

POUNding PAVeMENTS KnOCKING On DOORS



***Campaign for access to information in Africa
... another gift to the world***

Pounding Pavements Knocking on Doors

Campaign for access to information in Africa
... another gift to the world





Editor: Edetaen Ojo

Editorial Committee: Edetaen Ojo, Gilbert Sendugwa, Reyhana Masters and Zoé Titus

Layout and Design: Bryony van der Merwe

Cover Illustration: Susan Burr

Published by *fesmedia* Africa in collaboration with the APAI

Friedrich-Ebert-Stiftung (FES)

Windhoek, Namibia

Tel: +264 61 417523

E-mail: info@fesmedia.org

www.fesmedia-africa.org

ISBN: 978-99945-77-91-0

All rights reserved.

The findings, interpretations and conclusions expressed in this volume do not necessarily reflect the views of *fesmedia* Africa. *fesmedia* Africa does not guarantee the accuracy of the data included in this work.

The sale of commercial use of all media published by FES is prohibited without the written consent of FES.



© This work is licensed under the Creative Commons' Attribution-NonCommercial – ShareAlike 2.5 Licence.

*The story of the campaign to advance
access to information with a compendium
of essays on the right to access to
information in Africa*

Expression of Appreciation

*A special word of thanks to the Friedrich Ebert Stiftung and fesmedia
Africa's Director, Freya Gruenhagen; Programme Manager, Dickson
Kasote; and former Programme Support Manager, Lis Jordan, for
assisting us to tell our story through this publication.*



Acknowledgements

His Excellency, Dr. George Manneh Weah, President of the Republic of Liberia

His Excellency, Ambassador Dee-Maxwell Saah Kemayah, Sr, then Ambassador Extraordinary and Plenipotentiary and Permanent Representative of the Republic of Liberia to the United Nations

Prof. Guy Berger, then Director, Division on Freedom of Expression and Media Development, UNESCO

Valeriano Valodia Mbemba, Ambassador and Permanent Delegate, Permanent Delegation of Angola to UNESCO, Paris

Zoé Titus, then Strategic Coordinator, Namibia Media Trust and Chairperson of the African Platform on Access to Information (APAI)

Gilbert Sendugwa, Executive Director, Africa Freedom of Information Centre (AFIC), Kampala, Uganda

Edetaen Ojo, Executive Director, Media Rights Agenda (MRA), Lagos, Nigeria

Malcolm Joseph, Executive Director, Centre for Media Studies and Peace Building (CEMESP), Monrovia, Liberia

Mukelani Dimba, then Executive Director, Open Democracy Advice Centre (ODAC), Cape Town, South Africa

Gwen Lister, Co-founder and former Chairperson, Media Institute of Southern Africa (MISA), Windhoek, Namibia

Gabriella Razzano, then Head of Research, Open Democracy Advice Centre (ODAC), Cape Town, South Africa

Gabriel Baglo, then Africa Director of the International Federation of Journalists (IFJ), Dakar, Senegal

Henry Maina, then Director of Article 19, East Africa Office, Nairobi, Kenya

Fatou Jagne-Senghore, then Director of Article 19, West Africa Office, Dakar, Senegal

Prof. Kwame Karikari, then Executive Director, Media Foundation for West Africa (MFWA), Accra, Ghana

Sulemana Braimah, Executive Director, Media Foundation for West Africa (MFWA), Accra, Ghana

Kandji Kaitira, then Regional Director, Media Institute of Southern Africa (MISA), Windhoek, Namibia

Prof. Jane Duncan, then Director, Highway Africa, Grahamstown, South Africa

Cheriff Moumina Sy, then President, The African Editors Forum (TAEF), Ouagadougou, Burkina Faso

Aishatu B. M. Sule, then Deputy President, The African Editors Forum (TAEF), Kano, Nigeria

Sampa Kangwa-Wilkie, then Programme Specialist, Freedom of Expression and Access to Information, Media Institute of Southern Africa (MISA), Windhoek, Namibia

Sadibou Marong, then Press Freedom and Communications Officer, International Federation of Journalists' Africa Office, Dakar, Senegal

Alimi Adamu, Member of the Network of Freedom of Information Lawyers of Media Rights Agenda, Lagos, Nigeria

Ricardo de Guimarães Pinto, Liaison Officer, UNESCO Liaison Office to the United Nations in New York

Sophie Mukenge, then Programme Coordinator at *fesmedia* Africa

Massimo Tommasoli, Permanent Observer for the International Institute for Democracy and Electoral Assistance (International IDEA) to the United Nations

Ambassador Philp Ochen Odida, initially Minister-Counsellor for Uganda to UNESCO in Paris and later Deputy Permanent Representative of Uganda to the United Nations in New York

Lucy Turner, Coordinator, Global Alliance for Reporting Progress on Peaceful, Just, and Inclusive Societies in New York

Ambassador Hammad Salah, Director African Governance Architecture, African Union Commission

Joe Vision Production

Bill Orme, Global Forum for Media Development (GFMD) Representative to the United Nations

Sara Brombart, then Director of *fesmedia* Africa

Mareike Le Pelley, then Director of *fesmedia* Africa

Karen Mohan, then Programme Specialist, Freedom of Expression and Access to Information, Media Institute of Southern Africa (MISA), Windhoek, Namibia, and Coordinator of the APAI working group

Jennifer Ido, then Project Officer, *fesmedia* Africa

Lis Jordan, then Programme Support Manager, *fesmedia* Africa

Jacqueline Chikakano, then Legal Officer, Media Institute of Southern Africa, Zimbabwe Chapter (MISA Zimbabwe), Harare, Zimbabwe

Sarah Faguet, then Programme Officer, Africa Freedom of Information Center (AFIC)

Acronyms

ACHPR	African Commission on Human and Peoples' Rights
AFIC	Africa Freedom of Information Centre
APAI	African Platform on Access to Information
ATI	Access to information
AU	African Union
CSO	Civil society organisation
DTCA	Department of Technical Cooperation in Africa
EFCC	Economic and Financial Crimes Commission
FES	Friedrich-Ebert-Stiftung
FOI	Freedom of information
ICPC	Independent Corrupt Practices and Other Related Offences Commission
IDUAI	International Day for Universal Access to Information
MISA	Media Institute of Southern Africa
MRA	Media Rights Agenda
NAP	National Action Plan
NGO	Non-governmental organisation
OGP	Open Government Partnership
PACAI	Pan-African Conference on Access to Information
PAIA	Promotion of Access to Information Act
PSC	Principal Administration Officer at the Police Service Commission
RTI	Right to information
SDG	Sustainable Development Goal
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGA	United Nations General Assembly
WPFD	World Press Freedom Day

Foreword

Liberia recognised the value and importance of access to information very early during its post-conflict development efforts and adopted a Freedom of Information Act in September 2010, soon after the Liberian conflict. Liberia was the first country in West Africa to pass a law which granted the public access to government-held information.

Not only were we the first country in West Africa to adopt an access to information law, our Freedom of Information Act was also declared, by independent, international civil society experts, to be among the top 10 access to information laws in the world.

In Liberia, we know that access to information can be the difference between life and death, based on firsthand experience of armed conflict and the role of information in bringing an end to the conflict.

This was reinforced when an Ebola pandemic ravaged the country. Access to information was an invaluable tool in combating this public health crisis and a major strategy for re-building and strengthening Liberia's democracy.

Based on our national experience, our position on the issue is consistent with the new United Nations development framework, namely the Sustainable Development Goals, of which goal 16.10.2 recognises public access to information as one of the key pillars of development.

We believe that access to information is an enabler of all other sustainable development goals, whether ending poverty in all its forms everywhere; ending hunger and achieving food security; ensuring healthy lives and well-being; ensuring quality education; achieving gender equality and women empowerment; promoting



...access to information
can make the difference
between life and death
in a society like ours...



peaceful and inclusive societies; building resilient infrastructure; or reducing inequalities within and among countries. Our view is that none of these goals can be achieved without access to information.

Our experience has also taught us that access to information is important for the economic development of countries and is essential for the democratic functioning of a society.

This is because access to information facilitates democratic participation by enabling citizens to be involved in decision-making on issues that affect them. It also enhances democratic accountability and good governance because it allows the public to scrutinise the actions and decisions of their leaders and assess their performance.

It is for these reasons that Liberia, under my administration, did not hesitate to provide global leadership on the issue of sponsoring a resolution at the UN General Assembly for the designation of 28 September as the annual International Day for the Universal Access to Information, following a similar resolution adopted by the UNESCO General Conference in November 2015.

Liberia is convinced that setting aside a Day to celebrate and raise awareness on the importance of access to information will create a platform for governments and citizens to reflect on the worldwide challenges to the exercise and enjoyment of this right and encourage them to seek effective ways to promote it as a tangible tool for development and the realisation of the Sustainable Development Goals.

We collaborated in this endeavour with members of the working group of the African Platform on Access to Information and are deeply appreciative of their support and commitment to our shared vision.

A handwritten signature in black ink, reading "Dr. George Manneh Weah". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

DR. GEORGE MANNEH WEAH

President of the Republic of Liberia, Monrovia

Table of Contents

Preface by Hon. Jamesina Essie L. King	2
Introduction by Edetaen Ojo	5
Pounding Pavements, Knocking on Doors by Edetaen Ojo	7
Africa's gift to the world by Reyhana Masters	16
Role of the African Commission on Human and Peoples' Rights by Adv. Pansy Tlakula	29
Putting ACTION into ATI by Zoé Titus	31
Tracking 'n tracing by Guy Berger.....	34
Using litigation as a tool to advance access to information by Edetaen Ojo	37
The open government partnership and access to information by Mukelani Dimba	40
Challenges with implementing access to information laws by Gilbert Sendugwa	43
Open contracting by Emmanuel Saffa Abdulai	46
Access to information and whistleblowing by Chido Onumah; Godwin Onyeacholem.....	49
How we lost the scoop but won the story by Stefaans Brümmer	52

Appendices

African Platform on Access to Information	58
Midrand Declaration on Press Freedom in Africa	67
The Pan-African Parliament	68
Proclamation of 28 September as the International Day for the Universal Access to Information...	72
Resolution adopted by the General Assembly on 15 October 2019.....	76

HON. JAMESINA ESSIE L. KING

Former Special Rapporteur on Freedom of Expression and Access to Information in Africa and former Commissioner, African Commission on Human and Peoples' Rights

Preface

Over the last two decades, since the first national access to information legislation in Africa was adopted by the Republic of South Africa in February 2000, the continent has embraced the right to information, recognising it as critical to the enthronelement and consolidation of participatory democracy, economic development and the advancement of its peoples.

During this period, 25 countries – just under 50 per cent of the continent – have adopted national access to information laws. Three of these national laws are rated among the 12 best RTI laws in the world on the Global Right to Information Rating (<https://www.rti-rating.org/country-data/>), namely The Gambia's Access to Information Act of 2021 (ranked No. 8), Liberia's Freedom of Information Act of 2010 (ranked No. 10), and Sierra Leone's Right to Access Information Act of 2013 (ranked No. 12). Access Info Europe and the Centre for Law and Democracy developed the RTI rating to measure the strength of the legal framework for the right of access to information held by public authorities.

Several regional instruments and other frameworks on access to information, including resolutions, declarations, conventions, and guidelines, have also been adopted over the same period, reinforcing the importance of the right to information as well as recognising and strengthening the guarantees of the public right to information in African Union (AU) member states and across the continent.



...25 countries – just under 50 per cent of the number on the continent – have adopted national access to information laws.



The African Commission on Human and Peoples' Rights (ACHPR) has played a leading role in establishing standards on the right to information in order to guide the development of national laws and the exercise and enjoyment of this right in Africa.

The ACHPR also engaged the issue through the mandate of the Special Rapporteur on Freedom of Expression and Access to Information in Africa, whose tasks include monitoring member states' compliance regarding access to information standards and the denial of access to information, recording violations, strengthening the full enjoyment of the right

to information, intervening in violation cases, issuing public statements and press releases, appealing to member states for clarification, and issuing status reports to the commission.

Its efforts to establish normative standards are evident in its adoption of the Declaration of Principles on Freedom of Expression in Africa in 2002, the Model Law on Access to Information for Africa in 2013, the Guidelines on Access to Information and Elections in Africa in 2017, and the Declaration of Principles on Freedom of Expression and Access to Information in Africa in 2019 (replacing the 2002 declaration).

In addition, the continent has also witnessed AU adoption instruments such as the Convention on Preventing and Combating Corruption (11 July 2003); the African Youth Charter (2 July 2006); the African Charter on Democracy, Elections and Governance (30 January 2007); the African Charter on Statistics (4 February 2009); and the African Charter on Values and Principles of Public Service and Administration (31 January 2011), all of which have, either expressly or impliedly, advanced access to information in different contexts.

African civil society organisations (CSOs) have played a crucial role in many of these developments, both at national and regional levels, and continue to do so. In many cases, they have motivated national processes that led to the adoption of access to information legislation.

The ACHPR has also received tremendous support from African CSOs over the years in developing its various soft law instruments and other activities that have contributed to advancing the right to information in Africa.

However, perhaps the most significant contribution by African CSOs is their international advocacy activities, in collaboration with some African governments, that led to the UN's proclamation of the International Day for Universal Access to Information (IDUAI).

This initiative dates back to the Declaration of the African Platform on Access to Information (APAI), adopted at the Pan African Conference on Access to Information in Cape Town, South Africa, in September 2011. The declaration included a call on the United Nations Educational, Scientific and Cultural Organization (UNESCO) to proclaim 28 September as International Right to Information Day and to recommend the endorsement of this Day by the UN General Assembly to raise awareness about the importance of the worldwide right of access to information.

On 17 November 2015, at its 38th Session, the UNESCO General Conference adopted the 38 C/Resolution 57, declaring 28 September of every year as IDUAI and inviting all its member states, the UN system organisations, and other international and regional organisations as well as civil society, including non-governmental organisations and individuals, to celebrate the Day in a manner each considers most appropriate.

This success was followed by further engagement by the groups at the UN General Assembly, leading to the adoption of 28 September as IDUAI on 15 October 2019, at its 74th Session of Resolution A/RES/74/5.

These developments have significant global implications. Both the UNESCO General Conference and the UN General Assembly recognised the principles established in the APAI Declaration as capable of playing "a crucial role in development, democracy, equality and the delivery of public services."

The ACHPR had earlier, on 2 May 2012, adopted Resolution ACHPR/Res. 222 at its 50th Ordinary Session, during which the commission underscored "the importance of setting aside a day to commemorate access to information as a way to raise awareness and emphasise the importance of this right, and promote the ideals of good governance and accountability."

This publication is a collection of essays and articles by many actors in Africa's right

to information arena. It tells the story of a continent that, although a relative late-comer to the access to information campaign, decided to take on the role of a champion. This publication celebrates some of the successes, sharing the hopes and struggles of advocates as well as ongoing challenges to the full realisation of the right to information in Africa.

Introduction

On 19 September 2011, nearly 1,000 African information and media stakeholders, joined by partners and collaborators from other parts of the world, adopted a landmark declaration of the African Platform on Access to Information (APAI) at a special session of the Africa Information and Media Summit held in Cape Town, South Africa, from 17 to 19 September 2011.

The summit was a joint final session of several conferences and meetings, including the Pan African Conference on Access to Information, the Highway Africa Conference, the Digital Citizens Indaba (a meeting of bloggers), the meeting of The African Editors Forum, the meeting of the South African National Editors Forum, the African Media Initiative (representing media owners), and the workshop of Journalism Educators (drawn from the Centres of Excellence in Journalism Education of UNESCO).

The APAI Declaration was proposed by the Pan African Conference on Access to Information, which was organised by the Windhoek+20 Campaign in partnership with UNESCO, the African Union Commission and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights.

The preamble of the APAI Declaration explicitly referred to the 1991 Windhoek Declaration on Promoting an Independent and Pluralistic African Press and the significant progress made regarding freedom of expression, access to information and the free flow of information. It affirmed that access to information "is the right of all natural and legal persons, which consists of the right to seek, access and receive information from public bodies and private



The declaration provides guidance and sets standards for the application of principles...



bodies performing a public function and the duty of the state to prove such information."

The substantive part of the APAI Declaration is the 14 Key Principles, which outlines some of the most critical issues and standards relating to access to information laws and their implementation. The following section, Application of Principles, provides guidance and standards for the application of the principles in 13 substantive areas, namely Elections and Electoral Processes, Disadvantaged Communities, Women, Children, Environmental Information, Education, Health, the Fight Against Corruption, Aid Transparency, Natural Resources Transparency, Media and Information Literacy, and Access to Information and Communications Technologies.

The final section is a Call to Action, which targets several institutions and sectors, each required to carry out specific actions or play particular roles in promoting access to information and advancing the declaration. These sectors/institutions include UNESCO, the African Union, African regional organisations, national governments of AU member states, civil society, the media, business sector companies, and public and private donors.

Through the Call to Action, the APAI working group sought three main outcomes, namely:

- A proclamation by the UNESCO General Conference and, ultimately, the UN General Assembly of 28 September as International Access to Information Day, a date to raise awareness about the importance of the right of access to information throughout the world.
- The adoption by the AU Summit of 28 September as African Access to Information Day.
- The development and adoption by the AU of a legally binding instrument on access to information in Africa.

Advocate Pansy Tlakula, then Special Rapporteur, Freedom of Expression and Access to Information in Africa who later became the Chair of the African Commission on Human and Peoples' Rights, moved the motion for the adoption of the APAI Declaration and was seconded by Hon. Norris Tweah, Deputy Minister of Information for Liberia. Participants thereafter voted to adopt the declaration.

The declaration was formally signed by Advocate Tlakula, Special Rapporteur, Freedom of Expression and Access to Information in Africa; Mr Frank la Rue, Director of Information and Communication at the African Union Commission; Mrs Habiba Mejri-Cheih, Deputy Minister of Information for Liberia; Hon. Norris Tweah; Mr Cherrif Sy, President of the African Editors Forum; Mr Omar Farouk, President of the

Federation of African Journalists, on behalf of FAJ and the International Federation of Journalists; Mrs Alison Meston of the World Association of Newspapers and News Publishers; Mr Toby Mendel, Chair of the Steering Committee of the Freedom of Information Advocates Network; the global network of freedom of information advocates; and others.

Pounding Pavements, Knocking on Doors

A Campaign to Advance Access to Information

The story of the African Platform on Access to Information began in 2009 with a meeting of like-minded organisations. Advocates passionate about media freedom and democratic development in Africa came together to plan the 20th anniversary celebration of the Windhoek Declaration, which was two years away.

During the meeting, the group discussed the scope, impact and relevance of internet rights and freedoms or the lack thereof as a possible focus of the celebration. However, it was decided that access to information in Africa should be brought into the spotlight in 2011.

The idea behind this was, and remains, simple – every person in Africa should have, and be able to enjoy, the right of access to information.

Africa has a population of over a billion people. At the time of the 2009 meeting, only four African countries had a national access to information law, which meant that only a small percentage could potentially benefit. Without effective implementation, the existence of a law guaranteeing public access to information does not in itself ensure the full enjoyment of such a right.

In 1991, African journalists from all over the continent had met in Windhoek, Namibia, to participate in a seminar convened by UNESCO. On their last day together, 3 May 1991, the seminar adopted the Windhoek Declaration on Promoting an Independent and Pluralistic African Press.



... every person in Africa should have, and be able to enjoy, the right of access to information.



The declaration, later known as the Windhoek Declaration, called for free, independent and pluralistic media worldwide and boosted media development and freedom of expression in Africa and beyond.

World Press Freedom Day is celebrated globally every year on 3 May in honour of this historic achievement.

A decade later, in May 2001, at the invitation of UNESCO and the Media Institute of Southern Africa (MISA), a new generation of freedom of expression advocates and media professionals met, deliberated and adopted a document with a special focus on the broadcast sector and, in

particular, on radio and television – the African Charter on Broadcasting.

