collaborating partners and other guests have appeared to promote the bill and explain its principles include the African Independent Television (AIT) both in Lagos and Abuja, in its Kaakaki programme, a popular breakfast programme; the sister radio stations, RayPower 1 and 2, Minaj Broadcasting International television (MBI), the Nigerian Television Authority (NTA) Channel 10 in its Morning Ride programme, another breakfast programme; the Federal Radio Corporation of Nigeria in Kaduna; the NTA in Kaduna; Murhi International Television (MiTV) in Lagos; Radio Lagos, Degue Broadcasting Network (DBN) television in Lagos, Channels Television in Lagos, etc.

The primary purpose of the media campaigns has been to keep the issue alive in the public domain and create a ground swell of public opinion in favour of a regime of access to information to act as a further pressure for legislative action by the National Assembly.

However, a major challenge in the media advocacy programme has been how to sustain media interest on the issue having regard to the nature of the media which has a tendency to lose interest in an issue once it has been reported a few times. This challenge was heightened in periods when there were no developments on the bill within the National Assembly or when there was a lull in other advocacy activities. During such periods, the media found it difficult to publish anything on the bill, as it did not want to be merely repeating previous news items.

This problem was of critical importance because regardless of all other strategies that could be adopted to spread the word about the bill, the fact remained that as a means of mass communication, the media was still the most effective tool for reaching the widest number of people.

In its consultations with journalists and other partners in the campaign for the enactment of the bill, Media Rights Agenda constantly sought advice on the issue. Various strategies were proposed including suggestions that further workshops and seminars should be organized for journalists, especially those from outside Lagos, so that they can be better educated and enlightened about the bill and the philosophy behind it; those campaigning for the enactment of the bill should regularly pay courtesy visits to various newspapers and magazines to meet with their editorial boards to discuss the bill with them and to appeal to them to focus on the bill in their columns.

Other suggestions were that Media Rights Agenda should liaise with members of the Newspapers Proprietors Association of Nigeria (NPAN) to request them to donate space in

their newspapers and magazines for messages on the bill urging the National Assembly to pass it; initiating a signature collection campaign targeted at journalists in addition to members of the society who support the passage of the bill; and formation of a body charged with coordinating the effort to popularize the bill among journalists.

While some of the suggestions achieved some results or had such potential, others could only bring very limited success despite the cost of undertaking them. For instance, given the huge number of journalists in Nigeria, it was not feasible to attempt to reach a sizeable number of journalists through seminars and workshops, which would in any event, be very expensive to organize. The challenge therefore remains a live one.

Production and Dissemination of Campaign Materials on Freedom of Information

In August 2000, with funding support from the International Human Rights Law Group, Media Rights Agenda printed campaign materials aimed at creating awareness and soliciting public support for the Freedom of Information Bill. MRA printed 30,000 colour posters, 50,000 handbills titled: “What You Should Know About the Freedom of Information Bill”, and 4,000 copies each of three different types of colour stickers.

The posters contained messages promoting the values and benefits of an open and transparent government to the democratic process and the economy. The handbills gave highlights of the bill, explaining in more detail its content, purpose and benefits. It contained information about the bill such as “What is the Freedom of Information Bill?” “Current State of Access to Information in Nigeria”, ‘Benefits of the Freedom of Information Bill’, “Who Can Benefit?” “How Can Nigerians Support the Bill?” etc. It provided contact information for members of the National Assembly, advising members of the public to write to their representatives in the National Assembly or telephone them with a request that they pass the bill. The stickers contained messages of support for the bill and transparency in governance generally.

The materials were distributed in major cities in southeastern, south western and the northern part of the country.

Building Civil Society Support for the Freedom of Information Bill

Another major challenge in the advocacy for the enactment of the bill has been how to broaden the constituency for support for the campaign, especially among civil society organisations. A number of initiatives were undertaken to achieve this objective. Although there is now heightened awareness among non-governmental organisations and other civil society organisations about the bill and expressions of support for the campaigns, it has still not been possible to get such organisations to initiate independent projects and activities around the campaign. Only a few partner organisations have taken the initiative to embark on follow-up activities or sought to introduce Freedom of Information public enlightenment components and campaigns into their core projects and activities.

There has also been very little success in getting members of the public to become more involved and active in the campaign for the enactment of the bill despite a range of efforts and activities, including the media campaigns, the printing of stickers, posters and handbills which were designed to remove the campaign from an elitist plane, as well as the efforts to get the business community to sign on to the initiative. These activities have not yielded the level of results that had been expected.

Activities undertaken by Media Rights Agenda and other partner organisations in the attempt

to build or strengthen civil society support for the bill and the campaign have included:

Advocacy Training Seminar

An Advocacy Training Seminar was held for representatives of civil society organisations across the country at Amana Suites in Abuja from September 10 to 13, 2000. The purpose of the seminar was to improve the capacity of civil society organisations to engage the legislative process to ensure that the bill is passed. It was expected that following the seminar, efforts would be intensified by civil society organisations to push for the passage of the bill, although a secondary objective was an expectation that the knowledge and skills acquired at the seminar would assist the participating organisations in other advocacy efforts and activities.

The seminar was attended by 31 persons representing 21 organisations. The International Human Rights Law Group, which funded the training, also brought three international experts on freedom of information issues from Europe and the United States to conduct the training.

The seminar discussed in detail issues relating to the bill and sought to equip the participants with ideas and strategies on how to go about canvassing support for it.

First Stakeholders' Meeting on the Freedom of Information Bill

The very first stakeholders meeting on the Freedom of Information Bill was held at Rockview Hotel in Abuja from September 13 to 15, 2000. The objective of the meeting was to identify various stakeholders in a freedom of information regime, demonstrate how various sectors of the society, including government institutions and agencies, will benefit from a freedom of information legislation, and agree on how the different stakeholders can support the campaign for the enactment of the bill into law.

The meeting was attended and formally declared open by the Minister of Information and National Orientation, Professor Jerry Gana. It was attended by 42 persons in all, representing various interest groups, including legislators from the National Assembly, the Academic Staff Union of Universities (ASUU), the Nigerian Labour Congress (NLC), the Federal Ministry of Information and National Orientation, the United Nations Information Centre (UNIC) in Nigeria, the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the NUJ, the Newspapers Proprietors Association of Nigeria (NPAN), the Nigerian Guild of Editors (NGE), human rights NGOs, the media, the legal profession, international organisations and agencies, etc.

Professor Gana made a public declaration on behalf of the Executive to support the bill, the first by any senior member of the Obasanjo administration. In his remarks, he conceded: "No state, especially a democratic state, can achieve any meaningful development if the citizens do not have access to information about matters that affect their everyday life. It is, indeed, fundamental in any democratic governance."

Representatives of various sectors also made brief presentations on how a legal right of access to information would help their work and how they could support the campaigns for the passage of the bill.

It was decided at the meeting that a civil society coalition, known as the Freedom of Information Coalition, be set up to bring collective pressure to bear on the National Assembly to pass the bill and generate public awareness about the principles of access to public

information and the need for a legislation giving members of the public a right to government-held information. The meeting also agreed on other proposals for enhancing the campaign for the enactment of the bill.

Business Roundtable on the Freedom of Information Bill

In May 2002, Media Rights Agenda with the support of the International Human Rights Law Group, organized a Business Roundtable on the Freedom of Information Bill for members of the business community to sensitize them on their role in supporting the bill and ensuring that it is passed into law.

The one-day roundtable was held on May 8, 2002 at the CAPL Training Centre in Ikeja, Lagos. Briefing materials on freedom of information, including copies of the bill, were sent ahead of the meeting to invited participants to enable them properly familiarize themselves with the issues and make informed contributions during the roundtable. The meeting was chaired by Mr. Gamaliel Onosode, Chairman of Dunlop Plc. Other participants came from other sectors of the economy such as banking and aviation while group representatives were sent by Concerned Professionals and the Association of Corporate Affairs Managers of Banks. Although the turnout was very low, the quality of the discussions was quite high.

The participants commended the initiative to hold a business roundtable on the bill but, however, suggested that in view of the diverse nature of the business sector in Nigeria, major groups and sub-groups within the sector such as manufacturers, bankers, corporate affairs managers, etc. should to be specifically targeted in any subsequent forum.

They agreed that a regime of freedom of information would be very helpful to the sector as they could obtain information about the state of businesses which would in turn assist in decision making by investors, and planning for developmental purpose. They were of the view that rather than have a negative impact on businesses, access to information would encourage the spirit of competition.

The participants noted that the prevailing high rate of secrecy governing business transactions in the country and the obvious dishonesty in both private and public sectors were largely responsible for many of the country's social and economic problems.

But they warned that in campaigning for the enactment of a freedom of information law in Nigeria, the media needs to convince the business community and other sectors of the economy whose support are crucial to the passage of the bill, that it is prepared to abide by its social responsibilities and obligations. They stressed that the media should use information sensibly and responsibly with a view to promoting good governance and rational national discourse.

At the end of the meeting, the participants made suggestions on how to get the business community to show more interest in the bill while some pledged to assist in the realization of this objective. Mr. Onosode promised to assist Media Rights Agenda and members of the Coalition to reach the executive members of the Institute of Directors and the Chairman of the Nigerian Economic Intelligence Committee. The President of the Association of Corporate Affairs Managers of Banks, Mr. Kabir Dagogo, pledged to host some representatives of the Coalition at one of the monthly meetings of the association to enable them make a presentation about the bill to the corporate affairs managers of other banks operating in the country. Concerned Professionals, represented by Mrs. Bimbo Hundeyin, also promised that MRA would be invited to give a briefing to members of the group at one

of their meetings.

Despite these contributions and promises, the question of how to galvanise the business community to support the campaign for freedom of information in Nigeria has remained a major problem.

Media Roundtable on the Freedom of Information Bill

In November 2001, Media Rights Agenda organized a media roundtable to properly contextualise the bill. The need for the meeting arose because the media appeared to be presenting the bill as a tool for the media, thereby sending out wrong signals on the appropriate use of the bill when it becomes law.

The roundtable was also held at the CAPL Training Centre in Ikeja, Lagos. It took place on November 15. It was attended by 21 journalists from radio, television, magazine and newspaper establishments. The participating journalists welcomed the clarification saying that they were also keen not to present the bill in a manner that would generate antagonism for it not only from the National Assembly, but possibly also from people in other sectors of the society who might be worried about the power which the bill will give to the media when it becomes law.

In addition to clarifying the issues which necessitated the holding of the roundtable, it generated a lot of publicity for the bill, especially coming on the heels of the public hearing on the bill held by the House of Representatives a month earlier. A series of news stories and features on freedom of information were published in newspapers and magazines and aired on radio and television in the days and weeks following the roundtable.

Second Stakeholders' Meeting on the Freedom of Information Bill

A second stakeholders meeting on the Freedom of Information Bill was held in June 2002, nearly two years after the first meeting held in September 2000. The meeting which took place on June 25 and 26, at Dayspring Hotel in Abuja, was attended by 34 members of the Freedom of Information Coalition from different parts of the country.

The major reason for the meeting was to examine the implications of the failure of the National Assembly to pass the bill less than one year to the end of the tenure of the current members, especially since no progress had been made on the bill in the House of Representatives for several months. But an additional reason for the meeting was the need to create a forum for a larger civil society input in the campaign efforts to increase awareness about the bill by creating linkages between the activities of the different civil society organisations and the relevance of the bill to their constituencies.

