



The African Women's
Development and
Communication Network

Freedom of Information (FOI) & Women's Rights in Africa



A Collection of Case studies from Cameroon, Ghana, Kenya,
South Africa and Zambia

Compiled By: Carlyn Hambuba
Edited By: Rachel Kagoiya



United Nations
Educational, Scientific and
Cultural Organization

With the support of the
**Communication and
Information Sector**



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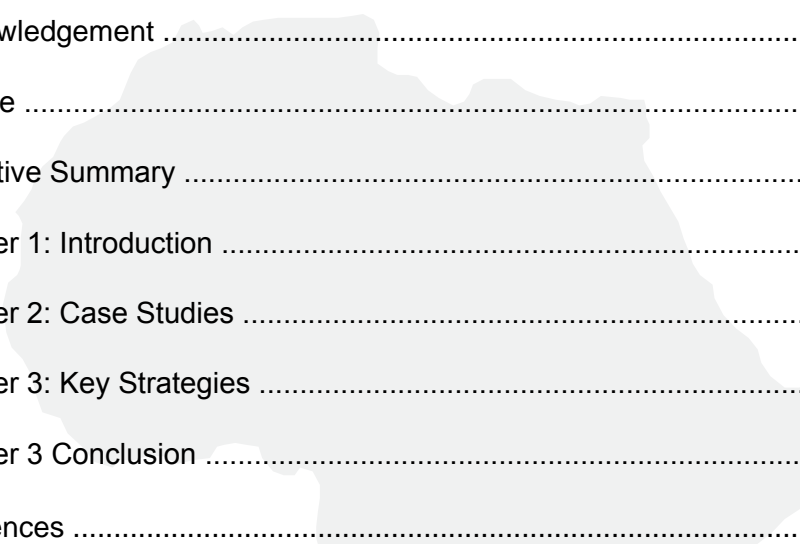


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The African Women's Development and Communication Network (FEMNET) seeks to facilitate and coordinate the sharing of information, experiences, ideas and strategies for human rights promotion among African women's organisations through communication, networking, capacity building and advocacy at regional and international levels.

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List of Abbreviations



AU	African Union
AMWIK	Association of Media Women in Kenya
ART	Anti-Retroviral Treatment
CEDAW	Convention on the Elimination of Discrimination against Women
CSOs	Civil Society Organisations
CSW	Commission on the Status of Women
ECOSOC	Economic and Social Council of the United Nations
FEMNET	African Women's Development and Communication Network
FOI	Freedom of Information
MDG	Millennium Development Goals
OVC	Orphaned and Vulnerable Children
PLWHA	People Living with HIV AIDS
SRHR	Sexual and Reproductive Health Rights
UNIFEM	United Nations Development Fund for Women
FGM	Female Genital Mutilation
FIDA	Federation of Women Lawyers
NEPAD	New Partnership for Africa's Development
NETRIGHT	Network for Women's Rights
NGO:	Non-Governmental Organization
NGOCC	Non Governmental Organisation Coordinating Council
SADC	Southern Africa Development Community
SAHR	South Africa Human Rights Commission
SOAWR	Solidarity for African Women's Rights Coalition
UDHR	Universal Declaration of Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organisation

Map of Africa



Profile of Contributors

CHANTAL KISOON

Chantal Kisoona is an attorney and former researcher of the Constitutional Court of South Africa having participated in the certification of the SA's Constitution. She obtained some cum laude post graduate qualifications in International Human Rights Law in Holland. She was a senior lecturer of law and Deputy Director of the Centre of Human Rights at the University of Pretoria. Working through the Office of the High Commissioner for Human Rights she was instrumental in bringing together African NGO's and CBO's for the World Conference Against Racism and Xenophobia during 2001. She has written extensively on human rights both nationally and internationally. Ms Kisoona is currently the Deputy Director of the Access to Information Program at the South African Human Rights Commission and oversees the mandate of the SAHRC in terms of the legislation which includes promotion and monitoring of the right to access information across multiple levels of government and South African society.

GIFTY DZAH

Gifty Dzah is a women's right advocate, currently working with WILDAF, Ghana. She holds a Bachelor of Arts Degree in Sociology and Psychology from the University of Ghana and is currently pursuing a Master of Philosophy Degree in African Studies with specialization in Gender and Development from the same university. She believes in gender justice and equity in society. She has attended several local and international trainings as a process facilitator and also in women's leadership. She also has experience in the field of communication as a broadcast journalist. Gifty is a member of several coalitions and networks aimed at promoting the welfare of women in society. Among them is the National Coalition on Domestic Violence Bill Legislation in Ghana, the Network for Women's Rights (NETRIGHT), the Coalition on the Women's Manifesto for Ghana, the Ark Foundation Ghana's Women's Law and Human Rights Alumni Network and Sisters Against Disrespectful Advertisements (SADA). She is also the National Coordinator, Young Women Knowledge and Leadership Institute (YOWLI), Ghana.

MARCELINE A NYAMBALA

Marceline A. Nyambala is a Communication and Gender professional with over 10 years work experience. She is an accomplished writer who has written for several publications including the *Standard newspapers* in Kenya. A Communications Major and Business minor from Daystar University Kenya, she is finalizing her M. A in Communication from the University of Nairobi. She is an editor, researcher and trainer in Communication and Gender with a lot of grassroots experience as well as international exposure. She has participated in numerous media campaigns in Kenya and is deeply committed to alleviating poverty, and the empowerment of women in Kenya and the continent. Currently she works for the Association of Media Women in Kenya (AMWIK) where she is engaged in the conceptualization and implementation of programmes, training, amongst other responsibilities.

SALLY CHIWAMA

Sally Chiwama is a Freelance Journalist/Media consultant in Zambia. She has been practicing as a Journalist for more than nine years and written for various media organisations, locally and abroad. She has also produced a television documentary for United Nations Population Fund (UNFPA) on gender based violence in Zambia which was shown on Zambia National Broadcasting Corporation (ZNBC). Sally is a recipient of the 2008 Every Human Has Rights (EHHR) Media Award. She received the prize for her article, “*When a Girl Student Stands up and Wins.*” Sally is currently the Zambia Media consultant for IPAS Africa Alliance. She is also one of the Commissioners on the on-going constitution making Process- the National Constitution Conference (NCC) in Zambia. Sally holds a Diploma in Journalism also a Cambridge Diploma in Project Management. She is also a board member of the Zambia Media Women Association (ZAMWA).

JACQUELINE SYLVIE NGUEPI

Jacqueline Sylvie Nguépi Ndongmo is a teacher and gender expert, who has been in the civil society for the past 14 years. Her training expertise is in the area of human rights, gender and peace building. She is a holder of a Bachelor's Degree in Bilingual letters (English and French) from the Yaoundé University-Cameroon and a DIPTEFL (Diploma in the teaching of English as a Foreign Language) from Moray House College of Education-Scotland. She is also an African Women's Leadership Institute (AWLI) AWLI alumni (2008). She joined the Freedom and Human Rights League (LDL) in 2001, an organization that seeks to ensure that democratic principles are respected in Cameroon and to promote peaceful political transition through free and fair elections. She is in charge of gender and children's issues at LDL.

Acknowledgements

In 2009 the African Women's Development and Communication Network (FEMNET) embarked on the Freedom of Information (FOI) and Women's Rights in Africa Project which is one of the focus issues under the Communication Programme. The aim is to strengthen women's participation in the processes of formulating, enactment and implementation of the Freedom of Information (FOI) legislation in Africa. In the first phase of the Project FEMNET collected case studies from five African countries namely: **Cameroon, Kenya, Ghana, South Africa and Zambia**. The case studies have been compiled into this book which will be distributed to African women organizations to use as a resource book in their organizing around the fundamental right to freedom of expression and freedom of information. Other users who will be targeted are media houses, human rights organizations that have been involved in the FOI campaigns, students of journalism and mass communication as well as research centres in Africa.

The Project has provided FEMNET and its constituencies (who are mostly women's organization) with insights on how African women have engaged with the promotion of freedom of information in their countries. More importantly we have been able to draw lessons and identify areas for action which form the basis for further engagement with women on the right to FOI.

FEMNET is grateful to all the women organisations who accepted to be interviewed by the Consultants and all those who provided materials that were reviewed for purposes of compiling this publication. We are very indebted to the five Consultants Jacqueline Sylvie Nguepi (Cameroon), Gifty Dzah (Ghana), Marceline Nyambala (Kenya) Chantal Kisoon (South Africa) and Sally Chiwama (Zambia) for accepting to conduct the research and compile the country case studies on behalf of FEMNET.

*We also very grateful to Mukelani Dimba the Deputy Chief Executive Officer of the Open Democracy for contributing a section on **Global and Regional resolutions on Freedom of Expression and the Right to Information**.*

To ensure that the case studies were more coherent and relevant, I acknowledge the inspirational leadership of Norah Matovu-Winyi the Executive Director of FEMNET. She provided support to the team working on the first part of the Project from the conception of the idea to the completion of this book. We also thank Ms. Carlyn Hambuba the Communication Officer for conceptualizing the Project and coordinating the process of implementing the first part of the Project which has successfully been completed with the production of this book within the agreed timeframe. We are also indebted to Naisola Likimani the Advocacy Officer, Rachel Kagoiya the Librarian and Martin Odera the Finance Administrator for their professionalism which was vital throughout the process.

Last and by no means least, we appreciate and acknowledge the financial contribution from United Nations Educational, Scientific and Cultural Organisation (UNESCO) which enabled us to collect the case studies and produce this publication. Without the financial support, it would have been next to impossible to bring this first phase of the Project to successful completion. We look forward to continued partnership.

Mama Koite Doumbia
FEMNET Chairperson

Preface

The African Women's Development and Communication Network (FEMNET) is a pan African organization working to promote women's rights and development in Africa. As part of strengthening women's participation in the processes of securing the Freedom of information in Africa, FEMNET embarked on a Regional Project through which case studies have been collected in five African countries namely, **Cameroon, Kenya, Ghana, South Africa and Zambia**. These case studies, compiled in the resource book are to be distributed to African Women organizations' to be used in their organizing around the fundamental freedom of information as we all know that "information and knowledge is power."

The book documents the experiences of women's participation in the processes that have led to the formulation, enactment and/ or implementation of laws or policies that enable citizen to enjoy the freedom of information, particularly information in the custody of the government. Furthermore, it highlights some best practices that have facilitated positive results and the challenges faced by the champions of the FOI campaigns in the five country. This resource book will be useful for enhancing the collective participation of African women in lobbying for the enactment and implementation of the Freedom of Information (FOI) legal and policy frameworks in their respective countries as it provides some recommendations and conclusions drawn from the five case studies that many will find relevant.

FEMNET partnered with UNESCO to kick start the Freedom to Information Project and the first part of the Project has resulted in the production of this publication. The main objective of this Project is to demonstrate the relevance of the freedom to information in the promotion and protection of women's rights as promulgated in national laws and regional and international human rights instruments. The Resource book which is one of the outputs of the first phase of the Project contains the five case studies on the FOI campaigns from which African women organizations' can draw lessons and information to inform their own organizing for the formulation and enactment of freedom of information laws and policies in their respective countries..

Freedom of information entitles the citizens of a country to have the right of access to official information held or in the custody of their government thus promoting transparency and accountability. It invokes an obligation on the part of the government to facilitate easy access to information under its docket, and, more significantly, to publish important information pro-actively and regularly for general public use. Once citizens know what their government is doing on their behalf they are in a better position to monitor and where necessary hold those in public offices accountable for their decisions, actions or non -action. The FOI legislation, policies and administrative regulations and practices all interact to make this right a reality. For instance Kenya is one of the 18 countries in Africa that have signed but not yet ratified the African Union's Protocol on the Rights of Women in Africa.

In fact, Kenya signed the Protocol in December 2003 but sadly the process of ratification and depositing the instrument with the Africa Union Commission (AUC) has taken over five years. As such, the enactment of the FOI bill in Kenya would enable the people and civil society organizations in the first place, to know what the government has done on their behalf (signing onto the Protocol – which implies willingness to adopt the Protocol), and what challenges exist that are causing the long delay between the signing and ratification of the Protocol. Secondly the people would know that Kenya was part of those member states of the AU who in 2004 committed themselves through the Solemn Declaration on Gender Equality to ratify the Protocol immediately and take appropriate measures and actions to align their legislative and policy regime with the Protocol and implement it progressively as part of its sustainable development agenda. Thirdly, the women of Kenya would know who is accountable for this non- action.

Having freedom of information legislation and policies is very important for any democratic state as it is fundamentally related to good governance and sustainable development. The benefits of having the FOI legislation which makes it a right of the people to know what and how the power holders are making decisions that impact on their lives are numerous and they include:

- making governments more transparent and accountable to the people;
- increasing people's participation and involvement in public life and their own governance;
- including those currently marginalized for example, poor women in "hard to reach areas" or living in slum dwellings in the urban setting;
- making private sector actors more accountable and responsive to the needs of the communities they work in and to respect their human rights particularly the right to development;
- improving the capacity of institutions to minimize and expose corruption in all its numerous forms including nepotism;
- improving the processes of decision making as factual information and quality data inform the choice of priorities and resource allocation decisions;
- exposing human rights violations and ensuring that the perpetrators are made accountable; and
- making it easier to promote workers' rights and negotiating for better terms of service especially for women employees to achieve the work / social life balance.

FOI has great potential of enhancing women's rights and empowerment in Africa. Many women and get infected with HIV/AIDS due to lack of information. Teenage girls are faced with high levels of teenage pregnancies due to lack of basic information about their health and sexuality and right of access to family planning information

and facilities. The issue of professional negligence in the medical facilities across the continent has reached alarming levels. However, majority of women are not fully informed about their rights as patients. This greatly affects the doctor/ patient relationship. The government has a responsibility to make information about patients' rights readily available and accessible (in the form that they can understand and used).

Norah Matovu-Winyi

FEMNET Executive Director



Executive Summary

Based on the interviews conducted and data collected in five African countries namely; Cameroon, Ghana, Kenya, South Africa and Zambia very few women organisation have engaged in lobbying for the Freedom of Information Bill. In Cameroon there is no women's Organisation that has ever lobbied for the FOI. Except for a community radio station that has in a way tried to provide information to women, though not directly linked to the FOI. The main activities and programmes for many women organisations in Cameroon are concentrated on other thematic sectors that also contribute to improving the wellbeing through promoting women's rights, provision of vital information on health, education, including poverty alleviation. Even though the FOI law is basically not a major concern for women's organisations in Cameroon, all the respondents feel that, if adopted, such a law will definitely bring positive changes in the lives of Cameroonian women. In Ghana Coalition of organisations and individuals working towards the passage of the FOI in Ghana is called the 'Right To Information' (RTI) Campaign Coalition. This coalition was established in 2003. Data gathered in Ghana revealed that most organisations interviewed were not members or involved in the FOI process because of other work loads they had and themes they were working on. They saw working with the RTI on the FOI as an additional work which would be too much workload for them to carry. Some women's rights organisations felt the networks and coalitions who often represent the women's movement should be the ones working on the FOI so as to present the common front for women in Ghana.

In Kenya the situation is not very different with Cameroon and Ghana. Women organisations have not actively engaged in lobbying for the FOI. The only difference with Kenya is that civil society under the leadership of Kenya Section of the International Commission of Jurists (ICJ) has managed to champion the drafting of the Freedom of Information Bill awaiting enactment in Parliament. South Africa was a unique case in this study, as it already has legislation on FOI known as the Promotion of Access to Information Act (PAIA). The bill become law in 2000. Women organisations in South Africa are currently using the FOI legislation in many positive ways. For examples the need to actively monitor developments within Parliament saw an organization set up a parliamentary monitoring body which tables and details issues being discussed at Parliament level on a website. This intervention, driven largely by women like Allison Tilley, realized the need to create a firm evidentiary resource which created room for focused and timeous responses to issues emerging around access to information. It has also provided fertile ground to acquire in-depth knowledge of Parliament and to craft appropriate lobbying strategies in response. In Zambia the struggle for the freedom of expression and media started as far back as the 1990s but up till now, nothing has been done. Very few women's organisation have engaged in the process. Women organisations have not actively engaged in lobbying for the bill except NGOCC, Women's Lobby and Women for Change. Many organisations interviewed in Zambia perceive the FOI as an issue that affects the media only and do not see how it would benefit them.

From the five countries research, it is evident that women organisations in Africa do not prioritize the FOI in their work because most organization do not see how this relates to women's rights. Yet, Freedom of information is very important as it gives citizenry the right to know and access the official information held by the government, public bodies and some private bodies. The right to freedom of information is guaranteed in Article 19 of the 1948 Universal Declaration of Human Rights (UHDR) and also enshrined in the International Convention of Civil and Political Rights (ICCPR), the African Charter on Human and People's Rights to which Cameroon is a party. UHDR states 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 regardless of frontiers".

Good governance, economic, social and political development is still a big challenge in the majority of African countries because of lack of free access to information. That is why free access to the right information has been a core principle of good governance, and can provide decision and action leverages to women to effectively participate in important developmental issues like poverty alleviation strategy papers the attainment of UN Millennium development goals, international instruments that protect women like CEDAW, Beijing Platform of Action and the AU's NEPAD initiative. However, despite the benefits of having FOI legislation in place, many women organisations in interviewed in Cameroon, Ghana, Kenya, South Africa and Zambia do not fully engage in lobbying for this law. Women organizations in the five African countries are mainly pre-occupied with other thematic areas of focus such, HIV/AIDS, Gender Based Violence human rights etc. and yet FOI is the corner stone of all other rights.



Chapter 1: Introduction

1.1 Background on FOI

Freedom of Information in any democratic society is a core principle of good governance as it enables citizens to understand and participate in public affairs and also hold those in public office accountable for their decisions, actions or non- actions. FOI empowers people to demand their rights and entitlements, and ensures that policy - making and implementation are geared towards bringing about equitable development. FOI is a fundamental human right. As far back as 1946 the UN General Assembly passed a resolution recognizing this. It is guaranteed in Article 19 of the Universal Declaration of Human Rights. ¹However, despite FOI being an essential requisite for democracy, good governance, and development and poverty reduction many African countries do not have the FOI laws guaranteed in their Constitution.

¹Equally, Freedom of expression is very important and it is complimented by Freedom of Information (FOI) because it is fundamentally related to citizen empowerment, good governance and development. Its benefits include:

- **Promoting transparency** – ²FOI enables citizens to see how government, those in public office, are working;
- **Promotes accountability** – once citizens know what their government is doing they are in a position to hold those in office accountable for their decisions and actions. The same applies for designated oversight bodies such as parliamentary committees: They need information to be able to fulfill their mandate;
- **Reduces corruption** – secrecy and lack of information create a breeding ground for corruption and abuses of power. By promoting transparency and accountability FOI curbs such abuses;
- **Improves service delivery and government functioning** – by making those in office accountable for their actions and by giving citizens a voice,

¹ Freedom of information, Protection & Promotion of Human Rights -Priscilla Nyokabi- FEMNET News May-August 2009

²All Africa.com: <http://allafrica.com/stories/200809250776.html?page=2>

³The AU's African Charter on Democracy, Elections and Governance - adopted at the AU Assembly of the AU on 30 January 2007

FOI helps ensure the former work for the benefit of the latter. It thus promotes better planning and service delivery, i.e. improved education, health care.

The advancement of African women has been affected by lack of access to vital information that relates to their rights. To date the condition and prospects for the achievement of African women's development, equality and human rights still remains grim. The African continent is faced with various challenges such as conflict, HIV/AIDS, poverty all of which have adverse consequences for African women. Lack of access to information has led many African women unable to contribute to the development process of the continent. For instance, the lifetime risk of dying in pregnancy and childbirth in Africa is 1 in 22, while it is 1 in 120 in Asia and 1 in 7,300 in developed countries. As many as 10,000 women die every week in developing countries from treatable complications of pregnancy and childbirth.

The need for legislation that guarantees freedom of information that ensures access to relevant and timely strategic information to enhance African women's empowerment is critical. Information can play a critical role in building on the successes of African women seeking to involve themselves in development processes across the continent.

1.2 Freedom of Information and women's rights in Africa

Freedom of information is the citizen's right to know and access the official information held by the government, public bodies and some private bodies. The right to freedom of information is guaranteed in Article 19 of the 1948 Universal Declaration of Human Rights (UHDR) and also enshrined in the International Convention of Civil and Political Rights (ICCPR), the African Charter on Human and People's Rights. UHDR states 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 regardless of frontiers." Good governance, economic, social and political development is still a big challenge in the majority of African countries because of lack of free access to information.

That is why free access to the right information has been a core principle of good governance, and can provide decision and action leverages to women to effectively participate in important developmental issues like poverty alleviation strategies, the attainment of UN Millennium Development Goals, and implementation of international instruments that protect women like CEDAW, Beijing Platform of Action, AU Protocol on the Rights of Women in Africa, and the AU's NEPAD initiative.

1.3 How FOI can enhance women's rights in Africa

Access to information makes the government more sensitive and responsive to the needs and demands of the ordinary people. A freedom of information law increases public participation, because the public can regularly engage with government officials and parliamentary representatives. Freedom of information entails the rights of citizens of a country to access official information held or in the custody of their

government. It invokes an obligation on the part of government to facilitate easy access to information under its docket, and, significantly, to publish important information proactively and regularly for the general public.

Good governance, an essential component of any thriving democratic state, is premised on a system of openness, trust and government accountability. This can only be achieved if the public is involved in the process of governance. If the general public knows the functions, policies and decisions made, they can question the government on the basis of the information obtained, and, most importantly, the reasons for the government's actions. It is thus necessary that the government develops a clear policy on FOI in a bid to ensuring that subsequent legislation are implemented effectively and based on accepted international principles and best practices. Freedom of information being a corner stone for other human rights is critical in enhancing women's development.

African women can use freedom of information bill as they review important global, regional and national commitments such the Beijing Platform for Action, Millennium Development Goal and the recently adopted Accra Agenda for Action. With the FOI in place women can easily demand for information which could help them to identify achievements, gaps and challenges in implementing the Action -signed by governments. Such as;

Article 2 of the ¹Convention on the Elimination of Discrimination against Women (CEDAW) states: "State Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women ...".

The ²Protocol to the African charter on human and people's rights on the rights of women in Africa (commonly referred to as AU Protocol on the Rights of Women in Africa) in article 2 also emphasizes that States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures.

CEDAW and AU protocol on women's rights on Women's rights has good provisions which could help promote women's rights. However, without access to information it is difficult for African women to follow-up and pin down their government on lack of implementation of key provisions in the two documents. The other challenge is that not all African governments have ratified the AU protocol on women's rights. Access to information can therefore provide women with leverage to other rights.

1.4 Global and ¹Regional resolutions on Freedom of Expression and the Right to Information

Globally more than seventy countries have passed the FOI laws in the last decade, Africa has largely been absent. There is a vast new body of experience on how to implement an FOI regime in the context of challenging institutional, resource and

¹ <http://www.un.org/womenwatch/daw/cedaw/>

² <http://www.africa-union.org>

other socio-economic constraints, but in the African context this experience is limited only to South Africa, which remains the only African country that has passed and implemented an *Access to Information law*. Uganda and Angola have also passed FOI legislation but these have not been brought into force yet. The Zimbabwean *Access to Information and Protection of Privacy Act* is a classic example of what an FOI law should not be.

During that era when only Sweden and the USA had FOI legislation, these laws created an understanding of FOI as being merely a part of the right of freedom of expression which in and of itself had come to be perceived as a right that only affects journalists and political activists. However, there has been a major paradigmatic shift in the past decade. Freedom of Information or the Right to Know, properly implemented, is now regarded as a multi-dimensional human right that can make a huge difference to both people and their governments, backed by international legal instruments.

In 1946 the United Nations General Assembly adopted Resolution 59(1), which stated that: *“Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the UN is consecrated.”*

Other international human rights instruments enveloped the right of access to information within the broader and fundamental right of freedom of expression. For example, the *UN General Assembly’s Resolution 217 A (III) on the 1948 Universal Declaration of Human Rights* which states 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.”*

Subsequently, the UN General Assembly’s Resolution 2200 A (XXI) on the 1966 *International Covenant on Civil and Political Rights* states that: *“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”*

In the Commonwealth, the issue of access to information was first given expression within the Commonwealth in 1980 when the council of Law Ministers issued a statement recognizing the fact that: *“public participation in the democratic and government process was at its most significant when citizens had adequate access to information”*.

However this was given more detail in 1999 when the Commonwealth convened an *Expert Group on freedom of information* which confirmed that: *“Freedom of information should be guaranteed as a legal and enforceable right permitting every*

¹ The whole section on **Global Regional Resolutions on Freedom of Expression and the Right to information** is based a paper presented by **Mukelani Dimba** the Deputy Chief Executive Officer of the Open Democracy at a regional conference on the Right to Information, organized by the African Network of Constitutional Lawyers, 17 – 18 June 2008, University of Cape Town, South Africa.

individual to obtain records and information held by the executive, the legislative and the judicial arms of the state, as well as any government owned corporation and any other body carrying out public functions.” This principle was adopted by the council of Law Ministers who went on to formulate further principles which started that;

- a) member countries should be encouraged to regard freedom of information as a legal and enforceable right,
- b) there should be a presumption in favour of disclosure and Governments should promote a culture of openness,
- c) the right of access to information may be subject to limited exemptions but these should be narrowly drawn,
- d) Governments should maintain and preserve records, and
- e) in principle, decisions to refuse access to records and information should be subject to independent review.