With its founding members and an expansion of the group in early 2011, the final Windhoek +20 working group was made up of nine organisations, namely:

- Africa Freedom of Information Centre
- Article 19 (East and West Africa)
- Federation of African Journalists
- Highway Africa
- Media Foundation for West Africa
- Media Institute of Southern Africa
- Media Rights Agenda
- Open Democracy Advice Centre
- The African Editors' Forum

The group wanted to create a movement to advance information access in Africa and was keenly aware that access to information was often seen as an issue merely concerning media professionals.

To build a strong movement, nurture and direct it to a successful outcome, it was necessary to convey a significant message to a broad audience: that access to information affects each person's entire sphere of life while having the power to better lives, improve participation, encourage good governance, help a country's economy and advance social and economic equality.

Because of this omnipresent importance, access to information is now recognised as a human right and an enabling right, impacting on the exercise and enjoyment of other fundamental rights.

The Windhoek +20 Coalition was formed to achieve this goal and comprised a unique coalition of experts. Many of them worked in management roles and had substantial experience promoting open and transparent democracy, access to information, media freedom, freedom of expression and civic participation on the continent, at national, regional and continental levels.

The group built partnerships across many relevant sectors, including:

- African Media Initiative
- African Union Commission
- Declaration of Table Mountain Campaign of the World Association of Newspapers
- Friedrich-Ebert-Stiftung/*fesmedia* Africa
- Freedom House
- Free Press Unlimited
- Google
- National Media Group
- New Partnership for Africa's Development
- Open Society Foundation
- Open Society Initiative of South Africa
- Reporters Without Borders (Swedish chapter)
- Special Rapporteur on Freedom of Expression and Access to Information in Africa
- UNESCO
- UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression

The Story of the African Platform on Access to Information

The group had a strong spirit of collaboration from the beginning, perhaps because they had worked on other projects together and had exchanged ideas at various meetings, workshops and conferences worldwide.

With their combined sets of expertise, capacities, and networks, they embarked on implementing various activities that would lead to adopting a comprehensive and authoritative instrument.

The group's original mandate was to serve as a platform of action to advance the right of access to information in all its dimensions, regionally and internationally.



They now combined their forces ... for the achievement of a common goal they all strongly believed in...



As a first step, a continental conference on access to information was held on the 20th anniversary of the Windhoek Declaration to raise awareness, bring together regional and international experts, and create momentum. It was hoped that this conference would be held in Windhoek on World Press Freedom Day 2011 and that UNESCO would attend. UNESCO had unfortunately already committed to a 2011 WPFDF celebration in Washington, D.C. However, UNESCO agreed to fully support an access to information conference later in the year. Therefore, it was decided that a Pan-African Conference on Access to Information (PACAI) should take place in September 2011.

The sponsors of the conference included:

- Media24
- Knight Foundation
- Swedish Development Aid
- South African Tourism
- City of Cape Town

The conference was held in Cape Town, South Africa, alongside the annual Highway Africa conference. The group attracted partnership support from 15 crucial organisations and received support and sponsorship commitments from five others.

The working group's relationship with the Special Rapporteur on Freedom of Expression and Access to Information in Africa, Advocate Pansy Tlakula, began during this time. The campaign needed a champion, and that champion was found in the Special Rapporteur, who was

passionate about the issue and committed to advancing the right to information in Africa and beyond. The group and Advocate Tlakula would continue this fruitful collaboration throughout the years to come, years filled with valuable guidance and counsel as well as substantial achievements.

The highlight of the PACAI was during the final session on 19 September 2011, which linked PACAI to other events taking place in Cape Town simultaneously. This historic moment marked the first time that the complete value chain of African media and information stakeholders came together.

As soon as the APAI Declaration was adopted, members of the Windhoek+20 Campaign, later known as the APAI working group, launched a multi-pronged advocacy campaign to give effect to the declaration, literally pounding pavements and knocking on doors across the African continent and around the world.

Beginning in late 2011, the campaign spanned different continents and culminated in adopting a resolution by the UN General Assembly on 15 October 2019 (which endorsed an earlier resolution by UNESCO's General Assembly in 2015) proclaiming 28 September as International Day for Universal Access to Information.

The advocacy efforts were aimed primarily at the African Commission on Human and Peoples' Rights, the Pan-African Parliament, UNESCO, and the UN General Assembly.

Members of the APAI working group sought endorsements of the declaration at a national level, with the expectation that this would bolster advocacy efforts at regional and international levels, part of which would be aimed at getting the African Union and the United Nations to recognise the declaration, apply its principles and proclaim 28 September as International Right to Information Day. At the time, 28 September was celebrated annually by civil society organisations worldwide as Right to Know Day.

The APAI Declaration was subsequently endorsed by over 260 organisations, institutions and individuals, as well as representatives of regional and international organisations, national governments, civil society, trade unions and professional bodies, including:

- The African Commission on Human and Peoples' Rights by its Resolution 222, adopted in May 2012;
- The Pan African Parliament, through the Midrand Declaration on Press Freedom in Africa, adopted in May 2013;
- Ms Habiba Mejri-Cheikh, Director of Information and Communication at the African Union Commission;
- The Government of Nigeria, represented by then Minister of Information, Mr Labaran Maku;
- The Government of South Africa, represented by then Deputy Minister of Communications, Hon. Obed Bapela;
- Mr Frank LaRue, then UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; and
- Mr Janis Karklins, then Assistant Director-General of UNESCO.

The group now had a powerful tool in its hands: a landmark African declaration on access to information with guiding principles, that looked at access to information in its entirety as a right that furthered development in various spheres and was relevant to numerous sectors and society at large. In this spirit, the APAI Declaration focused on, among other pertinent issues: access to information and elections, access to information and health, access to information and children, and access to information and persons living with disabilities.

For the first time in Africa, there was a single document that elaborated on the right of access to information on the continent, set standards and guided lawmakers in the establishment of an effective law, and provided detailed advice



...members hoped to strengthen the framework for access to information on the continent.



on how African organisations, governments, institutions and people should organise themselves around the issue of public access to information.

The declaration enjoyed the benefit of a broad sense of ownership. During its drafting process, the working group reached out to various regional and international stakeholders who made significant inputs which shaped the APAI Declaration.

Members regularly held APAI working group meetings to plan and identify priorities based on the strategies set out in the APAI Declaration. Their efforts were supported by, and in partnership with, *fesmedia* Africa, the media programme of the Friedrich-Ebert-Stiftung foundation, and the Open Society Initiative for Southern Africa.

On the institutional level, the members focused their energy on two main objectives:

1. The expansion of Article IV of the Declaration of Principles on Freedom of Expression in Africa, adopted by the African Commission on Human and Peoples' Rights in 2002, to incorporate the key principles of the APAI Declaration for more open and inclusive access to information, and
2. the universal recognition of a Right to Information Day, a day to raise awareness about the importance of access to information around the world, and a day on which the global community comes together to join forces in their advocacy initiatives.

As part of the campaign to ensure the full enjoyment of access to information by all people in Africa, members engaged in activities to achieve the following outcomes:

1. Recognition of the Day by the African Union; and
2. the expansion of Article IV of the Declaration of Principles led by the Special Rapporteur of Freedom of Expression and Access to Information in Africa.

The working group also conducted a mission to the headquarters of the African Commission in Banjul, The Gambia, between 18 April and 2 May, on the 50th Ordinary Session of the African Commission. Here a significant milestone was achieved.

Advocate Tlakula, the Special Rapporteur on Freedom of Expression and Access to Information in Africa, presented the APAI Declaration to the commission and requested a resolution authorising her to use this declaration to elaborate on and expand the freedom of information provisions in the Declaration of Principles on Freedom of Expression in Africa; recommend to the African Union Summit to adopt 28 September as the African Right to Information Day, and recommend to the African Union Summit to initiate a process of developing a legally binding instrument on the right of access to information based on the APAI Declaration.

On 2 May 2012, the African Commission adopted Resolution 222, the “Resolution to modify the Declaration of Principles on Freedom of Expression to include Access to Information and Request for a Commemorative Day on Freedom of Information.”

In this, the Commission underscored that the right to access to information is “essential for the recognition and achievement of every person’s civil, political and socio-economic rights, and as a mechanism to promote democratic accountability and good governance.”

Noting the APAI Declaration adopted by the PACAI Conference in Cape Town, it expressed the conviction that “it is of critical importance that clear and comprehensive principles are established to guide the promotion and protection of the right of access to information in Africa through the adoption and effective implementation of appropriate national laws and regulations.”

The commission underlined the importance of setting aside a day to commemorate access to information as a way to raise awareness, emphasise the importance of this right, and promote the ideals of good governance and accountability, and acknowledged that civil society organisations and government bodies around the world had adopted 28 September as international Right to Know Day.

Therefore, the Special Rapporteur was authorised to initiate expanding Article IV of the Declaration of Principles on Freedom of Expression in Africa to include access to information and requested the AU consider proclaiming the Day.

In terms of its import, Resolution 222 of the African Commission:

1. Recommended that the African Union recognise 28 September as International Right to Information Day in Africa.
2. Authorised the Special Rapporteur to expand Article IV of the Declaration of Principles.

With this milestone achieved, members of the working group then travelled on advocacy missions to the African Union Commission in Addis Ababa, Ethiopia. They sought guidance on procedures and strategies for the recognition of the Day by the African Union. Members were thus able to identify possible courses of action.

The advocacy trips successfully put the issue on the agenda, kept APAI visible, clarified policy processes, and mobilised support from the African Union Commission, although the ultimate objective – the proclamation of 28 September

as the African Right to Information Day – had not yet been achieved.

Members of the APAI working group also travelled to Banjul on various occasions to attend the African Commission's sessions, organise and attend side meetings, and engage with commissioners on the issue of expanding Article IV of the Declaration of Principles. Members also participated in consultative expert and stakeholder meetings at the invitation of the Special Rapporteur. Draft texts broadening Article IV of the Declaration of Principles were produced and reviewed.

On 18 June 2016, the African Commission adopted Resolution 350 at its 20th Extraordinary Session, in which it revised the Declaration of Principles, taking into account regional developments in the sphere of freedom of expression and access to information since the declaration's adoption in 2002.

In terms of strengthening the framework for access to information on the continent, the working group achieved another objective with the adoption of the Model Law on Access to Information in Africa by the African Union on 25 February 2013. The African Commission had developed this instrument through the Special Rapporteur.

In May 2013, the Pan African Parliament adopted the Midrand Declaration on Press Freedom in Africa, which recognised the APAI Declaration and called on the AU member states to review and adopt access to information laws per the ACHPR Model Law on Access to Information. Notably, the number of countries with access to information laws increased from five in 2011 (when the APAI Declaration was adopted) to 25 in 2021.

From 2013 onwards, members primarily directed their energies towards the recognition of 28 September at UN level, beginning with UNESCO in Paris and then moving on to the UN General Assembly in New York, both of which were the theatres for the most significant

advocacy efforts carried out by the APAI working group.

Six missions to the UNESCO headquarters in Paris were conducted between 2013 and 2015, ostensibly to engage the UNESCO Secretariat and national delegations to UNESCO, and to address the plenary sessions of the UNESCO Africa Group. These efforts were accompanied by letter-writing campaigns and outreach to governments and UNESCO representatives.

Members returned from each mission with numerous lessons learnt, insights gained, and advice received. This was then applied to strategising and prioritising activities and subsequent engagements.



A major milestone was achieved with the adoption of Resolution 222 by the African Commission...



Much attention was given to the Africa Group within UNESCO since the working group sought to represent and advance an African initiative. From the very first set of deliberations, it was clear that many of the African delegations shared the same goals and vision.

From 2012 to 2015, teams from the APAI working group met with scores of national delegations from African countries to UNESCO. They also addressed the African Group collectively on three separate occasions to discuss the need for the resolution and build support for it.

The APAI working group also solicited the support of representatives of dozens of national delegations from other regions, mainly Europe, Latin America and Asia.

The proposal had the support of the entire African Group, the draft resolution was co-sponsored by three African countries, namely Angola, Nigeria and Morocco.

At its meeting on 19 October 2015, where the proposal was first considered within the formal structures of UNESCO, the Executive Board approved the principles established in the APAI Declaration, saying that it “recognizes that these principles are essential to development, democracy, equality and the delivery of public services.”

In justifying its Resolution, which contained a recommendation to the 38th Session of UNESCO’s General Conference to proclaim an International Right to Information Day, the Executive Board said: “As stipulated by the declaration of the African Platform on Access to Information: ‘... access to information (ATI) is the right of all natural and legal persons, which consists of the right to seek, access and receive information from public bodies and private bodies performing a public function and the duty of the State to provide such information.’”

It noted that despite the fundamental importance of the right of access to information in the facilitation of all other rights and the creation of a fair and equitable society, there are still countries that do not have national legislation on access to information as a specific expression of the law.

The Executive Board stressed that: “People around the world are increasingly demanding greater civil participation in public affairs and seeking transparency. In this context, international law targeting an access to information day is necessary to promote the right to information. The establishment of a specific date provides a coherent message at the international level and facilitates coordination of joint initiatives on public awareness and elucidation by organizations in the coherence of a universally recognized day.”

It argued that while the promotion of information and transparency is clearly an ongoing activity throughout the year, a Day marked by collaboration was important for advocacy.

Therefore, the Executive Board recommended that the General Conference adopt 28 September as International Access to Information Day and proposed additional language for approval and adoption by the General Conference in the proposed resolution to proclaim the Day.

At the 38th Session of the General Conference in Paris from 3-18 November 2015, it adopted a resolution proclaiming 28 September as International Day for Universal Access to Information (IDUAL). Also, it took note of the APAI Declaration and the principles established in it, saying it recognised that “these principles can play a crucial role in development, democracy, equality and the delivery of public services.”

The General Conference invited all UNESCO member states, United Nations system organisations, and other international and regional organisations, as well as civil society, including non-governmental organisations and individuals, to celebrate the Day in a manner that each considered most appropriate and without financial implications for the regular budget of UNESCO.

It also requested the Director-General of UNESCO to bring the resolution to the attention of the United Nations Secretary-General so that the General Assembly could also endorse the International Day for the Universal Access to Information.

28 September, originally called Right to Know Day, has been celebrated since 2002 following a conference of freedom of information experts held from 26-28 September 2002 in Sofia, Bulgaria. The conference established a coalition of international advocates, known as the International Freedom of Information Advocates Network.

Additionally, both working group members and many African delegations to UNESCO were determined to push back on the notion that the African continent always needs assistance and contributes little to the world. The endorsement of the APAI Declaration by UNESCO, two decades after the similar endorsement of the Windhoek Declaration, both truly African documents, would help to firmly establish a pattern of African contribution to the world.

With the official declaration of 28 September as IDUAL, a day was set aside by UNESCO for a global debate on access to information, spreading the message about the importance of the right to information, allowing for collaborative efforts in advancing access to information and providing room for reflection on progress made.

To build-up to the first celebration of IDUAL in 2016, the APAI working group came back to Windhoek in September 2016 and organised a conference which brought together representatives from government, civil society, the media, diplomats, students, UNESCO and the ACHPR. The aim was to highlight the relevance of the Day and reflect on the road travelled to achieve this.

The group also reacted to recent developments undermining openness and access to information on national, regional and international levels. The APAI working group intermittently issued statements raising concerns regarding access to information processes or developments.

One such development was a decision by the World Bank Group to downgrade its global Access to Information Programme, which, the working group believed, reduced its capacity to pursue an international right to information agenda.

Together with other organisations, the working group wrote to the President of the World Bank, expressing concern over this development and calling for a reversal of the decision. APAI ended the letter by stating that “the fight against poverty is about people. This fight cannot be won without people being able to access information.”



28 September, originally called Right to Know day, has been celebrated since 2002...



After receiving a reply from the bank, the working group sent a second letter, requesting clarification on some issues and a consultative meeting with senior officials of the bank.

The APAI working group attended a public meeting of the World Bank in Washington DC in October 2016. Representatives of the group posed questions to the World Bank’s President regarding access to information issues.

Later that month, a senior World Bank official responded to the second letter of the working group and agreed to a meeting early in 2017 to further discuss the bank’s access to information commitments. The working group also convened a session at the World Bank/ International Monetary Fund’s annual meeting in Washington DC to discuss the issue of access to information and its importance to the bank’s work and mandate.

Members of the APAI working group, as individual organisations, have remained intensely involved in the domestication of the APAI Declaration. Each organisation has worked to promote the declaration’s principles at national level, for instance, during drafting, review and implementation of access to information legislation.

The working group member organisations also continue to advocate for the advancement of freedom of information, government transparency and openness as part of their national activities, given their strong belief in the importance of those standards for the future of Africa and its people.

The working group envisions an increasingly integrated effort towards enhancing each APAI member's continuing national initiatives and fully understands that its strength lies in the combined expertise, experiences, networks and resources of all the members to collectively support and grow the access to information agenda on the continent.

Members also want to use their key strength as a coalition to provide support and technical expertise to national initiatives led by local partners in the different countries where its members are engaged.

During national initiatives, the working group increasingly puts emphasis on raising awareness among the general public, explaining what access to information means to a person in terms of education, health, elections, socioeconomic equality, and how it affects issues of corruption, good governance and a country's overall development.

Therefore, it aims to make access to information understandable to a broad audience with people from diverse sectors and seeks to equip them with the knowledge to demand their fundamental human right of access to information.

REYHANA MASTERS

Writer, Access to Information and Freedom of Expression advocate

Africa's gift to the world

Civil society organisations' stories of determination, focus, commitment, persistence, and patience abound, but they are rarely told to the public. These accomplishments are shared between small groups – either as part of financial narratives for the funding partner, as programmatic reviews of activities and in some instances, as best practices or case studies of successful lobbying and advocacy. If and when these stories are shared on the continent, they stay within the confines of small audiences.

It is rare for the protagonists of these triumphant moments to relate their arduous journeys of success to a global audience. But these stories need to be shared so that there is a visible change in the narrative around the work of African civil society organisations. The stories we are constantly exposed to convey the impression that the knowledge flows inward – from the Global North to the South.

But there are bodies of work which show that African CSOs are also leading from the front.

This story, which tells of the push for a special day commemorating access to information, is the culmination of years of advocacy and clearly articulates how the process was initiated and led by CSOs in Africa.

There is nothing more inspiring or historic than this accomplishment – it is yet another gift from Africa to the world, following the adoption of the Windhoek Declaration on Promoting an Independent and Pluralistic African Press 28 years earlier, which in 1993 birthed World Press Freedom Day, now celebrated annually around the world.



...is the culmination of years of advocacy and clearly articulates how the process was initiated and led by CSOs in Africa.



At the finish line

On 15 October 2019, a special moment occurred when the 74th United Nations General Assembly (UNGA) unanimously adopted the resolution proclaiming 28 September as the International Day for Universal Access to Information (IDUAI).

It was a champagne moment for the collective of African civil society organisations under the African Platform on Access to Information (APAI) banner that had worked with effort and passion towards this goal for over a decade.

Four years earlier, in 2015, APAI had successfully lobbied the UNESCO General Conference to adopt 38 C/Resolution 57, declaring 28 September as the International Day for Universal Access to Information.

Getting UNGA to do the same would pave the way for global recognition and ensure that the intervention contributed to accelerating development outcomes in Africa through ATI.

On behalf of their APAI colleagues, three advocates undertook the final sprint: Gilbert Sendugwa, Executive Director at the Africa Freedom of Information Centre; Edetaen Ojo, Executive Director of Media Rights Agenda; and Zoe Titus, Director of the Namibia Media Trust. For them, this moment was the equivalent to crossing the finish line of a triathlon replete with seemingly insurmountable impediments with only a smattering of some lucky breaks.

For Gilbert, Edetaen and Zoe, that special day was the culmination of years of planning, strategising, lobbying and advocating with, and on behalf of, their APAI peers. At the beginning of the lobbying, they knocked on door after door of those with leverage, first in Africa, then Paris, Washington and New York, and back again. Towards the end, they almost wore off the soles of their shoes as they pounded the pavements of Manhattan, in and around the UN headquarters.

So when the news came through, of course, it was momentous ...

Gilbert: As I waited for the UN General Assembly to consider the resolution, I was both anxious and restless. It did not help that I was on a mission in Banjul, The Gambia, where, as a member of the joint African Union and European Union civil society steering committee on Africa's partnership with Europe, I was hosting a seminar for civil society from Africa and Europe to discuss human rights and democracy in both continents. My thoughts were divided between the workshop I was involved with in Banjul and the status of the resolution in New York.