It had also been intended that the meeting would include an advocacy visit to the National Assembly to launch a renewed phase of the advocacy campaign as a test for a new advocacy team that was to be constituted at the meeting, but this could not take place as the legislators unexpectedly decided to begin their annual vacation on that day.

Participants were of the view that there was an urgent need to devise new strategies for putting pressure on the legislators to work out modalities for passing the bill within a few months before the campaign for re-election began.

Following the concerns expressed by the participants about the delay in the passing of the

bill, it was agreed that there was a need to formulate a plan of action that would encompass both short term strategies for securing the enactment of the bill and long term strategies in the event that it is not passed before the end of the tenure of the current National Assembly.

The meeting also provided an opportunity for collaboration between the Freedom of Information Coalition and the Zero Corruption Coalition.

There was an agreement at the meeting that the secretariat of the Freedom of Information Coalition should be strengthened while the advocacy and media committees of the Coalition were given a fresh mandate to increase the advocacy drive for the passage of the bill and a more effective public awareness programme. The secretariat was to establish and maintain a listserv through which information on the activities of the Coalition and developments regarding the bill would be regularly sent to members.

African Regional Workshop on Access to Information

In September 2001, working with ARTICLE 19 and the Institute for Democracy in South Africa (IDASA), Media Rights Agenda held an African regional workshop on Access to Information in Abuja. The workshop brought together a wide range of NGOs active in human rights, development and the media in sub-Saharan Africa as well as from North America, Europe and Asia.

The workshop, which took place at Rockview Hotel in Abuja, from September 19 to 21, 2001, arose from the need to bring national and sub-regional civil society organisations together to explore the feasibility of establishing a regional freedom of information monitoring network through which advocacy and monitoring strategies could be discussed and strengthened.

The Workshop endorsed a Statement and Plan of Action to promote the right to information as a fundamental human right, to work towards adoption of legislation on freedom of information throughout Africa, and to contribute to a global campaign for this right.

The participants stressed that information is an essential precondition for effective mobilization and the achievement of progressive change at the local, national, regional and global levels.

They noted that the right to information is included within the guarantee of freedom of expression and includes the right to access information held by public authorities; the obligation on government to actively publish and disseminate key categories of information; and the right to truth – for example, about past human rights violations

Besides, they said, the right to information is important because it enables other rights to be realized and is vital to the realisation of social and economic rights and to the fight against poverty more generally.

The participants also observed that meaningful participation in policy formulation and decision-making processes is only possible in the context of respect for the right to information and that the right to information can only be effectively implemented or exercised where there is specific legislation that establishes a fully developed legal and institutional framework that is in line with international standards.

They noted that international solidarity can provide crucial support to a national campaigning

strategy on freedom of information and advised campaigners to make use of international and regional instruments, including the UN Human Rights Committee, the UN Special Rapporteur on Freedom of Opinion and Expression and the African Commission on Human and Peoples' Rights.

Besides, the participants said, campaigners need to undertake broad public education and awareness-raising programmes and to build a broad coalition of interested and affected groups to advocate for the right to information.

They suggested that campaigners should use progress in the region to pressure their own governments to adopt good freedom of information laws and that in the absence of a government initiative, civil society groups should produce their own draft law.

The participants endorsed the view that the right to information applies to all people and in all contexts across Africa. They insisted, among other things, that:

- it is the right of communities to know how and why money allocated by governments for development in their locality has never reached them;
- it is the right of citizens to know the contents of documents exchanged by their government and international financial institutions such as the World Bank;
- it is the right of victims and their friends and families to know what happened to those who were killed, tortured, "disappeared" or otherwise physically attacked by security forces or other armed groups;

The participants pledged to campaign for the full realization of the right to information as part of the wider struggle for participatory democracy and social justice.

Civil Society Roundtables and "Public Hearings"

The International Press Centre (IPC) in Lagos organized five civil society roundtables and "public hearings" in four of the country's geo-political zones and the Federal Capital Territory in 2001 and early in 2002 to expand the scope of the Freedom of Information awareness campaign among civil society groups.

The initiative was undertaken in collaboration with the Media-for-Democracy In Nigeria group (the MFD), which comprises Media Rights Agenda, the Independent Journalism Center and Journalists for Democratic Rights, and was supported by the Democracy and Governance Programme of the United States Embassy in Nigeria.

The Roundtables/Public Hearings were held in Benin City (drawing participants from Edo, Delta and Ekiti States) from December 17 to 18, 2001; Ibadan (drawing participants from Oyo, Lagos, Ekiti and Osun States) from February 26 to 27, 2002; Kaduna (with participants drawn from Kaduna, Kano, Borno, Niger and Kwara States) from May 22 to 23, 2002; Port Harcourt (with participants drawn from Rivers, Enugu, Akwa-Ibom and Anambra States) from June 13 to 14, 2002; and Abuja (with participants from the Federal Capital Territory) from June 18 to 19, 2002.

The main objectives of the exercise were to raise awareness and support for the bill among the civil society organisations, labour, professionals, business community and students; encourage these groups to participate in public hearings and roundtables on the bill; and to get the media interested in the bill.

It was clear from the submissions by many of the participants that there were other segments of the society that felt that a freedom of information law would be more relevant to them more than even the mass media. For example during the Ibadan roundtable, a medical doctor spoke about how the law would empower patients to seek information about the health status of medical personnel taking care of them especially as it concerns the HIV/AIDS pandemic. He said whereas health workers seek to know the HIV/AIDS status of patients, they are denied the information on the status of health workers even though infection or transmission could come either way.

Virtually all the individuals and groups participating in the roundtables expressed their willingness to participate in the campaign for the enactment of the Freedom of Information Act and emphasized the need to involve wider layers of the society. They were also concerned about the low publicity in the media, which they thought should be at the head of the agitations. There were also suggestions that effective advocacy activities should be targeted at the National Assembly to win the support of a majority of its members for the bill. In some of the centers, the groups resolved to constitute themselves into local networks for the campaign as one of the strategies to push for the adoption of the law.

Other strategies suggested include: getting some of the members of the National assembly themselves to become advocates of the bill; getting journalists covering the National Assembly involved in the advocacy of the bill; expanding the base of the campaign to include hitherto uninvolved groups; and making the campaign of the bill more participatory by involving people at the community levels.

All the round tables adopted communiqués that expanded further on these objectives, challenges and strategies for making the campaign successful. They stressed that the local networks would be very helpful in translating the bill and some of the IEC materials into local languages.

The First and Second Reading of the Freedom of Information Bill

The cocktail reception for members of the House of Representatives held at the Abuja Sheraton Hotel and Towers on February 16, 2000, was clearly a huge success and its impact was felt during discussions on the floor of the House on February 22, 2000, when the bill came up for the first reading. There was overwhelming support for the bill from all members of the House of Representatives present that day. All the members who spoke at the hearing expressed a strong desire to see the bill passed very quickly by the House.

Again, exploiting the rapport which now existed between Media Rights Agenda and members of the House of Representatives as well as staff members of the House, MRA once more discussed with the Rules and Business Committee of the House and the Deputy Clerk on how to ensure a speedy scheduling of the bill for second reading. Their response to this request was quite favourable and the bill was scheduled for a second reading which took place on March 13, 2000, about three weeks after the first reading.

At the second reading, all the members of the House of Representatives who took the floor, spoke in glowing terms about the bill and the House thereupon decided that the bill did not need to go through a public hearing since there was a unanimous decision that it was one

legislation that the country needed very urgently. The House thus rose with a resolution that the bill be referred to the Information Committee, then chaired by Honourable Maduako, for the Committee's review of its contents. The Committee was to report back to the whole House in a matter of weeks. The Bill was subsequently referred to the Information Committee on March 27, 2000 after the conclusion of the second reading.

Following the referral, the focus of advocacy efforts by Media Rights Agenda now shifted to the members of the Uche Maduako-led Information Committee. Officials of Media Rights Agenda held series of separate meetings with Honourable Maduako and some members of the Committee. In the course of these discussions, MRA officials made available to them copies of documents explaining the fundamentals of freedom of information laws as well as international best practices on Freedom of Information. Media Rights Agenda also requested international organisations such as ARTICLE 19, to send memoranda to the Committee to help its work. These documents were given to the members of the Committee to enable them understand fully the concept of Freedom of Information.

Study Tour of the United States and the United Kingdom by Legislators

In the course of their deliberations, the Committee members decided that they needed to undertake a study tour of other more advanced democracies that have freedom of information laws to see how they function. The committee's chairman therefore requested the assistance of Media Rights Agenda in making the planned trip.

Media Rights Agenda explained that it did not have the resources to finance such a study tour but offered to make contacts with notable Freedom of Information advocacy groups in the United Kingdom, the United States and South Africa and secure appointments for them in those countries if the National Assembly could finance the trips. Media Rights Agenda thereafter contacted the Public Affairs Section of the United States Embassy, which agreed to organise some meetings for them in the United States. The organisation similarly contacted ARTICLE 19, its partner in the United Kingdom, which also agreed to meet with the legislators and organise other meetings for them.

The study tour suffered some delay, as the National Assembly did not immediately have the resources to finance the trips. However the committee members were eventually able to undertake the trip and travelled to the U.S. and the U.K, where they met with representatives of such organisations as ARTICLE 19 in London and Freedom House in New York, among others.

Upon his return, the Committee chairman, Honourable Maduako, told staff members of Media Rights Agenda that the Committee members found the trip very educative and enlightening and thanked the organisation for its assistance in arranging some of the meetings. He also acknowledged that from the various discussions they had while abroad, they found out that the Freedom of Information bill pending before them was very rich in content and had taken care of a lot of the problems that most other countries had encountered in the course of trying to implement their Freedom of Information laws.

He said the Committee would only propose one or two modifications in the bill, especially with respect to the fees payable by applicants, which the organisation had proposed should either be free or subsidised, depending on the circumstances. Honourable Maduako said his committee would be recommending, based on the outcome of its field study, that except in certain special cases, applicants should be required to pay the actual cost necessary for making the information they are requesting available to them.

The Committee concluded its assignment and submitted its report to the relevant officials of the House of Representatives on July 25, 2000.

Advocacy Work at the Senate

Despite the remarkable progress that the bill had now made in the House and the assurance received from the leadership of the House that the bill would be passed in the shortest possible time, Media Rights Agenda did not dismantle advocacy work on the bill. Rather, it decided to expand the focus of its advocacy work to include members of the Senate. This decision was informed largely by the belief that the bill would now pass swiftly through the House of Representatives and that there was therefore a need to create a receptive frame of mind in the Senators ahead of the arrival of the bill in their chamber.

Consequently, officials of the organisation commenced a “door-to-door” enlightenment campaign on the Freedom of Information bill for Senators.

This exercise involved having one-on-one discussions with Senators either in their offices or their homes, depending on which venue they preferred. However, it should be pointed out that unlike their colleagues in the House of Representatives, most of the Senators were not favourably disposed towards members of the advocacy team meeting them in their homes to hold discussions focused on the bill. As a result of this, a majority of the meetings took place in their offices at the National Assembly complex.

These advocacy visits, like the previous ones carried out in the House of Representatives, was done in phases. Consequently, during the first phase of this advocacy exercise in the Senate, the advocacy team from Media Rights Agenda met with 30 Senators in all. Of this number, except for a few of them such as Senator Arthur Nzeribe, Senator Gbenga Aluko and Senator Patrick Osakwe, who were non-committal and preferred to wait until the bill was referred to them from the House of Representatives, all the others expressed their willingness to support it. They included Senator M.T. Mbu, Senator Martins Yellowe, Senator Adolphus Wabara, Senator Fajimi, Senator D. Saror, Senator Femi Okurounmu, Senator Rowland Owie, Senator Matori, Senator Ishaq Mohammed, and Senator Tokunbo Afikuyomi.