The Ministers also called on the Commonwealth to promote these principles among its member states.

On the African continent the *Organisation of African Unity's* (predecessor to the African Union) *African Charter on Human and People's Rights* also upheld the right of access to information wherein Article 9 of the Charter states that:

- a) *Every individual shall have the right to receive information, and*
- b) *Every individual shall have the right to express and disseminate his opinions within the law.”*

Decades later, at the 32nd Ordinary Session of the *African Commission on Human and Peoples' Rights* (Banjul, The Gambia, 2002) African countries adopted a *Declaration of Principles on Freedom of Expression in Africa* which states 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,” and that *“the right to information shall be guaranteed by law in accordance with principles”* set in the declaration, which include the following among others: *“everyone has the right to access information held by public bodies, everyone has the right to access information held by private bodies which is necessary for the exercise or protection of any right; any refusal to disclose information shall be subject to appeal to an independent body and/or the courts; public bodies shall be required, even in the absence of a request, actively to publish important information of significant public interest; no one shall be subject to any sanction for releasing in good faith information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment save where the imposition of sanctions serves a legitimate interest and is necessary in a democratic society; and secrecy laws shall be amended as necessary to comply with freedom of information principles.”*

The declaration precedes the AU's *African Charter on Democracy, Elections and Governance* - adopted at the AU Assembly of the AU on 30 January 2007 - which

states as one of its objectives “(the promotion of) *the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs*”.

The Charter states that member states shall implement the charter in accordance with, among others, the principle of “*transparency and fairness in the management of public affairs*”.

In Article 12 it also calls on member states to:

“*promote good governance by ensuring transparent and accountable administration*”.

Article 19 of the Charter calls on each member state to: “*guarantee conditions of security, free access to information, non-interference, freedom of movement and full cooperation with the electoral observer mission.*”

Following these international standards various countries have attempted to codify these access to information rights either in statutes or in constitutions. A country's constitution should always be the most supreme law of the land and its highest standard on matters of law and rights. In southern Africa six SADC countries have expressly guaranteed the right to information within their constitutional framework, namely; *South Africa, Malawi, Mozambique, the DRC, Tanzania, and Madagascar.*

Eight other SADC countries have only protected this right within the context of the broader right of freedom of expression which normally includes the right to “*seek, receive and impart information*”.

These countries are Botswana, Lesotho, Angola, Zambia, Mauritius, Zimbabwe, Namibia, and Swaziland. Of these countries, besides Angola and Zimbabwe, *only Zambia has a bill at advanced stages.* The Zambian bill – a product of a healthy and successful partnership between the government and civil society - was tabled before parliament in 2002. However the bill was soon and unceremoniously withdrawn by the government during its second reading. Six years later, in early 2008 the late Zambian President, Levy Mwanawasa reintroduced the bill in parliament during the official opening of the assembly.

Though Zimbabwe has passed a law called the *Access to Information and Protection of Personal Privacy Act (AIPPA)*, it is difficult to consider this legislation as a proper *Right to Information Law* because of the numerous and very broad exemptions on the exercise of the right to information and its draconian provisions aimed at controlling the exercise of journalism in the country.

In the eastern part of Africa *only Uganda has the right of access to information specifically guaranteed in the constitution (section 41)* and the country remains *the only country in the region that has passed legislation that gives effect to the right of access to information.* Regulations have not yet been passed in order to bring the legislation into force. In Tanzania and Kenya the right to information is only established in the constitution as part of the right to freedom of expression. The draft bills on *Freedom of Information law* are at advanced stages in both countries.

In 2007 a Kenyan government delegation undertook a study tour to South Africa to learn from the experiences there on drafting and implementing a Freedom of Information in the context of a developing African country.

Article 29 of the Ethiopian constitution expressly established the right to information but also within the broader freedom of the press, mass media and artistic creativity. A draft bill on *Freedom of Information law* is also being considered by the Ethiopian government.

In the western part of the continent, Gambia doesn't have constitutional protection either of the right of access to information specifically or the right to freedom of expression generally. Gambia is infamous for being one of the most dangerous places for the practice of journalism on the continent. On a more positive note, the constitutions of *Ghana, Cameroon, and Senegal* expressly guarantee the right to information while in Nigeria and Sierra Leone the right is constitutionally established as part of the freedom of expression. The Nigerian draft bill was passed by both houses of Parliament in 2007 but the former President, Olusegun Obasanjo, refused to sign it into law, which was quite a set back for the campaign for *Freedom of Information law* in Africa.

There are presently draft laws in *Nigeria, Ghana, Sierra Leone, and Liberia*. The Liberian draft was tabled before parliament in April 2008 and stands a good chance of being signed into law after supportive remarks made by President Sirleaf-Johnson and key ministers in her cabinet. However there are currently *no draft bills in Benin, Burkina Faso, Cameroon, Cape Verde, Mali, and Senegal*.

In North Africa, the Moroccan constitution established the right to "*freedom of opinion and freedom of expression in all its forms*". Morocco has the only *draft bill on Freedom of Information legislation* in North Africa.

It is evidently still early days in the enactment of *Freedom of Information* laws on the African continent. *Freedom of Information* advocates have a formidable task ahead of them, which is nothing short of changing the culture from that of secrecy to that of openness. Access to information is an important tool for promoting accountability and transparency in public service delivery and should continue to be championed.

There is a need to for activists and advocates to remain forever vigilant that countries that have taken bold steps of enacting these laws such as Uganda, Angola and South Africa do not regress into secrecy but are encouraged to strengthen implementation of these laws. Campaign groups and lobbyists must continue to learn from the examples on law advocacy that have come from *South Africa, Nigeria, Zambia, Ghana, and Kenya*.

Lastly, civil society and progressive governments in the continent should be encouraged in making Freedom of Information part of the discourse in consolidation of democracy and promotion of socio-economic justice.

2

Chapter 2: Case studies

Cameroon



Cameroon is located in Central Africa sharing boundaries in the North with Lake Chad., Nigeria in the West, Central African Republic, and the Republic of Congo in the East and Gabon in the South. It has a land area of 475,000 sq.km with a population of about 18 060 382 million inhabitants according to the 2007 estimates.

Women represent 52% of the population. The country has about two hundred (200) ethnic groups. English and French are the two official languages in the country with about 200 local languages.

The legislative power is organized around 2 chambers (Senate and Parliament) and the judiciary. The President is elected for a seven years term of office which is renewable. Parliament has one hundred and eighty members elected in 2007 with a 10% of women representation. *The senate is however functional.* The Senate has to endorse the laws passed by parliament according to article 10 of the Constitution.

Cameroon, like other sub Saharan countries which were formally French colonies,

had its independence on the 1st January 1960. It immediately became a member of the then Organization of African Unity (OAU), and currently it is an active member of the African Union (AU). Cameroon as a member of the United Nations agrees with the key human rights documents that articulate among others the freedom to information, expression and conscious. These include the Universal Declaration of Human Rights (UDHR), the Covenant on Civil and Political Rights and the Covenant of Economic, Social and Cultural Rights. It adhered, signed and ratified most international legal instruments for the protection and promotion of human rights. It signed and ratified CEDAW on August 23rd 1994. Most recently is the signing of the African Union Protocol on the Rights of Women in Africa which was signed in May 2009. From the time Cameroon got its independence to date, the ratio of women representation in various sectors has still not met the 30% minimum requirement.

Statistical Data on Women Representation in key decision-making positions in Cameroon

- ❖ Women represent more than 50% of the population;
- ❖ Currently, there only 22 women parliamentarians out of 180 (10%)
- ❖ There are 6 women ministers out of 66
- ❖ 11 women mayors out of 220
- ❖ One female rector out of 6 in state universities
- ❖ One woman only as a sub divisional officer
- ❖ 3 women as assistant divisional officers
- ❖ 5 female Secretary Generals in about 30 ministries
- ❖ No woman as Governor in any of the 10 Regions
- ❖ Only 18 women magistrates.
- ❖ Only 29% of the employees in public service are women.
- ❖ Very few women are traditional rulers

Statistic above clearly indicates that women in Cameroon are poorly represented in decision making positions. A lot of work needs to be done to ensure that more women participate and are elected to parliament and other decision making positions.

2.1 Freedom of Information in Cameroon

The right to information and expression in Cameroon is derived from international legal instruments duly ratified and some texts and decrees in the national legislation. It is worth noting that once international and regional treaties and conventions are ratified they become applicable and enforceable in the domestic context. They have intra constitutional and supra legislative value. However, the problem of specificity remains unattended to in the national legislation.

The rights to Freedom of Information have its roots in Articles 19 and 20 of the Universal Declaration of Human Rights (UDHR) which provide that "Everyone has the right to freedom of opinion and expression, freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers" They also provide that " Everyone has the right to

freedom of peaceful assembly and association and that No one may be compelled to belong to an association” It is also enshrined in the International Convention of Civil and Political Rights (ICCPR) in Article 19. which stipulates that “Everyone has the right to Freedom of Expression and to seek and impart information and ideas in oral, written, printed, artistic or in any other chosen means ”Article 9 of the African Charter on Human and People’s Rights also stipulates this right by providing in this article that “Everyone has the right to information. In addition Cameroon has signed and ratified most of the conventions and international treaties which strive for the protection of the rights of women. These include:

- The CEDAW signed on 6 June 1983 and ratified on the 23rd August 1994 which in Articles 7 and 15 provide that women and men are equal before and under the law. It therefore outlaws all forms of discrimination against women and the girl child which hinder women’s capacity to realize their full potential in life. Under Article 24 the government of Cameroon has the responsibility to ensure that all persons are aware of these rights and to take measures and all appropriate actions to ensure that the women of Cameroon enjoy the rights guaranteed in this Convention.
- Optional Protocol to CEDAW ratified on 7th January 2005 specifically provides for the right of access to the international justice system where all remedies at the national level have been exhausted. This means that an aggrieved person who has exhausted all remedies at the national level may invoke any Article in the Convention to demand for justice and protection under its provisions. To use this mechanism the aggrieved party has a right to information about this justice mechanism. The justice system in Cameroon has an obligation to provide this information and an international or regional organization may represent the interests of such a person seeking for justice;

The laws on freedom of association and on communication in Cameroon provide for freedom of information and they state that Everyone has the right to information, expression and to peaceful association and no one may be compelled to belong to an association. In practice freedom to information that is in the custody of government is made possible by administrative arrangements developed under the auspices of various ministries and government bodies concerned. For those actors that need to access this information like leaders of civil society organizations, media practitioners, academics and research centres they make use of this legal and administrative framework to obtain the information and keep the public relatively informed of what the government is doing on behalf of the citizens. These non- state actors including those in the private sector also popularize their activities through advertisements, radio and television programs and educate people on current affairs in the country as far as is possible within the confines of the current legal and policy framework. There are still limitations to the full exercise and enjoyment of the freedom to information due to lack of a more comprehensive legal framework that meets the needs of the citizens of Cameroon today. Bureaucracy in the public sector and the slow change of the culture in the public service are the two main hindrances to the full exercise of this right.

The above notwithstanding there are a number of developments in Cameroon that are contributing to the democratization of information in key institutions. In 1996 Cameroon adopted a Constitution. In its preamble, this Constitution proclaims that « *Every person has inalienable and sacred rights, without any discrimination* ». Furthermore, it emphasizes its “*attachment to the fundamental liberties enshrined in all the international instruments to which Cameroon is a member, specifically the UDHR, and the African Charter on Human and Peoples Rights.*”

According to Article 55 of the Constitution every person has a right to enjoy all the constitutional human rights guaranteed therein. The rights and freedoms stipulated in the Constitution include among others, the following:

- Equality of all persons and the duty of all to respect and uphold the rights of the other;
- The right of security for every individual;
- The right to education;
- The right to settle in any part of the national territory as well as freedom of movement;
- The right to privacy of home and correspondence;
- The right of access to justice;
- Freedom of expression, opinion, belief, and conscience;
- Right to promote and practice one's own culture
- Freedom of expression, the press and association.

The following laws adopted by the National Assembly define the freedom of association and information in Cameroon:

- Law N°90/53 of 19th December 1990 relates to the freedom of association. It stipulates that every person has the right to create establish or start an association, choose who to associate with and whether to be part of an association or not.
- Law N°90/52 of 19th December 1990 relating to freedom of social communication; modified and completed by law N°96/04 of 4th January 1996. It governs not only press, but all forms and means of social communication notably printing press, bookshops, press organs, editing, distributing and audiovisual communication houses, posting as well as journalism. But it is worth noting that all scientific publications as well as publications by associations are not subjected to administrative and financial constraints.
- Law N°90/55 19th December 1990 relates to right to convene meetings and demonstrations. This law states that any public meeting and demonstration must be subjected to a written declaration submitted to the law enforcement authorities (Divisional officer) at least three days before the date of the meeting. In theory this is to inform the authorities that such a convening is going to take place in a particular area and where necessary they would provide security for the persons involved.

In case of public demonstrations, such as a protest march, a sit-in strike or any other form of public expression of displeasure to those in authority, the organizers have to obtain permission from the administrative authority beforehand. The request for

authorization should contain the reason for the demonstration, the venue, the route the protesters will use, the name of the main organizers as well as the pledge to maintain order during the demonstration. The request will be granted or denied depending on whether the Divisional Officer considers the activity not to be a threat to public order.

All the above notwithstanding, certain information in the custody of government subjected to the seal of « secret defence » and is not available to the public for example information on the use of income from oil returns has for long been under the sole control of the President of the Republic. Civil servants sometimes refuse to provide needed information to the public or the bureaucracy in the public sector make it practically impossible to access to certain information that should be available to the people in a timely and consistent manner. To minimize this shortcoming, it is becoming increasingly necessary for the government of Cameroon to have in place specific laws that facilitate access to official information about the decisions of government which should be readily available to all citizens.

In the Strategy Paper on Growth and Employment (DSCE) referred to as the reference framework for governmental action for the 2010-2020 period, the government of Cameroon intends to improve citizens' access to information in its custody in order to enable the people to be more involved in public affairs (control and management). To achieve this, the Cameroonian government intends to ensure " the systematic broadcasting of information on public actions" Among the reasons given to justify this policy, it is stated in the Strategy Paper that "Cameroonian authorities are aware of the importance of communication (two way communication) which increases the proximity of the citizens to information that enable them to exercise their civic and political rights as well as realize their social and economic rights. Citizens are able to make critical informed decisions in order to improve their income, products, employment opportunities, education, health and their environment".

It is however important to note that it is due to the efforts of civil society actors over the years that the government of Cameroon has embarked on the process to formulate the law on FOI and this will be presented to the National Assembly for discussion and adoption. Human rights organizations including those promoting human rights in Cameroon have been forerunners in this process. Some of the key actors that have spearheaded the process include the following:

The network "Dynamique Citoyenne" made of about a hundred organizations has taken time these recent years to follow up the execution of the State budget and has then been denouncing its poor management. Under the pressure of constant questioning by Dynamique Citoyenne, the government started publishing in 2006 a newspaper on investment projects for follow up by citizens on the field. It is still thanks to this constant questioning that the government has promised to prepare a draft bill on FOI which is still at intention stage. With this law, the government intends to guarantee a systematic broadcasting of information on public acts.

Overview of Women's Movement in Cameroon

Since December 1990 when there was a change in government policy on citizens participation in their own governance and the implementation of the country's development agenda, the landscape of voluntary associations was enriched with new entities. According to the census of the National Governance Program, there are about sixty thousand associations in Cameroon. Among these are development associations and human rights organizations. According to the 2008 statistics¹ on voluntary association in Cameroon about 500 registered associations are involved in work promoting the rights of women and girls.

The women's rights movement in Cameroon was further strengthened during the events that led to the United Nations Fourth World Conference on women held in Beijing, China in 1995. The dynamism manifested by the pioneer associations for that important event aroused the interest of other women to unite and work in synergy. This led to a surge of new organizations interested in improving women's conditions. In the last ten years NGOs and associations promoting women's rights have tried to form a network or collective so as to work more synergistically. FEMNET Cameroon is leading this process. So far eight organizations are part of this network. The organizations also work a lot more in issue – focused coalitions.

Despite the development of having many voluntary associations their geographical distribution is not homogeneous. The associations are concentrated in the big towns and headquarters of the regions. The rural women are very active in local initiative groups and other community groupings such as peasant organizations. These are very useful structures for purposes of information generation and transmission to the ordinary citizen and they have played a significant role in democratizing information in Cameroon on virtually all critical issues relating to governance, education, health, environment protection, agricultural development, water management and a whole range of other development issues. They also provide information to the citizens for entertainment and general knowledge. However where they do not exist government has the responsibility to ensure that citizens in all parts of the country are duly informed or have access to the information when required.

Some of the priority areas for voluntary organizations that are working to promote women's rights in Cameroon include the following:

- Right to participate in politics
- Right to sexual and reproductive health
- Micro financing and income generating activities
- Communication for social transformation
- Violence against women
- Improvement of the legal status of the woman
- Management capacity building
- Information and communication technologies
- Advocacy and lobbying

¹ Ministry of Women's Affairs

- Primary health care and community health
- Food security
- Promotion of rural women entrepreneurship
- STD and HIV/AIDS prevention and treatment
- Environment protection

By the end of the 1990s, the strategy to mainstream gender as a cross cutting issue in government policies and development plans brought many women NGOs working on different issues to get more familiar with the issue of women's rights. This has greatly contributed to changing the culture and practices within government relating to its interactions with the citizens and with the issue of women's rights. Women are demanding their right to be full and equal participants and one of the ways this has been achieved is by government democratizing information to empower its citizens.

The government of Cameroon has endeavoured to address gender issues in government policies by creating departments for gender in the sector ministries. In addition there is a full Ministry in charge of Women Affairs established on the 4th February 1984 through which the focal points in the sector ministries coordinate the gender mainstreaming efforts and follow up on the implementation of policies and programs designed. A development of a manual for gender mainstreaming has been in the pipeline for some time now at the Ministry of Women's Empowerment and Family Development. This will be a resource book once published that will avail critical information on how different government departments can identify gender issues that are in line with their mandate and design programs that respond positively to address them.

The Ministry of Women's Empowerment and Family Development also takes the lead in organizing activities in commemoration of international days dedicated to the promotion of women's rights. It also initiated and supported a pilot study in 2007 which led to the drafting of a bill intended to introduce reforms in the Family Code. This Bill, if adopted by the National Assembly, will guarantee women and children's rights. This ministry interacts with relevant civil society organizations through its core and external services. These organizations are called upon to register with the ministry which then regularly invites them for discussions on both national and international gender related issues. The Ministry of Women's Empowerment and Family Development has supported the creation and piloting of women centres in the administrative units. These take care of the issues raised by the network of women's associations and girl child education.

Case study on women's involvement in for the FOI and Women's Rights

As mentioned earlier in the country profile, having access to the correct information remains a big challenge in Cameroon. Most of the time people are very reluctant to provide the right information because they are afraid to lose their jobs and also fear for their lives. Information is therefore considered almost like a weapon of power. In the process of compiling this case study one would frequently hear statements like "I'm not allowed to give you the information you are asking for." The bigger challenge though is the poor filing system and storage system of vital documents which

makes it's a very difficult task to retrieve information. This situation leaves room for corruption to thrive and misuse of information to be a common occurrence. For purposes of compiling this case study 25 people were interviewed and these are mainly representatives from the media associations and women's rights organizations. The findings indicate that there is no women's organization that has lobbied for the FOI as a human rights issue. However many through their activities and programs contribute to improving the women's access to vital information on health, education and poverty alleviation.

The 25 organizations consulted in Cameroon it was found that their main areas of focus are:

- ❖ Psychosocial support for People Living with HIV AIDS (PLWHA) ;
- ❖ Capacity building at the grassroots level to participate in Anti HIV-AIDS programs
- ❖ Stigmatization and discrimination of PLWHA
- ❖ Advocacy against early marriage;
- ❖ Sensitizing women on their fundamental rights;
- ❖ Sex education and sexual and reproductive health rights;
- ❖ Advocacy for the girl child education;
- ❖ Training in TIC Information and Communication Technologies.
- ❖ Female Leadership ;
- ❖ Promotion of female entrepreneurship ;
- ❖ Fight against STD and HIV/AIDS;
- ❖ Environmental Protection

Among the associations championing the right of the women in Cameroon is the *International Federation of Women Lawyers in Cameroon (FIDA-Cameroon)*. FIDA Cameroon was established in April 1993 to assist Cameroonian women with legal aid services.

According to FIDA Cameroon, many Cameroonian women have problems, but they do not know where to go to seek for assistance or redress. FIDA Cameroon does a lot of sensitization on women rights and other legal related issues which hinder the realization and enjoyment of women's human rights. This is mainly done through training, advocacy initiatives for policy and law reforms, lobbying for increasing the number of women in leadership and decision making, provision of legal aid, conflict resolution and enabling women to access financial support. The organization practically promotes the right of access to legal information for the ordinary woman in Cameroon. However it has not been involved in the campaigns focusing on reforms to facilitate FOI that is in the custody of government.

FIDA Cameroon is not unique in this situation. The **Association Femmes FM Mbalmayo** in line with its slogan "*Let the voices of women of the centre region be heard!*" also works to promote women's rights through provision of vital information,

awareness raising and also creating space for women to express themselves. The women's voices are heard through a community radio station (Radio FM-Mbalmayo). It is situated at about 50 km from Yaoundé, which is the political capital of Cameroon. The support of technical partners namely UNESCO contributed to its registration in November 1998. It is worth saying that establishing a radio station is not as easy as registering a voluntary association because operating a radio station is governed by the law on freedom of expression. The radio station has to have a licence which is renewed periodically.

The radio has undertaken 4 very important actions within the framework of FOI.

- It has promoted women's participation in the electoral processes through provision of relevant information
- It has publicised educational programs on women's inheritance rights (including those in cohabitation
- It has explained the concept of violence against women (VAW) and the ways in which women can seek for protection (including how VAW affects women's access to land)
- Campaign for establishing the system for provision of birth certificates.

These activities aimed at solving problems related to:

- Poor representation of women in the electoral process as candidates, observers and/ or voters;
- Denial or abuse of women's inheritance rights;
- Failure of women to recognise or acknowledge that certain situations/ conditions they are subjected to are forms of violence against women.

Strategies used by the reporters of the FM radio station include discussions with civil servants working in the towns, testimonies of victims, and support of resource persons from different organisations collaborating with the radio station. Some of the programs are « **Women, know your rights** » presented in 5 local languages and an interactive live programme " **J'ai mon mot à dire** " (My opinion counts).

However, despite the positive developments the radio station has faced numerous challenges. The challenges mainly relate to the fear of reprisals (backlash) against women who publicly speak out against violations of their rights thus exposing their family problems. The use of local languages which make it possible for the information to be accessible to many people is always a challenge for the station to find the appropriate personnel who can effectively communicate in these languages. There is also the risk of public violence targeting the staff members usually after presenting programs that are considered too "emancipated" by some people.

The officials interviewed however stated that they are motivated by the partnership between administrative services in charge of social affairs, the Ministry for Women Empowerment and Family Protection and the auxiliary justice system. Some civil society organisations have also collaborated with the radio station in order to realize the radio programs.

Administrators of Radio FM station presented some of the results of their intervention to include the legalization of marriage certificates by mayors before the obligatory payment of bride price; the recognition of children born to parents that are cohabiting; the recognition of the radio station as a platform for increasing public awareness about women's rights and breaking the silence about the problems they face; and increasing awareness among women about services available for them to seek redress against different forms of violations of their rights.

Changing Mentalities and Empowering Group (CHAMEG) encourages women's political participation. The members of the Association believe that knowledge is power. The organization was established in 1994 in Buéa, South Western region. CHAMEG's mission is to create a community where the underprivileged, especially women can be empowered through increasing access to information. This is done using different strategies including the production of films on some negative practices like female genital mutilation (FGM) that endanger life and impede the progress of women.

They believe that simulating real life situations is a faster way to disseminate information, whether there is a law on FOI or not. They believe that democratizing information by increasing access to the people at the grassroots level provides them with a practical strategy to circumvent the absence of a law on FOI. For example, in preparation for the municipal and legislative elections of 2007, the members of the association took upon itself the responsibility to advocate for the political participation of women in the Manyu division which is the most enclaved (hard to reach) region in this part of the country. The region shares boundaries with Nigeria. The objective was to enable the active participation of the Manyu women both as voters and as candidates in the above mentioned elections.

Through this, CHAMEG wanted to eliminate the problem of lack of leadership skills and weak participation of women in council elections and most specifically their absence at the decision making level. They used the following strategies: mobilisation, sensitization, education, information dissemination and communication with different categories of women, workshops, exhibitions, trainings, meetings, debates, and round tables discussions.

The leadership workshop yielded some encouraging results as 7 women succeeded in entering the Mamfe central council that is 7 out of 25 counselors giving a 28% score as against the previous period where only 3 women were in the council. In the Upper Bayang sub-division, a woman was elected as the Mayor.