I was responsible for ensuring that everything goes right – that officials from the African Commission on Human and Peoples' Rights, the African Union and European Union were present and able to give their speeches, making sure that they are properly attended to and they have the information and attention they deserve.

Upon receiving the news of the passage of this all-important resolution, I informed the colleagues who were with me at that time – Ambassador Salah Hammad, the Head of the African Governance Architecture, Secretariat at the African Union and Omar Faruk from the National Union of journalists of Somalia. There was instant celebration.

In the last 23 years of my career, I have campaigned for several resolutions and decisions at the level of the African Commission on Human and Peoples' Rights, UNESCO, the African Union, United Nations Special Procedures, and various parliaments on the passage of access to information laws, and other decisions, but the news of the adoption of September 28, as an International Day for Universal Access to Information was the most special, exciting and yet humbling of those experiences.

Edetaen: I was at my reading desk at home in Lagos when I got the information. I had been monitoring the process from my office in Lagos. But as you know, New York is five hours behind and nothing had come through when I left the office and when I got home I didn't go to bed. I was constantly reaching out to colleagues like Gilbert, Malcolm Joseph, our colleague in Liberia, who had a very close relationship with the Liberian ambassador to the UN. My question throughout the day was: Have you heard anything?

It was quite exhilarating when I got the news that it had actually been adopted without a vote, which meant that it was adopted by consensus – a unanimous decision, really. So it was just incredible.

Zoe: *I received an email from Gilbert, and the emotions that ran through me at the time - excitement, affirmation, relief.*

As Edet would tweet on that day:



Edetaen Ojo

@EdetOjo

Mission accomplished! Resolution proclaiming September 28 of every year "International Day for Universal Access to Information" adopted today by UN General Assembly. Congratulations to: @LibMissionUN @APAI_WG @UNESCO @MRA_Nigeria @CEMESPLiberia @africafoicentre and many others!

(<https://twitter.com/EdetOjo/status/1184168432603975680>)

Liberia takes ATI baton to the finish line

Instrumental in accomplishing this mission was Liberia's commitment and that of its then-ambassador to the UN – His Excellency, Dee-Maxwell Saah Kemayah Senior – who drew on his country's experience with access to information when presenting the resolution to the member states at the 74th session of UNGA.

In his impassioned and powerful presentation, Saah Kemayah, now Liberia's foreign minister, zoned in on the country's struggle with the Ebola crisis and how access to information and information dissemination helped curb the pandemic. He described it as "the difference between life and death."

As Edet describes: *That was a very powerful statement and on the many occasions that I heard him say it, I noticed that it really resonated with people. It drove home the significance of access to information and the impact that it can have on people's lives.*

The Liberian partnership

Requesting Liberia to endorse and support the resolution was not initially planned. After a great deal of deliberation and the working group's frustration with trying to get commitment from country delegations, the decision was made.

We went on a series of trips to New York to have meetings with various national delegations, but it was always difficult. These people are diplomats, so they may tell you, "Oh, yeah, we are in support," but you can never really tell where they stand. So we always had to deal with some level of anxiety about whether this would actually be supported among the member states of the UN.

There was the fact that it was also being sponsored by Liberia. We were confident about their support because Liberia was fully on board, but it is not considered the most influential country in the UN system. It doesn't have the kind of leverage that some of the big players had, but we couldn't get those big players to commit to sponsoring our resolution because all of them kept saying that they need instructions from their home and government.

We needed one country that would support us fully – and through our analysis we felt Liberia was our best option. There were a number of things we thought through – it was a small country, but the first in West Africa to adopt access to information legislation, and we had relatively good contacts in government. Most importantly, we had colleagues in civil society and media that had contacts at a higher political level.

So we took the decision to take our chances with the country of our choice, and off we went on a mission to Liberia.

We were anxious about the meeting, but unfortunately, we were not able to meet with President George Weah because he had another engagement. However, our colleague, Malcolm Joseph from the Centre for Media and Peace Studies in Monrovia, was able to connect with

the president and receive instructions that were to be conveyed to Liberia's Ambassador to the UN – Dee Maxwell Kemayah.

That was all we needed, really. The moment the instructions came from President Weah to the ambassador, we knew he was going to be 100% on board and committed – he just needed authorisation.

Okay, so now you have to consider that the first engagement we were going to have in New York was on the basis of a letter from President Weah, instructing the ambassador to put Liberia's name behind this as sponsor of the resolution. That's when we decided to rope in Malcolm who had never been on any of our missions and, in fact, was not even a member of the APAI working group.

We felt that neither I nor Gilbert knew the ambassador, and the significance of what we were working towards dictated that nothing should be left to chance. So we invited Malcolm to join us on the mission to New York because he had also indicated that he knew the ambassador personally, and we thought that it would be helpful in breaking the ice.

It was quite truly remarkable – the moment Malcolm walked in, the ambassador recognised him, and that really helped us to get a very frank and honest meeting where he talked about his own limitations, but nonetheless, his interest in making this happen.

We offered to assist in every way that was possible, including helping to write speeches and articulating the issues, but when we really sat down with him and discussed the importance of access to information in a variety of contexts, especially also for a country like Liberia, he immediately got it.

I mean, he just understood it, and there were two ways he himself reflected that. One was the role that access to information played in Liberia coming out of a conflict and overcoming the destruction that the prolonged conflict had on the country, and the other was the experience

of how access to information and information dissemination had also helped Liberia to beat the Ebola pandemic.

So he immediately grasped the importance and actually used the expression that from "the experience in Liberia, access to information could be the difference between life and death." That was a very powerful statement which he used over and over again, and it really resonated with people because it drove home the significance of access to information and the impact that it can have in people's lives. It even moved me every time that I heard him say that.

Between his enthusiasm and our readiness to always help, we made a very good team. Most importantly, he was always honest – quite prepared to say: can you help me with this or how do I go about this or we're having this meeting, what should the approach or the pitch be? So that whole process gave me enormous respect for the man – the way he approached issues, and spoke with so much passion and conviction, you would think that pushing for access to information was always his idea. We had spent some time at the beginning of the relationship prepping him, but after that, just listening to him speak publicly, you could see there was conviction. He really was able to just own it because he really believed in it, and he certainly didn't look or act like a phoney politician just trying to sell something.

I found that to be very refreshing for an African leader because, in my experience especially, I come from a country where our leaders are very proud and never really agree that they don't know everything. He was really ready to learn, listen, and put his best performance out there on whatever occasion he was engaged in.

In the presentation of the resolution that he did on the floor of the General Assembly, it was with enthusiasm along those same lines – a very powerful presentation of the importance of access to information and why the UN should vote in support of that resolution.

Pounding pavements

The road to this accomplishment took many turns – some good, some bad and, of course, many surprises.

One of those difficult moments was when Edet fell ill during an intense lobby and advocacy trip.

As Gilbert recalls: Soon after celebrating with everyone around me, I sent out a short message to APAI working group members on our WhatsApp group announcing the news for the adoption by the United Nations General Assembly of this all-important resolution. Everyone was very happy and excited.

A few days later, I sent out a long email message to the APAI working group members, including to those people who had since left the campaign member organisations but who had, after all, been part of this campaign since 2011.

In that email, I highlighted the highs, the lows and special moments of the campaign. One of the moments I talked about in that email was a scary moment, when my colleague, Edet Ojo, fell very ill while on a campaign mission to New York. His condition was deteriorating by the hour. He had cautioned me not to inform the family because they would be terribly worried.

Edet's deterioration was weighing heavily on me – being in a strange and foreign land and not being sure what to do. I notified Zoe Titus as the point person back home and as the chairperson of the APAI working group. In doing this, I was balancing the need to talk about it and inform someone while at the same time trying to relieve the stress of handling it by myself. To my relief, Edet's condition improved as the days passed by.

While Edet was ill in bed, I reflected on the last few years we had spent travelling and working on the long and arduous ATI advocacy journey on behalf of APAI.

We had cultivated a very good working relationship. We discussed every challenge and shared any difficulty we encountered along the way. In the

evenings we would talk about the happy moments and the highs of that day. We were open to advising each other on how best to get things done and so our strategy always worked well.

In many respects, this campaign made APAI working group members more than colleagues, but caring brothers and sisters.

For instance, whenever we were on a mission, Zoe would check on us every morning and every evening – either through WhatsApp or messenger or email, to find out how the campaign was progressing and also to find out how we were faring at a personal level.

This was very special.

Edet himself makes light of his illness.

I fell really ill while we were in New York and Gilbert was so scared because he wasn't sure if I was going to make it. The meetings were stressful – just the amount of distance we had to walk, sometimes in the heat of summer.

It is this understatement that is reflective of the APAI members' commitment.

Meeting with different delegations to lobby them to put their weight behind an endorsement is no mean feat. While Edet and Gilbert nonchalantly describe their efforts, the depth of their dedication can be seen through these efforts. The relentless hamster wheel cyclical effort required to lobby individuals, organisations and lobby groups is often underestimated.

We would start very early and work until late every day. We walked long distances, you know, visiting one mission after another and some of the venues of these appointments were really far apart – we would have an appointment at 11 o'clock on one side of Manhattan, and then we would be going to the other end of Manhattan for a 1 o'clock appointment and a few hours later, back again to where we had just come from. It wasn't always possible to get public transport.

The difference was that, for the most part, national delegations to UNESCO in Paris were

within the UNESCO complex and so their offices were inside the headquarters. This was not the case with delegations to the UN, who had their embassies and diplomatic missions all over Manhattan and sometimes it was really quite difficult to locate some missions.

That pounding of pavements and knocking on doors is a very powerful image of what we did over the years. We would go to these cities – namely Paris, New York and Washington – for a week at a time, over a period of about three years each, for both the UNESCO process and the advocacy at the UN.

More importantly, we had to be flexible and adapt because, you know, situations would keep changing from one moment to another. For example, you'd have an appointment for a particular time, but then moments before the scheduled time, we would get a message cancelling or postponing the meeting because of a new development. This flexibility was needed and important to keep the campaign on course.

Edet reiterates the experience of their intense lobbying efforts while emphasising and validating Gilbert's recollection of how they constantly adapted their strategy to engage with the different country missions. Adaptability and focused intention are attributes that worked for them.

Access to information is really our core business. It's something we believe in, and because we've been doing this for a while, there are a number of entry points that we were able to pick from. So, depending on the country we were going to meet, we would work out the most effective strategy.

So for some countries where human rights was a big issue, we tried not to make it a human rights discussion so that they wouldn't feel threatened by it. We would approach them from a development perspective and show them how access to information can really be a powerful catalyst for bringing about economic development, maybe even political development.



It was the biggest and yet most challenging of the campaigns I had undertaken in decades.



Similarly, for some countries, the anti-corruption approach was not something that they were going to be very comfortable with, especially when they have a problem with ethical conduct and fraud or reputation for corruption. So it was really a question of trying to understand what the country's interests on ATI were. So that's kind of the strategising we often had to do.

Gilbert provides similar insight into their strategic thinking.

It was the biggest and yet most challenging of the campaigns I had undertaken in decades. In our strategies, we had to be convincing and yet, at the same time, balance the interests of member states.

At the time, many countries, including in Africa, were shutting down internet, the main channel through which citizens access public information. More than half of African Union member states and more than one-third of United Nations member states did not have access to information laws. Yet, we needed them to support and sponsor this resolution. This was quite challenging.

In the end, we resolved to market access to information as a sustainable development issue, essential for the realisation of all Sustainable Development Goals but also critical for measurement of progress that each member state was making to realise the SDGs. It was exciting for me because, for the first time, we were going to have a special Day where all UN

member states, governments, civil society organisations, media and development partners would discuss how to address the development challenges, many which are escalated and compounded by lack of access to information – whether it is corruption, inefficiency in service delivery for women, youth, people with disabilities, and refugees, or have borrowed resources squandered on unnecessary projects and other issues that affect the development.

It wasn't always easy to predict the situation, as Edet describes.

There were times when we didn't have all the information, and during the course of our conversation, something would spark, and we would pick up on it.

We were not always able to anticipate precisely or accurately what the motivation might be, so we were always alert to those possibilities and ready to leverage them, take advantage of them and elaborate on them. I think that worked well for us.

What you need to understand is that we were also effective because both Gilbert and I are pretty good with access to information. We knew the various ramifications and manifestations so we could always turn an issue around.

One of the lessons for me is that if you're doing advocacy, you really need to know what you're talking about. Otherwise, you can easily become dumbstruck or stuck in a situation that you have not sufficiently anticipated and prepared for.

We always prepped every time we went on a mission. Before our appointments with national delegations, we would sit down to plan, and the question we always asked was, "Okay, how do we win over this country or sustain their interest?"

For instance, when we met with the Angolan Ambassador to UNESCO, he wasn't really interested in access to information per se. He eventually turned out to be the biggest supporter and lead sponsor because we were able to persuade him to look at the issue based on his

exasperation. He mentioned his frustration with the fact that UNESCO focused specifically on French and English and was not very interested in conducting its business in other languages, like Portuguese.

We immediately responded by explaining that it is one of the issues in the APAI Declaration – that people should be able to get information in a language of their choice, and we're willing to work with Angola to promote the idea that effective access to information means that it should be available in your preferred language. From that moment, he was extremely excited, and, you know, he just jumped on board and supported us with enthusiasm.

It is those snippets of shared moments throughout the telling of the journey that one understands the several unexpected elements that contributed to the campaign's success.

What may have started as a concept and activity motivated by an individual organisation soon turned into a collective effort of numerous organisations with a united purpose and focus. The sense of solidarity throughout the campaign really shines through. Each person involved played to their strengths. More importantly, no single person involved in the campaign, including the individuals working on behalf of their APAI colleagues, ever required attention or demand to be in the limelight.

It is a journey that started with a thought. That thought sprouted into an idea. The idea grew bigger and bigger and was eventually shared, and, through numerous transformative



If you want to go fast, go alone. If you want to go far, go together.



processes, turned into a continental campaign. Although it took onboard international players, its birth is deeply rooted in African soil.

But that single moment of success is the grand finale of a process that started a decade earlier.

And true to the African proverb: If you want to go fast, go alone. If you want to go far, go together.

The hiccup

All the members learned from this process that an advocacy and lobby strategy for something meaningful is a long-term commitment which does not always show promising results. It is tough to pin down governments and decisions. The point is to relentlessly continue with a firm, committed focus on the final goal.

One of the biggest lessons learnt of the entire campaign came towards the end, just as the advocates felt that they were coasting to a home-run in the final laps of their advocacy efforts. But their major supporter was not convinced about the progress being made and wanted concrete evidence that the advocacy campaign was on track.

Gilbert explains: *Towards the end of the campaign, there was exhaustion and doubt, especially on the part of our most committed and consistent funder, the Friedrich-Ebert-Stiftung – fesmedia Africa.*

Yet this was a critical moment – especially around July 2019, when a planned promotional mission to New York was very, very important, and we were at the critical stage of the campaign. The funder was asking for all sorts of information, including a list of confirmed appointments that we would be having in New York.

The funder wanted tangible information, and while this was not an unreasonable request, it was a challenge for the APAI members on the ground.

While most of the permanent missions were engaging with us, they were not confirming

appointments for many different reasons, top of which was the fact that many of them were expecting delegations from their political leadership in their capitals to visit New York at that time preparatory to the General Assembly session and, in some cases, to attend the session itself. They were, in many cases, not certain of their availability as such visits from their capitals normally disrupt their schedules and were reluctant to commit to specific dates and times that they might not be able to honour. They would therefore tell us that when we arrived in New York, we should inform them in order for them to confirm our appointment as things would be clearer by then. So we were not able to provide the donor with evidence that we would actually be meeting with a sufficient number of delegations to justify the cost of our mission to New York. Our donor partner, therefore, decided at this point that they could not to fund this very important mission to New York.

Edet clarifies further: *The lesson from this experience for advocates, as well as for donors, is that advocacy, especially in the international arena, is often a very fluid engagement in which the usual indicators of success that donors and other actors use to assess progress or the likelihood of success of a project do not frequently apply and may provide a faulty assessment of the situation.*

In this case, we had a funding partner that had consistently supported our missions for about seven years, beginning from our advocacy at UNESCO in Paris 2012 and then continuing at the United Nations in New York from around 2016. By mid-2019, they determined, based on those usual types of indicators, that we did not seem on track to succeed.

This assessment could not have been more wrong because four months after they reached this conclusion, the ultimate goal that we had proposed in the APAI Declaration at its adoption in 2011 and had pursued through numerous advocacy missions to various diplomatic

capitals around the world, particularly in Paris and New York, was achieved with the adoption of the resolution by the UN General Assembly with no objection or reservation from a single Member State!

Ahead of this mission, we had convinced the Liberian government, the co-sponsor, but we needed to mobilise more sponsors. We needed to explain, even to Liberian Permanent Representative to the UN, this campaign, why it was important and work with him to strategise on how to mobilise support and frame issues for other governments to come on board.

We had already, ahead of that mission, confirmed a major promotional event at Uganda House, the seat of Uganda's Permanent Mission to the UN in New York. They had graciously provided venue for a promotional meeting event which the APAI co-hosted with UNESCO, International Idea, UNDP and the Permanent Representative of Liberia. We had already invited the permanent representatives of numerous other countries to attend this major event at which we had planned to convince them to co-sponsor and support this resolution. Therefore, not undertaking this mission was going to ground the campaign and render all previous efforts and experiences meaningless.

As someone who was the face of this campaign, talking to ambassadors, engaging several capitals, ministers of Foreign Affairs and key stakeholders like UNESCO, the African Union and others, this was also quite challenging for me that at this very important point, we could allow this campaign to collapse.

Thankfully, I discussed the issue with IFEX, the International Freedom of Expression Exchange based in Canada and the Africa Freedom of Information Centre board who appreciated the importance of this campaign and believed in us and so they stepped in to provide the much-needed funding for this mission.

While in New York, we met and visited several prominent missions: Costa Rica, Greece, France, UK, Uganda, Nigeria, Austria, Mexico, Brazil,

Estonia, Argentina, and many others. We also had a critical strategy-planning meeting with Ambassador Saah Kemayah, the Permanent Representative of Liberia at the UN, and through this, the campaign took a very strong step. And at the meeting, which we hosted at the Ugandan permanent mission, we had more than 30 permanent missions represented.

They committed to support and mobilise other countries to support this resolution. It is no wonder that this resolution was sponsored by more than 29 countries and was unanimously adopted.

Where it all began

The story that ends at the UN headquarters in New York started in the corridors of the relatively small and modest regional office of the Media Institute of Southern Africa (MISA) situated on Johannes Street in Windhoek, Namibia.

The idea to pursue access to information as a programmatic area of interest was discussed in 2001, during the consultative development of the 5-year strategic plan for MISA, when the organisation started thinking more broadly. What began as a thought became part of a consolidated strategy in 2005 when the conversation on freedom of expression had started to include access to information.

This shift was motivated by the realisation that access to information as a foundational right would facilitate all other rights.



This shift was motivated by the realisation that access to information as a foundational right would facilitate all other rights.



Zoe Titus, the then Information and Programmes Manager, relates: *MISA was a pioneer in terms of its thinking, but at the time, we didn't recognise our efforts in setting the agenda. It may seem that access to information was a topic that fell out of the sky, but long before it became a contemporary global topic, MISA had already started building it into their programming in the late 90s – this was even before it was written into the MISA 2001 strategic plan.*

In 2007 and 2008, we had a regional review and assessment of MISA's access to information campaigning, and that's where it became clear that the messaging was not correct.

Our initial thinking on ATI was a little narrow. When we first approached access to information, it was from the perspective of its constituency, which was, of course – the media. So the initial MISA campaign was largely focused around the media's need for access to information. With the conversation changing in the human rights sector, it was obvious to us that we needed to incorporate it into our programming.

So we adapted it, and subsequently, our messaging around ATI became really strong, more so because it was inclusive.