In fact, Senator Owie, the only Senator that agreed to meet the advocacy team at home, and who was then the Chief Whip in the Senate, promised to use his leadership position and close contact with Senator Tafida, the then Chair of the Senate Rules and Business Committee, as well as with the then Senate President, Senator Chuba Okadigbo, to get the Senate to give the bill accelerated hearing. The level of support received by members of the advocacy team from this first time discussion with the respective Senators was quite impressive and rather unexpected, going by the negative public perceptions about the Senate.

The Crisis in the National Assembly and its Effect on the Bill

However, the momentum which the bill appeared to have gained in its run through the House of Representatives suffered a set back when the crisis at the National assembly set in around May 2000. Although the crisis in the National Assembly was alleged to have been instigated by President Obasanjo in his effort to weaken the Legislature and maintain control over its leadership, it created deep divisions within each chamber of the National Assembly.

Media Rights Agenda was helpless in the circumstance because while the crisis persisted the business of lawmaking for which the legislators were elected, took a back seat. No bill

pending before the National Assembly during this period escaped from this unsavoury situation.

However the fate of the Freedom of Information bill was worsened by the fact that the lead sponsors of the bill found themselves playing leadership roles on different sides of the political divide in the crisis, which had the effect of making them political enemies. Thus, they could not have any meaningful discussion on how to push for the passage of the bill and it is doubtful whether the issue of the bill was top on their agenda at all at this time.

Members of the advocacy team also regularly faced the challenge of how to respond, as they were frequently being asked, during their advocacy visits to the National Assembly to follow on the progress of the bill, on whose side they stood in the on-going leadership crisis at the House of Representatives.

While Honourable Anyanwu was leading the pack of legislators in the House of Representatives, calling for a change of leadership in the House, Honourable Irabor was, on the other hand, one of the highly visible and very strong supporters of the Speaker and fought for his continued stay in office. The battle for supremacy between both camps persisted for several months.

In the course of the leadership crisis, Honourable Anyanwu requested for the financial records of the House in order to substantiate his claim of financial recklessness and impropriety against its leadership. His request was turned down, but this was interpreted in many quarters as a lack of commitment on the part of the leadership of the House to the principles of access to public records, on which the issue of Freedom of Information is founded.

Despite the fact that the business of lawmaking was greatly affected by the crisis of leadership in the House of Representatives, Media Rights Agenda continued to make strenuous efforts to push for a third and final reading of the bill in the House. When it became aware that the Information Committee of the House had concluded its assigned task of reviewing the bill and preparing its report in readiness for submission to the entire House at any of its plenary sessions, Media Rights Agenda again made overtures to officials of the Rules and Business Committee, which was now chaired by Honourable Ita Enang, although in an acting capacity, as Honourable Elayo had been appointed Minister of State in the Federal Ministry of Justice.

The whole purpose of the overtures to Honourable Enang and his colleagues on the Rules and Business Committee was to get them to schedule the bill for what would have been its third and final reading, in accordance with the provisions of the rules of the House regarding the conduct of legislative business.

After several efforts to track down Honourable Enang in Abuja failed, an official of Media Rights Agenda had to travel to his home base in Uyo, Akwa Ibom State, to meet with him and discuss the scheduling of the bill for third reading. He was finally able to track down Honourable Enang at a sporting recreational facility in Uyo after a visit to both his house and office proved unsuccessful.

At the meeting, Honourable Enang promised to schedule the bill for the third reading on his return to Abuja the following week. The promise raised MRA's hopes that a successful end to the bill's sojourn in the House of Representatives was in sight.

However, this hope was dashed as the bill again suffered a series of setbacks. Although Honourable Enang kept his promise and included the bill in the order paper of the House as one of the bills that the legislators were to discuss that week, the legislators never got to that item on the agenda in the order paper as they gave priority consideration to what they termed “urgent matters of national importance”, that needed to be dealt with speedily. The effect of this development was that the members of the House did not consider the bill that week.

This became a pattern with the bill for some time thereafter because on two other occasions when MRA was able to again secure the cooperation of officials of the Rules and Business Committee to schedule the bill for third reading, on each occasion the members were never able to take the Information Committee’s report on the bill due to their desire to “give urgent consideration to other issues of urgent national importance”.

Besides these difficulties that the bill faced in the House, another problem, which further slowed its progress in the House, was the incessant changes of the chairmen and members of various committees of the House by its leadership. There were reports that the frequent changes were done to enable the leadership of the House retain the loyalty of members in the light of the face-off between the Executive and the Legislature and the perception that the Presidency was trying to destabilise the National Assembly by using members to undermine its leadership.

Regardless of the reasons for the frequent changes, the work of the Information Committee of the House on the bill was seriously affected by this development. For instance, just before the then chair of the Information Committee, Honourable Maduako, could formally present the Committee’s report on the bill to the entire House, he was removed from office and replaced with Honourable Chijioke Edeoga. On assumption of office, Honourable Edeoga requested that he be given sufficient time to study and review the content of the report before taking any further step with regard to presenting it to the full House.

This process of Honourable Edeoga studying the bill took some time. However during this process, officials of Media Rights Agenda contacted him constantly to find out the state of affairs regarding his plans for presenting the report to the House.

After a series of fruitless meetings held with Honourable Edeoga on different occasions, officials of Media Rights Agenda expressed their dissatisfaction to him over the inability of the committee to present its report to members of the House more than one year after the bill was consigned to the Committee for scrutiny.

With unyielding pressure from Media Rights Agenda and reported insistence of the Speaker that all committees with outstanding reports should submit them to the Rules and Business Committee for scheduling on the order paper, the Honourable Edeoga-led Information Committee secured the scheduling of the third reading of the bill and consideration of the Committee’s report for March 15, 2001, a year after the bill went through its second reading in the House.

The Third Reading of the Freedom of Information Bill

When Media Rights Agenda became aware of the date for the third reading of the bill and consideration of committee report, an official of Media Rights Agenda travelled to Abuja ahead of the appointed date. With the assistance of Mr. Yinka Oduwole, the Special Adviser on Media Affairs to the Deputy Speaker of House of Representatives, who played an important role in the advocacy efforts in the House of Representatives for the enactment of

the bill into law, a meeting was arranged with the Deputy Speaker for the morning of March 15, 2001. Incidentally, the Deputy Speaker was to chair the day's session in the House.

At this meeting, the Deputy Speaker gave assurance that with him piloting the discussions on the floor of the House that day, the bill would have no problem sailing through its third reading very smoothly. He thus asked the MRA official to be present at the public gallery to witness this epoch making proceeding of the House.

This early morning meeting with the Deputy Speaker proved to be the saving grace for the bill because but for the presence of the Deputy Speaker and his desire to see the bill passed, that day would have marked the end of the bill in the House of Representatives.

At the day's proceedings in the House, Honourable Edeoga presented the Information Committee's report to the House and the legislators commenced the process of scrutinising the content of the report and the bill. From the comments they were making and the questions they were asking, it became clear to members of the public, including the official from Media Rights Agenda who were observing the proceedings from the gallery, that quite a number of the members of the House present were no longer interested in the bill or were determined to prevent the House from passing it into law, a sharp contrast from the situation during the first and second reading a year earlier. This development was very surprising given the overwhelming support that the bill enjoyed from the entire membership of the House during its first and second reading.

For anyone who had no previous information about the progress of the bill in the House of Representatives, he or she would probably have the impression while observing the trend of the discussions on that day that many of the legislators had never heard of the bill and were just seeing it for the first time, during this third reading, especially judging from the kind of questions that some of them were asking.

Things came to a head when a legislator asked if the bill ever went through the process of a public hearing at the National Assembly. At this point, Honourable Edeoga, seeking to extricate himself from the trenchant criticism of the bill and the Committee's report by members of the House, sought the permission of his colleagues to excuse himself from making further comments and instead invited the former chairman of the Committee, Honourable Maduako, to explain the sequence of events that culminated in the preparation of the report, which he (Honourable Edeoga) presented to the House.

On taking the floor, Honourable Maduako gave an account of the process that the bill had undergone in the National Assembly, including explaining that it was the decision of the entire membership of the House in session, that considering the objectives of the bill and the widespread support that it enjoyed from the legislators during its first two readings, there was no need for it to go through a public hearing. Thus, the committee by not organising a public hearing on the bill was only giving effect to this unanimous decision of the House.

He also explained the painstaking work that the committee members had done in the process of reviewing the bill, including conducting an international comparative analysis of other Freedom of Information laws the world over and distilling international best practices from them. He also informed the House of the Committees' visit to other countries to interact with groups that had been in the vanguard of advocating for the enactment of freedom of information laws in such countries and those that were implementing existing Freedom of Information laws in such countries. All these, he said, helped the committee in putting together the report that was being considered by the House.

Considering the fact that the dominant feeling in the House during the session was not in favour of passing the bill and realising that some legislators were now of the opinion that the earlier unanimous decision of the House exempting the bill from a public hearing was erroneous, the Deputy Speaker, in the bid to save the bill from being killed, tactically summarised the discussion by stating that from his vantage position, the critical issue was that of the propriety or otherwise of the earlier decision taken by the House to exempt the bill from a public hearing. He therefore decided that the best way to go in the circumstance was to call for a voice vote on the issue.

The voice vote was called and the result as announced by the Deputy Speaker, was to the effect that there was a new agreement that the Information Committee should go back and organise a public hearing on the bill.

In a subsequent discussion with the Deputy Speaker after the close of proceedings in the House on that day, he explained to the MRA official that he took that line of action because of his perception of the dominant feeling during deliberations on the floor of the House, which appeared to be against the passage of the bill. With the referral of the bill back to the Committee to conduct a public hearing, those in support of the bill would have an opportunity to prove with empirical evidence that the generality of Nigerians were desirous of having a Freedom of Information Act and this would help in re-converting the group of legislators who had now made a volte-face on the bill.

Preparations for the Public Hearing on the Bill

With the developments on the floor of the House on March 15, 2001, Honourable Edeoga attempted, in a discussion with MRA, to justify his earlier tardiness in presenting the Information Committee's report on the bill to the House when he took over chairmanship of the Committee, by alluding to what he termed a feeling of suspicion within the membership of the House regarding issues concerning the Freedom of Information bill.

Although many were disappointed with Honourable Edeoga's presentation of the Committee's report to the House and his lack of adequate defence of it during deliberations on the floor of the House, Media Rights Agenda refrained from blaming him for his handling of the matter and the outcome. It immediately began discussions with him on what steps he planned to take to organise the public hearing as directed by the House. In response to the enquiry, Honourable Edeoga said he would consult other members of the Committee to work out the modalities for organising the public hearing and requested that the MRA official should check back with him in two weeks to get confirmation on decisions reached by members of the Committee.

After several weeks of waiting with no sign of progress being made towards organising the public hearing, Media Rights Agenda again contacted Honourable Edeoga and his colleagues in the Committee to find out the situation on the planned public hearing. The indications were that the National Assembly did not have the money to conduct the public hearing.

This became a standard response to all MRA's enquiries about the public hearing creating the impression that it had become a convenient excuse to keep the Freedom of Information bill in the cooler forever. It also appeared to confirm the suspicion of many members of the public who believed that despite their public statements declaring support for the bill and promising to ensure that it was passed into law quickly, the leadership of the House was not really interested in the fate of the bill.