However, this was not an easy task for CHAMEG as its members were confronted with suspicion about their motivation by some of the women in the target areas who were not very supportive of women's political involvement as they consider it as the men's domain. Another obstacle was that some political parties categorically refused to include female candidates on their electoral lists. Therefore, there is need for sensitization of the political parties about the equality clauses in the

Constitution of Cameroon and the right of women to participate in governance and decision making. The lack of funds for the female candidates to pay the required fees as stipulated by the electoral law was the other challenge. CHAMEG allied with traditional and religious authorities, leaders of community groups and other political leaders that are supportive of women's rights to be able to realize this success.

Association for the Fight against Violence on Women (ALVF) aims at advocating for the elimination of archaic and harmful traditional practices and sensitizing the society on violence against women. The Association has an emergency telephone line called "Ligne d'urgence d'écoute" (Emergency Telephone Line). Any person can call and report cases of attempted or violence against women and children. Since 2008, ALVF has been particularly involved in the protection of the rights of female refugees, as well as preventing the escalation of violence against these women in Cameroon.

Cameroon is a host country to many war refugees from the neighbouring war torn Central African countries. Side by side with the administrative and political aspects handled by the HCR, High Commission for Refugees ALVF takes care of the psycho social aspect and their integration into the Cameroonian society. This is a worthwhile effort since most of the female refugees are victims of rape and other abuses in their home countries and will not always be out of danger of other forms of violations in the host country. It is taken ALVF time overcome the suspicions of the target group about their motivation and to overcome the problem of communication in order to establish a relationship of trust and mutual acceptance. ALVF has found allies in the HCR Cameroon Bureau, UNIFEM, among sociologists, psychologists, the refugees and community leaders in order to succeed in carrying out these interventions.

Hortense Nana is a nurse and her husband a gynecologist. As the Coordinator of the **Association of "African Genetic Health"** she explains that having a law on FOI remains a very big challenge in Cameroon. Her husband and herself carried out a research on maternal mortality and other women's health problems. They indicated that they found it extremely difficult to access the correct information during the research process even though people were conscious, especially at the level of the Ministry of Health, of the importance of the said research for changing the quality of women's lives. In the interview with the researcher for this Case Study for the law on FOI Ms Nana strongly stated that "this law is of utmost importance in order to save millions of lives in the country."

The Researcher for this Case Study also confirmed that "when carrying out the research on "FOI and women's rights in Cameroon" I came to understand the huge gap between what people say and what they do. The government talks about citizen's right to information, but the reality is different. Some respectable people in decision making positions can only give you information if you agree to pay for it. The lack of a law on FOI and clear guidelines on how information in the custody of government can be accessed by citizens is a very fertile ground for corruption."

Other CSOs such as "**Femme Santé et Développement (FESADE)**", "**Community Education and Development Center**", and the "**Institute de Formation et**

de Coopération pour le Développement (IFCD)” concentrate on providing information on health issues such HIV and AIDS, sex education, and leadership training programs.

FESADE aims to make the Millennium Development Goals for improved health a reality in Cameroon. The two other organizations focus on improving the socio- legal status of the woman through the improvement of democratic governance in Cameroon.

The organizations use the following strategies: public sensitization of the target population, creation of CSO networks to take advantage of synergies and share resources, research and building strategic alliances with other stakeholders in order to provide holistic interventions. The challenges are similar to those mentioned above which include language barriers, cost of follow up and lack of interest on the part of some key policy makers and potential female political leaders. The three organizations have however been able to work closely with some local government authorities, the media and some civil society organizations.

Benefits of Women's Involvement in the FOI Processes

Even though the FOI law was basically not a major concern for women's organizations in Cameroon, all the respondents agreed that if adopted, the law will definitely bring positive changes in the lives of Cameroonian women. The law will also make it easier for the organizations to access certain information that is in the custody of the government. The organizations would be able to advocate and demand from government to account for actions taken to ensure that men, women and children in Cameroon have access to critical information in a timely and comprehensive information. They agreed that government must know and act as the primary provider of such information. They also agreed that the CSOs should work in such a way that they promote and demand that government puts in place systems and mechanisms for facilitating the FOI. The starting point is for the organization to claim FOI as a human right. The organizations in Cameroon are highly involved in this domain of democratizing information. The existence of the FOI law would improve their work as they will be able to access more information on different topics as a human right. Their information dissemination activities would have more legitimacy and government will view them more as partners in the democracy building processes. The respondents said that the FOI law and guidelines would make it easier to obtain and share information on matters that are of interest to women in Cameroon. These include income generating activities and micro credit schemes; the management of natural resources and better agricultural methods; campaign against the stigmatization and discrimination of people living with HIV/AIDS; sexual and reproductive health rights and other women's fundamental rights; women's leadership training; women, information and communication technologies; and women's land rights. It will also increase women's interest and participation in leadership and public life in Cameroon.

In the area of communication, the law would help the citizens have access to the correct information since governments institutions will be forced to disseminate information at all levels without discrimination. FIDA Cameroon strongly stated that having the right information will increase awareness among women and the general

public about their rights. According to CHAMEG, the adoption of the FOI law will facilitate women's political participation in Cameroon. As far as ALVF is concerned, the FOI law will bring hope to women refugees and all other victims of violence. The FOI law will help women refugees to demand for information that will facilitate their integration in the host country.

Way Forward: Strategies for Collective Action

The Cameroon Case Study indicates that organizations working to promote women's rights in Cameroon carry out a variety of activities whose impact would be further enhanced if the FOI is recognized as a fundamental right in Cameroon and appropriate policies and legislation enacted to facilitate its realization and implementation. It is clear from the information provided above that most organizations lack knowledge about the FOI as a human right, what should be included in the FOI legislation and how this law would contribute to the advocacy work they are engaged in to promote development, and the respect and observance of human rights in general and women rights in particular.

In order to overcome the information gaps for the citizens of Cameroon, women organizations interviewed agreed that they need to purposefully begin engaging in the processes that will result in the enactment of the FOI legislation and lead to policy reforms relating to access to information by the citizens that is in the custody of government. This will have to include in their sensitization programs for women at community levels the benefits of having a law on FOI in the country so that they also participate in advocating for its enactment. This calls for concerted efforts among women organisations as they engage in advocacy and lobby actions in favour of the adoption and enactment of this law.

The respondents also noted the urgent need to involve men as direct partners in this process. The inclusion of men in national and grassroots advocacy activities will reduce their skepticism and transform them from being adversaries to allies in advocating for the elimination of discriminatory laws against women and the negative cultural practices. Sensitization should be reinforced in order to build a critical mass of actors involved in demanding for the FOI legislation and its full implementation.

For the FOI law to be enacted quickly, women's associations need to create stronger networks to work on the issue and should also incorporate and prioritize the FOI issue in their programs. The issue of FOI must not be seen as an agenda for only the media, but an issue that affects everyone including women rights activists and the beneficiaries of their human rights work.

Conclusion and Recommendations

It is clear that the current legal framework applicable in Cameroon does not specifically provide for the FOI despite the fact that the country's is a party to several international and regional instruments that provide for it. The law in Cameroon specifically provides for the freedom of assembly and demonstration, and the freedom of speech and social communication. These laws are subject to

interpretation by courts of law and public officers who in several instances have interpreted them in a restrictive manner to the enjoyment of the right to FOI.

The findings also clearly indicate that a law on FOI is a necessary prerequisite in the lobbying for women's rights in Cameroon. Even though women's organisations work very hard for the promotion of women's rights and are sometimes unconsciously involved in the promotion of freedom of information, they still have not understood the necessity of taking up the FOI as a specific programmatic and human rights issue that requires more attention, resources and commitment in their work.

The Ministry of Women Empowerment and Family Development is supportive of the need for the FOI legislation. The Ministry has used the celebration of international day for women as an opportunity for a national sensitization on women's rights in the Cameroonian society. The Ministry is also very supportive of the complementary work of CSOs including women's rights organizations that promote women rights. The Ministry has not prioritized the issue of FOI in its work.

On the basis of these findings the following recommendations proposed in order to support the advocacy and lobbying for freedom of information and expression in Cameroon.

Government of Cameroon particularly the National Assembly

- Elaborate a law on the freedom of access to information which is in the custody of government. This is one way of increasing transparency and accountability in the way public affairs are managed on behalf of the people of Cameroon.
- Facilitate access to the reports on the numerous research and studies undertaken by government on different issues that are of interest to the people of Cameroon by making the findings public information and available for public use;
- Speed up the reform process of the Family Code, as a salient document for the protection of the fundamental rights of the Cameroonian woman;
- Support the work of CSOs and the media as critical partners in the development process in Cameroon. This should be achieved by facilitating their access to critical information that would inform their programs and improve the status of marginalized groups like women who for a long time have not been active participants in governance.

NGO's and Associations working on Women's Rights

- Create a national forum for the exchange of information and sharing of experiences in order to better disseminate useful information to target groups;
- Create bigger coalition with other actors in other social movements and in the media to advocate and lobby for the adoption and enactment of the FOI law;
- Engage with policy makers including parliamentarians and technocrats in the Justice Ministry and Ministry of Information in support the adoption and enactment the FOI law;
- Engage many more actors including the private sector, religious and cultural

leaders and leaders in the education sector to support the proposed reforms to the Family Code of Cameroon;

- Organize combined / coordinated capacity building programs to support the involvement of more actors in the campaign for the enactment of the FOI law, elaboration of a policy on FOI and practical guidelines for different government bodies.

FEMNET and other regional organizations

- Engage with the leaders in Cameroon at the regional level on the need to put in place policies and legislation to support the promotion and realization of the FOI and citizens' participation in the governance and democratization processes in Cameroon;
- Support and encourage initiatives by CSOs to lobby for the enactment of the FOI law in Cameroon as one of the strategies for promoting respect and observance of women's rights in Africa.

Ghana



1. Introduction

Ghana is located in West Africa bounded by Burkina Faso to the North, Togo to the East, Cote D'Ivoire to the West and the Gulf of Guinea to the South. It has a land area of 239,460 sq. km with a population of 20,244,154 million and an annual growth rate of 1.928% (2008 estimate). Females are 50.5% of the population and males 49.5%. The country has about hundred (100) linguistic and cultural groups. It is important to note that no part of the country is ethnically homogeneous due to migration.

Politically, Ghana runs a constitutional democratic system with a president constitutionally mandated to four years per term and two terms in office. It also has a parliament of two-hundred and thirty (230) members who serve four years per term but with no limitation on the terms to serve. It practices a system of decentralization, therefore the country is divided into 10 administrative regions with 170 distinctive metropolitan, municipal and district assemblies (as at 2009).

Background

Fifty-one years after independence, socio-cultural, traditional beliefs and socialisation have continued to put women in Ghana in a subordinate position relative to their male counterparts. This is perpetuated by folklore, proverbs, sayings and songs as well as, socio-cultural practices that women have to undergo but men do not.

In terms of Literacy and educational attainment, the 2003 Core Welfare Indicator Questionnaire (CWIQ)¹ for Ghana reveals that about 53.4% of the population aged 15 and above can read and write, representing an increase of 10% over the 1997 rate. Age, gender and regional differentials exist. Literacy rates continue to be skewed in favour of males: adult male literacy rate is 65.8% compared to 42.3% for females nationally. The rate for females is less than 30% in urban areas and over 50% in rural areas.

Economically, most Ghanaian women's economic empowerment depends on agriculture where they predominate as food crop farmers. In Ghana, women constitute 60% of food crop farmers. There is, however, distinct division of labour in Ghanaian agricultural production and marketing. Women are more engaged in tasks such as planting, weeding, watering, harvesting, the transportation of farm produce, agro-processing and the marketing of small amounts of farm produce. Evidence from across the country shows that apart from playing active roles in family farms, women also cultivate their own farms. Furthermore, research has shown that women are predominately engaged in food crop production because it requires less capital and labour investment as compared to cash crops. As a result, women are largely responsible for food security in the country. Ninety percent (90%) of the food chain is managed by women from planting through processing to marketing.

Men are involved in the initial land clearing, the tilling of the soils and marketing of large amounts of farm produce especially at farm gate level. Men also make decisions on the use of land, inputs, labour and marketing. Moreover, men are engaged in the more lucrative cash crop production, for example, cocoa and non-traditional agricultural exports such as horticulture and vegetables. Women in Ghana are obligated to work on their husbands' land, even though they may not benefit from the income. Traditionally men dominate cash crop production and marketing, which requires high capital and labour investments - these are things that one can access with the proper information and women do not have access to the information.

Analysis reveals women's low levels of food crop and cash crops production, this may also be as a result of the fact that the gender dimensions in agriculture have

¹ Ghana Statistical Service, CWIQ 2003.

not been analysed and are not being systematically addressed. Women's access to land and other resources depend on the information they have. Their ability to increase farm produce is constrained by their access to and control of land. These lands are acquired through their lineage, inheritance, marriage or contractual arrangements. Information plays a crucial role because, to determine which system of inheritance a woman benefits from or what she is entitled to as a member of a family depends on what she knows about the arrangements.

Majority of women are engaged in micro or small businesses, and 60% to 80% of this is located in rural areas. In the absence of sex disaggregated national data, assessing the proportion of the loans granted to women borrowers is difficult. Most women are also not able to access these micro credit schemes and loans because they either are not aware of its existence or do not have information on how to access it.

Health wise, of the 92% of women who were pregnant 5 years prior to the most recent Demographic and Health Survey (2003, DHS) only 21% had been seen by a doctor. As many as 71% saw a nurse or midwife, 1% saw a traditional birth attendant while 6% did not receive antenatal care at all. In this case, it might be concluded that access is good but the quality of service is inadequate. Also, only 46% of births within 5 years of the 2003 DHS received delivery from trained professionals, with 36% in public and 9% in private health facilities. Furthermore, 53% of births occurred at home, thus the rate of medically assisted deliveries remain low.

Maternal and infants mortality rates remain high. Child mortality rate has improved; it remains high with one in every ten children dying before reaching the age of five, and three in five dying before one year. Infant mortality is 64 deaths per 1,000 live births and child mortality is 50 per 1,000 children at age one. Disease incidence is also high and gendered. Data on in-patient morbidity from January to December 2005 of the Ghana Health Services (GHS), for example, reveals that abortions, pregnancy-related complications and malaria in pregnancy were high on the list of reported cases at in-patients departments, nationally.

Ghana's achievements in terms of women in decision making have been intermittent and not consistent, therefore has had very little cumulative effect. Ghana has ratified several International Conventions which have sections on the promotion of women in formal decision-making. Among them is the Beijing Platform for Action and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the African Charter on Human and Peoples' Rights, the Protocol on Women's Rights to the African Charter, the Nairobi Forward looking Strategies for the Advancement of Women and the Solemn Declaration on Gender Equality.

With all these conventions signed and with the Ghanaian Constitution against all forms of discrimination based on race, sex or gender among others, the pattern of decision-making still shows a bias towards males at all levels and structures: political, public service and government appointed boards. For example, as at 2007, out of the 138 District Chief Executives appointed, there were only 5 women making up 3.7%. There were also only 4 women making up 7.8% of the total 51

Ambassadors appointed, the Council of State also had only 3 women making up 15.1% of the total 20 members.

Even though grass root level governance structures were introduced in 1988, and now² there are hundred and seventy (170) district assemblies, women form a minimal percentage of its membership. The local governance concept upon inception has the objective of providing more responsive, equitable and participatory development. It is also to bring government and decision-making nearer to the people and quicken the processes of decision-making. It is also to serve as training ground in political activity for all involved. It was also believed that the district assembly concept would increase women's participation in governance issues. However, the reality on the ground is that men have taken over both the national and local level governance. This among others is because as the importance attached to the local level increases, so does the male interest in it.

Brief Analysis of the Women's Movement in Ghana

It is generally believed that a women's movement has been in existence in Ghana since independence. Just before the period of return to democracy, the women's political movement of the Provisional National Defence Council (PNDC); the 31st Women's Movement is also not left out when recounting the history of the women's movement in Ghana. However, women's rights activists in Ghana believe the women's movement emerged and consolidated in the late 1990's and early 2000s. That is just before the 2000 general and parliamentary elections in Ghana. Women solidified their networks and a larger women's movement emerged. Currently, women's organisations have recognized the need to work together and have formed various coalitions working toward specific goals.

The women's movement in Ghana³ works mainly as a reactionary group and collaborative on a few issues. With the transition to democratic regime, women's organizations have become bolder in confronting the state and mobilising women to address issues of concern that hinder women's development in the country. This is done mainly through street demonstrations, handing over of petitions to government officials, press conferences, dialogue meetings and media advocacy.

Depending on the issues at stake, the movement would unite to work around that particular issue to increase pressure on the government and policy makers to put in place measures or policies that will protect the rights of women. It is also continually seen that different sectors of the movement work on different issues of concern to them. Therefore more than one issue could be on the table and being advocated for at the same time.

The movement has among others worked around the revision of the Interstate Succession Law the passage of the Domestic Violence Act, Rights of women in

2 As at April 2009

3 The women's movement in Ghana is currently lead by 3 Coalitions; DV Bill, Women's Manifesto and NETRIGHT. In all there are about fifty (50) gender based organizations and several individuals making up the Movement

consensual unions leading to consideration of women in such unions in the drafting of a Property Rights of Spouses Bill, Legal rights of women infected and affected by HIV/AIDS, Equal participation of women in Decision making and all governance processes at community, district, national and international levels; Education of women and girls; freedom of choice of a woman, particularly in respect of reproductive health; and women's access to micro credit to enhance financial well being of women.

Regarding institutional leaders or organisational leadership of the women's movement in Ghana, sections of women activists believe the movement is being led by coalitions and networks such as the Network for Women's Rights in Ghana (NETRIGHT), the Coalition on the Legislation of the Domestic Violence Bill (DV Coalition) and the Women's Manifesto Coalition. Others also believe that there is no leader but depending on the focus of the issue at stake an organisation with the expertise in that field leads.

It is clear however that the women's movement in Ghana is still Greater Accra Region-based⁴ even though it tries to rope women's rights organisations from the other regions in its activities, because of its reactionary nature, this does not happen often.

Since return to democracy in 2000, the domestic violence bill which was tabled in 2004 went through several processes and with the ardent support of the women's movement it was passed in 2007. This is one of the crucial laws in Ghana now since return to democracy that pay critical attention to gender issues especially violence and how both genders are affected by it. Before the passage of the Act, the Domestic Violence Victims Support Unit of the Ghana police Service was set up to handle special DV cases. This unit when initially set up was called the Women and Juvenile Unit (WAJU) an indication of what and who exactly the unit was set up for.

Case Studies: Experience of Women involvement in lobbying for FOI law/policy reform and implementation

The FOI bill in Ghana was introduced in 2002 by the Attorney General's Department. This was after the Commonwealth Human Rights Initiative in Ghana a civil society organization had made an attempt at drafting the bill. Therefore before the introduction by government, Civil Society Organisations in 2001 had held publicity campaigns to whip up public interest in the draft document in order to facilitate it when it was introduced in parliament.

The Coalition of organisations and individuals working towards the passage of the FOI in Ghana is called the 'Right To Information' (RTI) Campaign Coalition. This coalition was established in 2003. Till today, the membership list comprises of only one organisation and a network who work directly on women's rights issues. They are Network for Women's Rights in Ghana (NETRIGHT) and Fataale Rural Foundation. It is interesting to note that the Coalition's Coordinator, who is a well

⁴ Regional Capital of Ghana

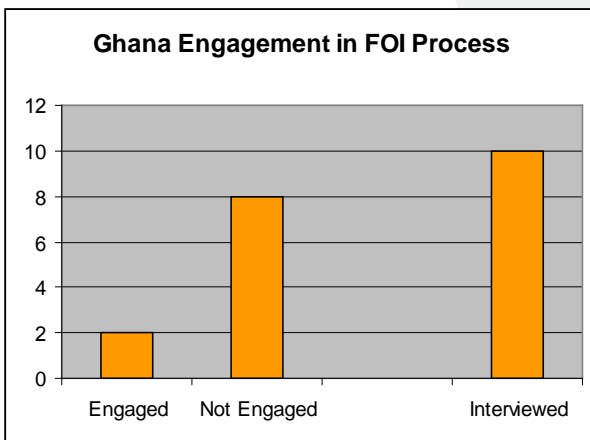
known gender and human rights activist in Ghana, Nana Oye Lithur mentioned that the women's movement in Ghana was too focused on a few issues and was not broad enough to cover several other pertinent issues that needed attention.

She indicated that involvement of the women's movement from her perspective would help bring on board the opinions of women on the bill and help articulate issues from their perspective.

The Programme Officer in charge of the FOI at the Commonwealth Human Rights Initiative (CHRI) the institution which coordinates the RTI campaign mentioned that the bill from their perspective was gender neutral and therefore the Coalition even though invited several women's rights organisations to its meetings and trainings did not particularly target the women's movement except to broaden and make the campaign reflective of all in society because all minority groups were the target.

Data gathered from ten (10) organisations interviewed revealed that most organisations interviewed were not members or involved in the FOI process because of other work loads they had and themes they were working on. They saw working with the RTI on the FOI as an additional work which would be too much workload for them to carry. The data also pointed out that some women's rights organisations felt the networks and coalitions who often represent the women's movement should be the ones working on the FOI so as to present the common front for women in Ghana.

The two institutions mentioned above, NETRIGHT and Fataale Rural Foundation all pointed out that they were members of the Coalition because they saw the essence of having such a bill in place however, they on their own were not engaged in any activities towards the passage of the bill except that they mention and speak about the bill on their platforms. This was how far their involvement with the FOI went.



The RTI Campaign Coalition indicated that several women's rights organisations were invited to the inception meetings of the group but did not attend. The Coalition was not sure what the reasons were but there is also a popular notion held by many

in Ghana that the bill was a 'media bill' to work in favour of journalists. On its own therefore, with its organisational and individual members, the RTI campaign coalition works towards the passage of the bill using press conferences, public awareness campaigns, development of advocacy materials, meetings with stakeholders and power holders as well as training programmes.

2. Benefits of women involvement in FOI processes

Information continually is a vital tool for every community, society and nation. Information helps or informs individuals on the choices they make. Even though the data gathered revealed that the women's rights organisations in Ghana were not directly involved in the FOI passage process, all of the organisations interviewed indicated the benefits and importance of the passage of such a bill.

**The FOI bill when passed
would contribute broadly to
the empowerment of women**

According to the data gathered, the bill would improve women's access to micro credit and budgets both at governmental and at local levels since they won't have any restrictions to accessing information on it.

**"The FOI would definitely improve women's
access to micro credit"**
Nana Oye Lithur (RTI Coordinator)

The bill would also improve advocacy and research work especially as these forms the basis for several women's rights organisations' proposals to donors to solicit funds for projects. Research and advocacy also forms a core part of activities carried out by women's rights organisations especially in the era of evidence based advocacy. The bill, it was noted would break barriers in collecting data from especially government institutions and avoid the blame game that often ensues between civil society and government, where government most often feels data put out by civil society organisations do not reflect what they have on the ground.

“In looking for funding, we write backgrounds to our problem statements and access to information would help so much because we often face blockades from especially government institutions and they keep criticizing us for putting forward the wrong information which is usually the information we gather. FOI would make research simpler” Shika (Gender Centre)

The FOI would in terms of women in agriculture, help them access critical information on governments policies and plans for farmers which they often are not privy to. As indicated earlier women form the majority of subsistence farmers in Ghana therefore it is only right that we have access to all the needed information regarding their work, to put them in a better stead for competition form their male counterparts.

In advocating for more women in the national and local governance structures, as well as in advocating for transparency at the local government level, the FOI would be of benefit to women as they would be able to access data on the gender disaggregation in budgets at the local level. With government’s aim of pursuing gender budgeting at all levels, the FOI would help to check and keep government on it toes towards fulfilling its promise.

The Bill when made law would make it obligatory for government institutions to disseminate information to local levels

In working towards the achievement of the Millennium Development Goals (MDGs), the FOI would help give women and women’s rights organisations access to information on maternal health, education, infants and HIV/AIDS issues among others.

“FOI when passed into law, would make it conducive for us women to be in the know of what government is doing regarding all the numerous conventions it has ratified and continue to ratify that specifically look at the welfare and wellbeing of women” Pat, WiLDAF, Ghana

3. The way forward: strategies for collective participation

From the data gathered it was clear that women's rights organisations were not involved in the FOI passage process either on their own or even as members of the RTI Campaign Coalition.

Several reasons were tabled from overloaded work load to poor publicity of the Coalition on the bill to attract other members; however, the fact still remains that the FOI for many seems an additional burden to add to the workload and not seen as the grease to ease the workload on their plates, in that having it passed would actually resolve and reduce the processes involved in advocating for a policy or plan for women.

As indicated earlier it was suggested by many of the organisations interviewed that the broader and bigger networks and coalitions fronting the women's movement should take up the campaign and rope their members in. As a strategy towards passage of the bill, there would be no need for a separate coalition but rather a conscious effort to put the campaign as part of the activities of the networks and coalitions and implore individual members to do same just as was done towards the passage of the Domestic Violence Act.