Getting a head of the next big thing

Our thinking evolved because of the space we occupied – the role of the national secretariat and the nature of how it operates – meant that we were working on the overarching global issues. So, of course, we were part of the formulation of the access to information model law at the African Union. Soon after this, MISA-Regional obtained its observer status at the African Commission on Human and Peoples' Rights level, and naturally, we became increasingly involved in continental lobbying.

As we focused on our plans to celebrate the 20th anniversary of Windhoek Declaration, which

started round about early 2002 – we knew that we had to be visionary and be sure that we continued the trajectory of a conversation that mattered.

It was very clear, we had the vintage [Windhoek] declaration of 1991, then ten years later, in 2001, there was the establishment of the African Charter on Broadcasting, so the obvious question was – what is the next big issue that is going to change and really add value to African policy?

We had to be ahead of the next big thing.

At this point, our involvement in the numerous regional initiatives was already leaning towards a more holistic approach to access to information. Our involvement in those regional and continental levels made us increasingly aware of the fact that we needed to change our strategy around our strategic partnerships. By then, we had already worked out that we couldn't lobby successfully on our own, and if we wanted to make a real impact, we needed a Pan African thrust to this.

Forming strategic partnerships

So the meeting we [MISA] convened in 2009 was with the broader contingent of our African partners where we constituted ourselves into the Windhoek +20 Campaign on Access to Information in Africa which included Open Democracy Advice Centre, Media Rights Agenda, Media Foundation of West Africa, Highway Africa and Africa Freedom of Information Centre.

In fact, we were not strangers. We knew each other really well – having worked together on other projects before, met at meetings, workshops and conferences all over the world, and had exchanged ideas, experiences and knowledge on various occasions. We now combined our forces and unique sets of expertise, capacities, networks and resources for the achievement of a common goal we all strongly believed in.

After constituting themselves into a smaller cluster of the working group, the tasks and



These are the issues that partners then took on to develop a declaration that looked at ATI in all its manifestations...



vision around World Press Freedom Day (WPDF) events grew bigger and bolder. IT also turned out to be a turning point for the working group.

It was during the discussions back and forth around WPDF planning, that the Director-General suggested that UNESCO support the working group to co-host a Pan African conference together with the African Union and, of course, all the members working on ATI, with the notion of drumming up support for the adoption and effective implementation of access to information laws in Africa.

Considering there was a huge deficit in this area, this proposal was acceptable to us, so we sat down as the working group to make preparations for this all-important conference.

In October 2010, 4 members of the working group attended the ACHPR 50th session in Banjul to support the Special Rapporteur, Pansy Tlakula, in her efforts to secure a resolution to expand article 4 of the Declaration on Principles of Freedom of Expression in Africa to incorporate the Principles of the Declaration, and call on the commission to recognise International RTI day.

A number of avenues were pursued in order to achieve this. Two members of the group attended the preceding NGO forum and secured a position to speak at the forum.

The NGO forum issued a resolution calling on the ACHPR to:

1. Endorse the APAI Declaration by signing it.
2. Endorse the recommendation for ACHPR to pass a resolution authorising the ACHPR Special Rapporteur on Freedom of Expression and Access to Information in Africa to expand Part IV of the Declaration of Freedom of Expression in Africa to include principles of APAI Declaration.
3. Endorse recommendation to ACHPR requesting the African Union Summit of January 2012 to:
 - adopt 28 September as International Right to Information Day, and
 - initiate an experts meeting to develop a continent-wide instrument on the right of Access to Information.

There were all these things happening, the consultations on the AU model law, UNESCO's influence and focus on ATI.

These are the issues that partners then took on to develop a declaration that looked at ATI in all its manifestations – as a developmental right – so there were linkages to people with disabilities, the education sector, the governmental sector and even extractive industries in our preparations for the PACAI conference in Cape Town.

A series of meetings took place in various capitals – Johannesburg, Lusaka, Windhoek and Addis Ababa – prior to the PACAI conference that was to be held in Cape Town in 2011. While in Ethiopia, the working group discussed the first draft of the APAI Declaration that was going to be presented at the end of the conference. This was coupled with a number of meetings that had been arranged with different departments of the African Union Commission, such as the

directorates of communications, political affairs and legal affairs. We were seeking their support to facilitate the process of adoption of the Declaration at the African Union.

What we managed to do with the fesmedia funding was to engage Professor Guy Berger to basically be the convener for this conference that we were going to have.

In May 2011, Guy Berger was engaged as campaign consultant for the APAI working group, and it was a godsend as he carried out a number of activities that were crucial to the APAI campaign. Since it was the 20th anniversary of the Windhoek Declaration, we wanted to have a publication looking at media freedom and freedom of expression 20 years after the Windhoek Declaration. We actually ended up with two publications. One was just a briefing paper, and the second a substantial book.

As an expert in the field of access to information, Guy played an essential role in organising the PACAI conference – and was primarily responsible for compiling content for the book 'So this is Media: Twenty years after the Windhoek Declaration on Press Freedom in Africa'. To this day, the articles remain relevant.

Throughout the lobbying and advocacy process – there is constant need to pay attention to additional steps that need to be taken and that are often not anticipated. What comes out clearly is that the working group constantly held each other accountable and constantly asked the questions – What needs to be done? Who needs to be included in the loop? – that would help them grow.

In addition to the meeting with the regional advisor for information and communication at UNESCO, we also arranged to ensure that UNESCO was on board with the first draft of the declaration. Following several meetings with representatives, and after a long consultation process, the second draft of the declaration was produced. This second draft was placed on the APAI website and made accessible for public commentary.

We had to ensure that there was wide-scale consultation over the APAI Declaration, and so there was many drafts over time which were reviewed and adjusted. At the same time, there was a lot of lobbying around the upcoming PACAI conference we intended holding in Cape Town. We managed to get the African Peer Review Mechanism, that was based in South Africa at the time, quite involved, and of course, the African Union Commission's political affairs department. We had to make sure we had organisations and structures with leverage involved and so there was quite a crowd coming to the conference.

This intense lobbying proved to be fortuitous as Commissioner Tlakula was one of the strongest supporters.

Prior to a meeting in August 2011 to finalise plans for the upcoming conference with the Special Rapporteur on Freedom of Expression in Africa, the working group took the opportunity to discuss the comments that had been received from members of civil society, UNESCO, and AU structures during June and August. The outcome was a third version of the declaration that took a more sectoral approach to the issue of ATI in line with public requests, mainly from civil society, to do so.

The work never stopped, and there were simultaneous activities taking place and tasks being constantly carried out.

The next working group meeting was held in Cape Town, a day before the PACAI conference. We needed to make sure that all members were aware of their roles and responsibilities with regard to the upcoming event. We had to remind each other about targeting key government members to endorse the declaration. As part of the strategy around the next steps of the campaign, it was agreed that it was important that there was working group representation at the ACHPR meeting in October that year. We also decided that a new website be created to merge both existing websites, that the declaration was translated into French, Portuguese and Arabic,

and that letters were written to a number of key participants at the PACAI conference to remind them of their endorsement of the campaign.

The PACAI conference was successfully held in Cape Town from September 17 to 19, 2011, and it was at this critical point that the conference adopted the African Platform on Access to Information Declaration, which included a call to the United Nations General Assembly and UNESCO to proclaim September 28 as an International Access to Information Day.

While lobbying for UNESCO to recognise the auspicious day, it was a given for APAI members to take the same concept up to the African Union. As CSOs working at continental and global levels, they knew how critical it was for the AU to also officially adopt 28 September as International Access to Information Day.

In April 2012, a delegation of the APAI working group mission went to Banjul, The Gambia, to attend the ordinary session of the African Commission on Human and Peoples' Rights. At this session, we collectively convinced the African Commission on Human and Peoples' Rights to adopt ACHPR Resolution 222, calling upon the African Union to proclaim September 28 as the International Day for Access to Information in Africa.

Thereafter, we initiated a campaign for the UNESCO General Conference to adopt a resolution proclaiming Access to Information Day.

The Cape Town to Paris advocacy rally

As Edet describes: Pounding pavements, knocking on doors is a very powerful image for me when I think of what we did all those years when we would travel to Paris and, after that, New York or Washington for a week at a time.

We were late for the year 2013 session, and strategised for this to be done in 2015. This meant several missions to Paris and engagements with UNESCO and the member states.

Over the years, various members of the working group – Mukelani Dimba, Sadibou Marong, Zoe Titus, Gilbert Sendugwa, Alimi Adamu, Gabriella Razzano – and I travelled to Paris to meet with country delegations to UNESCO. Gilbert and I spent the most significant amount of time in Paris.

When in November 2015, the UNESCO General Conference adopted Resolution 38(c)70 proclaiming September 28 as the International Day for Universal Access to Information. The resolution also requested UNESCO Director-General to bring it to the attention of the United Nations Secretary-General so that the resolution can also be adopted by the United Nations General Assembly. So we then started trying to find out how that was going to happen. Thus began the advocacy journey to take up the issue to the United Nations General Assembly.

ADV. PANSY TLAKULA

Information Regulator of South Africa, Former Chairperson and Special Rapporteur, Freedom of Expression and Access to Information in Africa, Africa Commission on Human and Peoples' Rights

Role of the African Commission on Human and Peoples' Rights

It is wonderful that on 28 September 2021, the global community will commemorate the International Day for Universal Access to Information for the second time. The African Commission on Human and Peoples' Rights was part of the journey that culminated in the adoption of this important resolution.

When looking back on how the idea for this day was born, I go back to 19 September 2011, when over three hundred participants attended the first-ever Pan African Conference on Access to Information (PACAI).

The conference was organised by the then Windhoek+20 Campaign on Access to Information in Africa in partnership with the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the African Union Commission, and myself as the Special Rapporteur on Freedom of Expression and Access to Information in Africa.

I believe the support I received from all who pushed for this special Day comes from my approach to building strong relationships with key actors within the African Commission, State Parties, and, of course, civil society. Their support and assistance helped me fulfil my mandate during my time as the Special Rapporteur.

The situation of access to information in Africa at that time was such that a day/platform was needed on which all stakeholders



...my approach has always been to build a strong relationship with key actors...



– governments, civil society organisations, media, intergovernmental bodies, scholars and citizens – could reflect on the challenges and opportunities to advance the right of access to information in Africa. At that time, only six African countries, namely South Africa, Angola, Zimbabwe, Uganda, Ethiopia and Liberia, had adopted national access to information laws.

As the Special Rapporteur, I felt the need for a platform where stakeholders in African countries with respective national access to information laws could discuss and share experiences on the effective implementation and enforcement

of these laws to improve the rights of citizens in Africa. Thus, in the APAI working group, I found a good partner.

Together with the APAI working group (formerly Windhoek+20 Campaign), UNESCO and the African Union Commission, I co-hosted the first-ever PACAI from 17-19 September 2011 in Cape Town, South Africa. The main outcome of this conference was the adoption of the APAI Declaration, which, among others, called upon UNESCO and the African Union to proclaim 28 September as International Right to Information Day.

Four months after the PACAI, the APAI working group came to Banjul to request the African Commission on Human and Peoples' Rights to adopt a resolution calling upon the AU to proclaim 28 September as International Right to Information Day in Africa. They also requested that the Declaration of Principles of Freedom of Expression in Africa be modified to strengthen provisions on access to information.

Their case was compelling and attractive. The African Commission on Human and Peoples' Rights was attentive to considering ideas to increase the number of African countries with national access to information laws.

With my support, the Commission adopted Resolution ACHPR/Res. 222 (LI) 2012 to modify the Declaration of Principles on Freedom of Expression to include Access to Information and Request for a Commemorative Day on Freedom of Information.

With this resolution, the APAI working group had a strong instrument to engage the United Nations and other stakeholders to proclaim 28 September as an international Day to advance access to information.

In my view, the role of the African Commission on Human and Peoples' Rights was threefold:

- a) Authority and legitimacy:** The commission recognised the need for such a Day and adopted a resolution. It signed the APAI Declaration and adopted a resolution for the AU to proclaim 28 September as an international day. This gave legitimacy to the campaign, and African governments were comfortable sponsoring resolutions at the level of the UNESCO General Conference in November 2015 and UNGA in 2019.
- b) Collaborative partnership:** The commission, through my office as Special Rapporteur, made extensive inputs into the draft APAI Declaration, co-hosted the PACAI conference and provided a rallying point for all stakeholders, including civil society, the African Union Commission, UNESCO and State Parties.
- c) Advisory:** The commission, through my office as Special Rapporteur, advised the APAI working group from time to time. This helped their campaign to address potential issues timeously.

As we commemorate and celebrate the International Day for Universal Access to Information in Africa, I also celebrate civil society organisations and the APAI working group leaders, who actively campaigned for the UNGA to proclaim this Day. The right of access to information is a cross-cutting right through which other rights can be realised. I, therefore, call upon all governments and African leaders to make access to public information a reality for every person.

Putting ACTION into ATI

A case study on the benefits of civil society networks and collaborations to advance ATI in southern Africa

Only when citizens can take charge of development initiatives like publicly funded projects, or participate knowledgeably in the development of national budgets, can they realise the power of access to information; only then does it give them agency.

Civil society organisations have been at the helm of initiatives to make this a reality for citizens, from participation in decision-making at the level of village councils, to ensuring that communities receive good quality housing projects, to challenging the priorities and indicators of national development plans. This is real power, and we largely have African civil society actors to thank for its manifestation on our continent.

The Africanist worldview is about community and collaboration. It is reflected wholeheartedly in the spirit of African Platform on Access to Information (APAI) campaign and its ensuing APAI Declaration. Its success was achieved not due to the interest of individuals but from the realisation that we are stronger together. The campaign is a prime example of civil society collaboration that aimed to advance the right of access to information (ATI) on the African continent through legislation and legal frameworks that support the right.

The building blocks

The regional secretariat of the Media Institute of Southern Africa (MISA), similar to its efforts to convene like-minded partners to



The Africanist worldview is about community and collaboration.



promote a three-tier system for broadcast regulation through the 2001 African Charter on Broadcasting, again convened pan-African partners in Windhoek, Namibia, in 2009. This was in preparation for the 20th anniversary of the Windhoek Declaration on Promoting an Independent and Pluralistic African Press. The meeting was the launchpad for the Windhoek+20 campaign and the establishment of the APAI working group, which successfully campaigned for the adoption of the APAI Declaration at the Pan African Conference on Access to Information (PACAI) in Cape Town, South Africa, on 19 September 2011.

MISA, however, was working towards a secondary objective to reengineer its longstanding ATI campaign in southern Africa. In 2011, only five African countries had adopted

ATI legislation, with three in southern Africa (Angola, South Africa and Zimbabwe). Despite increasing awareness by African citizens and governments of the fundamental role ATI could play in the everyday lives of citizens and the future development of African States, the political will to guarantee this right was lacking. A change in strategy and, more importantly, broadening of civil society campaigns was needed to spark the uptake of ATI.

Therefore, a systematic approach to building multi-stakeholder coalitions was central to a new strategy to reinvigorate the call for access to information in the sub-region. This was, in fact, a significant recommendation of MISA's 2007/8 review of its own ATI campaigns, i.e. that its focus on the media's need for access to information had become a barrier to understanding that access to information is a citizen's right, central to their development and informed participation in political life.

This messaging was not very palatable in a region where government-media relations were hostile and tense at the best of times, particularly in Angola, Malawi, Mozambique, eSwatini (then Swaziland), Zambia and Zimbabwe.

Taking ACTION

The APAI Declaration had scripted 14 key principles for ATI that, along with the African Union Model Law on ATI, set the benchmark for ATI legislation on the continent. This presented a powerful lobbying tool for ATI and development-focused campaigns on the continent.

Following the success of the PACAI conference, MISA and partners in Namibia were eager to leverage the APAI Declaration as an advocacy tool. The APAI Declaration stresses the importance of access to information at the most practical level – as an essential tool for the enjoyment of many fundamental rights such as health, education and employment.

The opportunity arose in 2012 when MISA's regional secretariat, its chapter in Namibia (MISA Namibia) and the now-defunct *Insight Namibia* magazine met and strategised on how best to create awareness around the need for ATI in Namibia. Namibia's first ACTION (Access to Information) conference brought together close to 100 participants from civil society organisations, government and academia, for a two-day discussion designed to kickstart a national campaign.

In her address to the conference, the then Special Rapporteur on Freedom of Expression and Access to Information, Advocate Pansy Tlakula, expressed solidarity and elaborated on the Africa Union Model Law on Access to Information as another tool to strengthen the campaign in Namibia. Members of the APAI working group came from other parts of the continent to share their valuable insights. In taking this approach, the Namibian campaigners recognised the international context of the campaign and the need for strong collaboration, both inside and outside the country. This strategy would stand the Namibian movement in good stead further down the line.

Elsewhere in the region, MISA chapters in Mozambique, Zambia and Zimbabwe were leading strong campaigns for the enactment of access to information legislation. The Mozambique Parliament subsequently passed its law in November 2014, making it the fourth southern African country to adopt such legislation.

In the meantime, the MISA Regional Secretariat and APAI working group forged ahead with a second ACTION conference in Zambia in 2013, this time in an effort to reinvigorate what appeared to be an ATI stalemate in that country. The conference titled *Leveraging Continental Developments to Enhance the Adoption of Access to Information Laws in Africa* saw a convergence of regional and national advocates

speaking around this issue and intended to demonstrate how a country's development and progress could be enhanced through access to information laws.

As with Namibia in the previous year, the conference explored the multi-sectoral importance of access to information under the principles of the APAI Declaration. Other strategies employed by national campaigners included amplifying the role of faith-based organisations and attempting to influence the 2016 constitutional referendum in Zambia to include special provisions on access to information. Unfortunately, this law is yet to see the light of day in Zambia, despite it consistently being used as an election campaign tool by prospective candidates.

Policy advocacy is a long-term investment by all involved – one that requires commitment and follow-through from campaign partners and their supporters. With that in mind, let the games begin ...

Lessons learnt

The African proverb, *If you want to go fast, go alone; if you want to go far, go together*, remains a rallying cry for a united voice for social justice campaigns. There are, however, some important ingredients to the 'brew' that must be considered:

- the organisational capabilities of campaign partners (national, regional and international);
- equitable coalition structures that promote flexibility and communication; and
- understanding roles and leveraging the value that individuals and institutions bring to the table, among others.

All campaigns have peak moments and sometimes they fade away, but if the issue is important enough, there is always time to take stock, reassess and reconfigure your intervention. Documentation of interventions and lessons learnt is critical. Who will tell your story otherwise?

GUY BERGER

UNESCO Director for Strategies and Policies in
the Field of Communication and Information

Tracking 'n tracing

How the SDGs can strengthen access to information

Two points jumped to the top of the agenda when activists were planning the historic 2011 Pan-African Conference on Access to Information:

- Getting the right to information more recognised in national laws.
- Recognising that while a law is necessary for progress, more is needed.

Fusing these two points, activists underscored access to information (ATI) as a broader framework for the right to information (RTI). So, they called for a guarantee that is ultimately enforceable in the courts and entitlement made meaningful in practice, such as practical policy for more official information to be available on cell phones and in local languages.

This perspective helped inspire UNESCO and the UN General Assembly to recognise 28 September as International Day for Universal Access to Information.

The same view also encouraged the Global Forum for Media Development and UNESCO to push for ATI to be recognised in the UN's Sustainable Development Goals (SDGs).

Success came in 2015 when the UN General Assembly officially included "public access to information and fundamental freedoms" as an integral part of the quest for development more broadly.

The significance of this SDG achievement was that, for the first time, it was formally accepted in the international community that information issues are not mere "nice to haves" – as things on the outside of the development package – but at the centre.



... we need fundamental freedoms like liberty for journalists to expose companies dumping toxic waste.



But we still have to convince governments that development without ATI is like trying to farm crops without water.

If we want to protect the environment, then we need fundamental freedoms like liberty for journalists to expose companies dumping toxic waste. And without transparency in government contracting, it's likely that public funds drain away into offshore bank accounts.

Fresh before our eyes is the pandemic and its best friend – the virus of the disinfodemic. The decisive role of accurate information in this global public health emergency is well-illustrated in a 2020 UNESCO publication aptly titled: *The right to information in times of crisis: access to information – saving lives, building trust, bringing hope!*

Cynics see “public access to information and fundamental freedoms” as lip-service – nice words that mean nothing. But the SDGs do have legs that can give real traction on the ground.