Faced with the reality that the public hearing might not hold if this situation persisted, officials of Media Rights Agenda enquired from the leadership of the House Information Committee if there was any way in which the organisation could assist the Committee in organising the public hearing.

The Committee initially requested that Media Rights Agenda should assist by advancing a loan to the Committee to organise the public hearing with a promise that the Committee would pay back the loan when it receives its working capital earmarked for the exercise from the leadership of the House.

After reviewing the budget for the public hearing submitted to it by the Committee, Media Rights Agenda contacted the International Human Rights Law Group, which was then supporting most of its advocacy work on the bill, with a request that some of the funds outstanding in its grant to MRA for advocacy work on the bill be used in helping the Committee to organise the public hearing by bearing some of the costs of holding the public hearing such as the placement of advertisements in the media as well as facilitating the participation of some individuals and representatives of some organisations who wished to make presentations at the public hearing. The Law Group agreed to this request.

Media Rights Agenda then began a process of discussions with Honourable Patrick Ene-Okon, one of the staunch supporters of the bill in the House and Chairman of the Media Sub-Committee of the Information Committee. His sub-committee had been assigned the responsibility of organising the necessary logistics for organising the public hearing. MRA informed Honourable Ene-Okon, that the organisation was not in a position to advance the entire amount requested by the Committee either as a loan or in any other form, but that it could, within the limits of its resources, cover some of the Committee's costs for organising the public hearing by paying directly for some of the services that the Committee required to successfully organise the public hearing.

Some of the services which Media Rights Agenda paid for in accordance with this agreement included the production and placement of advertisements in several national daily newspapers and weekly news magazines to announce the public hearing, paying for the transportation, accommodation and subsistence of all the participants who came from outside Abuja to attend the public hearing or make presentations, providing refreshments for participants at the public hearing, etc.

Media Rights Agenda also produced radio and television jingles to publicise the public hearing. The jingles were aired on RayPower Radio and the Africa Independent Television (AIT), Radio Lagos, the Nigerian Television Authority (NTA) Channel 10, DBN Television, Channels Television, and on a cable satellite station, Disc Television.

At the Committee's request, Media Rights Agenda also bore the cost of an independent legal consultant engaged by the Committee to sit throughout the deliberations at the public hearing. The legal consultant was also to produce an independent report on the deliberations at the public hearing, which would include all the points canvassed by the speakers at the event, a summary of the highlights of their presentations, and the recommendations agreed upon by parties at the public hearing. An Abuja-based lawyer, Mr. Humphrey Ehi Uwaifoh, was subsequently engaged as independent legal consultant.

The Public Hearing on the Freedom of Information Bill

The Public Hearing on the Freedom of Information Bill was held at Committee Room 2 of the House of Representatives at the National Assembly Complex in Abuja from Wednesday, October 3 to Thursday, October 4, 2001. It was intended as a process of enabling a broad section of Nigerians to make inputs into the bill and to determine the level of public support which the bill enjoyed. It was attended by people from many sectors of the society, including a delegation from the Deaf and Dumb Association.

The public hearing was declared open by the Deputy Speaker of the House, Honourable Chibudom Nwuche, who represented the Speaker, Honourable Umar Ghali Na'Abba. Honourable Nwuche emphasized that the importance of the bill necessitated the House sending it back to the Information Committee for the purpose of organising a public hearing. But he was confident that the enactment of the bill would put Nigeria in an enviable position in the comity of nations.

After the opening ceremony, 14 different speakers presented papers. After each presentation, there was a general discussion. The presentations raised issues of law, journalism and media, national security, culture, international relations, good governance, and best practices as they relate to a freedom of information regime. Some of the papers dealt with the travails of the press during the period of military dictatorship. They stressed the importance of the press to the survival of democracy, particularly considering the obligation imposed on the press by Section 22 of the 1999 Constitution. But the main focus of some of the presentations was on the benefits of the bill and the imperative of passing it rather than a technical look at the legal provisions of the bill. This was left to the legal draftsmen to undertake.

A synopsis of some of the presentations are as follows:

Mr Anthony Idigbe (SAN)

He raised the following observations:

1. There was no central organization charged with the responsibility of enforcing the provisions of the bill. He, therefore, suggested the creation of a National Information Centre to be placed under the Attorney-General of the Federation to perform this function.
2. He suggested the funding of access to information to enable indigent citizens enjoy the benefits of the bill. He advocated the award of cost to cover legal practitioners fees.
3. He advocated the strengthening of the reporting procedures in the bill in line with his suggestion on the establishment of the National Information Centre.
4. He also suggested the curtailment of the right of foreigners to access information in Nigeria. During comments, the view was that this suggestion negates the trend in other jurisdictions and that it will create a situation where foreigners will have to go through proxies, which will not be good for the transparency culture which the country is trying to foster through the introduction of the law. It was argued that in many ways, foreigners often have more information than the citizens of the country and in respect of sensitive information and there were already adequate safeguards in that regard.
5. He finally raised the question whether the National Assembly could make laws for the states. He argued that by the provisions of Section 22 and Item 60 of the Exclusive Legislative List, the National Assembly has the power to make the law as regards the Access to Information.

Mr. Kehinde Bamigbetan, Centre for Legislative Studies

In his presentation, he re-emphasized the desirability of the bill. But he was concerned with the phrase “reasonable standard charges” for document searches and review. He also suggested that there was a need to review the grounds for refusing disclosure in the bill.

Mr. Tunde Fagbohunlu, Media Rights Agenda

His presentation gave a comparative analysis of countries that have similar laws or are in the process of enacting same. It also listed what he perceived to be the functional value of the bill which includes transparency and accountability, democratic participation, education and empowerment, research and development. It was his contention that if the Anti-corruption crusade must succeed there is the need to pass the Freedom of Information bill.

Mr. Azubuike Ishiekwene, Nigerian Guild of Editors

This Presentation gave an overview of media censorship in Nigeria. Decree No 4, 1984 enacted by the Buhari/Idiagbon regime which criminalized truth and led to the jailing of Tunde Thompson and Nduka Irabor. The killing of Dele Giwa, the incarceration of Kunle Ajibade, George Mbah and others, and the proscription of media outlets. He emphasized the imperative of the bill. He listed some legal enactments which militate against the media, including the Newspapers Act 1917; Press Registration Act, 1933; Defamation Act, 1961; as well as provisions in the Penal Code and the Criminal Code, such as Sections 50 and 51 dealing with sedition, Sections 373 to 379 on criminal defamation, etc.

The benefit of passing the bill was given as the complete mobilization of the populace for effective participation in governance; inculcation of transparency in governance and the strengthening of democratic cultures and values.

Mr. Bankole Aluko (SAN)

His presentation concentrated on the enforcement mechanisms of the bill. He cited Section 2 (definition of court) and argued that it gives the impression that the bill is applicable only to information kept at the State High Court or Federal Court. Besides, he said, although judicial review is to be held summarily, the bill did not define the word summarily. He called for the inclusion of provisions for recovery of litigation cost to deter unnecessary refusal of access. During questions and answers, he suggested that provisions should be made conferring original jurisdiction on the Supreme Court, considering the snail pace of the courts. The question that arose was the cost of getting counsel to appear at the Supreme Court, the brief filing system and the location of the court.

The Federal Ministry of Information and National Orientation

The Federal Ministry of Information and National Orientation supported the bill. It made the following observations:

- a. Newspaper should be added to Section 2 (d).
- b. Section. 4 (a-p), and Section 8 (b) were too stringent.
- c. Minimum fees should be imposed for access to make it easy and non-expensive.

The Ministry commended the initiators of the bill and urged that it should be passed urgently.

Mr. Odi Ofeimun

He traced the struggle of the Nigerian press and the heroic role they played during the dark days of military rule. He re-echoed the imperatives of the bill and asked that the National Assembly quickly pass the bill.

Mr. Abdul Oroh, Civil Liberties Organisation

He aligned with other speakers, traced the travails of the media and what they have passed through in the hands of security agents. He was emphatic that the anti-corruption crusade will amount to nothing if there is no access to information as it is the essence of transparency. He argued that the bill will provide essential information on government activities. It will also reinforce the right to freedom of speech and the press as contained in Article 19 Universal Declaration of Human Rights and Section 39 of the 1999 Constitution.

Mallam Sanni Zorro

He praised the initiators of the bill and said it was not only necessary to the media but to all citizens as it is capable of ensuring the participation of the mass of the populace in the process of governance.

Mr. Ray Ekpu, Newspapers Proprietors Association of Nigeria

He commended the bill and said the NPAN was throwing its weight behind it. He talked about the general imperatives of the bill and called for its passage. He was concerned that there were so many exemptions to disclosure and urged that the legal draftsmen should take a further critical look at this area.

Professor Ralph Akinfeleye, Department of Mass Communications, University of Lagos

He commended the bill and urged that the time frame for response, which is 7 days, be reduced. He suggested 48 hours at the maximum. To him, with the space of what is news increasingly being narrowed, it is imperative to have quick access. He wanted the National Assembly to strictly limit the right to refuse access.

Mr. Lanre Arogundade, International Press Centre

His presentation focused on why access is important to the media, which includes, enhancing the quality of public debate, transparency and tolerance in the society because it is the media that the populace look up to for ideas, thoughts and opinions, while journalism remains a catalyst for change. Access to information, he said, will also enhance the credibility of reports in the media over which there have been a lot of complaints. He also stated that access is necessary to the society because it provides information on all facets of governmental affairs and activities. While to the different branches, it will provide information on their different activities to enable checks and balances, and also build a harmonious relationship between the arms of government.

Letters to Principal Officers of the House of Representatives

For months after the public hearing, no progress was made by the bill at the House of Representatives despite repeated public statements in the media by various legislators affirming the importance of the bill and insisting that it would be passed by the National Assembly. Representatives of Media Rights Agenda and of various member organisations of the Freedom of Information Coalition made frequent enquiries from members of the Information Committee of the House, but got no indication on why the bill had not been presented to the full House for a further Third Reading.

In November 2002, Media Rights Agenda wrote formally to the Speaker of the House of Representatives, Alhaji Umar Ghali Na'Abba, and the Chairman of the House Committee on Information, Honourable Lawan Farouk. In the letter to the Speaker, Media Rights Agenda reminded him of his statement at the inception of the 2002 legislative calendar, listing the Freedom of Information Bill as one of the bills deserving urgent attention and speedy passage

by the House of Representatives.

The letter expressed concern that as the first term of the administration was drawing to a close, members of the FOI Coalition were concerned that despite the Speaker's public statement of the positive commitment of the House to the bill, it might not be passed in the end as it had not been slated for a third reading more than one year after the public hearing.

Tracing the history of the bill in the House of Representatives, the letter appealed to the Speaker to do all in his power to ensure its speedy passage by the House, saying that by so doing, he would be leaving a legacy which even Nigerians yet unborn will feel proud of.

In a similar letter to Honourable Farouk, Media Rights Agenda reminded him that the public hearing which was organised by his Committee on October 3 and 4, 2001, attracted impressive participation and contributions from members of the society drawn from various walks of life including the academia, labour, the legal profession, civil rights groups, the journalism profession, and other sectors of the society, all urging for its speedy passage.

It noted that since the public hearing, no further word on the bill or the report of his Committee had been heard.