As various women's groups work on their individual thematic areas, information cuts across all the sectors and therefore it is possible to incorporate the FOI campaign in activities consciously to see it through its passage.

It is important that the reactionary attitude the women's movement in Ghana usually has been changed. There is a need for pro-activeness and broadening of the issues of prime concern to the movement. It is true that practically the movement cannot work on all issues and sectors but it is important to share and state opinions on issues such as the FOI.

4. Conclusions and Recommendations

From the interviews and data gathered, it is clear that the FOI bill is of critical importance to women and therefore a cause that should be championed by all women's rights activists and organisations. The bill when passed into law would not only bring about the benefits indicated above but would also be a crucial basis for demanding that government is gender aware in its programmes and does not continue to bring up policies and programmes which are gender blind or biased, with the hope that these programmes and policies would trickle down and benefit the genders equally.

The bill would make information dissemination not only mandatory as for easy accessibility as possible but would also make it a requisite for all government institutions to share information with the public as it should thereby ensuring efficiency. This would also bridge the huge information gap between government and the people.

As the various approaches to development are being tried, it is important that these go with the availability of information. For instance the Rights Based Approach

(RBA) to Development can only work with the availability of information. It is with the right information that a community or a group can demand that government and especially power holders live up to expectation and fulfil their obligation.

Women in Ghana and women over the world suffer marginalisation in several forms and as various efforts are being put in place to reduce the marginalisation suffered by women, The FOI in helping to make information accessible to all would help bridge the gap and reduce the marginalisation faced by women.

From the above, it is recommended that;

- For women's rights activists and organisations to be involved in the RTI campaign process, it is important that the Coalition coordinators not only send invitations to them to participate in the process but also give these organisations a brief on the benefits of the process and the bill when passed into law to them. It is the lack of information on exactly what and how the bill would benefit these organisations that is keeping them from getting actively involved. As it is being advocated that the bill makes information more accessible to people, this same information must be given to women's rights organisations for them to be in the know to be able to decide how crucial their involvement is.
- Women form a formidable constituency in Ghana especially being in the slight majority of the population and their involvement in the process to the passage of the bill is therefore tantamount to the voice of the majority populace. It is therefore not only needed but crucial that they participate in the process towards the passage of the bill.
- Women's rights organisations on their own may feel burdened⁵ with several other issues they deem urgent and important, however it is recommended that they see the FOI process as linked to every other advocacy process and women's rights work they are involved in and therefore make a conscious effort to work on the FOI bill.
- Even though there are no clear agreements on who or which organisations lead the women's movement in Ghana, the well established networks and coalitions such as the Network for Women's Rights in Ghana (NETRIGHT), The Coalition on the Domestic Violence Bill Legislation⁶, and the Women's Manifesto Coalition (WMC) should lead the way and spearhead the campaign on the women's activists front towards the passage of the bill into law.

The FOI bill is a revolutionary tool which would cause a paradigm shift from a state of information secrecy to transparency. It is important that women and women's rights organisations are not left out in the process towards its passage.

Acknowledgements

Susan Aryeetey – FIDA, Ghana

Marian Atta- Boahene – The Ark Foundation, Ghana

Mawuli Dake – Moremi Initiative

5 As interviews with the women's rights organisations revealed

6 Coalition which was set up towards the passage of the Domestic Violence Act

Patience Dapaah – A women rights activist

Rose Mensah-Kutin (Dr.) – Convenor, NETRIGHT

Fuzie Adams – Executive Director, Fataale Rural Foundation

Shika Hamenoo – Programme Officer, Gender and Human Rights Documentation Centre

Adwoa Bame – Executive Director WISE

Florence Nakazibwe – Access to Justice, Programme Officer, Commonwealth Human Rights Initiative (CHRI)

Nana Oye Lithur- Coordinator RTI, Director, Human Rights Advocacy Centre

Patricia Essel-Advocacy and Communication Officer, WILDAF, Ghana

1. Kenya



Freedom of Information and women's rights in Africa

Freedom of information is the citizen's right to know and access the official information held by the government, public bodies and some private bodies. The right to freedom of information is enshrined in Article 19 of the 1948 Universal Declaration of Human Rights (UHDR), the International Convention of Civil and Political Rights (ICCPR), to which Kenya is a party and the African Charter on Human and People's Rights. UHDR states 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 regardless of frontiers".

Unrestricted access to right information has been a core principle of good governance, and can provide decision and action leverages to women to effectively participate in important developmental issues like poverty alleviation strategy papers the attainment of UN Millennium Development Goals international instruments that protect women like CEDAW, Beijing Platform of Action and the AU's NEPAD initiative.

Kenya Country Profile

Kenya is located on the eastern part of Africa with coast at the Indian Ocean. Table 1 shows the profile of the country:

Area: 580,370 sq km (224,081 sq miles)

Population: 38.6 million (2008 est, UNPOP)

Capital city: Nairobi

People (approx): Kikuyu 22%, Luhya 15%, Luo 12%, Kalenjin 12%, Kamba 11%, Kisii 6%, Meru 6%, Maasai/Samburu 2%

Language(s): English, Kiswahili, various indigenous languages

Religion(s): Protestant 45%, Roman Catholic 33%, Muslim 12%, indigenous beliefs 10%,

Currency: Kenyan shilling (KSH) £1=118 KSh (April 2009)

President: Emilio Mwai Kibaki (sworn in 30th December 2007)

Vice President (and Minister for Home Affairs): Stephen Kalonzo Musyoka

Prime Minister: Raila Odinga (sworn-in 17 April 2008)

Deputy Prime Minister (and Finance Minister): Uhuru Kenyatta

Deputy Prime Minister (and Minister for Local Government): Wycliffe Musalia Mudavadi

Foreign Affairs Minister: Moses Wetangula

Major Political parties: Kibaki heads Party of National Unity (PNU): including National Rainbow Coalition-Kenya (Narc-K), Democratic Party (DP), Forum for the Restoration of Democracy-Kenya (Ford-Kenya), Forum for the Restoration of Democracy-People (Ford-People), New Ford-Kenya, Kenyan African National Union (KANU), Shirikisho, Safina, and other smaller parties. Raila Odinga heads the Orange Democratic Movement (ODM), and Kalonzo Musyoka heads the smaller Orange Democratic Movement-Kenya (ODM-K).

Membership of international groupings/organisations: UN, Commonwealth, African Union, WTO, East African Community (EAC), Inter-Governmental Authority on Development (IGAD), Common Market for Eastern and Southern Africa (COMESA).

Kenya does not have a freedom of Information law; instead it still retains the Official Secrets Act whose function is to gag information held by state agencies in the name of preservation of state secrets and security. The right to information is protected in Section 79 of the current Constitution of Kenya.

The Freedom of Information Network was formed on the 7th of March 2005: its functions are to raise awareness of the FOI campaign: facilitate wider participation: capacity-building: and promoting the acceptance of the campaign. Network members are able to exchange information and documentation on substantive issues, advise each other and engage in joint research, under the leadership of the ICJ Kenya Chapter. The ICJ Kenya Chapter in collaboration with the Freedom of Information

Network implemented a Freedom of information project aimed at having a freedom of information legislation in Kenya. The Kenya Human Rights Commission has also been involved in the campaign for the right to information in Kenya.⁷

Improvement to law on freedom of expression was mooted in 2007 through a FOI Bill that was presented to Parliament but lapsed when parliament was dissolved for elections. The bill has yet to be introduced, and Kenya remains without a substantive and express FOI legislative provision despite the efforts of civil society and the NGO groups. Access to information remains a struggle and women are subjected to abuse and victimization if they attempt to access certain information at police stations, in government offices. Four years since the Freedom of Information Bill (2005), was first proposed by government in 2005, its fate hangs in the balance, as the draft bill gathers dust on government shelves. The civil society, upon realizing that the government was dragging its feet in presenting the bill before Parliament, drafted its own version, the Freedom of Information Bill 2006, which, unfortunately, has not seen the light of day either. Ironically, the twin bills may go down in the country's legislative history as those that have stayed in the 'parking lot' longest. But it's the growing apprehension among the public that the government may be deliberately renegeing on its promise on Freedom of Information that is causing more concern. The need to legislate Freedom of Information is more urgent than it was four years ago because the public is expected to participate in the on going consultative process for constitutional reforms. Nonetheless the draft Constitution under the Bill of rights Article 51 guarantees the right to Access to information and states that every citizen has a right to information held by the state and to any information that is held by another person and that is required for the exercise or protection of any right or freedom. It also states that, "Every person has the right to demand the correction or deletion of untrue or misleading information that affects that person."

The Women's Movement in Kenya

Women's organizing in Kenya can be traced as far back as the 1940's, when Nancy Shepherd trained women on how to weave variety of items that were in turn used for various purposes in the family.⁸ Soon after came the formation of Maendeleo Ya Wanawake (Organization) which started at the beginning of the struggle for Kenya's independence in 1952. The idea was conceived by a clique of white settler women in that year. Women were also part of the civil society in East Africa who formed cultural ethnic and professional associations, farmer's unions and women groups that struggled for independence in the 1960's. In the 1960s and 1970s saw them mobilized primarily into self-help informal establishments of single party states soon after independence, these civil society groups became restricted or co-opted into the workings of the ruling parties.

Kenyan women's organisations like her sister states in the three East African states,

7 *Right to Know Newsletter*, undated, Published by the Kenya Section of the International Commission of Jurists

8 Report of the National Conference on Gender in Kenya: Towards enhancement of Affirmative Action

got co-opted by the ruling parties. For example, in Uganda the then President Idi Amin established the National Council of Women as the sole women's organization rendering it illegal for any women organization to exist outside it. In Kenya, in 1987 the KANU government co-opted Maendeleo Ya Wanawake, the largest national women's organization and similarly in Tanzania, the Umoja ya Wanawake was reduced to a political wing of the ruling party-CCM. A major milestone, offering a fresh impetus for women in Kenya came from the 3rd International World Women's Conference held in Nairobi in 1985.

The First World Conference for women had taken place in Mexico in 1975 and it reiterated the guiding principles of "Equality Development and Peace." The Mexico city Conference also recommended to the General Assembly the idea of launching the United Nations Women's decade ; 1975-1985 in recognition of the continuing unjustifiable situation of women worldwide. The Second Women's Conference of the UN Decade for women was held in Copenhagen in 1980 at the midpoint of women's decade to review the progress made in the first half of the decade. The General Assembly adopted an agenda for Copenhagen that added three new sub-themes: education, health and employment to expand the development goals of the decade. When the women next converged it was at the 3rd Women's Conference in Nairobi.

"Never before had so many women from so many nations gathered together for such a vibrant and extraordinary women meeting there were 157 countries present with attendance estimated at 14,000 to 16,000 women. There were also 13,000 delegates from the non-governmental organizations. It was a landmark meeting for women, the first of its kind in Africa and it led to the adoption of the Nairobi Forward Looking Strategies (NFLS) for the advancement of women for the period up to the year 2000. The international conference triggered the blossoming of women's organization. For example, women's organizations grew from 171 in 1963 to 567 in 1980 to 23,614 in 1991 and 97,317 in 1998.⁹ The NFLS presented an opportunity for new organizing designs that would more clearly and for the first time be informed by the agendas of women from the south. The Nairobi conference would also present the possibility to document the legacy of the UN decade for women. By the time the Nairobi conference convened, a global women's movement had been strengthening in the years of the women's decade bringing an increasingly international involvement of women activists in each others struggles. Organizations such as the Federation of Women Lawyers in Kenya (FIDA-K), African Women's Development and Communication Network (FEMNET), Association of Media Women in Kenya (AMWIK) were formed before the Nairobi conference. Lessons and the common women experiences shared at the Nairobi conference would mark the beginning of an expanded international women's movement.

On the other hand the Government of Kenya has ratified various regional and international instruments that promote women's rights. Kenya has acceded to the International Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) but not the Protocol to the African Charter on Human and People's Rights on the Rights of Women. Kenya is also signatory to the

9 Promises and Realities: Taking Stock of the 3rd UN International Women's Conference, 2009 pp55

International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights. Similarly Kenya became party to the Millennium Development Goals (MDG). However the Government has failed to domesticate the CEDAW into law and has not ratified the Protocol on the Rights of Women.

In 1997 a decision by the Joint Admission Board to lower admission points for girls to the public universities by one mark in recognition of the multiple roles performed by girls as opposed to boys has seen more girls join the university. However according to Professor Collete Suda Secretary for Gender, Ministry of Gender, Children and Social Development, the strategy needs to be reviewed as most female students enrolled on the arts programmes and not sciences, thus the need to review the strategy to increase women access to technical education such as medicine.

The Inter Parties Parliamentary Group (IPPG) agreement prior to 1997 General Elections required 50 per cent nomination of women MPs which led to the nomination of five women MPs to Parliament. Subsequently women's representation in Parliament has increased in every election. In 1999 a taskforce on Laws Affecting Women successfully completed its work, however its recommendation have not been fully implemented. Thereafter the Government adopted a sessional paper on the National Policy on Gender and Development. Unfortunately, public awareness of it is low due to poor dissemination, and implementation is poor.¹⁰

The Children's Act 2001 protects the rights of all children and has been used to protect the right of the vulnerable including the girl child. It provides for the right to parental care, right to education, right to religious education, right to health care, protects children from forced labour, all forms of abuses amongst other rights. Similarly the Government has implemented the free primary and secondary education policy which has led to the enrollment of more girls. Also noteworthy is the fact that the curriculum is becoming more and more gender sensitive without reinforcing traditional stereotypes as portrayed in text books and other teaching aids.

The Sexual Offences Act of 2006 provides for the definition, prevention and protection of all persons from harm from unlawful sexual acts. It addresses issues of rape, sexual assault, induced indecent acts, defilement, gang rape, promotion of sexual offences with children, child trafficking, child prostitution, child sex tourism, and child pornography, exploitation of prostitutions, incest, sexual harassment and cultural and religious sexual offence amongst others.

In 2003 the Government passed the Bill for the formation of the National Commission on Gender and Development 2003. The Commission however is of low profile as it is not amongst the Constitutional Commissions (AMWIK KAP, 2009).

In 2006, the President directed that there should be at least 30 per cent representation of women in public service jobs. This directive was later re-emphasized by a circular from the Head of Public Service and secretary to the cabinet of Kenya. However this has not been achieved. In 2008 from the 24 ministries, and over 40 state corporations, the data compiles show disparities in most senior positions. For

10 KAP Baseline Survey on Human and Women Rights in Six districts in Kenya, AMWIK.2009

example in the Local Government, there are 16 men in job group P and above and no women; in the ministry of Regional Development, there is only 1 woman out of 10; in the ministry of Trade only 7 out of 32; out of the 44 Permanent Secretaries only 6 are women; out of 21 Ministry secretaries only three are women.¹¹²

Other positive approaches by the Government in promoting Affirmative Action include the Women Enterprise fund (WEF) that seek to empower women economically through initiation and expansion of businesses. Some 12 financial institutions in the country have been selected to manage the funds. Civil Society are currently lobbying for and drafting gender sensitive bill including Equality bill, National Hospital Insurance Bill, and the Family Protection Bill.

2. Case Studies

Engagement of Kenyan Women's Rights Activists and Organizations' in Lobbying for FOI

Women perishing for lack of information

Veronica Mumbua, 18, is pregnant. She visits the ante natal clinic and she is informed that the medical assistants will test her HIV status. Veronica, like many women across rural Kenya accepts to be tested without asking any question. However, after testing, she is not told whether she was found positive or negative. She, like other millions of women, goes back home, and continues reporting back to the clinic. She doesn't know about her status until much later when she is due to give birth. Had the government made her aware of the HIV and AIDS act 2006, the testing procedures would have made sense to Veronica than her being a statistic in government records.

Elsewhere, Janet Akinyi is as confused as Veronica but for a different reason. The weather patterns have been changing so fast that she has lost track of the best time to plant cassava this year. She lost the crop last year and she wouldn't want to burn her fingers again. The information is not accessible, let alone available, leading to what the Federation of Women Lawyers in Kenya (FIDA-K) Executive Director Patricia Nyaundi described as 'women perishing for lack of information'.

Millions of women in the country are in the dark about information that would stand between life and death. The HIV and AIDS aside, thousands of women need information about food security, while others need information about health and education. Unfortunately, gender specific data is difficult to come by, thanks to the government bureaucracy and restrictions.

"The government is still controlling information that affects the public. Citizens are kept in the dark on civil and political aspects, even when a free flow of information would be for public good," says Federation of Kenya Women Lawyers (FIDA-K) Executive Director, Patricia Nyaundi.

Nyaundi says that if the government is serious about upholding principles of good

11 Report of the National Conference on Gender in Kenya; 2008

governance, then it should be ready to be accountable to its citizens, as provided for under the United Nations Charter. Kenya is signatory to the charter which expects governments to give information to citizens.

She points out that while the government is generally economical with data, it is the statistics that affect women that has suffered the brunt of state controls of information. For example, information about access to family planning and birth control should be made freely accessible to save the lives of young girls now reportedly abusing the emergency birth control pill, e-pill, that is readily available over the counter in pharmacies with no information warning of the dangers.

“The lack of information is dangerous to young women and a threat to safe motherhood. Supposing each dispensary encouraged correct use of information on contraceptives?” Nyaundi poses.

Basic indicators of governance, among them the amount of resources allocated for gender and development in the national budget is not easily accessible. Women do not know how much money is set aside for water, health, sanitation, education, environment and social welfare, and other services that are key to national development,” she says.

She explains that the budget and other fiscal planning instruments are shrouded in mystery as the language used is not user friendly to women.

“The government should make deliberate efforts to demystify the budget and make interpretations and analysis available in local languages to enable women to participate and appreciate management of public funds.

She gives the case of HIV and AIDS prevention as the other example of areas in which the government should make information available. “The public depends on the national Aids surveys for information but the details are always hidden. People should have free access to information regarding infection rates, uptake of prevention measurers, and other indicators to help fight the national pandemic.

She says that although a number of civil society and non governmental organizations working in the communities and which sometimes collect data, it is only the government which has the capacity to collect data on a large scale, hence the need for its to open up the information sharing systems.

“But when the government delays in releasing data, then people are given to guess-work and generalizations on serious issues such as maternal mortality rate, HIV infection, early pregnancies, and other issues that directly affect women,” she adds.

She points out that even when such data is available the process of dissemination becomes a hindrance to its effective use. “It is the responsibility of government to collect and disseminate information to the public.”

“It is difficult for us when working with women in conflict situations or with women who have had a brush with the law. There is totally no indicator on the numbers or trends,” she explains.

FIDA-K has been working with women in the grass root by offering them legal aid and education on how to make self representation before courts on minor offences.

So far, about 3500 women have been reached by the programme, and the success rate among the cases is encouraging.

“This example shows that if women get the right information and have the right education and training, the burden of pending legal suits can be removed from the low number of advocates in the country. According to a FIDA national report released in 2008, there were 5000 lawyers in the country for a population of 32,000, translating to one lawyer for every 6,500 Kenyans. The shortage of lawyers leads to a backlog in legal issues affecting women and children.

Nyaundi explains that the legal training model is gaining mileage because it leaves the advocates with serious offences to handle. “Women are trained to represent themselves on matrimonial and non contentious succession cases, custody and child support cases.

Unfortunately, such initiatives by civil society networks face hurdles due to lack of official data and statistics from the state. For instance, it is impossible to estimate how many women are in conflict with the law or how many cases affecting matrimonial issues have been resolved within a certain period.,” she says.

The government is expected to put together information for various audiences and for specific uses. However, according to Nyaundi, the government behaves as if it was the primary consumer of the information that it generates.

“It goes back to government being concerned with controlling information due to mischief within its ranks. The government is obsessed with covering up the lid on cabinet affairs and civil service corruption, not knowing that if Freedom of information was a reality, then it would increase the level of honesty and integrity among officials, she adds.

Nyaundi believes that passage of the FOI would, among others things improve the general lives of women besides helping fight corruption, abuse of office and ethnicity in the country.

Maendeleo Ya Wanawake chairperson Rukia Subow concurs with Nyaundi, saying that even with the current debate on constitutional reforms, women need adequate access to public information that would help them make decisions about the future of the country.

“You heard women asking what the census means to them. This is an indicator that the government secrecy does not promote national development,” says Subow.

She gives the other example of the management of CDF funds. “Freedom of Information will make more women aware of what is expected of them at the constituency level. Currently women only realize that a project is underway when it is too late. It is the responsibility of government to offer information at all levels,” she explains.

Both Nyaundi and Subow explain that from their experience with working with women in community and social development, the problem with government documents is the legal jargon. “The legal frameworks, such as the Children’s Act, Sexual Offences Act, HIV and AIDS Act 2006 and other instruments should be published in local languages to be accessible to women.

Maendeleo ya Wanawake is the largest women movement in the country and is concerned with promoting awareness and mobilizing women for national development. However, Subow says that some of the handicaps facing her organization is lack of information concerning the development and planning at local level. “Women cannot access information about the issues that affect them at the primary level. She believes that freedom of information will go along way in creating the necessary environment for realizing the national development goals.

ICJ-Kenya and Freedom of Information Network have spearheaded the campaign

Information Communication Technology(ICT) in the form of the fibre optic and the digital villages offers Kenyans a big possibility in terms of accessing information says Priscilla Nyokabi, formerly with the International Commission of Jurists - Kenya (ICJ) and now with Kituo Cha Sheria. She has spearheaded the FOI campaign at ICJ and the life behind the Freedom of Information Network.

Nyokabi says there is no need of having digital villages yet when you Google schools you do not find Starehe Boys Center amongst schools whose information is shared on the world wide web. It should also be possible for one to Google their constituency and find out information on the ongoing CDF projects, road construction, schools performance etc

Since the year 2000, civil society organizations under the auspices of the Freedom of Information Network (FOI-NET) led by the International Commission of Jurists – Kenya have spearheaded enactment of the FOI Act culminating in the publication of the Freedom of Information Bill, 2007.

The Government Nyokabi says is holding a lot of information yet has not had enough political goodwill to pass the legislation. FOI Bill has been pending for over a decade because such legislation is not easy to get the government to pass.

She says a lot has been done in ensuring that a draft bill is complete, but adds that much more needs to be done for the bill to become law. The objective of the Bill is to provide access to information in the possession of the government and public authorities and certain private bodies that have a public character, to establish systems and processes to promote proactive publication, dissemination and access to information and establish the Office of Information Commissioner which shall be an independent office which shall have powers directly and incidental to undertake the functions of the Act and to hear appeals under the Act.

The Freedom of Information Bill, 2007 was published courtesy of Prof Anyang Nyong'o as a private members motion unanimously approved by Parliament on

18th October 2006 allowing for the introduction of a Freedom of Information Bill in Parliament for enactment.

However Parliament was dissolved and the Bill lapsed with the coming to the end of the 9th Parliament thus the Bill once again has zero status in law. Although the Bill had gone through the first reading and examined by the relevant parliamentary committee, parliamentary procedures demand that any pending Bill automatically lapses with the end of the Parliamentary term. She says a major challenge is that our legislators sit for very few days of the year and pass very few legislation. A lot of the days are spent on National budget issues. “MPs performance in Kenya is not measured based on the amount of legislation that they pass and this affected the FOI Bill.”

She attributes the reluctance by the Government to pass the Bill to their wider agenda including the fact that the constitution has not been passed. FOI is a fundamental human right legislation while the government on the other hand is accustomed to the Official Secrets Act. If the Kenyan Constitution had been enacted in 2004, then the FOI Act would have been in place by 2005.

The Campaign for FOI Act started nearly 10 years ago saw the establishment of the network which is in regular contact through an e-mail list serve. Several trainings have been done on the FOI with various stakeholders including print and electronic media, faith based organisations and other civil society organizations. Engagements with Kenyans have included sharing on experiences with other countries that have such legislation such as Mexico and a visit by the special rapporteur on Freedom of Information.

Efforts by Nyokabi and the other campaigners of FOI have recently received a boost from prominent Kenyan musicians who have now joined the efforts by the FOI-NET and they have composed a song challenging the politicians to provide answers on queries by Kenyans. *Najaribu Kupiga simu...Kawa nimuteja..iko busy...jaribu later* (Am trying to call your mobile number but the number cannot be reached). The song talks of a politician who can no longer be reached on his mobile phone to answer questions from the electorate on various issues for example; why there is no electricity no water amongst other questions the local Kenyans are asking.

As musicians join CSOs in calling for FOI law, the Government seems reluctant to make any progress with the legislation and seem to disfavor the private members approach to have the bill returned to Parliament. The Government on its part has repeatedly talked of the government draft FOI bill which CSO say they are yet to access!

Nyokabi says the prospects are not very positive. Meanwhile she says numerous letters to various government offices and the Bill have resulted in unsatisfactory responses with no clear way forward. “Maybe there is no government Bill, Maybe the government is not comfortable with FOI Bill.”