If countries were creatures, then SDGs call on them to put their left foot forward, to take the critical step to report on progress at the UN General Assembly’s ‘High-Level Political Forum’.

For the other foot to keep pace, there are specific indicators to assess if progress is indeed being made.

One indicator, numbered 16.10.1, puts forward the idea that the safety of journalists is a barometer of whether there is progress in “public access to information and fundamental freedoms.” This stands to reason, if journalists are being arbitrarily arrested or otherwise intimidated, the public simply won’t get the news they need.

A second indicator, 16.10.2, measures whether a country has a law on the right to information and how it is implemented.

So how is Africa, and the wider world, doing in these areas?

For 16.10.1, UNESCO keeps statistics on killed journalists and prosecutions of the murderers. Since 2006, 142 journalists have lost their lives in Africa, with just 18 cases known to have been resolved. States report no information on a third of the total killings.

In the period of the SDGs since 2015, 37 journalists were killed in Africa. Impunity rates continue to show an absence of justice in most of these cases.

Information is patchy on other threats to press freedom – like the special aggression online against women journalists. But it could become more possible in future through the [Digital Platform for the Safety of Journalists in Africa](#), launched in 2021.

At least there are some positive signals on the ATI indicator. Nine countries on the continent,

plus The Gambia (in process), have introduced laws since 2015 – taking Africa’s total to almost 25 states with an RTI law.

Over the past three years, UNESCO has monitored the implementation of these laws through a standard survey to assess what’s working and what needs improvement.

More than 100 countries responded this year for the UNESCO annual monitoring, with the details for each being available online. On the deficit side, the number of African responses has remained low.

Also, the survey shows many points that cry out for attention:

- The bodies overseeing ATI in countries need to improve record-keeping so that they know how many information requests are being refused and for what reasons. It is hard to measure changes when the officials who should ensure ATI don’t have the data themselves. *From the 2019 UNESCO survey*
- The officials doing SDG monitoring (sometimes the national statistics office or a ministry) need to better engage with the oversight bodies responsible for ATI in order to source data. Parallel to these efforts, shadow reports by civil society groups, like Voces del Sur in Latin America, are throwing light on ATI implementation. *From the 2020 UNESCO survey*
- Countries can adopt or improve their specialised ATI oversight body (like an Information Commission). The UNESCO survey shows that having such an institution leads to higher scores on ATI. Furthermore, regional networking of Information Commissions emerges as a proven way to improve ATI monitoring and reporting. *From the 2021 UNESCO survey*

These findings make for a hard body of evidence about strengths and weaknesses in ensuring public access to information. Based on this knowledge, a society can implement

focused changes to improve progress on this SDG target.

So, SDG monitoring is not about measuring for the sake of measuring. It is about tracking and advancing meaningful protection, promotion and respect for people's right to information.

The UNESCO findings are reported in the UN Secretary General's annual report to the General Assembly on SDG progress.

In 2019, the findings also fed the special edition of UNESCO's report on World Trends in Freedom of Expression and Media Development, titled [Access to Information: A New Promise for Sustainable Development](#).

In 2020, they powered the [First Global Report on the Implementation of Access to Information Laws](#), presented to UNESCO's special committee called the International Programme for the Development of Communication.

All this makes for momentum for achieving sustainable development.

It is now time for stakeholders to seize on this to ensure Africans get the information they need and deserve.

African Countries with RTI laws

Number	Country	Year of adoption
1	South Africa	2000
2	Angola	2002
3	Zimbabwe	2002
4	Uganda	2005
5	Ethiopia	2008
6	Liberia	2010
7	Niger	2011
8	Nigeria	2011
9	Côte d'Ivoire	2013
10	Guyana	2013
11	Rwanda	2013
12	Sierra Leone	2013
13	South Sudan	2013
14	Mozambique	2014
15	Benin	2015
16	Burkina Faso	2015
17	Sudan	2015
18	Kenya	2016
19	Togo	2016
20	United Republic of Tanzania	2016
21	Malawi	2017
22	Ghana	2019
23	Guinea	2020

African countries that participated in UNESCO's survey

2019	2020	2021
1. Burkina Faso	17. Côte d'Ivoire	26. Benin
2. Cameroon	18. Democratic Republic of Congo	27. Botswana
3. Central African Republic	19. The Gambia	28. Côte d'Ivoire
4. Chad	20. Kenya	29. Equatorial Guinea
5. Côte d'Ivoire	21. Liberia	30. Ethiopia
6. Congo (Republic of the)	22. Madagascar	31. The Gambia
7. Eritrea	23. Sierra Leone	32. Kenya
8. Ghana	24. South Africa	33. Liberia
9. Kenya	25. South Sudan	34. Madagascar
10. Lesotho		35. Mauritius
11. Mauritania		36. Namibia
12. Mauritius		37. Sierra Leone
13. Rwanda		38. South Africa
14. Sierra Leone		39. South Sudan
15. South Africa		40. United Republic of Tanzania
16. United Republic of Tanzania		

Using litigation as a tool to advance access to information

A significant challenge in ensuring the effectiveness of access to information laws in many countries across Africa, including Nigeria, has been how to enforce the compliance of such laws.

Non-compliance is most evident in areas such as failure to proactively publish certain types of information required by the law, failure to submit the required periodic reports to oversight bodies as mandated by the law, and refusal of public bodies to disclose information requested by members of the public and to follow applicable procedures.

Many countries are witnessing a high rate of denial of access to information by public bodies, and often requests are simply ignored. Many who are denied access cannot challenge the refusal, which leads to a culture of impunity regarding the implementation of access to information laws among public bodies.

As a direct result of enforcement challenges in many countries with access to information laws, most public officials believe there are no consequences if they fail to comply with the law.

It is evident that access to information laws cannot achieve their purpose without compliance with key provisions.

The lack of effective mechanisms for enforcing compliance ultimately entrenches a culture of impunity in implementing ATI laws and undermines public trust and confidence in the law.



...without compliance with key provisions, access to information laws cannot achieve their purpose.



Therefore, enforcing compliance with the law must be the core focus of access to information advocacy.

Most access to information laws in Africa provide judicial and non-judicial mechanisms for enforcement. Although in some countries, the laws do not expressly provide for non-judicial means of enforcing compliance, virtually all the access to information laws have judicial mechanisms.

However, the challenge with such mechanisms is that citizens who are unable to get the information they request face the daunting task of invoking and deploying litigation in ATI. Such a citizen would need to engage a lawyer's services, which can be unaffordable for many ordinary citizens.



Litigation can also be time-consuming as cases can drag on for many years.



Besides the legal fees, other fees would need to be covered by the person activating the judicial process, such as payment for filing, service processes at the relevant public institution and transportation for the lawyer, the litigants and any witnesses required to testify.

Litigation can also be time-consuming as cases can drag on for many years.

In countries where the only course of action for those denied access to information is to apply to the court for a review of the refusal, the situation is challenging as many cannot engage the services of lawyers to represent them. In most cases, therefore, they simply do nothing. Situations where public bodies are not held accountable carry the risk that the provisions of the law will be deliberately disregarded.

For instance, in Nigeria, the Act appears to rely on ordinary citizens to ensure compliance with its provisions. Section 1(3) of the Act provides that: *Any person entitled to the right to information under this Act, shall have the right to institute proceedings in the Court to compel any public institution to comply with the provisions of this Act.*

Similarly, Section 2(6) states that: *Any person entitled to the right of access conferred by this Act shall have the right to institute proceedings in the Court to compel any public institution to comply with the provisions of this section.*

In addition to disregarding many of their duties and obligations under the Act, public institutions routinely deny requesters access to information with impunity.

Therefore, a mechanism through which wrongful refusals can be legally challenged was necessary. For this reason, the Media Rights Agenda (MRA) established a national Network of Freedom of Information Lawyers to provide pro bono legal services to citizens and organisations in the country who are wrongfully denied access to information.

Initially chaired by Mr Ike Akaraiwe, former Vice-President of the Nigerian Bar Association, the MRA has members from different parts of Nigeria, mainly Lagos and Abuja. Lawyers voluntarily join the network to render free legal assistance and litigation services on matters related to access to information.

Although members are not paid for their services, MRA pays lawyers an allowance to cover expenses such as filing costs, service of processes and transport costs.

The objectives of the litigation programme include:

- To provide high-quality legal assistance and support to requesters of information, especially indigent requesters who might otherwise not have the resources, knowledge or ability to challenge any wrongful denial of information.

- To clarify any procedural issues arising from the implementation of the Act.

- To compel public institutions to which the FOI Act applies to comply with Section 2(3) of the Act, which requires all public institutions to proactively publish certain types of information about themselves, their activities and their operations under 16 heads of items.

- To clarify certain constitutional issues which have become controversial in relation to the implementation of the Act, including the question of whether the Act applies to information held by public institutions outside the Federal level, that is States and Local Governments; and whether the Act applies to asset declarations made by public officers and held by the Code of

Conduct Bureau pursuant to the provisions of Paragraph 3(c) of Part 1 of the Third Schedule to the Nigerian Constitution.

When MRA receives a request for litigation assistance, it assigns the case to a lawyer on the network based on their location and other considerations. Members may also handle specific cases in which they have particular interest.

MRA also has a legal department with full-time lawyers, registered as an autonomous legal entity (FOI Attorneys) to enable the lawyers to conduct unencumbered litigation.

Lawyers in MRA's legal department provide research and support to members, assist members in drafting court processes, draft written addresses or briefs of arguments, and conduct legal research into access to information cases and decisions locally and internationally. They also provide other forms of support as required.

The lawyers routinely track decisions in access to information cases from courts around Nigeria as well as decisions in access to information cases of particular significance from other countries and international courts. This information is then analysed, together with decisions from international courts and tribunals, and made available to members of the MRA to enhance their knowledge, keep them updated and build up their confidence in handling access to information cases.

MUKELANI DIMBA

Executive at Information Regulator and former co-chair of the Open Government Partnership Steering Committee

The open government partnership and access to information

Introduction

The Open Government Partnership (OGP), which celebrated 10 years of existence in 2021, is a multi-stakeholder initiative of 78 national governments, 76 local governments and thousands of civil society actors working together to promote open governance through the adoption of projects aimed at enhancing policy and practice on transparency, accountability and public participation.

This is achieved by requiring participating governments and civil society to co-create national commitments on a diverse spectrum of issues such as fiscal transparency and open budgeting, access to information and whistleblower protection, public procurement and open contracting, public service delivery, open data, beneficial ownership transparency, legislative openness, infrastructure transparency, and many other areas of public policy.

It was natural that the global access to information (ATI) movement would be some of the early adopters of the OGP framework, centred on transparency. One of the criticisms of the global ATI advocacy agenda was that ATI was often seen as something that concerned the media only, or at worst, was an abstract and foreign concept that had not proven itself.



The OGP then emerged as a boon to ATI advocates in that it provided a platform for framing the ATI agenda...



The OGP then emerged as a boon to ATI advocates in that it provided a platform for framing the ATI agenda within a wide array of areas of practical application. The OGP transformed the ATI advocacy agenda by moving discourse from ATI being a fundamental human right to discourse about areas of application of ATI.

Instead of the arguments focusing on ATI laws needing to be passed, the discourse focused on improving public finance management, service delivery, the legislative process, tax policy efficacy, infrastructure development, etc., through building transparency and participation in those areas.

What do the numbers say regarding the impact of the OGP on the ATI field?

Globally, 69 participating countries have made 309 commitments on ATI or the Right to Information (RTI), 38 of these by 14 participating African countries.

These 14 African countries (Burkina Faso, Cabo Verde, Côte d'Ivoire, Ghana, Kenya, Liberia, Malawi, Morocco, Nigeria, Senegal, Seychelles, Sierra Leone, South Africa and Tunisia) are members of the OGP.

The following 14 local governments in African countries are participating in the OGP: Abuja (Nigeria), El Kef (Tunisia), Elgeyo Marakwet (Kenya), Kaduna State (Nigeria), Kigoma-Ujiji (Tanzania), Makhanda (South Africa), Makueni (Kenya), Nairobi (Kenya), Nandi (Kenya), Plateau (Nigeria), Regueb (Tunisia), Sekondi-Takoradi (Ghana), Shama (Ghana), and Tangier – Tetouan – Al Hoceima (Morocco).

Several ATI actors in Africa linked their ATI advocacy efforts to the OGP processes in their countries, with some pushing for the adoption of ATI laws to boost their country's score to qualify to join the OGP, others using the national action plan process (NAP) to include the adoption of an ATI law as a commitment and others utilising the NAP process to add amendment or enhancement of ATI laws. In terms of numbers, some countries are showing multiple commitments in ATI; for example, Morocco has six; Tunisia, Ghana, and Nigeria have four each; and Liberia has three.

The types of ATI/RTI commitments that African countries have made relate to adopting ATI laws or regulations, improving implementation of existing legislation, publicly disclosing data requested through ATI laws, and creating and using online platforms to submit and service RTI requests.

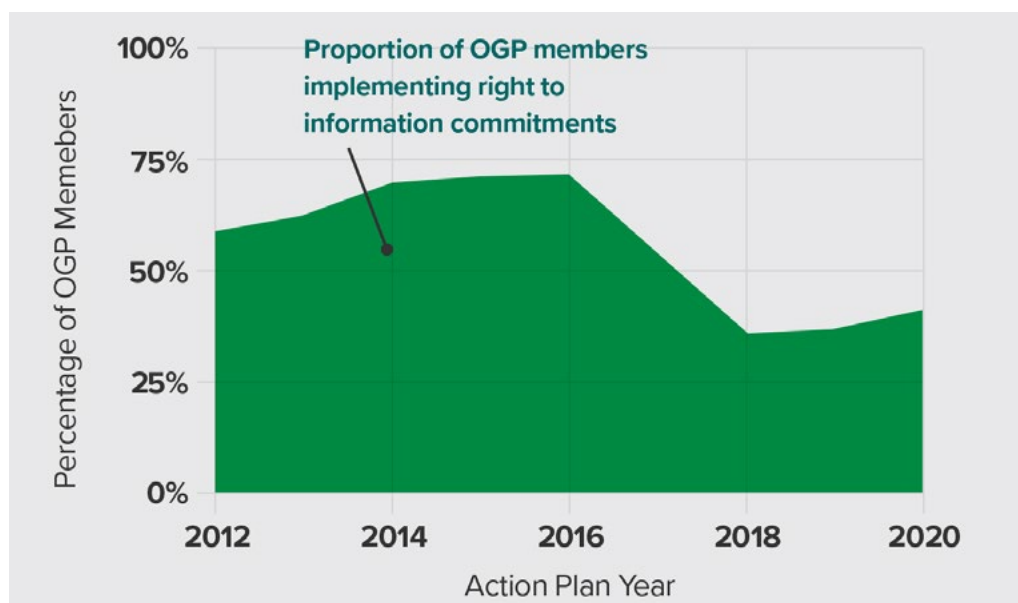
The OGP highlights the following commitment examples of advanced ATI campaigns by some of their high-profile ATI advocates (source: OGP Africa RTI Fact Sheet, 2021):

- **Sierra Leone:** In 2013, Sierra Leone passed its Right to Information Act and developed regulations to implement it. The government trained 250 public information officers in 13 districts within the first year and launched public awareness campaigns to publish further data.
- **Kenya:** Kenya's 2016 NAP included a commitment to pass right to information legislation, which was passed by parliament and came into effect in September 2016. The law contains a records management provision that requires public entities to keep accurate, digitised records that will facilitate the right to access information. The commitment also included RTI training for public officials, education outreach to the public, and establishing an online mechanism for submitting information requests.
- **Tunisia:** The Tunisian Parliament passed a law guaranteeing the right to information. As part of the law's implementation, Tunisia committed to translating the legal text into modernised RTI regulations. A significant achievement of this commitment was the creation of the Authority of Access to Information. This independent authority provides a grievance mechanism for citizens whose requests for information are denied or not granted properly.
- **Nigeria:** Nigeria's 2019 commitment aims to improve compliance by proactively disclosing information, establishing an electronic portal for information requests, and mandating annual reports on request and response rates. Additionally, the commitment calls for increasing the number of FOI officers within public agencies, as most agencies currently lack FOI units.

The OGP Secretariat has reported that “on average, right to information commitments made by African members are more ambitious than those made by all OGP members. However, Africa’s right to information commitments have had lower completion rates and weaker early results than the global average. Compared to all policy areas in Africa, right to information commitments are more ambitious and show stronger early results. The average completion rate of right to information commitments is similar to the average for all commitments in Africa.”

Is the ATI movement losing momentum within the OGP framework?

While ATI was at the core of OGP work in the early phases of the OGP, being one of the more prevalent issues in terms of NAP commitments, the adoption of right to information commitments in Africa has significantly decreased in recent years. Although the number of OGP participating countries has increased, the percentage of African members making ATI commitments has reduced. This is consistent with global trends, as shown in the graph below (sourced from the OGP’s Africa RTI Fact Sheet, 2021).



Conclusion

The decrease in the number of ATI-related commitments and actions on the OGP platform is a worrying trend. The OGP has provided a platform where governments and civil society advocates can collaborate on national priorities in advancing the right of access to information. The decrease in pure ATI commitments may be due to the increase in popularity of thematic commitments with practical applicability of ATI in fiscal transparency, beneficial ownership transparency and open contracting. While these are critical areas of concern in public policy on accountability, it should not take away the fact that an enabling ATI legal framework is the fulcrum upon which the efficacy and success of these thematic applications of ATI rest.

ATI campaigners should grab the mantle once more and work to ensure that the gains of the first decade of the OGP are not lost and that OGP becomes the launchpad for greater strides in the advancement of the right of access to information in the next decade.

Challenges with implementing access to information laws

Lessons and Experiences from Africa

The priority for the Africa Freedom of Information Centre (AFIC) and other FOI advocates between 2009 and 2015 was to promote Africa's adoption and implementation of access to information (ATI) laws. At this time, only five African countries (Angola, Ethiopia, South Africa, Uganda and Zimbabwe) had adopted national right of access to information laws.

We quickly learnt that drafting and adopting a law on transparency looks easy from the outside, but this is until one has shared perspectives from people on the inside. During the [Africa Regional Access to Information Conference](#), organised by the Carter Center in February 2010 in Accra, an Ethiopian government official said that drafting their Access to Information Bill was a big challenge. They had no reference point from which to draft a law with an African context. Other government representatives shared this view and indicated that this lack of clarity had negatively impacted their ability to adopt ATI laws.

The conference recommended that the African Commission on Human and Peoples' Rights (ACHPR) should develop a model law to guide African countries in their legislative processes.

In 2013, ACHPR adopted a [Model Law on Access to Information](#) for African Union member states to serve as:

- a guide in the development of new ATI legislation and the review of existing legislation;



They had no point of reference from which to draft a law with an African context.



- an advocacy tool to encourage the adoption of ATI laws;
- a compilation of best practices; and
- reinforcing a common approach and harmonisation of ATI laws.

The Model Law became a key instrument of AFIC and other African Platform on Access to Information (APAI) working group members to push for good quality ATI laws in Africa.

By 2015, the number of African countries with ATI laws had increased to 14. AFIC's strategic plan 2015-2019 therefore aimed at promoting both adoption and implementation of good quality ATI laws with capacity building for public

officials, civil society and journalists across Africa. This included developing appropriate tools and materials and conducting training, research, and knowledge sharing. This paper highlighted five challenges to effectively implementing ATI laws in Africa.

CSO advocacy stops with the adoption of the law

Adopting an ATI law is not an end in itself but only the beginning and possibly the easiest part of the long ATI journey. Unfortunately, in countries such as Uganda, Liberia and Sierra Leone, civil society and freedom of information coalitions' advocacy work diminished soon after the adoption of ATI laws. For the effective implementation of ATI laws, CSOs need to monitor its implementation and provide feedback to the authorities responsible for oversight or implementation. Such monitoring reports can also inform treaty bodies like ACHPR to guide their engagement with state parties. Lack of CSO engagement after the law has been adopted is sometimes due to a lack of donor funding for monitoring and promoting effective implementation of the law.