The letter appealed to him to ensure that the Committee's report was submitted as soon as possible so that the Rules and Business Committee of the House could slate the bill for the Third Reading.

Neither the Speaker nor Honourable Farouk responded formally to the letters. But in several subsequent telephone conversations and direct meetings with representatives of Media Rights Agenda and other members of the Freedom of Information Coalition, Honourable Farouk promised that as Chairman of the Information Committee, he would present the report to the full House before the end of its tenure and would work to ensure the passage of the bill.

Despite often repeating this promise for months afterwards, in the final weeks of the life of the National Assembly, Honourable Farouk became pre-occupied with his campaign to become Speaker of the House after the April 12, 2003 National Assembly elections and was unable to give any attention to the bill.

Part Three

Text of the Freedom of Information Bill

Introduction

Various texts of the Freedom of Information bill have been produced over the years. The first text, entitled "Draft Access to Public Records and Official Information Act", was produced in 1994. Following a two-day technical workshop jointly organised by MRA, the CLO and the NUJ in March 10 and 11, 1995 to debate the draft, it was revised later in 1995.

This draft was revised once again in 1999 to incorporate the recommendations of participants

at the Workshop on Media Law Reform in Nigeria held at Ota in Ogun State in March that year. After it was sent to some legislators in July 1999, the bill had to undergo another revision later that year in order to harmonise it with another draft produced independently by Honourable Ugokwe, which he had also sought to sponsor at the House of Representatives.

Following the harmonization, the bill was published in Federal Government's Official Gazette, No. 91, Volume 86 of 8th December 1999 as Government Notice No. 200 and described as "An Act to make Public Records and Information more freely available, provide for Public Access to Public Records and Information, Protect Public Records and Information to the Extent consistent with the Public Interest and the Protection of Personal Privacy, and Related Purposes hereof."

It was this version of the bill that was considered during the first and second hearings at the House of Representatives on February 22 and March 13, 2000 and subsequently consigned to the House Committee on Information for more detailed consideration.

The Committee concluded its assignment and submitted its report to the House on July 25, 2000. Included in the report was the gazetted bill and the Committee's recommendations on the modifications that should be made to it before it is passed by the House. The report and proposals for amendments formed the basis of the debates that took place in the House during the third reading on March 15, 2001.

Following the decision of the House to hold a public hearing on the bill, the independent legal consultant engaged by the Information Committee to prepare the report of the public hearing was also required to produce a revised draft of the bill based on the predominant sentiments expressed by speakers at the public hearing.

The legal consultant produced the amended bill which he submitted with his report to the Committee in November 2001. However, the bill has not been considered by the House.

The following is the text of the original gazetted bill with the proposals of the Information Committee submitted to the House on July 25, 2000 and debated at the third reading held on March 15, 2001.

A BILL

FOR

AN ACT TO MAKE PUBLIC RECORDS AND INFORMATION FREELY AVAILABLE;
PROVIDE FOR ACCESS TO PUBLIC RECORDS AND INFORMATION;
PROTECT PUBLIC RECORDS AND INFORMATION TO THE
EXTENT CONSISTENT WITH THE PUBLIC INTEREST
AND THE PROTECTION OF PERSONAL PRIVACY;
AND RELATED PURPOSES HEREOF.

Clauses

1. Short Title	Provisions in the Bill		
2. Interpretation	1. This Act may be cited as the Freedom of Information Act, 1999	Committee Recommendations	(Provision Retained as in Bill)
	2. In this Act, unless the context otherwise requires-	1. This Act may be cited as <i>Access to Information Act 2000</i> .	<i>Amendment(s) Proposed by members</i>
	“Court” means a State High Court where the official information in question is kept by a Local or State government institution, and the Federal High Court where the official information in question is kept by a Federal government institution:	2. (Provision Retained as in Bill)	
	“Foreign State” means any State other than the Federal Republic of Nigeria;	“Court” means a Court where the official information in question is kept.	
	“Public/Government Institution” means any legislative, executive, judicial, administrative or advisory body of the Federal, State and Local Governments, boards, bureaux, committees or commissions of the state, and any subsidiary body of those public bodies including but not limited to committees and sub-committees which are supported in whole or in part by tax revenue or which expends tax revenue and private bodies carrying out public functions.	(Provision Retained as in Bill)	
	“Public records or document” means a record in any form having been prepared, or having been or being used, received, possessed or under the control of any public body or private bodies relating to matters of public interest and includes-	“Public/Government Institution” means any legislative, executive, judicial, administrative or advisory body of the Federal, State and or Local Government.	
	(a) any writing or any material	“Public record or document means a record in any form under the control of any public or private body relating to matters of public interest and includes-	
	(b) any information recorded or stored on other devices, and any material subsequently derived from information so recorded or stored;	(a) (Provision Retained as in Bill)	
	(c) any label, marking or other writing that identifies or describes anything of which it is attached by any means;	(b) (Provision Retained as in Bill)	
	(d) any book, cards, form, map, plan, graph, or drawing;	(c) (Provision Retained as in Bill)	
	(e) any photograph, film, negative, microfilm, tape, other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced;	(d) (Provision Retained as in Bill)	
	“Minister” means the Minister charged with responsibility for information.	(e) Any photograph, film, negative, microfilm, tape, or other devices in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced;	

“Person” includes a corporation sole, and also a body of persons. Whether corporate or incorporate; acting individually or as a group.

“Personal information” means any official information held about an identifiable person; but does not include information that bears on the public duties of public employees and officials; and

“Public Officer” means a person who exercise or formerly exercised, for the purpose of the government, the functions of any office or employment under the State.

3. Right of access to records .

3. – (1) Subject to the provisions of this Act but notwithstanding anything contained in any other Act, Edict, Law, or Regulation, every person whether or not that person is a citizen of the Federal Republic of Nigeria, has a legally enforceable right to, and shall, on request, be given access to any record under the control of a government or public institution.

(2) An applicant herein need not demonstrate any specific interest in the information being requested for.

(3) For the purpose of this Act, any record requested under this Act that does not exist but can, subject to such limitation be produced from a machine, readable record under the control of a government and or public institution using computer hardware and software normally used by the government and or public institution shall be deemed to be a record under the control of the government and/or public institution.

4. Information about government institution

4. – (1) The head of every government and or public institution to which this Act applies shall cause to be published in the Federal Gazette at least once every year –

- (a) a description of the organization and responsibilities of the institution including details of programmes and functions of each division, branch and department of the institution;
- (b) a description of all classes of records under the control of the institution in sufficient detail to facilitate the exercise of the right of access under this Act;
- (c) a description of all manuals used

“Person” includes a corporate body, sole proprietorship, or a body of persons

“Personal information” means any official information held about an person; which include information that bears on the public duties of public employees and officials; and

“Public Officer” means a person who *exercises* for the purpose of the government, the functions of any office or employment under the State.

3. - (1) Subject to the provisions of this Act but notwithstanding anything contained in any other Act, Edit, Law, or Regulation, any person whether or not that person is a citizen of the Federal Republic of Nigeria, has a legally enforceable right to, and shall, on request, be given access to any record under the control of a government or public institution.

(2) *An applicant need not give any reason or justification for his interest in the information being requested for.*

(3) For the purpose of this Act, any record requested under this Act that is not readily available but can, subject to such limitations as may be prescribed by regulation, be produced from any device under the control of the government and/or public institution.

4. (Provision retained as in Bill)

by employees of the institution in administering or carrying out any of the programmes or activities of the institutions.

- (d) a description of documents containing final opinions including concurring and dissenting opinions as well as orders made in the adjudication of cases.
- (e) a description of documents containing substantive rules of the institution;
- (f) description of documents containing statements and interpretations of policy which have been adopted by the institution;
- (g) a description of documents containing final planning policies, recommendations, and decisions;
- (h) a description of documents containing factual reports, inspection reports, and studies whether prepared by or for the institution,
- (i) a description of documents containing information relating to the receipt or expenditure or public or other funds of the institution,
- (j) a description of document containing the names, salaries, titles, and dates of employment of all employees and officers of the institutions;
- (k) description of documents containing opinions concerning the rights of the State, the public, a sub-division of the State or local government or of any private persons;
- (l) a description of documents containing the name of every official and the final records of voting in all proceedings of the institution;
- (m) a description of files containing applications for any contract, permit, grant, or agreement.
- (n) a list of reports, documents, studies, or publications prepared by independent consultants or other independent contractors for the institution;
- (o) a description of materials containing information relating to any grant or contract made by or between the institution and another government and or public institution or private organization; and
- (p) the title and address of the appropriate officers or employees of the institution to whom requests for access to

records under this Act should be sent, provided that the failure of any government and/or public institution to published under this sub-section shall not prejudicially affect the right of access to public records and information in the custody of such government and/or public institution as provided for under this Act.

(2) Any person entitled to the right of access conferred by this Act shall have the right to institute proceedings in a Court to compel the head of any government institution and/or public body to comply with the provisions of this section;

(3) The government and or public institutions to which this Act applies are all authorities whether executive, legislative or judicial agencies, ministries, and extra-ministerial departments of the Federal Government and of all State and Local Government together with all corporations established by law and all companies in which a Federal, State or Local Government authority has a controlling interest and also private companies performing public functions.

5 Request for access to records

5. A request for access to a record under this Act shall be made in writing to the government and or public institution that has control of the records and shall provide sufficient detail to enable an experienced employee of the institution with a reasonable effort to identify the record.

5. (Provision retained as in Bill)

6. Notice where Access to records are requested

6. Where access to a record is requested under this Act, the head of the government and/or public institution to which the request is made shall, subject to Sections 7, 8, and 10, within seven days after the request is received.

6. Where access to a record is requested under this Act, the head of the government and/or public institution to which the request is made, shall, subject to *Sections 7, 8, and 10*, within *fourteen working days* after the request is received.

- (a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and
- (b) if access is to be given, give the person who made the request access to the record for part thereof.

(a) (Provision Retained as in Bill)

(b) (Provision Retained as in Bill)

7. Transfer of request.

7.-(1) Where a government and or public institution receive a request for access to a record under this Act, and the head of the institution considers that

7. (Provision retained as in Bill)

another government and /or public institution has a greater interest in the record, the head of the institution to which the request is made may, subject to such conditions as may be prescribed by regulation, within three days after the request is received, transfer the request, and if necessary, the record to the other government and/or public institution, in which case the head of the institution transferring the request shall give written notice of the transfer to the person who made the request shall give written notice of the transfer to the person who made the request, which notice shall contain a statement informing the person who made the request, that such decision to transfer the request can be reviewed by a Court.

(2) For the purpose of Section 6, where a request is transferred under sub-section (1) of this section, the request shall be deemed to have been made to the government and or public institution to which it was transferred on the day the government and/or public institution received it.

(3) For the purpose of sub-section (1), a government and /or public institution has a greater interest in a record if -

- (a) the record was originally produced in or for the institution; or
- (b) in the case of a record not originally produced in or for a government and or public institution, the institution was the first government and/or public institution to receive the record or a copy thereof.

8. Extension of time limits.

8.- (1) The head of a government and or public institution may extend the time limit set out in Section 7 or sub-section 7 (1) in respect of a request under this Act for a reasonable period of time, and in any event not exceeding seven days, if -

- (a) the request is for a larger number of records or necessitates a research through a large number of records and meeting the original time limit would unreasonably interfere with the operations of the government and/or public institutions; or
- (b) consultations are necessary to comply with the request that cannot reasonably be completed within the original time limit, by giving notice of the extension stating whether the extension falls under the

8. - (1) The head of a government and or public institution may extend the time limit set out in Section 7 or sub-section 7 (1) in respect of a request under this Act for a reasonable period of time, and in any event not exceeding seven working days, if -

- (a) (Provision Retained as in Bill)
- (b) (Provision Retained as in Bill)

circumstances set out in paragraph (a) or (b), which notice shall contain a statement that the person has a right to have the decision to extend the time limit reviewed by a court.