ICJ and the network will now go the private members way to introduce the bill, she pinpoints. The standing orders have changed making it easier for private members

to introduce bill with public interest this will be the next course of action she adds. "Parliament itself suffers lack of access to information, thus we hope it will not be hard to find a member who understands its importance." Freedom of Information Network members include ICJ Kenya, Law Society of Kenya (LSK), Eco News, Media Council of Kenya, Kenya Union of Journalism(KUJ), Association of Media Women in Kenya(AMWIK), Institute of Law and Environmental Governance, Kenya Human Rights Commission, Legal Resources Foundation, Kenya Community Media Association, Transparency International- Kenya and Kenya Correspondents Association amongst other individual members. She appeals to more organizations to come on board with additional resources adding that corruption brought about by the secrecy robs the youth of their future. Freedom of Information is deterrent and will prevent people from doing wrong things if they know that at some point it is going to be in the public domain. Similarly if one governs secretly people will always think something is wrong.

Association of Media Women in Kenya (AMWIK)

Kenyans do not feel they own Kenya because they are not allowed to participate

"Kenyan citizens suffer serious information gaps," says Jane Thuo Executive Director of the Association of Media Women in Kenya (AMWIK) which is part of the Freedom of Information Network. Thuo says because of this ignorance and the culture of silence, Kenyans suffer while corruption remains rampant. Corruption is being perpetuated because of lack of information and a lot of people suffer for lack of information. When you interact with communities often people do not know where to go for help in case of rape and neither do they know where to find information, nor the laws that are there to protect them.

For example currently Kenya has been implementing Vision 2030 which is the road map to development yet few Kenyans are adequately informed on it and the Government has not made any efforts to inform Kenyans on the same. "Yet Kenyans are supposed to participate in attaining the vision," she poses. She is of the view that there should be a comprehensive communication strategy informing Kenyans on the vision and clearly outlining the role of the government and that of the private sector so that each can be accountable and know their roles. If this information was shared we would have better roads and services.

Similarly, there are numerous devolved funds including the Constituency Development Fund (CDF), Local Authorities Transfer Fund (LATIF), Bursary, and Women's Enterprise Fund amongst other funds that most Kenyans lack adequate information on how to participate and benefit. Many people are not even aware the funds exist and that the money is theirs as Kenyans! This has created a serious loop hole, which those in charge take advantage of. If ordinary Kenyans including the middleclass are able to hold the Government accountable we would see a lot of changes in Kenya and an end to the culture of secrecy and impunity. However this can only happen if people are informed of existence of opportunities, their rights and obligations. Citizens would know they have a responsibility to monitor the

funds and smoke out corruption. A good example is traffic laws, majority of Kenyans and Public Service Vehicles give police some money because they are ignorant of the fact that you can present yourself in court two days after the alleged offence. If Kenyans knew they would not corrupt the police in the highways and may present themselves to pay a fine day later.

Since Kenyans are not informed and thus are not able to participate on many processes, many Kenyans do not feel they own their country. A lot of Kenyans have been prohibited from doing business because they could not access information easily and quickly around the areas they are interested in. The Government should make a deliberate effort to inform Kenyans and should legislate the Freedom of Information Bill as a demonstration of its commitment. "As it is very simple information is hidden when it is so harmless to access it." AMWIK has taken steps to inform communities through radio sessions on some of the devolved funds, the Children's Act, Sexual Offences Act and other women and human rights issues. AMWIK is also sharing information through T shirts, posters, and through workshops. AMWIK thus supports the enactment of the same through its speeches, discussion on radio and T.V programmes etc.

Achievements

The civil society under the leadership of ICJ has in existence the Freedom of Information Bill awaiting enactment in Parliament.

The proposed New Constitution 2005 submitted to referendum on 21st November 2005 had provisions which were to pass the information law within six months of the Constitutional endorsement.

The President promised in a speech he made at the International Press Institute Annual Conference in 2005 that his government will pass a freedom of information Act and the Government has generally talked of passing the Act and can now be held accountable. The existence of a Freedom of Information network who can be mobilized to lobby the public and the Government to ensure the Bill is passed.

Challenge

Parliament was dissolved before the freedom of expression bill was passed. Lobbying mechanisms with regard to parliamentarians therefore remains a challenge as the bill remains in abeyance despite the reform mode in the country. Which would be the best way to approach Parliamentarians in order for them to pass the Freedom of Information Bill? Especially considering the limited time in which they sit and make laws.

3. Benefits of Women Involvement in FOI Processes

FOI bill if passed will provide access to information in the hands of government and public authorities and will establish systems and processes that will promote proactive publication and dissemination of information. The information that is expected to be accessed is information that is the hands of government officers,

public and private bodies such as the police, local authorities, hospitals and schools and information on laws and information that promotes and protects the right to freedom of information and openness and transparency in public affairs

The act will thus provide a substantive legal framework that will guard against cases of insecurity, gender abuses and poverty which are rampant in society and at the same time highlight the plight of women.

The Act will also guard against cases of gender violence which currently go unreported or are ignored by the authorities because of the absence of government institutional policies and lack of proper information.

Women are often not aware of their right against poverty, HIV/AIDS, sexual exploitation, and conflict also due to intimidation and social stigma and fear to seek help or do not know where to seek help. They often depend on the same people they fear for knowledge.

The evil of sexual harassment should be fought through publication and dissemination of the right information. Women are often exposed to health threats because of their limited access to correct information and resources. The FOI Bill is expected to provide women with a safe legal mechanism for addressing cases of violence against women

Information that is vital includes that on post-rape, budgets and what resources have been set aside to handle cases of gender-based violence. Women should be given adequate advice on how to protect themselves, avoiding danger rape sites

Women should be able to access information anytime. A sexual offender's register should be kept in police stations to provide confidence to victims and what they can do about the offenders

Freedom of information is also vital for women in matters of marriage and family relations. Effort must be made to educate women on their reproductive health. Training should enable them make free and informed choices on family planning and reproductive life

Despite the existence of legislation against FGM, women continue to undergo the rite and some of them even believe in the rite, after which they are often married off as adults.

The FOI Act is expected to provide women with information on their rights and redress when they are infringed upon.

.With regard to abortion women should be made aware that abortion requires two medical practitioners and her consent for which she should have access to her medical records when her consent is sought before the abortion

Women and their families should also be informed that the government has banned early and forced marriages which keep them out of school and often with suitors who are chosen for them

Women are also often not aware of their rights on property ownership hence they

continually denied by cultural values and lack of representation in community courts

Access to information usually enables women to actively contribute economically or in political leadership either as aspirants or as informed voters

A Government that promotes the culture of openness, is democratic, listens to its citizens, informs the public of their rights and where citizens have access to information held by public authorities would be beneficial to all citizens and would immensely impact women.

Nyokabi says the women would benefit if there was better gender disaggregated data. “Our recent record keeping has not been exemplary, whereas a lot of information is needed in the protection of the rights of women,” she says. if one is to campaign for gender rights one needs a lot of information.” She adds that ICTs in terms of the fibre optics and digital villages offer an opportunity for sharing of information. SO more women, youth and media should come on board.

4. Conclusions and Recommendations

- Women have borne the brunt of lack of legislation on Freedom of Information and the secrecy with which corruption has thrived and where communities have not been able to participate in governance projects. Women everywhere are suffering the most as the country is plunged in darkness with power rationing, water rationing and rising food prices and drought in most parts of the country.
- If Kenya had legislated the Freedom of Information Act and Government institutions and certain private bodies were sharing information, Kenyans would have averted a lot of the poor governance issues that Kenya faces today.
- The growth of Information Communication Technology (ICT) and the existence of digital villages offers an opportunity for organizations to share information and for communities to receive information
- The Coalition Government seems comfortable with maintaining status quo and has been reluctant to pass the FOI Bill in comparison with the speed and priority with which the Communication Amendment Act was passed.
- The use of foreign language (English) in sharing information on laws, government policies has seen majority of Kenyans especially in the rural and peri urban areas being left out. Although 85 per cent of Kenyans are literate majority are only comfortable in Kiswahili and their vernacular languages.
- A lot of corruption and problems facing Kenyans are in one way or another related to the secrecy with which the government has been conducting its business
- There is need for the members of the Freedom of Information network to regroup and re-energise in a bid to lobby for the Parliament to prioritize the FOI Bill as it is supportive of the various other reform agendas ongoing in the country.

- There is need to lobby Parliamentarians and Political Parties on the need to pass the FOI Bill as well as on the importance of public's right to know for better governance.
- There is need to conduct an aggressive massive Public awareness campaign involving the production of various Information Education Communication(IEC) material including T-Shirts, Posters, Stickers, Pens, Billboards.
- There is need to engage with the media practitioners on the importance of access to information in terms of enhancing accountability, participatory governance and public trust.
- There is need to review other draconian Acts in Kenya that continue to hinder the enjoyment of the FOI right namely; Official Secrets Act, the Penal code, The Preservation of Public Security Act and the Evidence Act.
- Educate citizens a culture of demand for information on government projects and use of public funds through requests for information, social audits and accountability forums.
- Civil Society Organizations especially FOI network members and women organizations need to mobilise resources to help lobby in ensuring the FOI bill is passed in Parliament.
- Lobby for translation of laws, Acts and information in Kiswahili and vernacular languages and for sharing of information on the same in vernacular stations.
- Special rapportuer on Freedom of Information needs to be invited at the height of freedom of information campaign to wipe up support for the Bill and share a report on the State of freedom of information in Kenya which he will compile from feedback from Kenyans.
- Continue to lobby public institutions to be proactive in sharing information with the public.
- Sustain lobby work to ensure citizens participate in governance particularly in the management of public affairs and funds, namely the Constituency Development Funds (CDF), Constituency Roads Funds(RF), Constituency Bursary Funds(CBF),Constituency HIV/Aids Funds and the Local Authority Transfer Funds (LATF).
- Monitor and encourage the use of Information Communication Technology (ICT) amongst the rural communities where they can request and access government information.
- Publish information crucial to the empowerment of women in Kenya in a Kiswahili website which women anywhere in the country can access on-line and through the digital villages where they exist.

South Africa



Globally most contemporary democracies have embraced some form of freedom of information regime. South Africa joined the league of model states when it entrenched the right to access information in its interim constitution during the 1993 negotiations and incorporated the right within the bill of rights of its final constitution in 1996. This acceptance was predicated by a clear understanding and response to the web of legislation and practices of the apartheid regime which affirmed and enforced misinformation and a denial of access to information. This culture of secrecy came to be pivotal in the discrimination, violation and denigration of basic human rights perpetuated by the apartheid state.

Freedom of information advocates globally and supra entities like the World Bank were during this time more actively demonstrating the need for a paradigm change in perceptions to freedom of information within popular models for a sustainable democracy. This momentum has been largely substantiated by the increasing need for constituents to be able to address corruption and hold governments accountable for their actions. Beyond these objectives, however, rests the central tenet of freedom of information which is to effect public participation. The criticism common in developing nations that access to information is the preserve or luxury ascribed to liberal democracies, is now slowly being dispelled. Post colonial democracies are beginning to realize that the inherent expansive nature of information has significant moment for an informed public and the nexus between an informed public and people- centered democracies for full realization of the development agenda through the adoption of freedom of information regimes, and support to regional treaties advancing public participation, transparency and accountability. But nine years into the enactment of the access legislation in South Africa, one needs to take urgent stock of how clearly this connection has been made by civil society and information holders. It has also become necessary to establish the extent and manner in which the legislation is being engaged to widen political spaces and advance the rights of women in the country.

Tracing the history of FOI in South Africa

President Thabo Mbeki lent his support to the approach of an open government and commissioned a special Task Team during 1995 to develop legislation, providing a framework for the realization of the right to access information envisaged in the Constitution. The Open Democracy Bill was developed and received active interrogation and response from NGO's, Trade Unions and experts. Civil society organizations then came together to form the Open Democracy Campaign, which saw significant reforms made to the bill particularly with regard to the right to access information from private sector actors. In 2000, the bill was promulgated into legislation known as the Promotion of Access to Information Act (PAIA). The legislations rationale is motivated by established principles for most progressive democracies; including transparency, accountability, good corporate governance and public participation. In this sense PAIA finds presence amongst a number of reformist pieces of legislation which seek to redress inequities, imbalances and social injustice directly resulting from the apartheid era in South Africa.

While the post-apartheid administration grapples with service delivery and resource challenges, the latter further exacerbated by the crisis within the global market, there is a critical groundswell of civil society organizations and other interested structures which have begun asking challenging questions about the quality of implementation of legislation and practice; the soundness of policy and the degrees of accountability for service delivery. Within this landscape of avid attention are pertinent questions which link development imperatives for women to transparency, accountability and access to information.

It is fast becoming apparent through data generated by monitoring agencies like the South African Human Rights Commission (SAHRC), that the public sector has not fully oriented itself to injunctions within reformist legislation like PAIA to embrace information sharing¹². The low levels of compliance and implementation of the legislation remain a missed opportunity by the administration to recognize the power of information sharing in responding to pressing societal challenges presented by inequity and poverty whose worst consequences are a chronic condition for women in South Africa and the region.

The nexus between freedom of information and state attempts to address challenges posed by gender inequity is significant. These links do not relate exclusively to addressing dominant and popular goals of women's rights, but are expansive enough to address a holistic and all encompassing attainment of equity through the creation of policy and practice which are relevant to capacitating and empowering women to make informed decisions about their lives and about the policies which invariably impact on their lives. In this sense access to information and the creation of an environment where vulnerable groups like women are able to exercise the

¹² Special reports by the SAHRC to National Parliament are annexed to the SAHRC annual reports. The SAHRC Human Rights Development Report also details levels and trends in compliance with PAIA. These documents can be obtained from the SAHRC website: www.sahrc.org.za

right easily, quickly and cheaply is non-negotiable. Ease of access does however evidence a pronounced and substantial challenge in developing countries and is exacerbated where the attitudes of information holders is in itself unresponsive.

Participation of women in all spheres and sectors of society remains instrumental in attaining the ideals articulated in the Constitution. Authentic participation is however egregiously impeded in South Africa, both through the current frameworks in relation to PAIA, discussed in further detail below and because PAIA itself has not been accorded focused attention by stakeholders. In this sense there remains significant scope for increasing levels of awareness from the grass roots level through to multiple levels of information holders in the private and public sectors. Awareness, advocacy and use of PAIA will contribute to facilitating transformation from a culture of secrecy which permeates the public sector into the kind of environment where information sharing is proactively undertaken by the administration and asserted with ease by women in all spheres of society.

The Women's Movement in South Africa and Access to Information

While pre-apartheid South Africa is marked by a long history of vociferous activism led by a diverse collective, most women's groups have post-apartheid developed specialized areas of work and interest although the majority of these are affiliated to networks like FEMNET and the more recent Progressive Women's Movement of South Africa (PWMSA). The resonance of the women's movement is captured proudly in the refrain from the pre apartheid era which has continued relevance in South Africa today, 'you strike a woman, you strike a rock'. Women continued post apartheid to make vital gains in informing the substance of the Constitution of the country, securing both a Commission dedicated to the attaining of gender equality and the equality clause of the of the Constitution.

There were unfortunately no women's organizations in South Africa which actively championed the adoption and formulation of South Africa's access laws. There are also no women's organizations which have dedicated access to information focus areas in their mandated work. Women engaging with PAIA in their work hail from a range of diverse civil society organizations which comprised the initial sample for this report. The sample was extended to organizations which have diverse focus areas to ensure their use of access to information is showcased. A consideration of the use of freedom of information by women's groups and organizations which work with women's rights amongst other focal areas in South Africa has been limited for reasons of economy, time and range and the sample is therefore far from comprehensive. The motivation for the showcasing of one particular organization apart from other respondents in the sample rests on the particularly strong historical and specialist work the organization is renowned for in the field of access to information.

Methodology

This report provides a brief legislative overview of PAIA, a consideration of related frameworks, policies and structures which inform delivery on PAIA and women's rights in the country (the latter is annexed in table form for ease of reference to this report). The framework also details persistent challenges experienced when engaging with the legislation both for ordinary women and for civil society groups. Some commentary on case law is also provided with brief commentary on their direct and indirect impact on women's rights in South Africa.

Document scans and desktop research provided material for the statistical data relied on in compiling a broad country profile. The report is framed within timelines of 8 years, plotted against the enactment of the legislation in South Africa. Empirical data on levels of compliance was secured from the SAHRC which is charged with monitoring compliance with PAIA.

Perception based data, acquired through training interventions, constructive and candid engagements with organizations provided substantive unbiased data. These engagements also provided insight into the challenges experienced by PAIA users in the sector. In reporting on the use of PAIA by the sample group regard was accorded to publications and media exposure of areas of work for respective organizations. Research was undertaken both through electronic media, document scans, data acquired through training interventions and through telephonic interviews with individuals at organizations. A broad questionnaire was developed and guided both telephonic and face to face interviews in all seven interviews. Reference material on compliance statistics were obtained from the SAHRC reports and records. Judicial precedent and media scans were also undertaken to inform the content of the report.

The reports builds on the challenges noted by women in their use of PAIA, but carries important recommendations for the advancing of freedom of information as tool which can advance the renegotiation of power in favour of women. The key objective then is to assess the South African experience with the intent that it will inform new and improved strategies for the region.

South Africa Country Profile

Nelson Mandela's rainbow nation is situated on the southern most tip of Africa, spanning 1.22 million square kilometers. The country is divided into 9 provinces with Pretoria serving as the executive capital, Cape Town as the legislative capital and Bloemfontein, the judicial Capital. South Africa attained iconic status in the global village through its peaceful transition from apartheid into democracy in 1994. It ratified CEDAW a year later and ascribes itself to the rule of law and its constitution. In keeping with its commitment to the attainment of equality, a number of structures have been implemented since 1994 to realize the ideal. They are together known as the National Gender Machinery (NGM) meant to advance the rights of women and gender.

National Machinery

The Office on the Status of Women, located in the presidency, drives national policy on women and gender mainstreaming. The OSW is also tasked with reporting to regional and sub regional bodies on SA agreements which focus on gender and women, these include CEDAW, AU Solemn Declaration and to the SADC. A new ministry dedicated to women, youth, children and people with disabilities has been created by the 2009 administration. This department will also house the Commission for Gender Equality (CGE). The inclusion of the independent statutory CGE will undoubtedly raise important questions about the autonomy and impartiality of the new structural arrangement. A parliamentary portfolio committee is also in place with a focus on monitoring and evaluating the improvement of the quality of life of women.

South Africa has the third highest number of women in the National Assembly in the world. Women currently hold 45 % of the seats within the National Assembly and account for the majority of premiership portfolios within the 9 provinces of the country¹³. South African women have also made important strides in the international community these include the special rapporteur for freedom of information, and access to information, Adv Pansy Tlakula and Dr Navinetham Pillay, the UN High Commissioner for Human Rights. Women members, notably of the opposition parties at national and provincial government level have frequently lodged access to information requests for confidential reports commissioned by government and have also made requests for reports relating to spending, and water supply.

Trade and Labour

South Africa enjoys strong infrastructure and stable trade relations but continues to grapple with service delivery ideals. Women remain one of the most affected groups impacted by poor service delivery and corruption which plague the public sector. The democratic government's articulated national priorities are the alleviation of poverty and address of inequality. While its economic indicators have been steady over the decade, the deepening global crisis has seen 400 000 job losses in the space of one year. This crisis in the labour market impacts both directly and indirectly on women as members of the labour force and as heads of households¹⁴. 55% of all South African women are professionals but less than 50% of this percentage is represented in top management¹⁵.

Other Socio-Economic Rights

Women constitute 51% of the 47,857 million people in South Africa. In developed countries the average life span of women is 80, their counterparts in South Africa have an average lifespan of 50 years.

The gender parity index reveals that some gains have been made with regard to the multiple levels of education. Reports indicate that the gap between male and

13 www.southafrica.info/about/democracy/parlyw-060509.htm

14 The official unemployment rate as at September 2006 puts the percentage of unemployed at 30.7%, a figure which has considerably increased.

15 Statistics are available at <http://www.labour.gov.za>

female children at schools is steadily closing. Gains have also been noted with regard to the provision of utilities and government housing delivery promises are by and large on target. Questions are being raised about allocations of government subsidized housing and the quality of housing but the promise from government is that the 15.4% of people living in informal housing will all be catered for by 2014¹⁶.

Despite these gains, however, violence against women continues to escalate. Crime statistics¹⁷ put the incidents of reported rape at 55 000 per year, while analysts believe that this figure is closer to 100 000. Other instances of brutality against women also feature frequently in the media and dominate the work of most women's groups. Perhaps of even greater concern are statistics which reveal that 40.8% of rapes are committed against girl children.

Rape also has a direct bearing on HIV, AIDS and related illnesses for women and girl children. One in three women in the age group 25-29 is infected with HIV/AIDS.¹⁸ An estimated 57% of the total 5.1 million persons with HIV/Aids are women.¹⁹ Arresting infection rates amongst women continue to pose the most significant challenges to national action plans for treatment and response to the pandemic.

The countries response to HIV/AIDS, violence against women and socio economic disparities between women and men is often criticized for its lack of a sufficiently gendered perspective to these challenges. Diverse social, racial and ethnic groupings, traditional customs and practices are factors which contribute to this stasis with regard to women's rights and equality in the country. Many ethnic traditions and practices have come under the spotlight as being in violation of constitutional and international human rights as result in the past decade. These include the practice of virginity testing, land allocation by traditional authorities, the abduction of young women for marriage in terms of custom and the role of women in the family unit in general. The tensions between the constitutional guarantees and values and some aspects of African religion and practice has therefore been brought into sharp relief with regard to the individual rights of women.

Regionally

South Africa drove and participated at the regional level on a number of governance agreements relating to corruption and public participation²⁰. The finding of the African Peer Review process however found governments responses on access to information specifically lacking although criticism at its gender responses were not as direct. Nationally a framework for good governance through the national corruption structure exists but has not been effectively joined to access to information and women's rights. Similarly the NGM has been criticized for want of resources to

16 Statistics South Africa

17 Statistics are available from <http://www.saps.gov.za/statistics/reports/crimestats/2006>

18 Human Sciences Research Council; South African National HIV Prevalence, Incidence, Behaviour and Communication Survey, 2008

19 Ibid nt7

20 SADC Protocol on Corruption; AU Convention on Preventing and Combating Corruption and; *The Declaration of Principles of Freedom of Expression in Africa*. This Declaration *inter alia* provides that public bodies hold information not for themselves but as custodians of the public good.

effectively carry out its mandate sufficiently to realize the objectives of substantive equality for women.

Legislative Framework

Overview and Challenges

Finding its genesis in Constitutional injunctions and international norms²¹, PAIA aspires to objectives which are directed to the good governance constants of transparency, accountability and informed public participation, the mainstay of any sound democracy. The contemporary utility of access rights are directed therefore to safeguarding from the secrecy upon which the apartheid state thrived by proscribing information flows and entrenching information sharing by government as the formula underpinning a contemporary pluralist democracy.

Access to information provisions are engaged when a request is lodged with information holders usually on payment of a fee. Information holders have a 30 day period within which to provide the information or provide reasons for refusal of access. The framework allows for appeals against refusals which have to be decided within a further 30 day appeal period. Public bodies for the most part exceed the 30 day period when responding and more often than not justifications for refusal of access are relied on. The timeframes, grounds and categories of information which justify refusal of access remove it from being perceived by women's organizations as a ready tool within which to get access to information quickly.

Recourse to the high court is the only route for rights assertion where a request is refused on appeal. In certain instances depending on the type of public body no rights of appeal are available and requestors must access courts directly in these cases. The absence of a simple, quick and cheap structure for dispute resolution places a significant burden on individual women and women's organizations. Small to medium range women's organizations in the country often lack resources and capacity to fully engage with PAIA and are extremely reluctant to litigate.

PAIA provides for legitimate non-disclosure of protected categories of information which include information relating to national security. The culture with the civil service has unfortunately been one which more readily refuses than discloses. The result has been that fewer requestors opt to use the access legislation unless they are prepared to litigate. Other protections for third party information may be waived where consent from the third parties are obtained. Provision is also made for public interest overrides to allow the disclosure of information which would have been refused in other circumstances. However requestors do not have to provide reasons for their requests unless the public interest provision is relied on.

PAIA also provides for automatic release of information by public bodies. Automatic release requires proactive release of information which is usually interpreted to mean

21 Section 32 and 195 of the Constitution of the Republic of South Africa, Act 108 of 1996, Article 19 of the Universal Declaration of Human Rights; African Union Declaration of Principles on Freedom of Expression in Africa; the African Charter of Human and People's Rights

non sensitive information²². Some commentators have suggested that demonstrated commitment to automatic disclosure provides some measure of the administration's commitment to transparency in general. In instances where proactive information sharing is embraced fully, formal access to information requests could become an exceptionally recourse only. The automatic release of information is however at best poor with very little of it reaching women who have no access to ICTs.

The SAHRC monitors compliance with this requirement through the submission of Section 14 manuals to it. Section 14 requires disclosure by public bodies of the categories of information they hold including categories which are automatically available. Statistics for 2009 indicate that only 5 percent of all public bodies have submitted their manuals to the Commission²³. The adoption and adherence to the automatic disclosure provisions are potentially a shot in the arm for women's organizations insofar as information gathering is concerned, but systemic non compliance with the provision means that most entities do not comply with publishing their manuals and those which are available are out of date and inaccurate.