No implementation plans

Effective implementation of an ATI law requires establishing systems for proactive disclosure, receiving and responding to ATI requests, processing appeals and reporting. It also necessitates putting in place institutional measures such as record keeping and assigning and training staff. Committed leadership and sufficient resources are required for the effective implementation of the law. AFIC's experience is that whereas every public agency must implement an ATI law, most do not allocate

budget and resources for implementation. Lack of implementation poses a severe threat to achieving Sustainable Development Goal 16.10.2 in Africa.¹

No Reporting

Respective national ATI laws for South Sudan, Uganda, Liberia and Sierra Leone, among others provide for annual reporting to respective national parliaments on the status of implementation of ATI laws. Reporting provides an opportunity for mandated agencies to examine implementation failures where they exist and provide the necessary assistance. Unfortunately, lack of compliance with annual reporting is observed at the level of covered public bodies and oversight agencies. For example, the Liberia Information Commission has never submitted any report to Parliament since the Commission was established in 2013. Sierra Leone Information Commission published its first annual report in 2020, five years after its establishment while in Uganda, no minister has submitted an ATI annual report, 15 years since the law was enacted.

State Parties to the ACHPR are obliged (under Article 62) to report to ACHPR every two years on legal and other measures taken to promote and protect rights guaranteed by the Charter. State reporting enables ACHPR through its concluding observations and recommendations to advise governments on measures to realize rights guaranteed by the Charter for everyone. Of deep concern, a vast majority of governments breach their reporting obligations. Cape Verde, Central Africa Republic, Eswatini, Ghana, Guinea, Madagascar, Tanzania, Tunisia, Seychelles and Zambia are late by more than 5 reports i.e. more than ten years without reporting.²

1. State of ATI in Africa 2017 report <https://africafoicentre.org/download/the-state-of-the-right-to-information-in-africa-report-2017/> . Accessed on 22 September 2020.
2. Status of State Reporting to ACHPR <https://www.achpr.org/statereportsandconcludingobservations>. Accessed on 23 September 2020.

Laws not enforced

A good law is as good as its enforcement. However, most countries have not given oversight the attention it deserves. ATI laws of Liberia, South Sudan, Sierra Leone and Kenya provide for independent administrative appeals bodies to oversee ATI implementation. However, the effectiveness of these bodies has been hampered by a lack of adequate capacity and resources. In Angola, the law (adopted in 2002) provides for establishing a Monitoring Commission, which has not yet been set up. In Nigeria and Uganda, the lack of administrative procedures has left citizens with court appeals as the only recourse when information is denied. Yet, courts are expensive and inaccessible to most citizens.

Low demand for information

In African countries that have adopted ATI laws (such as South Africa, Uganda and Liberia), requests for information remain low. An experience by the Africa Freedom of Information Centre is that when citizens file information requests, public agencies take measures to address issues about which information requests are filed.³ Therefore, African governments must raise citizens' awareness of their right to information and how to exercise it. Civil society organisations and journalists should actively file information requests and monitor how government agencies implement ATI laws.

Despite 25 African countries having adopted access to information laws as of September 2020, lack of effective demand, implementation and enforcement have constrained the realisation of citizens' rights to information and development in Africa.

3. Information requests leads to reforms <http://www.freedominfo.org/2012/08/uganda-issues-manual-on-access-to-information-law/>. Accessed on 24 September 2020.

EMMANUEL SAFFA ABDULAI

Executive Director of Society for Democratic Initiatives (SDI), Sierra Leone

Open contracting

The panacea for curtailing corruption in public expenditure

Corruption, in its many forms, has plagued public contracting for decades leading to large, unquantifiable wastages in public expenditures. Concerns from governments and multilateral and bilateral agencies reached an unacceptable height, and it was necessary to hatch a united effort with open contracting initiatives.

The open contracting initiatives introduced open contracting data standards and open contracting global principles. These two globally acceptable frameworks have guided the drive to reduce graft in public procurement.

Evidence in empirical data has shown that one in every three dollars spent by governments is spent on procuring something or entering into a contract with an entity outside government. Therefore, public contracting has become the world's largest marketplace, covering \$13 trillion of spending every year. Public contracting has been established as "the bricks and mortar of public benefit" where essential commodities, including works, services and goods, are traded. Public spending is the government's number one corruption risk. Governments have failed to undertake the necessary due diligence for what they are buying or selling, who they are buying from, and how much they are spending.

What then is open contracting? According to Open Contracting Organization, "open contracting is about publishing and using open, accessible and timely information on public contracting to engage citizens and



Public spending
has become the
government's number
one corruption risk.



businesses to fix problems and deliver results." The emphasis is on vertical and horizontal access to information, but most importantly, demand-driven access to information which tightly knots accountability. Open contracting is the all-embracing solution to reduce corruption in public procurement. It can transform the approach to doing business by creating a platform which allows for the engagement of various stakeholders – governments, companies and civil society – to work together to reform dated procurement processes with safeguards against leakages. Open contracting is about following the money across the entire

chain of public contracts from their planning to tendering, award, delivery and implementation. Our Open Contracting Data Standard provides a way to join all this information together with unique identifiers making all the information shareable.

Internationally, leading financial institutions and governments adopted the open contracting global principles. The principles echoed the belief that increased disclosure and participation in public contracting make it more competitive and fair, improve contract performance, and secure development outcomes. However, and refreshingly, the principles underscore the need for confidentiality and a reason for exceptions under exceptional circumstances. The overall objectives of the principles are to provide a guide for stakeholders and government to affirmatively disclose documents and information related to public contracting in a manner that enables meaningful understanding, effective monitoring, efficient performance, and accountability for outcomes.

Open contracting brings significant benefits to financial transparency, including providing value for money for governments in the process of purchasing. It also creates fairer competition for businesses and further levels the playing field, allowing smaller firms to compete. Open contracting also enhances the purchase of higher-quality goods, services and work that will eventually benefit citizens. Finally, open contracting prevents corruption and fraud; and leads to smarter analysis and better solutions for public problems.

These benefits have been felt in several parts of Africa, where civil society and other stakeholders have demanded information on projects funded by the government or by donors, leading to greater transparency and accountability.

A case in point is the West African Contract Monitoring Coalition: in 2014, the World Bank launched an ambitious West Africa Contract

Monitoring Network, which intended “to move the agenda of contract monitoring through a multi-stakeholder, regional approach” and included four country-level network coalitions from Ghana, Liberia, Nigeria and Sierra Leone. The Coalition published a Contract Monitoring bulletin that looked at contract transparency in Ghana’s road and school construction sector, detailing the context of the project, challenges, results and outcomes, and lessons learned. It also reported on the effectiveness of procurement processes in waste management and how they affect communities in Monrovia, Liberia. The publication also covered the Nigeria coalition’s work in fostering multi-stakeholder engagement in effective public procurement. Finally, the Sierra Leone project analysed, examined and monitored World Bank funded projects.

The network’s work epitomises the glaring need for access to public contract information as it highlighted project implementation challenges, shared experiences and compared notes. At its launch, the Ghanaian Minister of Justice and Attorney General, Marietta Brew Appiah, said, “Open governance is delivering tangible benefits around the world – faster growth, better public services, less corruption and less poverty. Citizens’ participation, through consultation about needs, identification of beneficiaries, monitoring and providing feedback on performance improves the quality of public services and goods.” This statement underscores the global principles on open contracting and introduces the need for citizens to be involved in the contracting process. Sahr Kpundeh, then the World Bank’s Regional Governance and Anti-Corruption Advisor, added, “The gains of social accountability can be effectively sustained through the participation of a broad-based multi-stockholders – civil society, media, private sector and government.”

The African Freedom of Information Center (AFIC), a network of individuals and institutions

promoting freedom of information, also anchors an open contracting project that reveals the power of releasing contract information in minimising corruption and reducing waste. AFIC strengthens the understanding of open contracting and programming, supports member campaigns for open contracting in respective countries, promotes open contracting knowledge and experience sharing in Africa, and advances open contracting on various platforms in Africa and worldwide. For nearly two years, government schools in the Kasungu district of Malawi faced regular shortages of textbooks and other teaching materials, affecting the students' learning ability. A network of local civil society groups carried out a public expenditure tracking exercise to address the problem. After filing access to information requests and following up with education authorities, the Kasungu Education Network discovered that the company who won the contract had already been paid for the job, despite failing to deliver the materials. In fact, the company had no prior experience in supplying schoolbooks; its core business was telephone and electrical supplies. In Nigeria, the Budeshi platform was created as a space to open up and link budgets and contracts on health centres and schools, showing the power of proactively holding governments to account.

Naysayers have raised concerns about the drive to revolutionise the old principles of contract confidentiality. The examples given above show the myth-busting of commercial confidentiality. Concern about the confidentiality of information in contracts obscures vital details from the public and challenges better decision-making and monitoring of the procurement process and public spending. The Open Contracting Organization surveyed 20 countries and spoke to 79 experts. Surprisingly, the results reveal little evidence to support the continued confidentiality practices of keeping contract information a secret.

The efficacy of open contracting is invaluable not only in public finance management that provides effective service delivery but for the overall democratic credentials of a country. Open contracting reduces corruption and wastage. However, for open contracting to be effective, and become the norm, access to publicly held information should be standard practice.

CHIDO ONUMAH, PHD

Coordinator, African Centre for Media and Information Literacy

GODWIN ONYEACHOLEM

Senior Program Officer, African Centre for Media and Information Literacy

Access to information and whistleblowing

Freedom of Information is upheld as an integral part of the right to freedom of expression in the African Charter of Human and Peoples' Rights and the Declaration of Principles on Freedom of Expression in Africa.⁴ Between 2004 and 2014, the number of countries with Freedom of Information (FOI) laws in Africa grew from 4 to 13.⁵

By the end of 2018, 21 African countries had FOI laws, while 16 had proposed laws.⁶ But passing a law is one thing; turning it into an instrument that enables citizens to genuinely access information is another.⁷ Access to information denotes the right of citizens to obtain information regarding how they are governed.⁸

On 28 May 2011, Nigeria enacted the Freedom of Information Act 2011, thereby joining the group of countries that acknowledge the importance of access to information. The Act makes public information more freely available to citizens and allows them to go to court if their request for information is denied.⁹

Enacting laws such as the FOI Act facilitates public participation in governance in keeping with the provisions of Section 14(2)(c) of the



“the participation by the people in their government shall be ensured in accordance with the provision of this constitution.”



1999 constitution, which provides that “the participation by the people in their government shall be ensured in accordance with the provision of this constitution.”

In order to realise this objective, countries worldwide have passed laws that guarantee and protect their citizens' right to access information or make this right more accessible to the public.

4. Making Progress on Freedom of Information in Africa. Retrieved October 5, 2021. <http://www.unesco.org>
5. Odinkalu, A. and Kadiri, M. Freedom of Information in Africa. Retrieved October 5, 2021. <https://www.justiceinitiative.org>
6. Ilori, T. How Nigeria and Uganda are Faring on the Right to Information. Retrieved October 5, 2021. <https://cipesa.org>
7. Odinkalu, A and Kadiri, M Freedom of Information in Africa. Retrieved October 5, 2021. <https://www.justiceinitiative.org>
8. Uchechukwu, N. “Access to Information under the Nigerian Freedom of Information Act, 2011: Challenges to Implementation and the rhetoric of radical change.” *Journal of African Law*, Volume 63, Issue 3, October 2019, pp. 435 – 461. DOI: <https://doi.org/10.1017/S0021855319000299>
9. Morayo, A, and Akinyinka A. “Access to Information and Transparency: Opportunities and Challenges for Nigeria’s FOI Act 2011” in *Access to Information in Africa* (pp. 261 – 285). 2013: Fatima Diallo and Richard Calland (eds.)

The right of access to information ensures that a government is open and accountable to the people, and thus democracy is deepened.¹⁰

In Nigeria, citizens seeking information can apply for it without having to disclose the reason. According to Section 8 of the Act, fees payable for such applications are restricted to standard charges for document duplication and transcription where necessary. Citizens denied information can approach either the state high court or federal high court for redress.¹¹

One of the most important features of the FOI Act is Section 27 which contains provisions protecting whistleblowers so that they are motivated to report wrongdoing. This section nullifies Section 1 of the Official Secrets Act and Section 97 of the Criminal Code and provides for the protection of public officers who disclose information without due authorisation. Section 27 subsection 2 of the FOI Act says nothing in the Criminal Code or Official Secrets Act shall prejudicially affect any public officer who, without any authorisation, discloses to any person and information which he reasonably believes to show:

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

Subsection 3, on its part, says no civil or criminal proceeding shall lie against any person receiving the information or further disclosing it.¹²

These provisions are an important contributory factor in the gradual dismantling of the culture of silence among citizens due to rampant corrupt practices and wrongdoing in the public service.

Conscious of an access to information law that offers protection for making disclosures on wrongdoing, citizens are steadily being motivated to speak up and demand answers from those who govern them.

In the last four years, the African Centre for Media and Information Literacy, a civil society organisation dedicated to the promotion of transparency and accountable governance in Nigeria, has worked with at least two whistleblowers in the public service – Aaron Kaase, Principal Administration Officer at the Police Service Commission (PSC); and Ntia Thompson, Assistant Director at the Department of Technical Cooperation in Africa (DTCA). These public officers were encouraged to report fraud in their offices as part of their right to free expression.

In May 2015, Kaase¹³ was suspended from office, and his life was threatened for his petition to the Economic and Financial Crimes Commission (EFCC) and Independent Corrupt Practices and Other Related Offences Commission (ICPC) accusing Mike Okiro, Chairman of PSC, of diverting N275.5m out of N350m meant for staff training. Upon completing its investigation, ICPC directed Okiro to refund N133m, but Kaase was not reinstated. He went to court, and in 2017, the National Industrial Court declared the suspension null and void and ordered his immediate reinstatement.

Ntia Thomson, based on information he accessed in April 2016,¹⁴ petitioned EFCC on the embezzlement of \$229,000 and N800,000 by his boss at DTCA. The funds were meant to monitor and evaluate projects jointly managed by DTCA and the African Development Bank. Following his disclosure, he was charged with bordering on violating the oath of secrecy and making false claims against government

10. Ibid.

11. Ibid.

12. Ibid.

13. Aaron Kaase, Principal Administration Officer, Police Service Commission. Retrieved October 8, 2021: www.corruptionanonymous.org

14. Ntia Thompson, Assistant Director, Department of Technical Cooperation in Africa, Ministry of Foreign Affairs. Retrieved October 8, 2021: www.corruptionanonymous.org

officials. Consequently, he was suspended indefinitely from office. On 7 February 2017, Thompson was compulsorily retired from public service.

However, following sustained advocacy by civil society groups and the media calling for his reinstatement, the Ministry of Foreign Affairs, in a letter dated 5 April 2020, stated that the offences for which he was sacked were not punishable by retirement. He was reinstated in June 2020.

In the absence of a whistleblowing and whistleblower protection law, but with easier access to public records and information deemed to be in the public interest, it is hoped that Nigerians will continue to challenge the quality of governance and how public resources are utilised.¹⁵

15. Falana, F Citizens' power and access to information in Nigeria. Retrieved October 8, 2021: <https://www.vanguardngr.com/2019/02/citizens-power-and-access-to-information-in-nigeria-by-femi-falana/>

STEFAANS BRÜMMER

Former Joint Managing Partner at the amaBhungane Centre for Investigative Journalism, a South African non-profit

How we lost the scoop but won the story

It was late on a Thursday morning in September 2012 when Jacob Upright's bombshell hit our inboxes. The anonymous sender's pseudonym was a not-so-subtle poke at his very prominent target's moral rectitude or lack thereof.

Upright's message: *Who is paying for the Nkandla village... Enough money to build thousands of [state subsidised] homes for our nation. See how much security costs. You be the judge.*

Nkandla, of course, was where another Jacob lived when he was not in Pretoria running the country. Then-president Jacob Zuma's sprawling private estate was nestled in the deep rural hinterland of his home province, kwaZulu-Natal.

Attached to Upright's message was a memorandum leaked from Public Works, the department which maintains government properties across South Africa.

The memorandum was from a regional manager to his political boss, the Minister of Public Works. In it, the manager recounted how his office had been tasked with implementing a security upgrade at "prestige project A". The delicate question had come up of how to divide costs between the state, which was to pay for actual security features, and "the Principal", who was to benefit from private improvements. Head office had resolved the matter by apportioning 5% of the costs to the latter. However, the recovery of the 5% seemed to be in doubt, and the regional office felt it could not continue



The memo went to the heart of what was to become the Nkandla scandal...



implementing "the scope of works apportioned to the Principal" without written instruction from head office. The manager suggested that "it may be necessary to discuss these issues with the Principal."

The memo went to the heart of what was to become the Nkandla scandal, which hounded Zuma until another outrage finally pushed him from office in 2018. It reflected a deep-seated culture of using government secrecy to protect elite interests. Though this was a civil servant addressing his minister confidently, he identified neither the project by location nor the "Principal" by name.

The memo also foreshadowed the tug-of-war that was to develop over Zuma's reluctance to, as

the popular call later went, #PayBackTheMoney for the private benefit he had received at public expense. Famously, that benefit included a sparkling new swimming pool which officials insisted was a “fire pool”, supposedly as it could double up as a reservoir to douse flames.

But perhaps most importantly, at least for us at that stage, the memo quantified the soaring expenditure of public money.

When journalist Mandy Rossouw broke the story of the Nkandla upgrade in 2009, the year Zuma became president, the price tag was said to be a “whopping” R65 million.¹⁶ The regional manager’s memorandum cited a March 2011 cost projection of about R214 million, of which R203 million (USD 30 million at the time) had been apportioned to the state and less than R11 million (USD 1.6 million) to Zuma.

The new figures were *whopping* on an altogether different scale. Indeed, that money could have provided a ballpark of 2,000 low-income families with “RDP” homes, the low-cost houses fully subsidised by the state.

An hour after Upright’s message landed in our inboxes at amaBhungane, the investigative non-profit I jointly led, I replied that the information “answers our prayers or at least some queries we’ve had for a long time.”

I also broke the news that we would not run the story that week. At the time, we published via the Mail and the Guardian. We were hours away from the week’s final deadline for the Friday paper. We could have cobbled together a quick hit, but that was not our style. The document needed to be verified and context given. We’d rather be scooped than get it wrong.

Scooped we were. That Sunday, another publication, blessed with the same leak and time to spare, revealed the “R200m splurge on Zuma homestead.”¹⁷

Other journalists might have been discouraged, but amaBhungane (isiZulu for “the dung beetles”) was and is a hardy species.

We had another iron in the fire. Some three months earlier, we had lodged a freedom of information request with the public works department using the Promotion of Access to Information Act (PAIA).

Ambitiously, our request was for all documents that pertained to “the procurement by the state of goods or services to improve, upgrade, alter, add to or secure the Nkandla estate of the president.”

Knowing that just a whiff of interest in the security features themselves would give the pretext to draw a blanket of secrecy over it all, we emphasised that we were interested “not in the technical detail of security-sensitive improvements, but the financial implications of procurement by the state.”

Nevertheless, the department declined our request on the grounds that “Nkandla Presidential Residence, like all other presidential residences in South Africa, is a National Key Point ... protected in terms of the National Key Point [s Act]”. And that “the handling of information for this residence is protected in line with the provisions of ... relevant security prescripts of the State Security Agency.”

We had our secrecy blanket, but that was not the end of the matter.

To understand how events unfolded, here is some background on amaBhungane: Our memorandum of incorporation mandated us not merely to produce investigative stories but to develop the field of investigative journalism as a matter of public interest.

We took a holistic approach. One, we pursued best practices by developing methods and standards as we researched, wrote and

16. <https://mg.co.za/article/2009-12-04-zumas-r65m-nkandla-splurge/>

17. <https://www.news24.com/citypress/politics/r200m-splurge-20120929>

published stories. Two, we helped others do it too via workshops, fellowships, collaborations and more. And three, we advocated for the information rights we considered the lifeblood of our field.¹⁸

That third leg was no tag-on. It comes with a full-time portfolio coordinator and a very substantial budget. The coordinator constantly exercises information rights, not least by filing PAIA requests, and the budget provides abundantly for litigation – complementary strategies to ensure that information rights are respected in practice, bolstered by living, evolving jurisprudence.