9. Where access is refused.

9. –(1) Where the head of government and or public institution refuses to give access to a record requested under this Act, or a part thereof, the head of the institution shall state in the notice given under section 6 (a) the specific provision of this Act on which the refusal was based and shall state in the notice that the person who made the request has a right to have the decision refusing access reviewed by a court.

9. (Provision retained as in Bill)

(2) Any notification of denial of any request for records shall set forth the names of each person responsible for the denial of such request.

(3) The head of a government and or public institution shall be required to indicate under sub-section (1) whether a record exists.

(4) Where the head of a government and or public institution fails to give access to record requested under this Act or a part thereof within the time limits set out in this Act, the head of the institution shall, for the purpose of this Act, be deemed to have refused to give access.

10. Fees etc, and Action for waivers

10.- (1) Government or public regulations shall provide that –

- (a) fees shall be limited to reasonable standard charges for document search, duplication, review and transcription where necessary, when records are requested for commercial use;
- (b) fees shall be limited to reasonable standard charges for document search, duplication, review and transcription where necessary, when records are not sought for commercial use and the request is made by an educational or noncommercial, scientific research, or a representative of the news media; and
- (c) for any request described in (a) or (b) fees shall be limited to reasonable standard charges for document search, duplicate , review and

10. –(1) Government or public shall provide that –

- (a) (Provision Retained as in Bill)
- (b) (Provision Retained as in Bill)
- (c) For any request described in (a) or (b), fees shall be limited to reasonable standard charges for document search , duplication review and transcription where

transcription where necessary.

(2) Document shall be furnished without any charge or at a charge reduced below the fees established under Section 11(1) (b) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations of activities of the government and is not operations or activities of the government and is not primarily in the commercial interest of the requester.

(3) Fees schedules shall provide for the recovery of only the direct costs of search, duplicate, reproduction, review or transcription where the record being requested under this Act is produced as a result of the request from a machine readable record under the control of a government and/or public institution.

(4) Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purpose of withholding any portions exempt from disclosure under this Act.

(5) Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section.

(6) No fee may be charged by any government or public institution:

- (a) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount for the fee; or
- (b) for any request described in Section 10 (1) (a) (b) or (c) for the first two hours of search time or for the first one hundred pages of publications;

(7) No government or public institution may request advance payment of any fees unless the requester has previously failed to pay fees in a timely fashion.

(8) Nothing in this Act shall supercede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

(9) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo, provided that court's Fees review of the matter shall be

necessary

(2) Document shall be furnished *at a charge* reduced below the fee established under Section 10 (1) (b) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations of activities of the government and is not primarily in the commercial interest of the requester.

(3) Fees schedules shall provide for the recovery of only the direct costs of search, *duplication*, reproduction, review or transcription where the record being requested of the request from a machine readable record under the control of a government and/or public institution.

(4) (Provision Retained as in Bill)

(5) (Provision Retained as in Bill)

(6) Expunge

(7) Expunged

(8) (Provision Retained as in Bill renumbered as 6)

(9) (Provision Retained as in Bill renumbered as 7)

Limited to the record before the Government of Public Institution.

11. Destruction or falsification of record

11. It shall be a criminal offence punishable on conviction with 3 years imprisonment for any other officer of the head of any government and/or public institution to which this Act applies who tries to either willfully destroy any records kept in his/her custody or attempts to doctor or otherwise alter same before they are released to any person, entity or community requesting for it.

11. It shall be a criminal offence punishable on conviction to a minimum of 3 years imprisonment or an option of N500,000 (five hundred thousand naira) fine for any Officer or the head of any government and/or public institution to which this Act applies who tries to either willfully destroy any records kept in his/her custody or attempts to doctor or otherwise alter same before they are released to any person, entity or community requesting for it.

12. Access to records.

12.-(1) Access to a record shall be given to the person requesting such access in one or more of the following forms:

- (a) a reasonable opportunity to inspect or copy the record;
- (b) in the case of a record that is an article or thing from which sounds or visual images are capable of being reproduced, for the person to hear or view these sounds or visual images;
- (c) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or which words are contained in the form of shorthand writing or in codified form, provision by the government and/or public institution of a written transcript of the words recorded or contained in the document.

12. (1) (Provision Retained as in Bill)

(2) Subject to sub-section (3) of this section, where the person requesting access has requested such access in a particular form, access shall be given in that form.

(2) (Provision Retained as in Bill)

(3) If the giving of access in the form requested by the person -

- (a) would interfere unreasonably with the operations of the government and/or public institution, or the performance by any officer or employee thereof of his functions;
- (b) would be detrimental to the preservation of the record or, having regard to the physical nature of the record, would not be appropriate; or
- (c) would, but for the provisions of this Act, involve an infringement of copyright (other than copyright owned

(3) If the giving of access in the form requested by the person -

(a) (Provision Retained as in Bill)

(b) (Provision Retained as in Bill)

(c) would, but for the provisions of this Act, involve an infringement of copyright (other than copyright owned by the

by the Federal Republic of Nigeria, a state, or a local government, or a government and or public institution thereof) subsisting in matter contained in the record being matter that does not relate to the affairs of a government and/or public institution, access in that form may be refused and access shall be given in another form.

Federal Republic of Nigeria, a state, or a local government, or a government and or public institution thereof) subsisting in matter contained in the record being matter that does not relate to the affairs of a government and or public institution

access in that form may be refused and access shall be given in another form.

(4) Subject to sub-section 13 (1), where a person requests access to a record in a particular form and, for a reason specified in sub-section (3) hereof, access in that form is refused but access is given in another form, the person requesting access shall not be requested to pay a charge in respect of the provision of access to the record that is greater than the charge that he would have been required to pay if access had been given in the form requested.

(4) Subject to sub-section 13 (1), where a person requests access to a record in a particular form and, for a reason specified in sub-section (3) hereof, access in that form is refused but access is given in another form, the person requesting access shall *pay a charge* in respect of the provision of access to the record *that is required*.

13. Where information is not available in separate and distinct form.

13. Where a request is made a government and or public institution and:-

- (a) it appears from the request that the desire of the person requesting access is for information that is not available in discrete form in documents of the government and / or public institution and
- (b) the government and or public institution could produce a written document containing the information in discrete form by-
 - (i) the use of a computer or of other equipment that is ordinarily available to the government and/or public institution for retrieving or collating stored information, or
 - (ii) the making of a transcript from a sound recording held in the government and or public institution, the government and/or public institution shall deal with the request as if it were a request for access to a written documents so produced and containing that information, and, for that purpose, this Act applies as if the government and or public institution had such a document in its possession.

13. Where a request is made *from* a government and or public institution and:-

- (a) it appears from the request that the desire to the person requesting access is for information that is not available in *separate* and *distinct* form in documents of the government and / or public institution, and
- (c) the government and or public institution could produce a written document containing the information in separate and distinct form by –
 - (i) (Provision retained as in Bill)
 - (ii) (Provision retained as in Bill)

**14. International
affairs and
defence.**

14.-(1) The head of a government and or public institution may refuse to disclose any record requested under this Act that contains information the disclosure of which may be injurious to the conduct of international affairs and the defence of the Federal Republic of Nigeria.

(2) However, such right to refuse the disclosure of any record requested by an applicant ceases to exist where the interest of the public in having the said record being made available to them outweighs whatever injury disclosing such records would have to the aforementioned interests.

14. (Provision retained as in Bill)

**15. Law
enforcement
And
Investigations**

15.-(1) The head of a government and or public institution may refuse to disclose any record requested under this Act that contains;

(a) records compiled by any government and / or public administrative enforcement or correctional agency for law enforcement purpose or for internal matters of a government and/or public institution, but only to the extent that disclosure would:

- (i) interfere with pending or actual and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;
 - (ii) interfere with pending administrative enforcement proceedings conducted by any government and/or public institution;
 - (iii) deprive a person of a fair trial or an impartial hearing;
 - (iv) unavoidable disclose the identity of a confidential source;
 - (v) constitute an invasion of a personal privacy under section 19 of this Act, however, where the interest of the public would be better served by having such record being made available, this exemption to disclosure shall not apply;
 - (vi) obstruct an ongoing criminal investigation.
- (b) information the disclosure of which could reasonably be expected to be injurious to the security of penal institutions.

(2) The head of government and or public institution may refuse to disclose any record requested under this Act that contains information that could reasonably be expected to facilitate the commission of an offence.

15. (Provision retained as in Bill)

- (3) For the purpose of paragraph (1)
- (a) "Investigation" means investigation that-
 - (a) pertains to the administration or enforcement of any enactment
 - (b) is authorized by or pursuant to any enactment.

16. Economic Interest of the Federal Republic of Nigeria.

16. The head of a government and or public institution may refuse to disclose any record requested under this Act that contains;

16. (Provision retained as in Bill)

- (a) trade secret or financial, commercial, scientific, or technical information that belongs to the government of the Federal Republic of Nigeria or any State or Local Government thereof, and has substantial economic value or is likely to have substantial value;
- (b) information the disclose of which could reasonably be expected to prejudice the competitive position of a government and/or public institution;
- (c) scientific or technical information obtained through research by an officer or employee of a government and/or public institution, the disclosure of which could reasonably be expected to deprive the officer or employee or priority of publication; or
- (d) information the disclosure of which could reasonably be expected to be materially injurious to the financial interest of the Federal Republic of Nigeria, or any State or Local Government thereof, or the ability of the Federal Government, a State or Local Government to manage it economy, or could reasonably be expected to result in an undue benefit to any person including but not limited to the following information-
 - (i) the currency, coinage or legal tender of the Federal Republic of Nigeria,
 - (ii) a contemplated change in the rate of banks interest or in government borrowing;
 - (iii) a contemplated change in tariff rates, taxes duties or any other revenue source,
 - (iv) a contemplated change in

- the conditions of operation of financial institution; and
- (v) a contemplated sale or purchase of securities or of foreign or Nigerian currency.

17. Personal information.

17. -(1) Subject to subsection (2), the head of a government and of public institution shall refuse to disclose any record requested under this Act that contains personal information. Information exempted under this subsection shall include:

17. (Provision retained as in Bill)

- (i) files and personal information maintained with respect to clients patients, residents, students, or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or government and or public institution.
- (ii) personnel files and personal information maintained with respect to employees appointees or elected officials of any government and/or public institution or applicants for such positions;
- (iii) files and personal information maintained with respect to any applicant, registrant or licensee by any government and/or public institution cooperating with or engaged in professional or occupational registration, licensure and or discipline;
- (iv) information required of any tax payer in connection with the assessment or collection of any tax unless disclosure is otherwise requested by state statute; and
- (v) information revealing the identity of persons who file complaints with or provide information to administrative, investigate, law enforcement or panel agencies.

(2) The head of government and or public institution may disclosure any record requested under this Act that contains personal information if -----

- (a) the individual to whom it relates consents to the disclosure;
- (b) the information is publicly available

(3) Where disclosure of any information referred to in this section would be in the public interest, and if the public

interest in the disclosure of such information clearly outweighs the protection of the privacy of the individual to whom such information relates, the head of the government and/or public institution to whom a request for disclosure is made shall disclose such information.