Gateway provisions in the form of fee impositions are also entrenched in the legislation. A degree of formal reform to fee impositions has resulted in exemptions from fee payments for personal requestors and the indigent. These reforms are however far from the ideal both in terms of the South African dynamic and in terms of specific international best practice models and women continue to be adversely affected by the request fee and search fee requirements.

Significantly however, the framework for rights vindication presents a critical point of departure between South Africa's PAIA and that located in other comparative frameworks²⁴. This difference is highlighted primarily by the relegating of exclusive jurisdiction in disputed access matters to the courts for adjudication and enforcement. The enforcement provisions mean that in the face of general unresponsiveness by information holders, women are forced to seek resolution before the courts. The absence of an intermediary body which would allow for disputes with regard to information to be quickly, simply and cheaply resolved poses critical challenges to access to justice for users. This situation is particularly pronounced in the face of the power imbalances between information holders and seekers.

Reports by the SAHRC also indicate that PAIA is perceived as highly complex²⁵, with the result that both public servants and requestors find its provisions difficult to interpret and apply. These perceptions mean that there is a marked reluctance by private individuals to use the law and blanket refusals by information holders continue to be the norm. According to the SAHRC non responsiveness by

22 Section 14 of PAIA

23 A sample group of public bodies considered in a study undertaken by the Public Service Commission in 2008, also found that no national departments had complied with the Batho Pele principles on Openness and Transparency since they had failed to publish the user friendly Annual Report to Citizens required from them, similar statistics apply to Provincial Departments. Public Service Commission 2008.

24 Canada, Ireland, Australia and the United Kingdom all have intermediary oversight bodies which govern access to information issues.

25 Ibid note 1

information holders can be attributed to organizational culture, lack of effective systems and processes for information management within government and low levels of awareness. Levels of awareness are equally low within communities and contribute significantly to low numbers of requests lodged and litigated before the courts. A popular appreciation of PAIA as tool to the realization of other rights has therefore not been adequately made and advanced.

Litigation

Litigation rates continue to be low, with only one recorded case instituted by a woman against a private entity being recorded. Most other access to information litigation has been instituted by civil society organizations on behalf of parties/persons. Requests to public bodies have tended to be litigated primarily by sophisticated requestors as opposed to rising from the grassroots. Issue areas have generally focused on definitional matters, tender processes and requests for reports by the media²⁶.

Recent judgments declaring a provision of PAIA unconstitutional on the basis of the short timeframes the provision stipulates within which to access the courts, have been welcomed by law reform activists. The increasing of timeframes now makes access to justice in PAIA matters a little easier²⁷. Another victory was noted in the matter of an NGO which had engaged in request based litigation which spanned a 9 year period. The NGO was burdened with massive costs for each leg of the litigation before the various courts. A number of other NGO's joined it in proceedings before the constitutional court where

These judgments provide an excellent basis for women's rights organizations and activists to engage in litigation on PAIA based matters in the future. They have also ensured that based on precedent women can now more easily request information on tender awards and processes in analyzing budgets, their allocation and delivery in terms of tenders awarded to service providers.

Case Studies

Special Rapporteur on Freedom of Information and Access to Information²⁸

In interviews with the special rapporteur for freedom of information and access to information challenges to women on the basis of their gender and with regard to access to information were highlighted. The interview also provided some insight on the process adopted at the regional level to accelerate the adoption of freedom of information regimes.

Advocate Tlakula indicated that even at special rapporteur level, the sphere of operations was dominated by males. Initially the special rapporteur portfolio was limited only to freedom of expression. Relying on the Declaration of Principles of

26 Andrew Puddephat: "Explaining the Role of Civil Society in the formulation and Adoption of Access to Information Laws: the Cases of Bulgaria, India, Mexico ,South Africa and the United Kingdom" p42

27 Brummer v Minister of Social Development and Others, as yet unreported, but judgement can be accessed on the website of the Constitutional Court: www.concourt.org.za

28 Interviewed on 21/07/09, Gauteng

Freedom of Expression in Africa, and the African Charter of Human and Peoples Rights, Advocate Tlakula was able to advance and secure the inclusion of access to information with freedom of expression in the rapporteur portfolio as well.

At an operational level as CEO of the Electoral Commission of South Africa, Adv Tlaluka has affected a number of changes as well, ensuring that women are significantly represented at senior management level. Her commitment to information sharing has seen women in these posts demonstrate the capacity to 'hit the ground running' in the recent elections successfully administered by the Commission. She has also ensured that equity in numbers is enhanced by information sharing through the Commissions publications and in driving awareness for vulnerable groups in society externally.

Although research reports and other data through procedure are presented in reports to the African Commission, special rapporteurs have access to these reports only through the Commission. In this sense civil society structures have little room

to engage with the special rapporteur directly. Adv Tlaluka indicated that work at the regional level is focused on advancing the domestication of freedom to information laws within states. The initial stage of this process has been to embark on a study of constitutions and domestic legislation in the region. Once this research is completed, engagements

Immediate and pressing plans of action for women and women's organizations must be the provision of coordinated regional and domestic responses to challenges in asserting the right of access to information.

sensitizing civil society structures like women's groups will be encouraged to *lobby governments* to adopt freedom of information regimes. The very lack of domestication of freedom of information also means that no complaints on the right are before the Commission at this stage.

Advocate Tlakula drew emphatic emphasis for states to more readily accept the linkage between the rights of women and access to information. In this context she stated that "the linkage between participation and realization of almost all other rights cannot happen without information". The Commission is also alive to the fact that domesticating freedom of information is only one step in the realization of good governance. In this sense *governments have to take firm measures in ensuring that the regimes were practicable and the right easily enforceable.*

Referring to advances she would like to see happen in the future in South Africa and in the region, Adv Tlakula indicated that she felt it was extremely necessary for women's rights and freedom of information to be linked in a more focused manner within the African Peer Review process and to be given a priority at this level. She voiced her disappointment at the number of challenges to effective implementation of the legislation in South Africa and to the fact that the legislation has not brought on anticipated changes quickly enough.

Adv Tlakula stressed that immediate and pressing plans of action for women and women's organizations must be the provision of *coordinated regional and domestic*

responses to challenges in asserting the right of access to information. Freedom of information benefits need to be more actively advanced by women's groups and through institutions like the South African Human Rights Commission and other institutions supporting democracy. She added that sensitizing women and other vulnerable groups should be accorded focused scrutiny in the immediate future. The popularizing of PAIA has to be *intensified more broadly at community level* as well.

Group Case Studies

The objectives of the interview exercise were to provide a situational analysis which would identify benchmarks of good strategy and responses to challenges in the advancing of PAIA as a tool for the realization and attainment of women's rights. It also provided some information on levels of awareness and usage by a broad spectrum of organizations working in a number of ways with the rights of women as opposed to those dealing exclusively with women's rights. This is based largely on the fact that no specific organizations in the country exists which deal exclusively with access to information and the rights of women. The sample group was therefore identified through organizations which had demonstrated the best gains from PAIA to date, and included one other which provided the control sample, showing no awareness or use of PAIA. The case study report is structured to profile organizations, elicit perceptions and needs, benchmark best practice and detail strategies regard to access to information and to demonstrate actual experiences of organizations in their use of PAIA in a 'warts and all' context.

"The right to access information is an intrinsic part of achieving justice for survivors of GBV. It is probably the one right that is really most compromised when women encounter the justice system and other government departments".

People Opposing Women Abuse (POWA)²⁹

Profile

People Opposing Women Abuse (POWA) is a non-government organization (NGO) established in 1979. POWA offers services to women in South Africa who have experienced sexual harassment, rape, domestic violence as well as adult survivors of incest. Ultimately, POWA's vision is of a safe society that does not tolerate violence against women and where women are powerful and respected.

Whilst POWA does not have a specific focus on the right of access to information the organization was clear that in fact the right to give and receive information, as set out in the Victims' Rights Charter, is one of the most important rights for women when considering cases of gender-based violence and other issues where the women are mostly affected. The right to access information is an intrinsic part of achieving justice for survivors of GBV. It is probably the one right that is really most compromised when women encounter the justice system and other government departments, in particular the police, health and the courts.

²⁹ Interview with Carrie Shelver on 28th July, Gauteng

Victories

POWA is currently dealing with a case where a woman has been treated appallingly by the courts in terms of providing her with information. On the 2nd of October 2005 Buyisiwe³⁰, a 27 year old female, was gang raped by eight men. She reported the crime, laid charges and underwent a medico-legal examination. The Regional Court struck off the case due to missing evidence (including the complainant's statement and the transcripts of the bail application hearing), setting Buyisiwe's rapists free and back into the community. With POWA's support and assistance³¹, Buyisiwe has followed the case through twenty-two postponements and the sentencing of her perpetrators was due on 28 July 2009.

Buyisiwe has not only been denied her rights in terms of the Victims Rights Charter, the Sexual Violence Act and other women's rights legislation but at the heart of her inability to realize these rights has been the neglect of her right to access information. Her case demonstrates one of the most shocking examples of the failure of South Africa's criminal justice system to assist rape survivors. Despite, in theory, the task of keeping the complainant informed of what is happening to their case falls within the jurisdiction of the prosecutor, in Buyisiwe's case she was kept completely in the dark. The prosecutor and the criminal justice system more broadly, had continually failed to provide her with information with regards to the progress of her case.

The impact of such poor sharing of information has significant implications when seen in the context of the low levels of GBV crime that are actually reported in South Africa. In Buyisiwe's case it was POWA who were left to inform the complainant that sentencing relating to her case had been postponed once again until 26 August 2009. For Powa, this was "another example of how the state is just so closed when it comes to those basic rights to ensure that survivors have access to information and know what to expect". POWA worked through a network and the 'one in nine' campaign to ensure that women like Buyisiwe were made aware of their right to access information.

Buyisiwe's experience demonstrates just one symptom of the problems facing South Africa in terms of implementing the Promotion of Access to Information Act 2 of 2000 (PAIA). The loss of crucial evidence in the original court case of 12 June 2006 may have been a random occurrence however closer examination reveals that it is a symptom of the poor records management systems in place amongst the majority of South Africa's public bodies. A key component of effective implementation of PAIA by public bodies is the publication and availability of a PAIA manual, detailing amongst other pieces of information, a description of the structure of its filing system and details of voluntarily disclosed records.

POWA opted to play a very vocal role in terms of ensuring female survivors of gender-based crime realize their right to information. Firstly, by advocating for state accountability around survivor's rights to (both giving and receiving) information by

30 Not her real name. Buyisiwe is a fictitious name used to protect identity.

31 Support was also provided by a number of other women's rights organisations including the One in Nine Campaign.

asking difficult questions to force government to release information about when a particular law will be passed, reports detailing funding allocation and its release or when particular information will be shared with complainants relating to their case. Asking the crucial question of ‘when?’ has been a key strategy. Their tactic is more about putting pressure through informal means rather than submitting formal PAIA Requests. In this single simple act POWA plays a vital role in the struggle for freedom of information in South Africa.

Secondly, POWA has become a central source of information for survivors of gender-based crime by proactively informing them of their rights and what they can expect when interacting with the criminal justice system. Whilst this does not directly overcome the challenges facing women in terms of realizing their right to access information held by public bodies, this technique acts as a conduit for building women’s understanding of the importance of access to information. This, in turn, offers a means to addressing the low-levels of engagement with PAIA in South Africa which is often attributed to the lack of linkage in terms of how information can assist with the realizing of any right. PAIA in this sense is potentially a tremendous tool for women’s rights activists.

POWA identifies the realization of the right to information as absolutely critical, particularly considering the current trend towards a shutting down of the level of information that is disclosed by key government bodies rather than a growth in openness and accountability. The low levels of information sharing affects women’s rights in particular because of the crucial role hard facts play in their advocacy campaigns. Increasing proactive information sharing and formal compliance with the access laws would create a heightened obligation on the State to disclose useful statistics relating to its own research and monitoring, statistics on incidence of police brutality, violence against women such as the number of GBV crimes reported and the manner in which these cases are then processed by the authorities and the courts and the capacity of the police to fully engage with these crimes against women if more women’s rights organizations were aware of the existence of PAIA and engaged with the Act.

Challenges

On reflection, POWA believes that PAIA may have been a better strategic advocacy tool however the reluctance to engage with the Act is attributed to lack of capacity and experience in terms of using the Act and lack of awareness of where to seek professional advice on application of the law. There is also a perception that PAIA can only be used on public bodies; there is little awareness of the fact that PAIA can also be used to access information held by private bodies. It is interesting that the Act is perceived in a context of inaccessibility. This perception is fed by its provisions which are deemed to ‘have many clauses that protect particular records making the process of requesting access far more complex than it needs to be’.

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particular records making the process of requesting access far more complex than it needs to be’.

There has also been a perceptible shift in the way civil society relates to the State with the media offering an opportunity to engage government in discussion in instances where they have failed to share information or consult civil society in the past. Experience has taught that in South Africa, in relation to women’s rights issues, it is not always wise to trust the information that is shared, “They probably wouldn’t be that useful anyway because we are perennially lied to by the State”. This attitude is born from years of attempts to engage with the State, for example through the National Gender Machinery (NGM).

An example of engagement through the national structures is evidenced in POWA’s representation on the President’s working group for women. In this and other consultation processes including the proposal for a Ministry on Women’s Affairs, POWA is of the view that consultation was merely on a cosmetic level. Adequate information was not shared for any real constructive engagement and the voices of NGO’s when contrary to government plans, voiced in such spaces were ignored as a matter of course.

Work Going Forward

Currently, POWA is working as an active member of the Solidarity of African Women’s Rights in calling for the ratification, implementation and domestication of the African Protocol on the Rights of Women. This gives the organization, and more importantly the issues within the APRW, visibility at the African Union and the African Commission for Human and People’s Rights where POWA has observer status. Networking and working with other organizations in collaboration to achieve its core objectives has been a long-standing technique used by POWA; working from civil society all the way up to government and the UN. It intends placing some reliance on access to information rights to secure the statistical and substantive data to bolster its work at every level of the interventions.

Treatment Action Campaign (TAC)³²

Profile

Treatment Action Campaign (TAC) is a large organization with over 237 branches and is a movement for social change that was established on Human Rights Day (10 December) 1998 to fight for the rights of people living with HIV/AIDS and for better HIV treatment. TAC has been alive to the importance of the right to access information and its link to HIV/AIDS and women’s rights from its inception. Part of TAC’s interventions includes the national women’s’ rights campaign program specifically focused on the impact of HIV/AIDS policies on women, fighting for better justice and better access to health services. This project has been in existence for more than two years and has employed a number of methods in order to gain access to information that is essential to support its campaign.

32 Interview with Nono Eland, 3rd August, Gauteng

TAC uses the legislation as a last resort, once all other methods of attaining information have been exhausted. Information is initially accessed by communicating informally with government officials by letter, email and telephone. Care is taken to record and make copies of all correspondence to build up a collection of documents evidencing attempts to access information. This technique was used to access records detailing the provision of antiretrovirals (ARVs); the number of people accessing the drugs, the number of people on waiting lists, and so on. Women remain most affected by this issue as the majority of people on the ARV waiting lists are, in fact women. TAC were refused access and enlisted the assistance of their sister organization, the Aids Law Project (ALP) to request access to information. The ALP assisted TAC through the process with the case ending in litigation and the court ruling in favour of the TAC.

Using PAIA could prove to be an effective tool in this endeavor; forcing government bodies to admit when records do not in fact exist. Civil society is all too much aware of the lazy tendency of government bodies to use the term 'editorial mistake' as a scapegoat for non-factual information.

Work going Forward

A similar strategy is being deployed to secure access to information concerning services for women's health such as post exposure prophylaxes (PEPs) for survivors of rape. Again, the process was initiated using informal means to communicate with government bodies, referring to their obligations in terms of the National Sexual Assault Policy, to access information as part of its advocacy work concerning women's rights. Despite the National Sexual Assault Policy which entitles rape survivors to PEP prior to reporting the crime, many health workers adamantly refer rape survivors to police stations, demanding that they report the crime and provide their case number as a condition to receive PEPs. Other concerns are that many rape survivors are refused PEP treatment because their local clinics do not have the necessary resources and that are government web sites relating to availability of PEP's accurate. TAC is working to address this issue by accessing information through informal means and subsequently teaming up with ALP to submit PAIA requests for information. Once information has been accessed, the first step in addressing this problem will be for TAC to develop a comprehensive list of clinics which do provide PEP treatment to rape survivors.

TAC is also working to educate rape survivors on their right to be given a copy of their statement when they report their incident of rape at a police station. Educating people of this right is particularly significant in South Africa where it takes at least two years for a rape case to make it to court, if at all. TAC identifies the education of people in terms of their right to access information as one of the greatest gaps, where women are particularly affected, in terms of the effective implementation of PAIA and realizing women's rights. There is a great need to address this issue by training communities at a very local level.

In another matter TAC and the ALP were unable to pursue a matter further since the original request specified a particular document rather than a broader category of information relating to timelines and targets for implementation. Government response to the request was that the referral to the document was an editorial mistake. Despite this hurdle the ALP persisted and succeeded in being awarded costs in its favor at the draw of litigation. This experience highlights the level of government non-responsiveness, resulting in wasted time and resources, and the limitations of PAIA itself. It further highlights the need for more organizations to pressure public bodies to disclose their sources and the research which informs their strategies and recommendations.

Relationship building is a core technique utilized by TAC in securing access to information to advance women's rights. Organizations are invited to TAC's women's leadership training workshops where issues affecting women at the local and district level are addressed including the identification of where bottle-necks are located in terms of the flow of information between state and civil society and amongst women's rights organizations. TAC also engages with key stakeholders at a national level through representation at the South African National Aids Council, Law and Human Rights Sector. Representation at this level is informed by evidence acquired through the use of information and allows TAC to present women's rights issues to organizations who do not always view HIV/AIDS-related issues through a gendered lens.

A further technique used to advocate for women's rights has been through the act of protest. Ministers and other government officials have signed memorandums as a result of these protests however they have not responded after the fact to advise on progress achieved. Whilst this strategy in itself has failed to secure important information, TAC has ensured that it keeps a record of all correspondence, including documents that have been signed by such officials, to build its collection of records evincing government commitments and declarations. This gives TAC enormous leverage when presenting their case at a national level.

Victories

The TAC relied heavily on acquiring information for the success of its campaign concerning the Prevention of Mother to Child Transmission (PMCT); where HIV-positive women were not given access to ARVs at anti-natal clinics, resulting in the unnecessary transmission of HIV to newborn babies and in some instances the death of the HIV positive mother. TAC began requesting access to information detailing the numbers of women and newborns affected by PMCT and pushing for the publication of a report on maternal morbidity related to HIV. Working with the ALP, TAC engaged with PAIA to secure records. This technique worked: a Report on maternal deaths was published, revealing that the majority of children die before reaching the age of five because of transmission of HIV and that the majority of maternal morbidity is as a result of the lack of roll-out of ARVs. This in turn benefitted women's rights immensely with the creation of a comprehensive government strategy on HIV and the publication of guidelines on the prevention of transmission of HIV

from mother to child. Publication of such documents has allowed TAC and other organizations and activists to lobby government, pushing for the implementation of these policies in order to improve access to women's health.

A further technique to access information has been to identify other organizations also seeking access similar information; the National Gender Machinery is then collectively petitioned demonstrating the collective need to access particular records. In this sense, TAC strategizes beyond PAIA. It regards the need to fully research an issue before engaging with public bodies as exceptionally important step in the process of accessing information. Demonstrating the extent of research that has been carried out evinces efforts to do everything possible to access information and to demand recognition of issues for address. This pre-engagement with PAIA provides a solid foundation which supports potential litigation.

The South African History Archive (SAHA) ³³

Profile

Established in 1988 the South African History Archive (SAHA) is a dedicated human rights organization committed to documenting and disseminating information about historical and, since 1994, contemporary struggles for justice. As well as servicing a traditional academic and research community (both domestically and internationally), the organization positions notions of accessible archive and records as central components of the human rights and governance culture, discourse and practice. In this regard, SAHA ensures its archive is made available to communities and constituencies that ordinarily would not access these materials. In addition, SAHA is actively involved in the development of educational and outreach products, as well as focused oral history projects designed to capture hidden histories that have not received attention.

In 2001, SAHA established its Freedom of Information Program (FOIP), and since then has been at the forefront of efforts to test the parameters of PAIA. Through the program, SAHA assists individuals, NGO's, activists and researchers with initial requests as well as submitting its own requests and following up outstanding and refused requests. In total SAHA has submitted over 1000 access to information requests to a range of (primarily) national government departments as well as parastatals, and even private entities. There have been mixed results and SAHA has been compelled to litigate in a dozen cases. Information requests relate to both historical and contemporary records, and range from issues relating to apartheid era security and intelligence records, contemporary arms sales, to environmental concerns and service delivery requests. SAHA's direct utilization of PAIA has resulted in a number of collaborative endeavors between SAHA and other NGO's and communities. SAHA continues to submit access requests as a core activity of the FOI Program.

Interventions advancing Access to information

SAHA had been involved in several training and awareness-raising initiatives for a wide range of stakeholders including community based organizations, NGOs, investigative journalists and graduate students. Through the pilot *Freedom of Information Project: Capacity building in the Community-based sector (PAIA)* SAHA has built the capacity of key organizations in the Gender-based Violence and Transitional Justice sectors on a number of levels. Its work has focused largely on building capacity of individuals and organizations through practical skills development. Recommendations are offered to each organization and many of these have already been incorporated. Secondly a PAIA Shadow Mentoring Program has built capacity to ensure the sustainability of learning at each level. SAHA will withdraw from direct training but emphasizes the need for the relationships established during the pilot phase to continue. The intervention will be supported by the publishing of the PAIA resource kit and the development of a DVD. The latter is intended to showcase various case studies for use by the civil society sector.

Victories

Through the PAIA Shadow Mentor Program SAHA has provided support to organizations like the TLAC to secure a number of records providing important information relating to women's rights issues. For example, TLAC identified the problem of children being removed from their biological mothers and being placed into foster care against their will on no clear grounds for their removal. Of even greater concern is that there are a number of cases where the foster care givers have actually abused the children in their care. A PAIA Request was submitted to support TLAC's advocacy work for the rights of women to have the right to keep their natural children, unless they are in violation of the Children's Act, and for the protection of children against abuse. With SAHA's support, TLAC secured records which will be used to hold government bodies accountable for their actions.

SAHA recently collaborated with the Nelson Mandela Foundation, presenting a joint submission to the Department of Justice in relation to the draft Protection of Information Bill. In this way SAHA works to ensure that new and amended legislation does not restrict the right to access information set out in PAIA. SAHA also continues to lobby government departments on obligations arising from PAIA. Such lobbying has gone as far litigation against non-compliant government departments. Twelve of the thirteen cases litigated have been settled out of court in SAHA's favour. The ruling for the thirteenth case is yet to be delivered.

Strategies and Work Going Forward

In 2007-08 SAHA identified a need for civil society organizations and activists working towards a similar goal to in a more constructive manner towards achieving mutual goals. Having sourced buy-in from key bodies the national PAIA Civil Society Network (PAIA CSN) was established in 2009. The PAIA CSN has now mandated itself to a more constructive engagement; sharing information and collaborating

broadly to strengthen the voice of civil society and its impact on bringing a culture of openness and accountability to South Africa's young democracy.

On reflection this process has highlighted some tendencies of those who are new to dealing with the Act to simply accept non-compliance. "Persistence is the key. People who are new to PAIA tend to be too accepting of public and private bodies' lack of response. In an ideal world compliance with the Act would be universal but this is still a relatively new Act and it's important to be aware of the restrictions placed on public bodies in particular (in terms of resources). The onus is currently on the requester to continually follow up on their request almost to the point of nagging". "We need to persist until public bodies get the message that they are obliged to comply with PAIA. Ignoring requests or offering unreasonable grounds for refusal is against the object of the Act. All we are asking for is compliance. "Providing requesters with information is not a favour; it is respecting their rights" says Charlotte Young, SAHA's Freedom of Information Project co coordinator.

The organization is very clear about the shortcomings in the legislative framework and has participated in workshops, seminars and collaborated with the South African human Rights Commission and other stakeholders in submitting recommendations for the establishment of an independent ombudsman, in view of recommendations made in 2007 by the Asmal Committee Report³⁴. Based both on its own experience and on observation SAHA has strong reservations on litigation before the courts as the exclusive means for dispute resolution.

SAHA believes that the problem of the lack of enforcement powers given to any public body in South Africa needs to be addressed. Whilst the SAHRC and Public Protector offer some relief to requesters they are not granted adequate power or resources to enforce compliance by public and private bodies.

SWEAT (Sex Workers Education and Advocacy Taskforce)³⁵

Profile

Sex Workers Education and Advocacy Taskforce (SWEAT) is a non-profit organization (NGO) based in Cape Town, South Africa, providing direct outreach work with sex workers on health and human rights issues as well as public awareness and advocacy work. It was founded in 1994 working with adult people in the sex industry on issues on health and human rights with a particular focus on the decriminalization of adult sex work in South Africa. It has not engaged directly with freedom of information since it sees itself working in an area that is, in fact, illegal in South Africa. For this reason, whilst SWEAT is interested in gaining access

34 The Asmal ad hoc Committee on the Review of Chapter 9 and Associated Institutions chaired by former Minister of education Kader Asmal. The findings of the Commission can be located on the following website: <http://www.polity.org.za/html/govdocs/bills>. Also see, Klaaren, J. The Right of Access to Information at age Ten. In *Reflection on Democracy and Human Rights: A decade of the South African Constitution (Act 108 of 1996)*.