And so, armed with a diehard advocacy coordinator, money in the bank and a good set of lawyers, we appealed the refusal.

In the first prescribed step, the departmental appeal, our lawyers pointed out that we had explicitly disavowed wanting security-sensitive details and that the refusal had comprehensively failed to comply with the Act. When answering a PAIA request, the departmental information officer must accede or decline by reference to PAIA – which has its exemptions for security-sensitive matters balanced by a public interest override – and not security legislation or the prescripts of a spy agency.

In response – trapped presumably between the hard place of PAIA and the rock of anticipated presidential displeasure – the department and its final appeal authority, the minister, did exactly nothing.

When we could get no decision out of them, we turned to the high court in November 2012.

The department's defence collapsed spectacularly. Centrally, it had claimed: "Although the applicants expressly stated that they did not seek access to any information



Eighteen months after being scooped, my colleagues and I stood on a stage to accept the Taco Kuiper...



relating to the technical detail of security-sensitive improvements, it is clear that the documents sought are so replete with security-related information that they cannot be disclosed without disclosing security-sensitive information at the same time."

In reply, armed with expert evidence and some records we already had thanks to whistleblowers like Upright, we were able to demonstrate that the department's claim was simply false.

Knowing that it stood on shaky ground, even before the hearing, the department agreed to hand over the records sought, subject to it redacting security-sensitive details. In the thousands of pages it disgorged, there was hardly a black mark.

Eighteen months after being scooped, my colleagues and I stood on a stage to accept the Taco Kuiper, South Africa's premier investigative journalism award, for our series of stories on the Nkandla scandal.¹⁹

"Central to the team's reporting," the award write-up said, "was a PAIA ... request, which finally bore fruit in 2013, when a vast horde of 12,000 documents was handed over." It quoted me saying, "The lesson this teaches us all is about sticking with the story and playing the long game."

18. For more information about amaBhungane and its programmes see <https://amabhungane.org/about-us/>

19. For amaBhungane's series based on the 12 000 pages, see <https://amabhungane.org/stories/the-nkandla-documents>. In keeping with our wider mandate, we also published the entire trove online for the benefit of other media. See <https://amabhungane.org/stories/amab-releases-nkandla-cache/>.

Of course, no story really ends on a stage with cheering colleagues and a trophy held aloft.

As we plumbed the depths of the documents disclosed, we became convinced that some sensitive information – not about security measures but the involvement of senior officials, politicians and the president – had been withheld. Public works head office documents that must have existed were simply not there.

We went back to court and the judge agreed. She ordered that the missing records be handed over or, if they could not be found, that their absence be explained under oath. Conveniently, nothing of significance was located, and the explanations offered had all the hallmarks of a snake swallowing its tail.

We had uncovered a lot, but not everything. We drew succour from the ringing words of the judge, who expounded at length on how the failure to keep or produce records constituted “a dereliction of one of the most important obligations on a government” necessary to fulfil the constitutional demands of democracy, transparency and accountability.

Armed with her words, we were ready to do battle again, as we have done many times since when fulfilling our mandate of advocating for the information rights that are the lifeblood of our field.

The author co-founded and was, until recently working on a long-term investigative project, the IJ Hub, a non-profit that supports investigative journalists and centres in southern Africa.



Appendices





African Platform on Access to Information

19 September 2011

Preamble

We, participants at the Pan African Conference on Access to Information, organised by the Windhoek+20 Campaign on Access to Information in Africa in partnership with the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the African Union Commission (AUC) and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights in Cape Town, South Africa, September 17 – 19, 2011:

Remembering the 1991 Windhoek Declaration on Promoting an Independent and Pluralistic African Press and viewing the significant progress that has been made in the past 20 years on freedom of expression, access to information and the free flow of information;

Stating that access to information (ATI) is the right of all natural and legal persons, which consists of the right to seek, access and receive information from public bodies and private bodies performing a public function and the duty of the state to prove such information;

Emphasising that access to information is an integral part of the fundamental human right of freedom of expression, essential for the recognition and achievement of every person's civil, political and socio-economic rights, and as a mechanism to promote democratic accountability, good governance;

Acknowledging that access to information is instrumental to fostering access to education and health care, gender equality, children's rights, a clean environment, sustainable development and the fight against corruption;

Recalling Article 19 of the Universal Declaration of Human Rights of 10 December 1948, which guarantees that: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers", Article 19 of the International Covenant on Civil and Political Rights and the UN Human Rights Committee General Comment No. 34 adopted in 2011 which states that Article 19(2) of the ICCPR includes the right of access to information held by public bodies; and Article 1.2 of the UNESCO Constitution;

Underlining Article 9 of the African Charter on Human and Peoples' Rights adopted by the Organisation of African Unity (OAU) on 27 June 1981, which provides that, "Every individual shall have the right to receive information";

Reaffirming Article IV(1) of the Declaration of Principles on Freedom of Expression in Africa, adopted by the African Commission on Human and Peoples' Rights at its 32nd Ordinary Session held in October

2002, which provides that “Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law”;

Cognisant of the African Union Convention on Preventing and Combating Corruption, the African Charter on Values and Principles of Public Service and Administration, the African Charter on Democracy, Elections and Governance, the African Youth Charter and the African Statistics Charter, all of which promote transparency in public life.

Welcoming the efforts of the African Commission on Human and Peoples’ Rights Special Rapporteur on Freedom of Expression and Access to Information in developing a Model Law for AU member states on Access to Information, aimed at assisting member states in formulating, adopting or reviewing access to information legislation and its implementation;

Mindful of the efforts of international organisations and others to develop principles and declarations on the right of access to information and freedom of expression including the 2010 Brisbane Declaration “Freedom of Information: The Right to Know”, the Atlanta Declaration and African Regional Findings, the Accra Agenda for Action, the Lagos Declaration on the Right of Access to Information, the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, and the Declaration of Table Mountain;

Aware that the World Summit on the Information Society (WSIS) brought to the forefront the importance of access to information in the modern world through the Geneva Declaration of Principles and Tunis Commitment and that the Internet Governance Forum (IGF) plays a crucial role in bringing together all of the stakeholders to facilitate an international internet governance debate that includes issues of access and openness;

Recognising the work of the African Union Commission to give practical expression to the various instruments of the African Union on freedom of expression and access to information, through such initiatives as the Pan African Media Network and portal, the new AU website, social networks, the media center, training programmes, ensuring media access to the AUC leadership, and publication of other information materials among others; as well as its efforts in promoting Information and Communications Technology (ICTs) in Africa;

Encouraged that over 90 countries around the world have adopted comprehensive national access to information laws or regulations including ten in Africa; that many countries in Africa have joined the Extractive Industries Transparency Initiative, the International Aid Transparency Initiative and the Open Government Partnership; and that the Economic Community of West African States is moving towards adoption of a binding Supplementary Act for a Uniform Legal Framework on Freedom of Expression and Right to Information;

Concerned that most African nations have not yet adopted comprehensive ATI laws or regulations and that significant problems remain with both the substantive provisions of many of those that have adopted laws and the full implementation of the laws;

Acknowledging that civil society organisations and government bodies around the world have adopted 28 September as International Right to Know Day;

Convinced that it is of critical importance that clear and comprehensive principles are established to guide the promotion and protection of the right of access to information in Africa through the adoption and effective implementation of appropriate national laws and regulations;

Resolve to adopt the following Principles on The Right of Access to Information:

Key Principles

1. **Fundamental Right Accessible to Everyone.** Access to information is a fundamental human right, in accordance with Article 9 of the African Charter on Human and Peoples' Rights. It is open to everyone, and no one should be privileged or prejudiced in the exercise of this right on account of belonging to a class or group howsoever defined, and whether in terms of gender, class, race, political association, occupation, sexual orientation, age, nationality, HIV status, and other bases as cited in many African constitutions. It is not required that anyone must demonstrate a specific legal or personal interest in the information requested or sought or otherwise required to provide justification for seeking access to the information.
2. **Maximum Disclosure.** The presumption is that all information held by public bodies is public and as such should be subject to disclosure. Only in limited circumstances set out in these principles below may disclosure be denied.
3. **Established in Law.** The right of access to information shall be established by law in each African country. Such law shall be binding and enforceable and based on the principle of maximum disclosure. The law shall take precedence over other conflicting laws that limit access to information.
4. **Applies to Public Bodies and Private Bodies.** The obligations of ATI shall apply to all public bodies, as well as to private bodies that are owned or controlled by the government, utilise public funds, perform functions or provide services on behalf of public institutions, or have exclusive contracts to exploit natural resources (with regards to said funds, functions, services or resources), or which are in possession of information which is of significant public interest due to its relation to the protection of human rights, the environment or public health and safety, or to the exposure of corruption or illegal actions or where the release of the information may assist in exercising or protecting any right.
5. **Clear and Unambiguous Process.** The law shall include procedures for the exercise of the right. The process to obtain information should be simple and fast and take advantage of new information and communication technologies where possible. Bodies falling under the scope of the ATI law should provide assistance to requesters in order to ensure that they receive the information they need. The information provided should be provided in a form understandable to the requestor. Information should be disclosed within a clear and reasonable deadline provided for by law. It should be available at low or no cost.
6. **Obligation to Publish Information.** Public and relevant private bodies shall be obliged to proactively release information in a timely manner about their functions, powers, structures, officials, decisions, expenditures, budgets, and other information relating to their activities that is of public interest. The dissemination should use all reasonable means of communications, including ICTs, to maximise access to all communities and sectors of society.
7. **Language and Accessibility.** To the greatest extent possible, information should be available in the language of the person seeking it, in an accessible location, in a format that is as accessible as possible, and, in particular, ensures that it is accessible to those who may be particularly affected by the subject matter of the information.

- 8. Limited Exemptions.** The right of access to information shall only be limited by provisions expressly provided for in the law. Those exemptions should be strictly defined and the withholding of information should only be allowed if the body can demonstrate that there would be a significant harm if the information is released and that the public interest in withholding the information is clearly shown to be greater than the public interest in disclosure. Information can only be withheld for the period that the harm would occur. No information relating to human rights abuses or imminent dangers to public health, environment, or safety may be withheld.
- 9. Oversight Bodies.** Independent bodies such as an ombudsperson or information commissioner should be established to monitor and hold government bodies and relevant private entities to account on their access to information disclosure practices, to receive and decide upon complaints, and generally oversee the implementation of the access to information legislation. The oversight body should be adequately funded.
- 10. Right to Personal Data.** All persons have a right to access and correct their personal data held by third parties.
- 11. Whistleblower Protection.** To ensure the free flow of information in the public interest, adequate protections against legal, administrative and employment-related sanctions should be provided for those who disclose information on wrong-doing and other information in the public interest.
- 12. Right of Appeal.** Everyone has a right to appeal administratively any action that hinders or denies access to information or any failure to proactively disclose information. They have a right to further appeal to an independent body and to finally seek judicial review of all limits of their right of access to information.
- 13. Duty to Collect and Manage Information.** Public and relevant private bodies have a duty to collect information on their operations and activities on behalf of their citizens. They also have a duty to respect minimum standards in relation to the management of this information to ensure that it may easily be made accessible to citizens.
- 14. Duty to Fully Implement.** Public and relevant private bodies have an obligation to ensure the law is fully implemented. This includes internal procedures and processes and the designation of responsible officials.

Application of Principles

These principles are essential to development, democracy, equality, and the provision of public service, and are applicable to, amongst others, the following:

- 1. Enabling Environment.** Governments should ensure that the legal frameworks create an enabling environment allowing individuals, civil society organisations including trade unions, media organisations, and private businesses to fully enjoy access to information, thus fostering active participation in socio-economic life by all, in particular people living in poverty and those discriminated against or marginalised.
- 2. Elections and Electoral Processes:** Governments and election management bodies have a positive obligation to provide the public with information before, during and after elections, not to interfere with media coverage, to encourage public participation and proactively publish campaign spending and contributions.

3. **Disadvantaged Communities:** Governments have a particular obligation to facilitate access to information by disadvantaged minority groups and minority language speakers, as well as marginalised groups including women, children, rural people, the poor and persons with disabilities. Information should be available at no costs to these groups. This especially applies to information that contributes to the long-term empowerment of the groups. Governments also have an obligation to ensure equitable and affordable access to ICTs for those with special needs and for other disadvantaged persons and groups.
4. **Women:** Governments, civil society and the media have an obligation to facilitate women's equal access to information, so that they can defend their rights and participate in public life. Civil society organisations should be encouraged to make the best use of access to information mechanisms to monitor governments' fulfilment of commitments to further gender equality, to demand the enhanced delivery of services targeted at women and to ensure that the public funds they are entitled to actually reach them. The collection, management and release of information should be gender disaggregated.
5. **Children and Youth:** Governments have an obligation to encourage the mass media to disseminate information and material of social and cultural benefit to children and the youth. Governments are further encouraged to facilitate the exchange and dissemination of such information and material from a diversity of cultural, national and international sources as well as the production and dissemination of information specifically for children and youth and wherever reasonably possible facilitate and encourage access to such information by children and youth.
6. **Environmental Information:** Governments and inter-governmental organisations should increase their efforts in implementing Principle 10 of the 1992 Rio Declaration on the Environment and Development on the right of access to information, public participation and access to justice on environmental issues. Governments should adopt appropriate legislation and regulations to promote access and proactive release of environmental information, guarantee openness, fight secrecy in institutional practices, and repeal that which hinders public availability of environmental information. Governments' capacity to supply environmental information and civil society organisations' demand for such information, as well as engagement in decision-making processes and the ability to hold governments and other actors accountable for actions affecting the environment should be strengthened.
7. **Education:** Taking into account the close connection between the right of access to information and the right to education, governments have the duty to make publicly available information about educational policies and assessments of their impacts, school performance data, and budgets for education at all government levels. Governments also have a positive obligation to provide information for each school, in particular, schools' admission policies and admission lists, information on management practices, school governance, and other relevant aspects.
8. **Health:** Governments have a duty to provide access to information with a view to ensuring and improving access to health care services and enhancing accountability regarding their provision. Civil society actors should be encouraged to implement actions to expand the reach of this type of information to all sectors in society, promote the exercise of the right to information to advance the right to health and counter its violations, undertake advocacy and monitoring actions and directly involve individuals in them. Enhanced access to health-related information shall not preclude the protection of individuals' right to privacy.

- 9. The Fight Against Corruption:** By contributing to openness and accountability, access to information can be a useful tool in anti-corruption efforts. Besides ensuring that access to information legislation is effectively implemented, governments have a duty to guarantee a broader legal and institutional framework conducive to preventing and combatting corruption. Civil society organisations and plural media independent of powerful political and commercial interests are critical actors in unveiling and fighting corrupt practices, and their use of access to information laws and other mechanisms enhancing transparency should be encouraged.
- 10. Aid Transparency.** Governments, donors and recipients have a duty to make all information relating to development assistance including grants, loans and transfers to public and private bodies, and assessments on the use and effects of such assistance fully public in a proactive manner based on the principles of the International Aid Transparency Initiative.
- 11. Natural Resources Transparency.** Governments should proactively publish all information including policies, impact assessments, agreements, subsidies, licenses, permits and revenues relating to the exploitation of natural resources including the extractive industries, water, fisheries, and forests. Private bodies which are exploiting natural resources should be required to publicly disclose the terms of such agreements and payments made to governments based on the principles developed by the Extractive Industries Transparency Initiative (EITI).
- 12. Media and Information Literacy.** Governments, civil society, education institutions, and the media have an obligation to promote media and information literacy, to assist individuals and communities to ensure that all members of society can understand and take advantage of new technologies, and to be able to participate intelligently and actively in public matters, and enforce their right of access to information. Citizens should be empowered to be able to consume information critically and express their views on such information, as well as be enabled to seek corrections where applicable.
- 13. Access to Information and Communications Technologies.** Governments have an obligation to (i) use ICTs and other media to ensure maximum disclosure and dissemination of information; (ii) promote and facilitate unhindered public access to such technologies for all citizens and especially for disadvantaged minority groups and minority language speakers, as well as marginalised people such as women, children, rural people, the poor and persons with disabilities.
- 14. Apply in Other Spheres.** The principles stated above on the right of access to information also apply to various spheres that have not been listed.

Call to Action

In light of the above, the Conference calls on:

UNESCO to:

- Endorse, through its General Conference, the “African Platform on Access to Information” and the proclamation of 28 September as International Right to Information Day, also recommending the endorsement of this International Day by the United Nations General Assembly, as a date to raise awareness about the importance of the right of access to information throughout the world;
- Develop and implement internal policies facilitating access to information held by UNESCO in line with this Declaration, and to encourage the adoption of similar policies by other UN agencies.

- UN Economic Commission for Africa:
- Develop as part of the RIO +20 Earth Summit a regional convention on access to environmental information, public participation and access to justice based on Principle 10 of the 1992 Rio Declaration and the UNEP Bali Guidelines.

The African Union, its Organs and Institutions:

- The African Commission on Human and Peoples' Rights to promote 28 September as African Right to Information Day;
- The African Commission on Human and People's Rights to adopt a resolution authorising the Special Rapporteur on Freedom of Expression and Access to Information to expand Article IV of the Declaration of Principles on Freedom of Expression in Africa to incorporate the principles of this Declaration.
- The African Commission on Human and Peoples' Rights to complete and approve the proposed Africa Model Law for AU member states on Access to Information;
- The African Union Commission to take forward this Declaration by (1) proposing to the next AU summit in January 2012 to adopt 28 September as African "Right to Information Day"; and (2) initiate an Experts Group to develop further instruments on access to information;
- The Pan-African Parliament (PAP) to endorse this Declaration;
- All African Union bodies to promote the respect of the principles in this Declaration by national governments and provide assistance in implementing them;
- The New Partnership for African Development (NEPAD) to adopt the revised African Peer Review Mechanism (APRM), which includes transparency and access to information;
- The African Union should develop and implement internal policies on access to information held by AU bodies based on this Declaration.

Other African Regional Organizations and Institutions:

- All Regional Economic Communities (RECs) should develop internal policies on access to information held by those bodies based on this Declaration;
- ECOWAS to review and adopt the Supplementary Act for a Uniform Legal Framework on Freedom of Expression and Right to Information in West Africa;
- The Southern African Development Community (SADC) to revise the Protocol on Culture, Information and Sport to include principles on access to information;
- Inter-governmental Agency on Development (IGAD) to develop and adopt a Protocol on access to information based on this Declaration;
- The East African Community (EAC) to develop and adopt a Protocol on access to information based on this Declaration;
- The African Development Bank (ADB) to adopt a revised public access policy based on the Transparency Charter for International Financial Institutions.

National Governments of AU member states to:

- Adopt or revise existing comprehensive laws on access to information in line with the principles in this Declaration and the proposed AU Model Law, and fully implement them;
- Harmonise legal frameworks to ensure access to information including repealing or revising antiquated laws which restrict access and ensuring that new laws are compatible with the ATI principles;
- Engage with civil society and other stakeholders to ensure widespread information demand and effective implementation of laws and policies to advance access to information by all persons, especially marginalised groups.
- Join and implement multi-stakeholder efforts including the Extractive Industries Transparency Initiative (EITI), the Construction Sector Transparency Initiative (CoST) and the Medicines Transparency Alliance (MeTA) to further transparency;
- Promote availability of public domain information through ICTs and public access to ICTs;
- Support AU efforts to adopt an instrument on access to information;
- Officially recognise 28 September as International and African “Right to Information Day”;
- Adopt and effectively implement legislation and policies ensuring whistleblower-protection.

Civil Society to:

- Engage with governments in developing, enhancing and implementing ATI laws;
- Monitor progress on the implementation of ATI laws including sectoral laws;
- Create awareness on ATI and provide assistance to facilitate information access by the general public as well as by specific audiences (including women, minority groups and minority language speakers, children, rural communities, individuals with disabilities or living in poverty);
- Ensure transparency in their own activities;
- Promote September 28 as African and International Right to Information Day and, in particular, carry out activities on that date every year to advance the recognition, awareness and enjoyment of the right of access to information by all sectors of society.