18. Third party information

18.-(1) Subject to this section, the head of a government and / or public institution shall *refuse* to disclose any record requested under this Act that contains.

18.- (Provision retained as in Bill)

- (a) Trade secrets and commercial or financial information obtained from a person or business where such trade secrets or information are proprietary, privilege or confidential, or where disclosure of such trade secrets or information may cause competitive harm. Nothing constrained in this subsection shall be construed to prevent a person or business from consenting to disclosure.
- (b) information the disclosure of which could reasonably be expected to interfere with the contractual or other negotiations of a third party
- (c) proposal and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person.

(a) (Provision retained as in Bill)

(b) (Provision retained as in Bill)

(c) (Provision retained as in Bill)

(2) The head of a government and or public institution shall, pursuant to subsection (1), *refuse* to disclose a part of a record if that part contains the result or product of environmental testing carried out by or on behalf of a government and/or public institution.

(2) (Provision Retained as in Bill)

(3) Where the head of a government and or public institution discloses a record requested under this Act, or a part thereof that contains the results of a product or environmental testing, the head of institution shall at the same time as the record or part thereof is disclosed provide a person who requested the record with a written explanation of the methods used in conducting the test.

(3)Where the head of a government and or public institution discloses a record requested under this Act, or a part thereof, that contains the results of an environmental testing, *the head of a government and or public institution shall, simultaneously* as the record or part thereof is *being* disclosed, provide a person who requested the record with a written explanation of the methods used in conducting the test.

(4) The head of a government and public institution shall disclose any record requested under this Act, or any part thereof, that contains information described in paragraph (1) (a) and (b) if that disclosure would be in the public

(4) The head of a government and or public institution shall disclose any record requested under this Act, or any part thereof, that contains information described in paragraph(1)(a)and (b) if that disclosure *shall* be in the public interest as it

interest as it relates to public health, public safety or protection of the environment and, if the public interest in disclosure clearly outweighs in importance any financial loss or gain to, or prejudice to the competitive position of, or interference with contractual or other negotiation of a third party.

relates to public health, public safety or protection of the environment and, if the public interest in disclosure clearly outweighs in importance any financial loss or gain to, or prejudice to the competitive position of, or interference with contractual or other negotiation of a third party.

19. Advice, etc.

19.-(1) The head of government and or public institution may refuse to disclose any record requested under this Act that contains preliminary drafts, notes, recommendations, memoranda and other records, in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion thereof shall not be exempted when the record is publicly cited and identified by the head of the government and / or public institution. The exemption provided in this subsection extends to all those records of officers and agencies of National or State House of Assemblies which pertain to the preparation of legislative document.

19.-(1) The head of government and or public institution may refuse to disclose any record requested under this Act that contains preliminary drafts, notes, recommendations, memoranda and other records, in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion thereof shall not be exempted when the record is publicly cited and identified by the head of the government and / or public institution. The exemption provided in this subsection extends to all those records of officers and agencies of National or State *House of Assemblies* which pertain to the preparation of legislative document.

(2) Subsection (1) does not apply in respect of a record that contain -

(2) Subsection (1) does not apply in respect of a record that contain -

- (a) an account of, or a statement of reasons for a decision that is made in the exercise of a discretionary power or an adjudicative function and which affect the rights of a person; or
- (b) a report prepared by consultant or an adviser who was not, at the time the report was prepared, an officer or employees of a government and/or public institution or a member of staff of a Minister of the Federal Government or Commissioner of a State Government.

- (a) (Provision retained as in Bill)
- (b) a report prepared by Consultant or an adviser who was not, at the time the report was prepared, an officer or employees of a government and/or public institution or *personal staff of appointed public officer*.

20. Legal Practitioner/ Client privilege

20. The head of a government and or public institution may refuse to disclose any record requested under this Act that contains information that is subject to Legal Practitioner-Client privilege.

20. (Provision retained as in Bill)

21. Course or Research Materials.

21. The head of a government and or public institution may refuse to disclose any record requested under this Act which contains course materials or research materials prepared by faculty members.

21. The head of a government and or public institution may refuse to disclose any record requested under this Act which contains course or research materials in process or prepared by faculty members.

22. Severability

22. Notwithstanding any other provision of this Act, where a request is made to a government and or public institution for access to a record that the head of the institution is authorized to refuse to disclose under this Act by reason of information or other material contained in the record, the head of the institution shall disclose any part of the record that does not contain, and can be severed from any part that contains any such information or material.

22. (Provision retained as in Bill)

23. Judicial review

23. Any person who has been refused access to, a record requested under this Act, or a part thereof may apply to the Court for a review of the matter within thirty days after the head of the government and/or public institution refuses or is deemed to have refused the request, or within such further time as the Court may either before or after the expiration of those thirty days fix or allow.

23. (Provision retained as in Bill)

24. Refusal by head of government and or public institution to disclose records.

24. The head of a government and or public institution may refuse to disclose any record requested under this Act that contains information pertaining to:

24. (Provision Retained as in Bill) Amendment in marginal note only.

- (a) test questions, scoring keys and other examination data used to administer an academic examination or determine the qualifications of an application for a licence or employment.
- (b) architects' and 'engineers' plans for building not constructed in whole or in part with public funds and for buildings construed with public funds, to the extent that disclosure would compromise security, and
- (c) library circulation and other records identifying library users with specific materials.

25. Hearing in a summary way.

25. An application made under section 23 shall be heard and determined summarily.

25. (Provision retained as in Bill)

26. Access to Record by Court

26. Notwithstanding anything contained in any other *Decree* Act or enactment or any privilege under the law of evidence, the Court may, in the course of any proceedings before the Court arising from an application under section 23 of this Act, examine any record to which this Act applies that is under the control of government and/or public institution, and no such record may be withheld from the Court on any ground.

26. Notwithstanding anything contained in any other *Act* or enactment or any privilege under the law of evidence, the Court may, in the course of any proceedings before the Court arising from an application under section 23 of this Act, examine any record to which this Act applies that is under the control of government and/or public institution, and no such record may be withheld from the Court on any ground.

27. Court to take precautions against disclosing information.

27. In any proceedings before the Court arising from an application under section 23, the Court shall take precaution, *including when appropriate*, receiving representations *ex-parte* and conducting hearings in *camera* to avoid the disclosure by the Court or any person of any information of other material on a basis of which the head of a government and/or public institution will be authorized to disclose a part of a record requested under this Act.

27. In any proceedings before the Court arising from an application under section 23, the Court shall take precaution, when, receiving representations *ex-parte* and conducting hearings in *camera* to avoid the disclosure by the Court or any person of any information of other material on a basis of which the head of a government and/or public institution will be authorized to disclose a part of a record requested under this Act.

28. Burden of proof.

28. In any proceedings before the Court arising from an application under Section 23, the burden of establishing that the head of a government and or public institution is authorized to refuse to disclose a record under this Act or a part thereof shall be on the government and/or public institution concerned.

28. (Provision retained as in Bill)

29. Order to disclose Records

29.-(1) Where the head of a government and or public institution refuses to disclose a record requested under this Act, or a part thereof on the basis of a provision of this Act, the Court shall order the head of the institution to disclose the record or part thereof to the person who requested for access to the record-

29. (Provision retained as in Bill)

- (i) if the Court determines that the head of the institution is not authorized to refuse to disclose the record or part thereof; or
- (ii) where the head of the institution is so authorized, but the Court nevertheless determines that the head of the institution did not have reasonable grounds on which to refuse to disclose the record or part thereof;
- (iii) where the court makes a finding that the interest of the public in having the record being made available is greater and more vital than the interest being served if the application is refused, in whatever circumstances.

(2) Any order the Court makes in pursuance of this section may be made subject to such conditions as the Court deems appropriate.

30. Exempted material.

30. This Act does not apply to –
(a) published materials or material available for purchase by the public.
(b) Library or museum material

30. (Provision retained as in Bill)

made or acquired and preserved solely for public reference or exhibition purpose; or

- (c) material placed in the National Library, the National Museum or the non-public section of the National Archives of the Federal Republic of Nigeria on behalf of any person or organization other than a government and/or public institutions.

31. Protection of public officers
Cap. 77
LFN, 1990
Cap. 245
LFN, 1990
Cap. 335
LFN, 1990.

31.-(1) Notwithstanding anything contained in the Criminal Code, Penal code, the Official Secrets Act, or any other enactment, no civil or criminal proceedings shall lie against any government and or public institution, or against any person acting on behalf of the government and or public institution, and no proceedings shall lie against the Federal Government, State or Local Government any institution thereof, for the disclosure in good faith of any record or any part of a record pursuant to this Act, for any consequences that flow from that disclosure, or for the failure to give any notice required under this Act, if care is taken to give the required notice.

31. (Provision Retained as in Bill)

(2) Nothing contained in the Criminal Code or the Official Secret Act shall prejudicially affect any public officer who, without authorization disclose to any person any public record and / or information which he reasonably believes to show.

- (a) a violation of any law, rule or regulation;
- (b) mismanagement, a gross waste of funds, fraud, and abuse of authority; or
- (c) a substantial and specific danger to public health or safety notwithstanding that such information was not disclosed pursuant to the provision of this Act.

(3) No civil or criminal proceedings shall lie against any person receiving the information or further disclosing it.

32. Document Under security Classification
Cap. 335
LFN, 1990

32. -(1) The fact that any record in the custody of government and/or public institution is kept by that institution under security classification or is a classified document within the meaning of the Official Secrets Act does not preclude it from being disclosed pursuant to a request for disclosure

32. (Provision Retained as in Bill)

thereof under the provisions of this Act, but in every case the head of the government and/or public institution to which a request for such record is made shall decide whether such record is of a type referred to in section 14, 15, 16, 17, 18, 19 20 or 21 of this Act.

(2) If the head of the government and or public institution to which the request for a record mentioned in sub-section (1) is made decides that such record is referred to in sub-section (1) hereof, referred to such record shall be given to the person requesting for such access.

(3) If the head of the government and or public institution to which the request for a record mentioned in sub-section (1) is made decides that such record is of a type mentioned in the sections referred to in sub-section (1) thereof, he shall give notice to the person requesting for the record.

33. Submission of Reports.

33. - (1) On or before February 1 of each year, each government or public institution shall submit to the Attorney General of the Federal Republic of Nigeria a report which shall cover the preceding fiscal year and which shall include-

- (a) the number of determinations made by the Government of Public Institution not to comply with request for records made to such Government or public Institution under this Act and the reasons for each such determinations;
- (b) the number of appeals made by persons under this Act, and the reason for the action upon each appeal that results in a denial of information;
- (c) a description of whether a court has upheld the decision of the Government or Public Institution to withhold information under such circumstances and a concise description of the scope of any information withheld.
- (d) the number of request for records pending before the Government or Public Institution as of October 31 of the preceding year and the median number of days that such request had been pending before the Government or public institution as of that date.;

33. - (1) On or before February 1 of each year, each government or public institution shall submit to the Attorney General of the Federal Republic of Nigeria a report which shall cover the preceding fiscal year and which shall include-

- (a) the number of determinations made by the Government and or Public Institution not to comply with request for records made to such Government and or public Institution under this Act and the reasons for each such determinations;
- (b) (Provision retained as in Bill)
- (c) a description of whether a court has upheld the decision of the Government and *or* Public Institution to withhold information under such circumstances and a concise description of the scope of any information withheld.
- (d) the number of request for records pending before the Government and *or* Public Institution as of October 31 of the preceding year and the median number of days that such request had been pending before the Government and or public institution as of that date;

- (e) the number of request for records received by the Government or Public Institution and the number of requests which the Government or Public Institution process;
- (f) the median number of days taken by the Government or Public Institution to process different types of request;
- (g) the total amount of fees collected by the Government or Public Institution to process such requests; and
- (h) the number of full-time staff of the Government or Public Institution devoted to processing requests for records, and or the total amount expended by the government or Public Institution for processing such requests.