35 Interview with Dianne Massawe, August 4th, Telephonic interview, Cape Town

to information to support its work, it has not yet made a direct connection between access to information and its objectives.

Strategies

SWEAT works closely with a number of organizations including the Women's Legal Centre, Aids Legal Network, Treatment Action Campaign, People Opposing Women's Abuse, on a number of different issues. None of these organizations have however used access to information on behalf of SWEAT.

Challenges

SWEAT has been reluctant to engage with PAIA as a strategic advocacy tool; opting rather for informal means of accessing information. Whilst SWEAT certainly sees the value in the use of PAIA for women's rights organizations, the Act has not been seen as a useful tool for much of its recent work. For example, a recent publication, 'Selling Sex in Cape Town', is the result of a two year study analyzing the sex work industry in Cape Town, South Africa. The report contains largely qualitative material, with the methodology focusing on locating sex workers, adverts in sex-trader magazines and adult adverts, and interviews with relevant individual about their experiences as well as visiting agencies to produce a map identifying the extent of the sex industry. The organization believed that engaging with the law would have in fact had a damaging effect, since much of its content's value resides in the realm of the deeply personal.

"SWEAT has a very good relationship with a lot of the agencies and the people that are working in the (sex) industry. We have access to a lot of personal information that...I don't think PAIA could have helped us with."

For an organization such as SWEAT, much of its work originates in an area that is in fact illegal, building relationships and protecting fragile relationships is crucial. There is a fear that engaging with PAIA may in fact sever the ties that SWEAT has been cultivating for years; thus causing more damage to women's rights than good. This fear applies not only to the relationships that have been built with sex workers themselves but also with relevant organizations such as the Commission for Gender Equality.

Obtaining information from sex workers and relevant organizations is of great significance to organizations like SWEAT, but there remains an incontestable value that PAIA can offer the organization. SWEAT accepts the value PAIA could add to its advocacy work. The quantitative value of the SWEAT report would certainly have been strengthened if it had had the capacity to engage with the Act and its value as a strategic resource. Interestingly there are a number of instances where SWEAT has attempted to access information through informal traditional means, without success. One of the key areas which could prove invaluable to organizations like SWEAT would be evidenced in accessing a number of different pieces of information from bodies like the police. A case in point is the inexplicable and discriminatory arrests of sex workers. Sex workers are often arrested on a Friday, held over the weekend and then "released without any paperwork". This is

not an easy issue to address but there is an acknowledgement of the value PAIA could add in terms of pressuring the police to reduce the abuse of power and illegal behavior by securing information detailing these arrests not only to force accountability but to advance its advocacy campaign.

Work going Forward

Access to reports and statistics or the very absence of information itself could provide strong basis for a comprehensive and factual reporting to advance and inform advocacy and lobbying strategies of the organization. In this respect SWEAT does identify PAIA as a powerful advocacy tool.

Melissa Moore, Acting Director of FXI, believes we need to move away from a system where there is “a presumption...a starting point of ‘no you can’t have it’”. In terms of advocating for the right to access information this closed attitude needs to be addressed.

FXI (Freedom of Expression Institute)³⁶

Profile

The Freedom of Expression Institute (FXI) is an NGO established in 1994, focusing on the right of freedom of expression, the opposition of censorship; promote access to information, protest and to take on cases to further these rights and all aspects related to these rights. Although FXI does not currently have a program specifically dedicated to the Promotion of Access to Information due to funding and staff limitations, it does deal with issues relating to the right to access information. For example, FXI runs a program focused on rights education and access to information with the objective of building the capacity of rural communities. Training includes developing practical skills to complete request forms and lodge them.

FXI was involved with the global freedom of information movement and was aware of PAIA during the drafting process of the Open Democracy Bill. It has engaged with the Act by submitting PAIA Requests itself as well as in assisting requesters with litigation.

Challenges

Its success in litigation entrenches its belief that the most effective means of dealing with the numerous challenges faced when attempting to access information in terms of PAIA is litigation. Litigation *can* damage an organization’s relationship with a government department. Of the many challenges faced by FXI in terms of gaining access to information, fear amongst public and private body officials is one of the major obstacles to overcome. In many instances, the moment a PAIA request is submitted to a public body’s information officer, the matter is referred immediately to the legal team. Whilst this in itself is understandable, considering the fact that PAIA is a relatively new Act, there is a need to increase training of more

36 Interview with Melissa Moore, 31st July, Gauteng

staff within these public bodies. Another obstacle has been the refusal of access on totally unreasonable grounds where the requesters have little power to contest such unreasonableness.

Interestingly, much of FXI's current work aims to build a relationship between two key rights; freedom of expression and freedom of information. FXI sees PAIA as part of the objective of the right to freedom of expression and is currently lobbying against changes in legislation that infringe on these two connected rights, including: the Protection of Information Bill of 2008, the Films and Publications Act of 1996, Protection of Sources, Section 205 of the Criminal Procedures Act of 1977, concerning the protection of journalist sources, and the National Key Points Act of 1980.

For FXI the link between freedom of information and women's rights is very clear, it sees (PAIA) as 'facilitating any right'. Realizing the right to access information will result in women's organizations accessing more information which will in turn empower women to defend their rights with greater depth and strength. FXI would certainly like to use PAIA more frequently as a strategic advocacy tool, and sees value in establishing a project that focuses on accessing information relating to women's rights including engendering the media, but cites its lack of capacity – both human and financial resources (FXI currently has a staff of six) – as its greatest barrier to moving in this direction.

As a trained lawyer, Melissa has never received specific work-related training on PAIA outside of its inclusion in her university course. Contrary to the perception held by many women engaged with in the course of the interviews, Melissa does not believe the process of using the Act needs to be made any easier; it's more about public and private bodies changing their attitude to the Act. "I don't think it's such a difficult process.... (it's) just a matter of the State making it difficult."

The Open Democracy Advise Centre³⁷

Case Study on Strategy and Benchmarking

History

Having worked with Black Sash in South Africa, Ms Tilley has been a driving force in the freedom of information campaign from its inception in the Presidency. Her experience while at Black Sash in fruitlessly trying to obtain information from government gave added impetus to her involvement in the open democracy campaign.

The expanse of freedom of information and its reach into every sphere of life made clear the need for a coalition of like-minded organizations. The rationale for such a coalition was premised on the need for specific areas of the freedom of information regime to be scrutinized and commented on by subject experts. These experts had

37 Interview with Alison Tilley, 17th August, Gauteng

to be developed through rapid learning on their key focus areas because the law was so new. Once expertise had been developed members of the coalition were able to begin interacting with the Justice Portfolio Committee on specific issues, making oral representations and written submissions on provisions in the Open Democracy Bill. The tabling of the legislation allowed members of the coalition to assess issues and provisions which were problematic. Parliament however was dissolved and members were fortuitously able to anticipate the issues for the next round of hearings on the proposed Bill more closely.

Successful Strategies

Certain factors worked in favour of the immense lobbying and pressure put on drafters by women like Alison Tilley.

These included the fact that there was no identifiable cadre of experts in the field at the time; the field was dominated by specific NGO's who were traditionally already open to women taking lead roles on key issues and the new open democratic parliament was open too insofar as it appreciated the role of women in the struggle against apartheid.

The Open Democracy Advise Centre was conceptualized and formed when the legislation was passed based on the need for programmatic support for the legislation. ODAC is the only organization in South Africa dedicated exclusively to freedom of information and whistle blowing.

A small group of donors were initially identified and they supported the work of ODAC in the early years. This base has grown significantly with the increasing awareness of the role freedom of information plays in society and the organization has had no serious challenges in selling its product.

Program implementation was, however subject to some challenges. Different focus areas were targeted and these were managed in terms of an ongoing project cycle. Key areas for intervention were identified as awareness, research, policy interventions and the provision of legal advice. The inception phase of awareness raising provided rich learning curves for the organization. Based on the low numbers of requests, ODAC went back to the drawing board and revised its methodology over a period of time. Material was developed, stakeholders were invited to participate and get people talking and a target base at community level was determined. Community outreach projects became a central focus of work by

“Ultimately freedom of information is about power, power and power. Women are subject to unequal power relations internationally, at the end of the day the way women are going to change that is by taking power into their own hands. Democracy presents all sorts of interesting ways for women to do that, getting the vote, being able to work, controlling their fertility and the ability to organize and demand information is another way that women can shift power relations mediate them and own their own lives”

the organization in an attempt to drive up the volumes of requests it was assisting with.

The 'Right to Know, Right to Live' booklet and a DVD showcasing the lived experiences of women in informal housing settlements and the attempts of women in a rural area to (secure water) service delivery was produced and circulated widely. Media interventions were embarked on and these continue to provide a critical awareness raising and brand advancing platform for the organization. The organization did however become increasingly aware of the need to sustain awareness raising and to establish ODAC as a law centre and to use its experiences in the provision of these services to secure vital reform to the legislation. The latter has warranted some scrutiny by a number of like-minded stakeholders and is driven by the need to ensure access to justice for the majority of South Africans. The provision of legal services has seen the organization litigate a number of matters before the highest courts of the country highlighting the shortcomings in the existing framework which require disputes to be resolved only before the courts as opposed to an intermediary adjudicatory body. ODAC is alive to the fact that the dispute resolution mechanism currently in force has serious flaws as a result of these provisions and they continue to present serious impediments to the realization of access rights for women in South Africa.

The commitment to litigating in public interest matters also saw the need to develop expert capacity within the organization. In a sense this was again fortuitous since personnel were growing together because the issues were new and little expertise existed on the ground. Mentoring staff became a critical factor in the growth of the organization and today ODAC boasts a number of highly trained and committed personnel who work both at community level and regionally in the field of freedom of information.

Best Practice

The need to actively monitor developments within Parliament saw the organization set up a parliamentary monitoring body which tables and details issues being discussed at Parliament level on a website. This intervention, driven largely by women like Allison Tilley, realized the need to create a firm evidentiary resource which created room for focused and timeous responses to issues emerging around access to information. It has also provided fertile ground to acquire in-depth knowledge of Parliament and to craft appropriate lobbying strategies in response.

ODAC's success in the field can be attributed to its finely honed strategy and progressive board. The organization laid clear principles for areas of focused work from the outset. Work which was related but did not fall strictly within the parameters of freedom of information was excluded. Building on its credibility within the sector, ODAC was able to draft the support of a network of like-minded organizations for specific interventions. Thus submissions to Parliament and working groups are supported by groups with a strong consensus on the issues. The relationship between these networks and ODAC itself has been by and large harmonious with ODAC avoiding duplication of work where existing capacity in the field is present

within the sector but lending support to common objectives. Board members include academics that are able to use their positions to influence academic agendas in favour of freedom of information as well.

The change in the administration in the country has seen renewed efforts by the organization to recreate awareness and cultivate new relationships. The latter has played an instrumental role in realizing the objectives of the organization and is demonstrably evidenced in its work with the South African Human Rights Commission which has a central role to play in the promoting, monitoring and protecting of the right to access information in the country. ODAC built and cultivated a meaningful working relationship with the Commission in its interventions to advance freedom of information.

Going Forward

With a secure corporate identity and strong credibility in the field of access to information, ODAC is now seeking to expand its focus to include whistle blowing³⁸. Work in this area has already commenced and is proving a vital resource which fills huge gaps in this regard in the public service.

The organization has strongly advanced the fact that the key to effective service delivery in South Africa and in the region is premised on information sharing by government. Ms Tilley emphatically affirms that service delivery is improved when there is transparency. Very often for women service delivery from the State is a critical part of their ability to have meaningful choices. This she states is particularly important not only for women in South Africa but for women in Africa in general.

Alison also advocates that work in Africa on freedom of information can only be successful if two key factors are borne in mind. The first is that any work in Africa must be premised on *ownership by a collective*. Freedom of information has to be a collective civil society project and must be civil society wide. Secondly, the *framework created to assert access rights must speak to the need for access to justice*. The framework should therefore include provisions which are quick, cheap, and simple for dispute resolution. This is a sine qua non for the legislation and should be non negotiable. The South African model has taught us that if rights cannot be asserted they will become meaningless in any society and it is therefore critical that this component is actively advanced in the region.

Recommendations

The access to information legislation in South Africa has evidenced a number of challenges in application and delivery. These challenges have had and continue to have, an egregious effect on the laudable objectives of the legislation and limit the advance of the transformation project in South Africa significantly. Perhaps the most telling limitations are the challenges experienced by women's organizations in engaging with and asserting the right as a means to attaining social justice.

38 Formally known as The Protected Disclosures Act 26 of 2000

The recommendations detailed below arise from challenges currently experienced by organizations dealing with the rights of women and provide telling insight into the realities which prevail in engaging with the legislation. The recommendations although directed at women's organizations do not have to be confined to organizations in South Africa exclusively, but based on their generality could potentially bear some relevance in the region as well.

- Strategies addressing internal states of readiness to engage with the legislation should include: sustained training, education and capacity building as crucial elements for all organizations working with women's rights and are extremely necessary. Special emphasis needs to be brought to bear on the linkages between women's rights, social justice, public participation, reform and the capacity of women to engage with these issues through information. Interventions supported by empirical and substantive data from the state is a critical strategic tool to strengthen and support interventions. Apart from nationwide campaigns, resources need to be developed with a view to capacitating women's organizations at all levels. This includes the developing of user friendly training tools and should engage with open sourced learning through ICT systems as well. Training should also aim at reducing attitudinal barriers and perceptions that access laws are too legalistic, complex or a protracted means of acquiring data and information. Monitoring and evaluation of training interventions should also be undertaken to assess usage and degree of dependency on support organizations.
- Intensive community mobilization remains a critical element and underpins the success of PAIA. Accessing community structures and capacitating communities in practical usage skills and knowledge are key to communities and vulnerable groups within communities asserting access rights to advance the transformation agenda and attain adequate service delivery. There really should not be a 'politics of knowledge' and all people should have access to training.
- There is a need for greater collaboration, to secure a sharing of resources and expertise and to ensure that access to information is integrated in the general body of work at women's organizations.
- More resources need to be developed in simple language and wider distribution fields need to be secured. Distribution must target communities in languages which are understood in their locality.
- In certain instances 'piggy backing' on networks can add strength to work done at a policy, regional and international level in so far as freedom of information, accountability and public participation is concerned
- The use of all media remains an important tool both for advancing awareness and in terms of the linkages with the right to freedom of expression. In South Africa more engagements with community radio stations on access to information is necessary.

- Greater pressure needs to be brought to bear on the NGM to ensure that government produces and provides disaggregated data
- Information holders must be pressured to engage with PAIA through persistence and increased requests by women and on behalf of women.
- Women's organizations should adopt appropriate records and information management systems and should expect nothing less from information holders. Information management systems should be audited by the Auditor General
- Greater pressure also needs to be directed at lobbying for the constitutional bodies supporting democracy like the South African Human Rights Commission and Commission on Gender Equality to be better resourced to fulfill their constitutional obligations with regard to access to information.
- Increased engagement with the legislation and information holders both public and private sector is crucial for the parameters to be tested successfully. In certain instances Government itself can be partnered with in particular interventions in so far as educating, training and awareness and capacity building. Such partnerships provide one of the easiest mechanisms through which to accelerate a change in the culture of the civil service and administration to being less paternalistic and secretive.
- The special rapporteur can play an instrumental role in heightening governments awareness and responses to its regional and international obligations with regard to transparency, accountability, and access to information
- Government must take steps to ensure that it is actively monitoring compliance with access to information processes and systems from within and that it penalizes and sanctions non compliance to achieve a state of internal readiness for delivery. It should also demonstrate a commitment to review its processes and systems frequently and a commitment in political will by championing the sharing of information and transparency
- The undertaking to comply with provisions for automatically available information must be affirmed. A commitment by information holders to provide automatically available or non sensitive information will provide huge gains for organizations working in all sectors and for the participation of women in informing and shaping policy which is relevant to them without having to have recourse to formal request processes.
- The accuracy of state held information should be constantly tested, inaccuracies can provide fertile ground for advocacy and shadow reporting. The push for integrity of information and information which is comprehensible has to be sustained
- Similar responses can ground responses for unreasonable claims of unavailability of information. These claims in themselves provide grounds

to advocate for Government to use its extensive data gathering capacity and resources to gather information

- Emerging and existing legislation needs to be actively monitored, tracked and engaged with for consistency with the access to information legislation and laws impacting on the rights of women
- Increased lobbying is necessary from a wider collective to secure law reform impacting on the ability of women to access justice. Increased activity is necessary to promote law reforms and to ensure that provisions are less open to restrictive interpretation by information holders
- Litigation although resource draining, remains a strategic tool and provides a useful resource in interpretation and application of the law. Increased strategic litigation is necessary on women's rights and collaboration can potentially mobilize resources for this purpose.
- Private sector information holders must be engaged with on women's rights. Organized labour can be an excellent partner in such interventions. Similarly professional women need to begin asserting their rights to access information within and beyond their spheres of engagement. Private sector responses are usually supported by expert legal teams, these power imbalances need to be tested by women's organizations supporting women requestors.

Conclusion

Nine years in the life of PAIA has yielded no convincing body of evidence demonstrating that a critical groundswell of engagement with the right has been achieved. This response is perhaps reasonable given the fact that the access to information legislation is new, a part of 800 new pieces of post apartheid legislation and competes with a number of key priorities. One of the critical strategies for women's organizations in advancing the right to access information therefore, must be a consideration and identification of the bottlenecks which impede tangible engagement with the right.

While a diverse number of known factors pose impediments to realization of the right, none of these are insurmountable given the history and strength of women's organizations in South Africa. Noticeable gains have been made both directly in creating some pressure on government to commit to its regional and constitutional obligations and indirectly in the creation of expertise and collaborative efforts in engaging with the right. It is also forcing the state to adopt a less paternalistic response with regard to the information it holds, and to begin to effect an improved state of internal readiness to deliver on the right.

Similarly, a clear opportunity has presented itself for women's organizations to increase their engagement with the right not only for its own fundamental value, but for its infinite utility in the work of organizations. Apart from the need to build capacity and expertise in the field, the mammoth task of taking access to information to women in all sectors of the country remains for meaningful opening up of political

spaces to women. In this regard the legislation remains a potent tool to facilitating the participation necessary from women in informing relevancy in policy to eradicate the ills which continue to plague them.

The landscape to test the parameters of this right, pressure and mobilize for reform and governments own orientation and commitment to delivery has never been more fertile. This is largely attributable to the fact that with sufficient education, training and awareness it can be used by any type of women's organization regardless of its resources and size. In an ideal environment it can be effectively asserted across and despite socio-economic and political barriers too.

Ultimately the legislation itself runs the risk of atrophying if all spheres of South African society do not begin the process of realizing its utility and using it actively.

Zambia



The Republic of Zambia is a landlocked country in Southern Africa. It is surrounded by eight neighbouring countries namely Angola, Democratic Republic of Congo, Tanzania, Malawi, Mozambique, Zimbabwe, Botswana, and Namibia. The country is mostly a plateau that rises to 8,000 ft (2,434 m) in the east. The capital city is Lusaka, located in the southeast of the country. The population is concentrated mainly around the capital Lusaka in the south and the Copper-belt to the northwest. The Population is estimated at 11,862,740 (2009 est.): with a growth rate of 1.6%); birth rate: 40.2/1000; infant mortality rate: 101.2/1000; life expectancy: 38.6 density per sq mi: 40. The monetary unit is Kwacha- Which means the dawn of a new day. Zambia's economy has been traditionally dominated by the copper mining industry; however, the government has recently been pursuing an economic diversification programme. During the 1970s, the country began sliding into a poverty from which it has not recovered. Zambia's

total foreign debt before HIPC completion exceeded \$6 billion in 2000. The average per capita income is US \$1150 (World Bank, 2008). About 60 % of the population is reportedly living on less than one dollar 25 cent per day

The President of Zambia is Mr. Rupiah Bwezani Banda who is the fourth President after Kenneth Kaunda, Frederick JT Chiluba and the Late Levy Patrick Mwanawasa respectively. Zambian politics take place in a framework of a presidential representative democratic republic, whereby the President of Zambia is both head of state and head of government in a pluriform multi-party system. The government exercises executive power, whilst legislative power is vested in both the government and parliament. Zambia became a republic immediately upon attaining independence in October 1964. Zambia has 73 different dialects which are spoken in the different parts of the country but only eight (8) including English are considered major. English is the official language spoken in Zambia.

The culture of Zambia is mainly indigenous Bantu culture mixed with European influences. Prior to the establishment of modern Zambia, the indigenous people lived in independent tribes, each with their own ways of life. One of the results of the colonial era was the growth of urbanization. Traditional culture is very visible through colorful annual Zambian traditional ceremonies. Some of the more prominent are: Kuomboka and Katanga (Western Province), Mutomboko (Luapula Province), Ncwala (Eastern Province), Lwiindi and Shimunenga (Southern Province), Likumbi Lyamize (North Western), Chibwela Kumushi (Central Province), Ukusefya Pa Ng'wena (Northern Province).

The Women's Movement in Zambia

Out of a population of over 10 million people in Zambia, 52% are women and they constitute 70% of the agriculture labour force in Zambia, and out of the 5 million voters more than 60% of the electorate are women. But, despite women being the majority in the country, they are still discriminated in many aspects of life. In the pre-independence era there were very few women who spoke out and aired their views without fear of being reprimanded or arrested by the colonialists. One outspoken woman however beat the odds and made her voice heard whenever a chance arose. This was non other than the famous Freedom Fighter Mrs. Julia Mulenga popularly known as Mama Julia Chikamoneka. This was the woman who bared her nakedness for the Whiteman in an effort to tell them that the Zambian people were tired of being oppressed.

The participation of women in struggle for freedom in Zambia cannot be complete unless we pay homage to Mama Julia Chikamoneka' or 'Mama UNIP'. She was a rare example of a brave, proud, fearless and active spirit in political circles. She could stand and argue with a white man or women, when it was a taboo for a black person to do so. She was extremely competent at recruiting more women members and sensitizing them about the discrimination and ill treatment by Europeans towards Zambians. While running her small food-shop, she would organise women and map out protest marches, and lead them in boycotting shops and butcheries. In this way women showed their total support for fellow male freedom fighters. (<http://www.afsaap.org.au/Conferences/2004/krishna.PDF>) (Kamini Krishna and Friday E. Mulenga 2004)

In an interview with the Former Zambian Vice President Brig. Gen Godfrey Miyanda, this Mama Chikamoneka is quoted to have explained that *"To show nakedness was the highest form of anger; baring my nakedness was the only weapon that I had, hoping that the Big Whiteman (Ian McLeod) who had come all the way from England would have a heart and feel for us. So I undressed in public. When I did this I did not care whether there were people watching, or whether my children would see my nakedness and laugh at me like Noah's children did in the Bible. I did not even know or care that it was an offence. All I cared for was for the Whiteman to see our suffering. Somehow I had confidence that that if he sees me naked, may be he will feel pity on us".* Actually McLeod had more than a heart; he was shocked to see an elderly woman undress because of anger. He did something about it, **Mama Chikamoneka**. Women in Zambia have been playing a significant role in pre-and post-independence era. But their contribution has never received the recognition it deserves

Mama Julia Chikamoneka provided impetus for the women of Zambia to realize that they can also speak out. To date, many women are now speaking out on various issues. Zambia, like many parts of Africa and other developing countries, women have continued to be treated like second class citizens in both the traditional society and the modern state. This can be seen in the preclusion of women from decision making positions. The continued marginalization of women has led to the women coming together to champion the cause and ensure that their voices are heard. Since then, the women's movement has steadily grown from a handful of women to large numbers and more women can now be heard, some of the women NGOs that started championing the cause for women, are the Non Governmental Organisation Coordination Council (NGOCC), The Zambia National Women's Lobby (ZNWL) The Zambia Media Women Association (ZAMWA) and Zambia Association for Research and Development (ZARD), are some of the NGOs that have stood the taste of time.

Most of the NGOs in Zambia came up after multi-party system was re-introduced in 1991 and in recent years Zambia has seen considerable growth in the number of women NGOs working to promote women's rights and development. Some of the Leading women's NGOs include Women for Change (WfC) a gender focused organization that works with communities, especially women and children, in rural areas to contribute towards sustainable human development using popular education methodologies. ZNWL on the other hand promotes women representation and participation in decision making at all levels through advocacy, lobbying and capacity building for women in Zambia. It has been realized that the process of empowering women needs concerted effort and hence the Women's movement led to the birth of the Non Governmental Coordinating Committee (NGOCC) in Zambia which facilitates networking; nationally and internationally. NGOCC was established to coordinate Women's work in Zambia by a few Zambian women NGOs in 1985, about 22 years ago. Within the 22 years of its existence, the point of focus for the NGOCC has changed from co-coordinator to a focal point of the women's movement of Zambia. It has links with donors which has enabled NGOCC to gives

advice to affiliates on available funding from donors and applications procedures.