Media to:

- Respect editorial independence, professional ethics and journalism standards in their provision of information;
- Recognise the need for transparency and accountability with regard to their own output and institutions, while safeguarding the principal of protecting sources;
- Respect and promote equality, and provide equitable representation within their information output;
- Promote the widest possible access to their information output;
- Enhance mechanisms for audience participation and response;
- Recognise and be responsive to gender differences in regard to audience and market research;
- Popularise the importance of, and issues around, access to information.
- Make optimum use of ATI laws to access information for the public interest.

Business Sector Companies and Corporations to:

- Join multi-stakeholder initiatives promoting transparency including EITI, CoST and MeTA;
- Adopt corporate and social responsibility (CSR) policies that promote transparency and accountability, including access to information and protection of whistleblowers;
- Proactively disclose information of public interest including on pollution releases and other environmental issues;
- Support government and CSO efforts to improve access to information in society.
- Public and Private Donors to:
- Ensure that all information relating to the use of development assistance and its effects are made public;
- Ensure that all information relating to development assistance is made available in conformity with the International Aid Transparency Initiative (IATI) standards;
- Encourage and support governments in the adoption and full implementation of access to information laws and policies;
- Support civil society and governments' efforts to promote access to information.

Adopted in Cape Town, South Africa, on this 19th Day of September 2011, upon a motion for adoption moved by Advocate Pansy Tlakula, Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights, and seconded by Hon. Norris Tweah, Deputy Minister of Information of the Republic of Liberia.

PAN-AFRICAN PARLIAMENT



PARLEMENT PANAFRICAIN

PARLAMENTO PAN-AFRICANO

Gallagher Convention Centre, Private Bag X16, Midrand 1685, Johannesburg, Republic of South Africa

Tel: (+27) 11 545 5000 – Fax: (+27) 11 545 5136 – Web site: www.pan-african-parliament.org

MIDRAND DECLARATION ON PRESS FREEDOM IN AFRICA

Considering Article 9 of the African Charter on Human and Peoples' Rights which states: "Every individual shall have the right to receive information"; and that "every individual shall have the right to express and disseminate his opinions within the law".

Acknowledging the Windhoek Declaration of 1991 which promotes an Independent and Pluralistic African Press and has stated explicitly the Right of Freedom of expression and information for every individual;

Noting the Declaration of Principles on Freedom of Expression in Africa 2002, the Declaration of Table Mountain 2007, the African Charter on Broadcasting 2001, the Declaration of the African Platform on Access to Information 2011; and

Considering the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament (PAP), it is stated in the objectives of the Parliament that it shall, among other things: "Promote the principles of human rights and democracy in Africa and "Encourage good governance, transparency and accountability in member states".

Congratulating the African Commission on Human and Peoples' Rights (ACHPR) for its commitment to promote the right to freedom of expression by appointing a Special Rapporteur on Freedom of Expression and Access to Information in Africa by the Resolution ACHPR/Res.71 (XXXVI)04;

Fulfilling the PAP Resolution No PAP/P(3)/RES/08(I) on the Campaign on "Press Freedom for Development and Governance: Need for Reform".

Endorsing the conclusions of the Dialogue on Media Freedom in Africa held on the 15th May 2013 in the Pan-African Parliament in Midrand, South Africa under the theme of "Press Freedom for Development and Governance: Need for Reform"

The Pan-African Parliament:

1. hereby decides to:

- (i) Launch the campaign on ***“Press Freedom for Development and Governance: Need for Reform”*** in all five Regions of Africa.
- (ii) Establish an annual ***“PAP Award on Media Freedom in Africa”*** for individuals, organizations and member states;
- (iii) Establish an annual ***“PAP Index on Media Freedom in Africa”***.

2. Calls upon the AU member states to use the ACHPR **Model Law on Access to Information** in adopting or reviewing access to information laws; and

3. Requests Development Partners to support the implementation of the related Resolutions with assistance and support.

Adopted in Midrand on the 15 May 2013

UNESCO

EXECUTIVE BOARD

PARIS, 4 September 2015 Original: French

Item 35 of the provisional agenda

INTERNATIONAL ACCESS TO INFORMATION DAY

197 EX/35

EXPLANATORY NOTE

I. INTRODUCTION

1. The universal right to information is essential for societies to function democratically and for the well-being of each individual. Freedom of information or the right to information is an integral part of the fundamental right to freedom of expression. It is established as a right in Article 19 of the Universal Declaration of Human Rights of 1966, which stipulates that the fundamental right to freedom of expression encompasses the freedom “to seek, receive and impart information and ideas through any media and regardless of frontiers”.
2. Realizing the importance of the right to information worldwide – based on the declaration of the African Platform on Access to Information of September 2011, which enjoyed the participation of several governmental and parliamentary bodies, regional and international professional organizations and civil society partners – the Africa Group defends the initiative of the establishment, by UNESCO, of 28 September as “International Access to Information Day”.

II. JUSTIFICATION FOR AN INTERNATIONAL DAY DEDICATED TO THE RIGHT TO INFORMATION

3. An open and transparent government is a fundamental component of a democratic and developed State. As stipulated by the declaration of the African Platform on Access to Information: “... access to information (ATI) is the right of all natural and legal persons, which consists of the right to seek, access and receive information from public bodies and private bodies performing a public function and the duty of the State to provide such information”.
4. Despite the fundamental importance of this right in the facilitation of all other rights and the creation of a fair and equitable society, there are still countries that do not have national legislation on access to information as a specific expression of the law.
5. People around the world are increasingly demanding greater civil participation in public affairs and seeking transparency. In this context, international law targeting an access to information day is necessary to promote the right to information. The establishment of a specific date provides a coherent message at the international level and facilitates coordination of joint initiatives on public awareness and elucidation by organizations in the coherence of a universally recognized day.

6. While the promotion of information and transparency is clearly an ongoing activity throughout the year, a day marked by collaboration is important for advocacy, thus giving a consolidated message on the need for greater access to information so as to raise public awareness.

III. DESIGNATION OF THE DATE OF 28 SEPTEMBER

7. The date of 28 September was chosen as a day to raise awareness on the importance of the right to information throughout the world. Since its establishment, the historical significance and the profound influence of the annual celebration have marked 28 September as one of the most important dates in the calendars of freedom of information advocates worldwide.
8. The day was originally proposed as the “Right to Know Day” in Sofia, Bulgaria, where a number of freedom of expression advocates from 15 countries gathered to promote the transparency and accountability of governments during a conference held from 26 to 28 September 2002. The countries participating at the event were Albania, Armenia, Bosnia and Herzegovina, Bulgaria, Georgia, Hungary, India, Latvia, the former Yugoslav Republic of Macedonia, Mexico, Republic of Moldova, Romania, Slovakia, South Africa and the United States of America. The event led to the establishment of an international coalition of lawyers, known as the freedom of information lawyers network, which has agreed to undertake international initiatives to improve the standards of access to information worldwide. It was also agreed that the closing day of the conference, 28 September, should be designated as the Right to Know Day and celebrated as such each year.
9. The importance of this day in Africa was also officially recognized by Resolution 222 of the African Commission on Human and Peoples’ Rights at its 50th ordinary session. The date of 28 September is currently vacant on the calendar of events of the United Nations and UNESCO.

IV. HOW THE CELEBRATION WILL TAKE PLACE

10. There is already a strong association of organizations currently working in the field of access to information. This strong association of organizations regularly coordinates series of activities on access to information. The proclamation of the Day will nonetheless draw greater attention to the issue of the right to information and its fundamental importance for human existence. The day will also give greater authority, visibility and acknowledgement to the issue of access to information and will make sure that it is taken more seriously by the stakeholders concerned, particularly national governments.
11. The date of 28 September is already marked by a series of activities, including conferences, workshops, marches, concerts, publications on access to information and petitions calling on governments to adopt and implement laws on access to information. These targeted and widespread activities, regularly held on an officially recognized day, will ensure that the day of 28 September is used to engage and educate citizens and public authorities as to the importance of access to information as a fundamental human right and also to take advantage of raising public awareness for its importance, particularly through access to information interventions through media literacy.

V. DRAFT DECISION

12. After discussing this item, the Executive Board may wish to adopt a decision along the following lines:

The Executive Board,

1. Recalling that freedom of information or the right to information is an integral part of the fundamental right to freedom of expression, as recognized by Resolution 59 of the United Nations General Assembly adopted in 1946, and Article 19 of the Universal Declaration of Human Rights (1948),
2. Also recalling that freedom of information is also central in the context of the World Summit on the Information Society (WSIS), which reaffirmed freedom of expression and universal access to information as cornerstones of inclusive knowledge societies,
3. Bearing in mind the efforts of UNESCO to highlight the relevance and importance of the right to information in the Brisbane Declaration on “Freedom of Information: the Right to Know” (2010), the Maputo Declaration on “Freedom of Expression, Access to Information and Empowerment of People” (2008), and the Dakar Declaration on “Media and Good Governance”, among others,
4. Taking note of the declaration by the African Platform on Access to Information, adopted at the Pan-African Conference on Access to Information, organized by the Windhoek+20 Campaign on Access to Information in Africa in partnership with UNESCO, the African Union Commission (AUC) and the Special Rapporteur on Freedom of Expression and Access to Information in Africa, in Cape Town, South Africa, from 17 to 19 September, 2011,
5. Also taking note of UNESCO’s call, through its General Conference, proclaiming 28 September as “International Right to Information Day”, as a day to raise awareness of the importance of access to information throughout the world,
6. Considering that several civil society organizations and government bodies in the world have adopted and currently celebrate 28 September as “International Right to Know Day”,
7. Approves the principles established in the declaration by the African Platform on Access to Information and recognizes that these principles are essential to development, democracy, equality and the delivery of public services;
8. Recommends that the General Conference:
9. Adopt 28 September as “International Access to Information Day”;
10. Invite all member states, United Nations system organizations, and other international and regional organizations, as well as civil society, including non-governmental organizations and individuals, to celebrate the Day in a manner which each considers most appropriate and without financial implications for the regular budget of UNESCO;
11. Requests the Director-General to bring the resolution adopted on the issue by the General Conference to the attention of the United Nations Secretary-General so that “International Access to Information Day” may be endorsed by the General Assembly.

38 C



General Conference

United Nations
Educational, Scientific and
Cultural Organization

Organisation
des Nations Unies
pour l'éducation,
la science et la culture

Organización
de las Naciones Unidas
para la Educación,
la Ciencia y la Cultura

Организация
Объединенных Наций по
вопросам образования,
науки и культуры

منظمة الأمم المتحدة
للتربية والعلم والثقافة

联合国教育、
科学及文化组织

38 C/70

3 November 2015

Original: English

Item 4.23 of the provisional agenda

PROCLAMATION OF 28 SEPTEMBER AS THE “INTERNATIONAL DAY FOR THE UNIVERSAL ACCESS TO INFORMATION”

OUTLINE

Source : 197 EX/Decision 35

Background: This item was examined by the Executive Board at its 197th session at the request of Angola, Morocco and Nigeria. This request was accompanied by an explanatory note.

Purpose: The present document transmits to the General Conference the recommendation made by the Executive Board at its 197th session and contains in annex the explanatory note.

Decision required: Paragraph 2.

BACKGROUND

1. After having examined this item, the Executive Board recommended that the General Conference, at its 38th session adopt a resolution for the proclamation of 28 September as the “International Day for the Universal Access to Information”.

PROPOSED RESOLUTION

2. In light of the above, the General Conference may wish to adopt the following draft resolution:

The General Conference,

Having examined document 38 C/70,

Recalling that the right to information is an integral part of the right to freedom of expression, as recognized by Resolution 59 of the United Nations General Assembly adopted in 1946, and defined in Article 19 of the Universal Declaration of Human Rights (1948), and Article 19 of the International Covenant on Civil and Political Rights,

Also recalling that freedom of information is also central in the context of the World Summit on the Information Society (WSIS), which reaffirmed freedom of expression and universal access to information as cornerstones of inclusive knowledge societies,

Bearing in mind the efforts of UNESCO to highlight the relevance and importance of the right to information in the Brisbane Declaration on “Freedom of Information: the Right to Know” (2010), the Maputo Declaration on “Freedom of Expression, Access to Information and Empowerment of People” (2008), and the Dakar Declaration on “Media and Good Governance”, among others,

Taking note of the declaration by the African Platform on Access to Information, adopted at the Pan-African Conference on Access to Information, organized by the Windhoek+20 Campaign on Access to Information in Africa in partnership with UNESCO, the African Union Commission (AUC) and the Special Rapporteur on Freedom of Expression and Access to Information in Africa, in Cape Town, South Africa, from 17 to 19 September, 2011,

Taking into account the fact that access to information is one of the main priorities of UNESCO’s activities,

Considering that several civil society organizations and government bodies in the world have adopted and currently celebrate 28 September as “International Right to Know Day”,

Taking note of the principles established in the declaration by the African Platform on Access to Information and recognizing that these principles can play a crucial role in development, democracy, equality and the delivery of public services,

1. ***Decides*** to proclaim 28 September of each year as the “International Day for the Universal Access to Information”;
2. ***Invites*** all member states, United Nations system organizations, and other international and regional organizations, as well as civil society, including non-governmental organizations and individuals, to celebrate the Day in a manner which each considers most appropriate and without financial implications for the regular budget of UNESCO;

3. **Requests** the Director-General to bring this resolution to the attention of the United Nations Secretary-General so that “International Day for the Universal Access to Information” may also be endorsed by the General Assembly.

ANNEX

EXPLANATORY NOTE

I. INTRODUCTION

1. The universal right to information is essential for societies to function democratically and for the well-being of each individual. Freedom of information or the right to information is an integral part of the fundamental right to freedom of expression. It is established as a right in Article 19 of the Universal Declaration of Human Rights of 1966, which stipulates that the fundamental right to freedom of expression encompasses the freedom “to seek, receive and impart information and ideas through any media and regardless of frontiers”.
2. Realizing the importance of the right to information worldwide – based on the declaration of the African Platform on Access to Information of September 2011, which enjoyed the participation of several governmental and parliamentary bodies, regional and international professional organizations and civil society partners – the Africa Group defends the initiative of the establishment, by UNESCO, of 28 September as “International Access to Information Day”.

II. JUSTIFICATION FOR AN INTERNATIONAL DAY DEDICATED TO THE RIGHT TO INFORMATION

3. An open and transparent government is a fundamental component of a democratic and developed State. As stipulated by the declaration of the African Platform on Access to Information: “... access to information (ATI) is the right of all natural and legal persons, which consists of the right to seek, access and receive information from public bodies and private bodies performing a public function and the duty of the State to prove such information”.
4. Despite the fundamental importance of this right in the facilitation of all other rights and the creation of a fair and equitable society, there are still countries that do not have national legislation on access to information as a specific expression of the law.
5. People around the world are increasingly demanding greater civil participation in public affairs and seeking transparency. In this context, international law targeting an access to information day is necessary to promote the right to information. The establishment of a specific date provides a coherent message at the international level and facilitates coordination of joint initiatives on public awareness and elucidation by organizations in the coherence of a universally recognized day.
6. While the promotion of information and transparency is clearly an ongoing activity throughout the year, a day marked by collaboration is important for advocacy, thus giving a consolidated message on the need for greater access to information so as to raise public awareness.

III. DESIGNATION OF THE DATE OF 28 SEPTEMBER

7. The date of 28 September was chosen as a day to raise awareness on the importance of the right to information throughout the world. Since its establishment, the historical significance and the profound influence of the annual celebration have marked 28 September as one of the most important dates in the calendars of freedom of information advocates worldwide.
8. The day was originally proposed as the “Right to Know Day” in Sofia, Bulgaria, where a number of freedom of expression advocates from 15 countries gathered to promote the transparency and accountability of governments during a conference held from 26 to 28 September 2002. The countries participating at the event were Albania, Armenia, Bosnia and Herzegovina, Bulgaria, Georgia, Hungary, India, Latvia, the former Yugoslav Republic of Macedonia, Mexico, Republic of Moldova, Romania, Slovakia, South Africa and the United States of America. The event led to the establishment of an international coalition of lawyers, known as the freedom of information lawyers network, which has agreed to undertake international initiatives to improve the standards of access to information worldwide. It was also agreed that the closing day of the conference, 28 September, should be designated as the Right to Know Day and celebrated as such each year.
9. The importance of this day in Africa was also officially recognized by Resolution 222 of the African Commission on Human and Peoples’ Rights at its 50th ordinary session. The date of 28 September is currently vacant on the calendar of events of the United Nations and UNESCO.

IV. HOW THE CELEBRATION WILL TAKE PLACE

10. There is already a strong association of organizations currently working in the field of access to information. This strong association of organizations regularly coordinates series of activities on access to information. The proclamation of the Day will nonetheless draw greater attention to the issue of the right to information and its fundamental importance for human existence. The day will also give greater authority, visibility and acknowledgement to the issue of access to information and will make sure that it is taken more seriously by the stakeholders concerned, particularly national governments.
11. The date of 28 September is already marked by a series of activities, including conferences, workshops, marches, concerts, publications on access to information and petitions calling on governments to adopt and implement laws on access to information. These targeted and widespread activities, regularly held on an officially recognized day, will ensure that the day of 28 September is used to engage and educate citizens and public authorities as to the importance of access to information as a fundamental human right and also to take advantage of raising public awareness for its importance, particularly through access to information interventions through media literacy.



General Assembly

Distr.: General

21 October 2019

Seventy-fourth session

Agenda item 14

Integrated and coordinated implementation
of and follow-up to the outcomes of the major
United Nations conferences and summits in the
economic, social and related fields

Resolution adopted by the General Assembly on 15 October 2019

[without reference to a Main Committee (A/74/L.1 and A/74/L.1/Add.1)]

74/5. Proclamation of 28 September as the International Day for Universal Access to Information

The General Assembly,

Recalling that the right to seek, receive and impart information is an integral part of the right to freedom of expression, as defined in article 19 of the Universal Declaration of Human Rights¹ and article 19 of the International Covenant on Civil and Political Rights,²

Reaffirming the purposes and principles enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights,

Recalling resolution 57 adopted on 17 November 2015 by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its thirty-eighth session,³

Stressing that freedom of information is also central in the context of the World Summit on the Information Society, which reaffirmed freedom of expression and universal access to information as cornerstones of inclusive knowledge societies,

Stressing also the importance of full respect for the freedom of opinion and expression, including the right to seek, receive and impart information, and the fundamental importance of access to information and ideas through any media, and democratic participation,

Noting that in the declaration by the African Platform on Access to Information, adopted at the Pan-African Conference on Access to Information, organized by the Windhoek+20 Campaign on Access to Information in Africa in partnership with the United Nations

Educational, Scientific and Cultural Organization, the African Union Commission and the Special Rapporteur on Freedom of Expression and Access to Information in Africa of the African Commission on Human and Peoples' Rights in Cape Town, South Africa, from 17 to 19 September 2011, the right to information was recognized as a human right and also as fundamental to development,

Recalling article 6 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the General Assembly in its resolution 53/144 of 9 December 1998,

Bearing in mind the efforts of the United Nations Educational, Scientific and Cultural Organization to highlight the relevance and importance of the right to information in the Brisbane Declaration, adopted at the International Conference on Freedom of Information: the Right to Know, held in May 2010,

Reaffirming the 2030 Agenda for Sustainable Development, adopted by the General Assembly in its resolution 70/1 of 25 September 2015, and the commitments made therein to, inter alia, promote peaceful and inclusive societies for sustainable development, including by ensuring public access to information and protecting fundamental freedoms, in accordance with national legislation and international agreements,

Considering that several civil society organizations and government bodies in the world have adopted and currently celebrate 28 September as the International Day for Universal Access to Information,

Taking note of the principles established in the declaration by the African Platform on Access to Information, and recognizing that these principles can play a crucial role in development, democracy, equality and the delivery of public services,

1. *Proclaims* 28 September as the International Day for Universal Access to Information;
2. *Invites* all member states, organizations of the United Nations system and other international and regional organizations, as well as civil society, including non-governmental organizations and individuals, to celebrate the International Day in a manner that each considers most appropriate, with the cost to be met exclusively from voluntary contributions.

15th plenary meeting 15 October 2019