(2) Each government or public institution shall make such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the Government or Public Institution, by other electronic means.

(3) The Attorney-General shall make each report, which has been submitted to him, available at a single electronic access point.

(4) He shall notify the Chairman ranking minority member of the Committee on Government Reform oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Government Affairs and the Judiciary of the Senate, not later than April of the year in which each such report is issued, that such reports are available by electronic means.

(5) The Attorney-General shall develop reporting and performance guidelines in connection with reports required by this section and may establish additional requirements for such reports as the Attorney-General determines may be useful.

(6) The Attorney-General shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this Act, the exemption involved in such case, the disposition of each case, and the cost, fees, and penalties assessed.

- (e) the number of request for records received by the Government *and or* Public Institution and the number of requests which the Government or Public Institution process;
- (f) the median number of days taken by the Government *and or* Public Institution to process different types of request;
- (g) the total amount of fees collected by the Government *and or* Public Institution to process such requests; and
- (h) the number of full-time staff of the Government or Public Institution devoted to processing requests for records, *and or* the total amount expended by the government or Public Institution for processing such requests.

(2) Each government and or public institution shall make such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the Government or Public Institution, by other electronic means.

(3) (Provision Retained as in Bill)

(4) He shall notify the *National Assembly* not later than April of the year in which each of such report is issues, that such reports are available by electronic means.

(5) (Provision retained as in Bill)

(6) The Attorney-General shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this Act, the exemption involved in such case, the disposition of each case, and the cost, fees, and penalties assessed.

(7) Such report shall also include a description of the efforts taken by the Ministry of Justice to encourage all government or public institution to comply with this Act.

(7) Such report shall also include a description of the efforts *made* by the Ministry of Justice to encourage all government and or public institution to comply with this Act.

(8) For purposes of this section, the term-

(8) Already taken care of in Clause 2

(a) "government" includes any executive department, military department, government corporation, government controlled corporation, or other established in the executive branch of the government (including the Executive Office of the President), or any other independent regulatory government or public institution and

(b) "record" means any term used in this Act in reference to information which includes any information that would be government or public institution record subject to the requirements of this Act when maintained by government or public institutions in any format, including an electronic format.

34. Complementary Procedures.

34.-(1) This Bill is intended to complement and not replace existing procedures for access to public records and information and is not intended to limit in any way access to those types of official information that have, hitherto, been normally available to the general public.

34. Expunged (Transfer to Explanatory Memorandum as item No 4)

(2) Where the question whether any public record and or information is to be made available, where that question arises under this Act, the question shall be determined in accordance with the provisions stated herein, unless otherwise exempted by this Act.

(2) Where the question whether any public record and or information is to be made available, where that question arises under this Act, the question shall be determined in accordance with the provisions stated herein, unless otherwise exempted by this Act.
(Retained as Clause 34 above)

**EXPLANATORY
MEMORANDUM**

1. This Act seeks to provide a right of access to public information or records kept by government, public institution and / or private bodies carrying out public functions for citizens and non citizens of the country.

2. This will increase the availability of public records and information to citizens of the country in order to participate more effectively in the making and administration of laws and policies and to promote accountability of public officers.

3. The Act also seeks to provide the disclosure of public records or information by public officers without authorization thereof provided it is for public interest and such officers are protected from adverse consequences flowing from such disclosure.

**EXPLANATORY
MEMORANDUM**

1. (Provision Retained as in Bill)

2. This *Act* will increase the availability of public records and information to citizens of the country in order to participate more effectively in the making and administration of laws and *policies* and to promote accountability of public officers.

3. (Provision Retained as in Bill)

4. This Act is intended to complement and not replace existing procedures for access to public records and information and is not intended to limit in any way access to those types of official information that have, hitherto, been normally available to the general public.
(Transfer from 34(1))

Comments on Recommendations by the House Committee on Information

Section 1 - Short Title

The Committee's recommendation in this regard should be amended to read "Access to Public Records and Information Act." This would more appropriately capture the spirit and letter of the law, as well being more in consonance with the explanatory note on the cover page of the bill.

Section 2 - Interpretation

The definition of court as contained in the Committee's recommendation is highly erroneous. This is because the expression "court" as used in the bill cannot be defined to mean anywhere the official information is kept. On the contrary the records referred to in the bill are those kept by any organ/agency of the three tiers of government. Consequently we propose that the definition given to the expression "court" as stated in the bill contained in the Official Gazette should be retained.

The definition of Public/Government Institution as stated in the bill contained in the Official Gazette being more expansive in scope than the Committee's recommendation, should be retained.

The definition of public record as stated in the Official Gazette version of the bill should be retained because it is much more encompassing than that which is stated in the Committee's recommendation.

The Committee's recommendation regarding what photographic material would qualify as public record should be retained because although it is identical to what is contained in the Official Gazette version of the bill, it goes a little further by correcting a slight anomaly in the spelling of the word "device" as stated in the original version in the Gazette.

The definition of "person" in the version of the bill contained in the Official Gazette, being more elaborate than that contained in the committee's recommendation, should be retained.

The definition of the expression "personal information" as stated in the Official Gazette version of the bill should be retained because it is more appropriate, especially when viewed against the background of the focus of the bill. Moreover, the Committee's recommendation in this wise is too broad in scope and cannot by any stretch of imagination be termed the proper definition of personal information, as it would amount to an attempt to bring a lot of otherwise public information within the realm of personal information in order to facilitate their exclusion from the ambit of records to which an applicant is allowed access under the terms of this draft legislation

The definition of "Public Officer" as contained in the Official Gazette version of the bill should be retained in place of the Committee's recommendation because it is more expansive in scope.

Section 3 - Right of Access to Information

3(1) Save for changing the expression “every person” as stated in the version of the bill contained in the Official Gazette, to “any person” the Committee’s recommendation here in is a reproduction of what is contained in the official gazette.

3(2) The provision contained in the Official Gazette version of the bill being more appropriate on this point than the Committee’s recommendation, should be retained in place of the latter.

3(3) The provision contained in the Official Gazette version of the bill by virtue of its being more clear cut and detailed should be retained. Another reason why the Committee’s recommendation should be jettisoned is because it introduces undue limitation on the applicant’s rights herein by providing for regulations prescribing how to deal with such matters as those envisaged herein.

Section 6 – Notice Where Access to Record is Required

The Committee’s recommendation of 14 days time limit for considering applications for access to records appears unduly lengthy. In view of the fact that we expect that in most applications of this nature, time would be of the essence, we would like to submit that the 7 days time limit provided for in the Official Gazette version of the bill seems more appropriate and so should be retained.

Section 8 – Extension of Time Limit

The committee’s recommendation, by virtue of the fact that it takes care of a repetition contained in the Official Gazette version of the bill, while still retaining the same thrust as the latter, should be retained.

Section 10 – Fees

10(1) For failing to include the expression “regulation” after the word public, the committee’s recommendation should be jettisoned in favour of what is contained in the Official Gazette version of the bill, which though similar to the former, does not suffer from this anomaly.

10(1)(c) The Committee’s recommendation herein basically corrects the grammatical error in the use of the expression “duplicate” as stated in the Official Gazette version of the bill.

10(2) Save for the need to correct some repetition and grammatical errors contained in the Official Gazette version of the bill, it is our submission that the provision should be retained because it is more expansive in scope in that it provides for access to records either free of charge or at subsidized rates, where the request for access to the information/record is being done for a public purpose and not a commercial one.

10(3) Save for the need to change the expression “duplicate” to “duplication”, as stated in the Committee’s recommendation, we feel that the provision as stated in the Official Gazette version of the bill should be retained because it is clearer and more easily understandable.

10(6)&(7) We do not share the view of the Committee to the effect that both provisions contained in the official gazette should be expunged. We hold this opinion in view of the fact that we feel that expunging both provisions substantially erodes the public interest element of access to records, given herein, to the generality of the citizenry irrespective of their financial standing, which is at the heart of the proposed law.

Section 11 – Destruction or Falsification of Records

While concurring with the thrust of the Committee’s recommendation, which basically expands the scope of penalties for this offence by providing for an option of fine, we do submit that the amount fixed by the Committee, be substantially increased. We think that this would serve as a more useful deterrent to potential offenders, because for any official to willfully destroy/falsify any public record before releasing it to the applicant, he/she must have very strong wrongdoing to protect and a fine of N500,000 might not be a strong enough deterrent to prevent such a public officer from actualizing his or her sinister objective.

Section 12 – Access to Records

12(3)(c) The Committee’s recommendation is the same as the provision contained in the Official Gazette version of the bill.

12(4) The Committee’s recommendation should be jettisoned because it fails to capture appropriately the essence of this portion of the bill, which essentially seeks to ensure that an applicant is not denied access to a document on the basis of any increased cost incurred in providing access to records to an applicant in a form other than that in which he requested for it.

Section 13 –Where Information is not Available Distinct Form

13(a) & (b) The Committee’s recommendation being simpler in nature, due to the fact that it basically translates the expression “discrete” used in the Official Gazette version of the bill into such simpler expressions as “separate and distinct” which might be more easily understood by more people, should be retained.

Section 18 – Third Party Information

18(3) The Committee’s recommendation being more elegantly drafted, should be retained, with some minor modification to include product testing, which was originally provided for in the Official Gazette version of the bill. Excluding product testing from the ambit of this provision would amount to a scaling down of the scope of this provision.

18(4) The Committee’s recommendation being essentially a correction of the provision contained in the Official Gazette version of the bill, should be retained.

Section 19 – Advice

19(1) The Committee’s recommendation is basically a verbatim reproduction of what is

contained in the Official Gazette version of the bill.

19(2)(b) The provision as contained in the Official Gazette version of the bill should be retained, for being very clear and definite in scope. The expression “personal staff of an appointed public officer”, as recommended by the Committee, is overly broad for an exception such as the one contemplated in this provision.

Section 21 – Course or Research Materials

The Committee’s recommendation, even though the same in substance as the provision contained in the Official Gazette version of the bill, is more elegantly drafted and so should be retained in place of the latter.

Section 26 – Access to Record by Court

The Committee’s recommendation is the same as that contained in the Official Gazette version of the bill, except for the fact that in doing away with the expression “decree” it represents an improvement on the latter and so should be retained.

Section 27 – Court to Take Precaution Against Disclosing Information

By virtue of the fact that it is more elegantly drafted, the provision contained in the Official Gazette version of the bill, should be retained.

Section 33 – Submission of Reports

The Committee’s recommendation being more elegantly drafted, especially with the use of expression “and/or”, where appropriate, as well as simplifying the process of reporting to the National Assembly, should be retained.

Section 34 – Complimentary Procedure

34(1) Considering the strategic importance of this provision in terms of specifically safeguarding existing channels of access to public records, no matter how inadequate they maybe, we do not subscribe to the Committee’s recommendation that this provision be moved to the explanatory note to the bill. We humbly submit that it should be left to remain an integral section of the bill.