Also the NGOCC spearheaded the pushing of government into establishing a ministry that would push for and advocate for Gender advancement in the country. The Gender in Development Division (GIDD) was thus born and the establishment of this ministry has seen some successes being scored such as more women Ministers being appointed to Parliament.

The Zambian government in its efforts to advance and promote women empowerment established The Gender in Development Division in the office of the President, (GIDD) falls under Cabinet Office and is responsible for coordinating and monitoring the implementation of the gender programmes guided by the National Gender Policy. The Division works closely with line ministries to ensure gender is mainstreamed in the development process.

GIDD focuses on disparities in women's roles and limited opportunities for women in relations to those of men. Without an improvement of women's rights and participation in social and economic life, it will be impossible to achieve sustainable development and reduce poverty and violence. As of 2000, Zambia adopted the national gender policy, which entails the adoption of some milestone programmes, to contribute to the attainment of the gender policy, and economic empowerment of women.

Zambia is signatory to a number of international and regional instruments that outline strategies, rights and actions that need to be undertaken in order to achieve gender equality and the empowerment of women including the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the African Union Solemn Declaration on Gender and Southern Africa Development Community (SADC) Protocol on Gender and Development.

Secondly, Zambia is implementing the Fifth National Development Plan (2006-2010). Further the Division has formulated and is implementing the Joint Gender Support Programme (2007-2010) with objective of strengthening the national capacity to mainstream gender in all legal, political, economic and social/cultural spheres so that women and men benefit and participate equally in the development process. However, the Division in consultation with other stakeholders prioritised to implement gender mainstreaming in the following sectors: Agriculture and Lands, Education, Health, Governance and Social Protection. Although, mainstreaming gender in policies, programmes, organisational structure and procedures in the sectors has been a challenge.

Women in Zambia face a lot of challenges in various sectors such as water and sanitation, agriculture, HIV/AIDS, Health and many other sectors, in all these women have the rough end of the stick. For example in the remote areas women have to walk long distances to look for water and accessing to health facilities is almost a night mare especially for the expectant women thus therefore rendering Zambia in the bracket of the countries that are unlikely to meet the Millennium Development

Goal (MDG) on maternal health as more than 700 women die each year from pregnancy related complications. This is according to former Health Minister Angela Cifire. Zambia's maternal health is one of the highest in the sub-Saharan Africa region -- with 720 of 1,000 live births resulting in death. Another Former Health Minister Brian Chituwo told the Zambia National Broadcasting Television (ZNBC) in 2008 that, Zambia had the highest number of mortality rates in the region and that the monies that were plundered could have helped the sector as mother and children were dying at alarming rate. "Zambia has the highest mortality rate, if it is not the mother dying during child birth, it is the child that dies because of lack of proper care" he said.

GIDD on the other hand fights for the emancipation of women and gender equality, the development of good relations in order to shape the development of policy positions, fighting patriarchy, collaborate and coordinate with other social movements who have already been established. GIDD also tries to increase a coherent and common approach to issues that us the Zambian people. There is overwhelming evidence that only a few private sector organizations have gender policies in place. This could be one reason why very few women in the Zambian private sector are in decision-making positions.

The Women's movement in Zambia through the many coalitions has made great strides in lobbying and advocacy in-country and at a regional level to adopt or push for the domestication of the many international instruments that Zambia has ratified and these include the SADC Gender Protocol, CEDAW, CRC etc. Women's Rights have been trampled on for a long time and there is need to reflect and re-strategize. These were some the sentiments that came from a conference of more than 120 delegates from the Southern African Development Community (SADC) region and this also applies to Zambia.

The conference, organized under the theme "*Reinvigorating the Women's Movement in Southern Africa*", sought to identify the tactics and resources that will breathe new life and energy into a women's movement that is confronting multiple forms patriarchy. The women's movement was described as "the hub of energy, empowerment, support and strength".

Honorable Ntlhoi Motsamai, the Speaker of the National Assembly of the Kingdom of Lesotho noted that "the movement has been there when we were unfairly subjected to mudslinging, to ridicule, mockery, embarrassment and unfair stereotyping by patriarchal structures". In Zambia the same sentiments are felt, a meeting held by the National Womens Lobby in July, 2009, the women also felt that the enthusiasm is not same as was 10 years ago. A recommendation was however passed that a mentorship programme must be started so that young people could take on the mantle when the older activists retire.

Former Gender and Women in Development (GIDD) Minister Patricia Mulasikwanda once called on Members of Parliament (MPs) to review provisions of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) to help government

bring it in line with national values. She said the review by MPs would provide guidelines to government in its efforts to ensure that domestication of the CEDAW provisions were effective. Ms Mulasikwanda encouraged MPs to support the retention of gender provisions in the draft constitution, which is currently under debate.

Case Studies: Experience of Women's Involvement in Lobbying for the FOI Law/Policy Reform and Implementation

The right to freedom of information is now widely regarded and recognized as a fundamental right. Prominent Lusaka Lawyer Dr. Patrick Matibini in one of his papers notes that "As a matter of fact freedom of expression constitutes the essential foundations of democracy".

In Zambia the struggle for the freedom of expression and media started as far back as the 1990s but up till now, nothing has been done. Despite a professed commitment to introduce a freedom of information law, no little action has been taken by the government. This case study could not have come at a better time when the government is actually giving media associations an ultimatum in which they should come up with their own self regulatory document. On August 06, 2009 Vice President Honourable George Kunda who is also Justice Minister at a meeting with Media heads warned journalists "*We have a draft Statutory Regulation Bill, so if you do not come up with one yourselves, we shall have no choice but to implement our draft bill*". This however was said under immense pressure from media associations after they sort audience with him on the recent harassment of Journalists in the country.

ZAMBIA NATIONAL WOMENS LOBBY (ZNWL)

The ZNWL was formed in 1991 and since its inception in July of that year; the ZNWL has been working towards increasing women's participation at all levels of decision making. Since 1997, ZNWL has targeted its efforts on increasing women's participation in decision making in Local Government. During the course of 1998, ZNWL intensified its scope of activities to increase women's participation through training and public awareness on the importance of getting women involved in making decisions within their communities. This has been so with the realisation that most of the issues dealt with at Local Government level are those directly affecting women: health, education, shelter, water, sanitation, roads, markets, and general. livelihood. Women are more conversant with these issues and, therefore, placed in a better position to tackle them. This is more the reason why NWLG feels women should actively participate in making the decisions.

In an interview with the Information Officer and Coordinator of the Men's Network Nelson Banda, The ZNWL has been an active participant in the fight for the FOI bill in Zambia as they realize that it will be good for many people but most especially the women. "We have fully participated in the FOI process through meeting we have held with MISA Zambia that have been leading the process and the various media activities in Zambia."

ZNWL also state that they are aware of the FOI bill and that the media bodies in Zambia have been putting pressure on the government but the latter have been resisting and in the role of women's organizations in the FOI process, ZNWL say the if the FOI was enacted, women will have access to information that is not made available to women's organizations. The ZNWL do believe that the bill would empower citizens to challenge government to provide information on it's spending, for instance governments expenditure of health facilities. As one of the organisations that fully support the FOI process ZNWL say it will mobilize through it's network of members to sensitize the public on how best they can benefit if the FOI bill were enacted. They also reiterate the importance of other women's organizations in Zambia on the need to work with the media bodies to push the FOI process further.

Zambia Research Development (ZARD)

The Zambia Association for Research and Development, ZARD has its origins in the Association of Zambian Women, which was established in 1974 following the First Women's Conference. Upon its dissolution some of its members established a Social Economic Research Group (SERG) in 1976 following the First World Conference on Women held in Mexico in 1975. SERG was reconstituted as the Zambia Association for Research and Development and registered on **5th October 1984** with the Zambia Registrar of Societies

According to the Information Officer Ms. Emmah Ndalamei, ZARD has not fully engaged in the FOI process because they are not really aware of what it is and that they have not sat down to think of how it can fit in to their programmes. As a research organization ZARD has some understanding of the FOI bill and how it would help women, however, they have not been part of the process. Although they would want to be part of the process of the enactment of the FOI but they do not see a clear role in pushing for the bill as they only mention the Zambia Media Women Association (ZAMWA) and other media houses as organizations that should push this agenda forward. It is worthy to note though that ZARD mention that the bill would bring about good governance as well as transparency in government and how it runs the country they are not involved in the process.

Non Governmental Coordinating Council (NGOCC)

The Non-Governmental Organizations Coordinating Council (NGOCC) was established by a few Zambian women NGOs in 1985, about 23 years ago, after the United Nations' World conference on women held in Nairobi Kenya. Prior to it's establishment, NGOs worked in isolation. It was, however, realized that the process of empowering women needed concerted effort and hence, NGOCC was born to facilitate networking; nationally and internationally.

Ms Leah Mitaba – Communications and Advocacy Officer says NGOCC is aware about the bill and when it was introduced in parliament and the time it was withdrawn from parliament. They are an organization that has been advocating for the introduction of the bill, and still push for it to be tabled in parliament. NGOCC

notes that women are the majority in the country and therefore have a central role in pushing for this important bill.

The organization also notes that as governments are preaching democracy and good governance it therefore follows that increasing transparency in the governance of a country is cardinal but also note that Journalist must not take advantage when the bill is introduced and infringe on people rights in the name of freedom of information, therefore the need to adhere to ethics is cardinal. They also recognize that the FOI bill would increase transparency and thereby increase trust in government operation. It will also allow for people to engage government from an informed basis with evidence generated from accessed information. NGOCC mentions in their quest to get information that will uplift Women's lives in the country; they cannot access information easily as they are hindered by the bureaucracy in government. Like the organization above, NGOCC also mention that they have really received any funding to push that agenda forward but however do work around those areas.

It is also cardinal to note the NGOCC sees the need for not only media organizations to push for the FOI bill but all stakeholders as this will benefit all. The NGOCC has been quite instrumental in pushing for FOI bill through their advocacy work and engagement with the government and the media organizations. Of the many NGOs in Zambia NGOCC has stood out as one of the major partners for the Media Associations that have been pushing for the FOI bill in Zambia.

MISA ZAMBIA

MISA-Zambia is a non-governmental organisation dedicated to promoting media freedom and diversity in Zambia. It is the Zambian chapter of the Media Institute of Southern Africa (MISA), based in Windhoek, Namibia. MISA was established in September 1992 with the aim of promoting free, independent and pluralistic media as envisaged in the 1991 Windhoek Declaration [www.misanet.org]. It has 10 other chapters in the Southern African Development Community (SADC) region, namely Zimbabwe, Botswana, Malawi, Angola, Mozambique, Lesotho, Swaziland, Tanzania, Namibia and South Africa.

MISA Research and Information Officer Ms Jane Da Silva explained that MISA has been one of the media organizations that have continued to champion the fight for a FOI bill in Zambia. MISA and other media organization in Zambia have been pushing for the FOI bill since mid 1990s. As a media organization they understand the need for this bill and mention that the bill seeks to guarantee access to public information held by public bodies in Zambia.

They also say that the current situation in the country does not allow for access to information as there are no laws that provide for that. On the role of women's organization on the FOI bill, MISA say that the role of women in the FOI initiative is cardinal as they depend on information to make decisions as care givers to their families, the sick and on issues affecting them.

And on some of the hindering factors that prohibit access to information MISA mention a number of factors such as Defamation of the President, law on obscenity, state security law, generally the penal code is one piece of law that hinder access to information. MISA also state the importance of having such a bill in reducing corruption in public offices, equal access to public held information such as tenders by government, and information on key development projects such as roads constructions and health centers.

The organization thinks with this bill, It would enable media organizations access to public information by the journalists and the public at large. According to MISA women organisations have a critical role in FOI process which includes to educate the masses on the need for legislation. It is worthy to note that MISA can identify more than 20 women NGOs that they can work with the FOI process, although at the moment they only work with NGOCC and Women's lobby.

Zambia Media Women Association (ZAMWA)

This is a national media Association formed in 1985 and registered under the Society's Act as a non profit membership organisation for women journalists from the print, electronic media and communication sectors. The idea was stemmed in the early 1970s by then women journalists who felt the need to enhance the cause for women Journalists in the country as they felt they were being marginalized in their course of duty.

As a media organisation ZAMWA has also been one of the media organizations that have continued to champion the fight for a FOI bill in Zambia, infact they are the only active women organisation amongst the major media associations in Zambia that champion the cause for the FOI. They too together with other media organizations have been in the fore of trying to push for the FOI bill. ZAMWA Coordinator Emelda Yumbe mentioned that they are advocates for the bill as this would not only benefit its members who are women but all women in Zambia in accessing information in the country, they also recognize the fact that the bill entails an obligation on the part of the public authorities to facilitate public access to information. It's an important human right necessary for the enjoyment of other human rights and that includes women's rights.

According to ZAMWA the role of women's organizations in the FOI process is to advocate for the bill so that women can benefit, they also believe that when the bill is in place, women in all spheres stand to benefit, e.g. the health, agriculture, water and sanitation, accessing loans, land requirements and education sectors They also see themselves as a voice of the many voiceless women.

ZAMWA also recognizes the importance of the FOI bill as it would help the citizens to access information when they require, it would also be a plus for the government as it would be a milestone in the attainment of democracy and transparency in the way they are governing the country and would be a sort of gate keeper to detect scandals and malpractices and also exposed malpractices. It is also worth noting

that through all this hard work, ZAMWA does not receive any funding from anyone but have the moral support of many stakeholders and partners. They also see that with the help of the civil society, and other stakeholders, the FOI process can be pushed further.

Women for Change (WfC)

Women for Change (WFC) is a Zambian gender focused NGO working with communities, especially women and children, in rural areas to contribute towards sustainable human development using popular education methodologies. The WFC is one of the strongest women NGOs and are dotted all around the country in trying to the better the lives of women in Zambia. As an organization they also recognize the importance of having such a bill and also that it is a human right and as advocates for women's rights they realize that. WFC, Information Officer Youngson Ndawana- say they do their advocacy work through publications but also mentions that they have challenges such as setting up a community radio station, access to information and basically accessing information to ease their work.

As in the above cases WFC realize the importance of having such a bill and that there will be more transparency and knowledge for women in Zambia. WFC do not know of any women's organizations that work on pushing for the FOI but note that do receive some form of funding from the NGOCC to work on the same. They also mention that they do not know many organizations that are working on pushing for the FOI but given a chance they would like to work with ZAMWA, MISA, NGOCC, ZARD, Zambia union of Journalists (ZUJ), and other stakeholders.

Benefits of women's Involvement in the FOI Process

Lack of access to information and technology affects Africa in general and in most cases women are the most affected. It is said that when one is equipped with knowledge in various aspects a lot of mishaps can be prevented. Information is a tool for women's empowerment and Gender Equality. Lack of information leads to hindrance to lot of things such access to health, education, social and economic reforms etc.

If a society lacks information, governments become relaxed and therefore there is no accountability in various areas. Equally, if people lack information, they will not know that it's part of their right to participate in their governments activities such as elections, fight against graft etc

It is now incumbent upon the women NGOs and the civil Society in Zambia to push for the Freedom of information Bill so that more women can have access to information to enhance their and others Zambians livelihoods.

Zambian women do not want a repeat of the family planning injectible contraceptive Depo-Provera that a lot of Zambian women use which Ministry of Health (MoH) tested at some point and said that it contained traces if the HIV/AIDS virus.....and later disputed the claims but this brought a lot of anxiety to the women of Zambia.

Another example is the recent scandal in the Ministry of Health (MoH) involving more than K27 billion, which amounts to roughly US\$5.4 million that a few selfish Zambians have stolen, this led to a country-wide strike action by health workers demanding for better working conditions. The health workers accused the government of lying idle while huge sums of money were being misapplied.

During this period a lot of women either died or lost their children and babies.

If the FOI was in place it would be easy to detect some of these mistakes before the figures got to alarming levels.

If this money was put to good use, Zambia would not have high mortality rates and other such problems. If women had access to information such incidents would not happen.

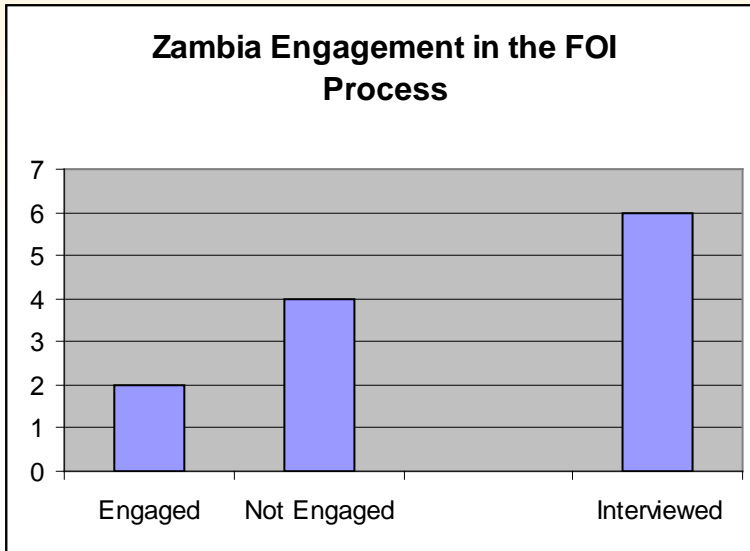
Women would also have access to small grants or loans from banks because they would have access to information even from banks which ask for extra-ordinary collateral as assurance of returning the loans acquired from them. It is absurd because where is a widow from a rural and remote area in Zambia supposed to get this from?

In his speech at the 2007 Lisbon Summit, Late President Dr. Levy Patrick Mwanawasa (MHSRIP) who was at the time Chairperson of the Southern Africa Development Community (SADC) said "We are all aware that women make up the majority of the population in the country and the agriculture sector employs more women than men but women always getting the wrong end of the stick."

The above statement is also a good example that if women had access to information they would not be mere employees on farm land and other tangible assets but rather own the land and farms themselves.

Way forward: Strategies for Collective Participation

During my missions in collecting information from Women's organization regarding the Freedom of Information.... I began to understand that many Women's organization though working for women and pushing the Women's agenda forward still do not understand the importance and the need for a freedom of Information bill or have very little understanding of it. Most Women's organizations from the information gathered are not quite clear that they need to be involved in the need to a FOI bill, most organizations shied away from me as they either thought that the FOI bill was just for Journalists or that it would not help them in anyway.



A few organizations showed interest and said they did not know that the FOI bill would be beneficial to them and further asked to work with organizations such as ZAMWA so that they could learn more on the FOI bill and its importance in order to ease their work and be able to execute their duties easily and also advocate in the pushing of the bill. To succeed in pushing for the FOI bill in Zambia, Women's organizations need to forge viable partnerships. Legislative reforms are extremely difficult and would no doubt require investment of sizeable resources.

The media associations in Zambia cannot meet these needs alone, they need the partnerships of such organizations as the United Nations, and they have a role to play in supplementing the efforts of national governments, and could also assist in training Journalists in international human rights law. The United Nations could consider joint action with the Commonwealth Secretariat, which had already begun to provide technical assistance in legislative reform dealing with violence against women.

Conclusions and Recommendations

Zambia like many other growing democracies in the developing world has been grappling with the need to review/ repeal existing legislation on her statute books that make it difficult for the tenets of Freedom of expression and media to flourish. The very flow of information and ideas lies at the heart of the very notion of democracy and is crucial to the effective respect of human rights which recognizes women's rights as one of the cardinal rights. From the information gathered above, it is clear from all organizations stated herewith that most of them have little understanding of the need for a FOI bill and how it would benefit them. It should be a concern that stakeholders do not see the need for the FOI bill as a priority and therefore give less support to this noble cause.

Recommendations and Why Zambia should have the FOI Bill

The Constitution treats access to information as a human right issue that hinges on freedom of expression. Without the adoption of this legislation our democratic process will be incomplete.

If adopted the Bill will:

- For women in Zambia, the bill will be tool for them to exercise their rights, access such facilities as health centres, bank loans, land acquisition and generally facilitate easy access for public offices in the country.
- be a tool to fight corruption (most of the malpractices in public institutions will be exposed);
- promote openness in government and other public bodies (transparency and accountability will breed good governance);
- reduce the tendency of holding/hiding information; and
- Every citizen will be able to know the stand of government and how public resource are used(decisions and business transactions will be known);
- In all this though government is the biggest beneficiary as they stand to gain in that it will be a plus in promoting good governance.
- Lastly the bill will provide leverage women to push for their rights. It is important Women's organisations come to together and map out a strategy on how they can push for the FOI process and not just leave this work to the Media associations as the bill stands to benefit all. Women's organisations should partners with organisations such as ZAMWA, Press Association of Zambia (PAZA), Zambia Union of Journalist (ZUJ), MISA Zambia and map out a way forward.

ACKNOWLEDGEMENTS

1. Youngson Ndawana- Women for Change (WFC) Information office
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4. Pezo Mateo- Phiri – Zambia Association for Research & Development _ Executive Director
5. Emmah Theo – Information Office (ZARD)
6. Leal Mitaba – Non Governmental Coordinating Council (NGOCC)
7. Emelda Yumbe- Zambia Media Women Association (ZAMWA)- Coordinator ZAMWA
8. All Media Associations in Zambia (MISA, ZAMWA, PAZA, ZUJ, Press Freedom Committee of the Post (PFC)
9. Nelson Banda- Zambia National Women's Lobby – Information Officer and coordinator for the Men's Network

3

Chapter 3: **Key strategies that can be used by women's rights organizations to advocate and lobby for the enactment of FOI bills in their countries.**

At national levels the women's movement need to create a national forum for the exchange of information and sharing of experiences in order to better disseminate useful information to their constituencies.

At regional level creating a bigger coalition with other actors in other social movements and in the media to advocate and lobby for the adoption and enactment of the FOI law is vital in ensuring that FOI bill is passed and effectively implemented.

Engage with policy makers including parliamentarians and technocrats in relevant government Ministries such as the Ministries of Justice, Information, and Gender to support the adoption and enactment of the FOI law. In countries were this law is already in place, engaging these ministries would boost implementation.

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Chapter 4: Way forward/ Conclusion

It is important Women's organisations come to together and map out a strategy on how they can push for the FOI process and not just leave this work to the Media associations as the bill stands to benefit all. Women's organisations should partners with media bodies in their respective countries. Women's organisations in Africa also need to invest in sustained training, education and capacity building on FOI as a crucial element for all organizations working with women's rights. Special emphasis needs to be brought to bear on the linkages between women's rights, social justice, public participation, reform and the capacity of women to engage with these issues through information.

About FEMNET

The African Women's Development and Communication Network (FEMNET) is a regional, membership-based non-governmental organisation (NGO). It operates through Sub-regional and National Focal Points (NFPs) most of which are women's network or umbrella organizations. FEMNET was set up in 1988 to share information, experiences, ideas and strategies among African women's NGOs as a strategy for strengthening women's capacity to participate effectively the development of our continent. This is done through advocacy, training, communication and networking. FEMNET plays a leading role in building the women's movement in Africa and ensuring that African women voices influence decisions made at different levels that impact of their lives. We advance women's empowerment, development, equality and peace in Africa. FEMNET is governed by a Constitution and the following governance and administrative structure:

- National focal points in various African countries whose representatives attend a tri-annual Programming Conference and General Assembly;
- An elected 11 member Executive Board which includes two Board members per sub-region of Africa and a Chairperson. In addition, there are two Ex-Officio Board members (immediate past Chairperson and the Executive Director)
- An elected seven member Board of Trustees to oversee FEMNET's assets; and
- A Secretariat which implements FEMNET's programmes and is headed by an Executive Director.

8.1.1 FEMNET Objectives

- Promoting women's activities in Africa through the strengthening of existing organisations and the establishment of new ones as may be needed;
- Exchanging experiences in planning, implementing and evaluating women's programmes and projects through interaction with NGOs, development agencies and relevant regional and international intergovernmental bodies;
- Playing vanguard and catalytic roles in the treatment of feminist issues which cannot be handled by government gender mechanisms due to the threat that such issues pose to patriarchal states;
- Promoting the better utilisation of African women's NGOs by development agencies and regional and international intergovernmental organisations (IGOs) such as the AU and various UN agencies;
- Mobilizing resources for African women's development, equality and other women's human rights from local, regional and international sources;
- Enabling collective action by African women's movements in order to tackle regional gender issues.

Since its inception in 1988, FEMNET has continued to play a leadership role for African women's NGOs at regional and international decision-making and policy fora. The current FEMNET programme includes, Advocacy, Communication, and Capacity Building Programmes

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6. HIV statistics are available from: Human Sciences Research Council; South African National HIV Prevalence, Incidence, Behaviour and Communication Survey, 2008 and <http://www.alp.org.za>
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15. The Asmal ad hoc Committee on the Review of Chapter 9 and Associated Institutions chaired by former Minister of education Kader Asmal. The findings of the Commission can be located on the following website: http://www.polity.org.za/html/gov_docs/bills.
16. The Constitution of the Republic of South Africa, Act 108 of 1996, The Universal Declaration of Human Rights; African Union Declaration of Principles on Freedom of Expression in Africa; and the African Charter of Human and People's Rights
17. www.southafrica.info/about/democracy/parlyw-060509.html



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