



Africa freedom of Information Centre

Annual Report 2016

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Foreword

From the Coordinator & Head of Secretariat

The year, 2016 was quite significant for AFIC. In March, 2016, AFIC held its 2nd General Assembly in Kampala, Uganda of all members from across Africa. The meeting, reviewed progress of the implementation of the strategic plan (2014-2018), new Governing Council was elected and experiences around ATI litigation, advocacy and open contracting were shared. Two working groups on open contracting and litigation were set up to devise strategy for deepening and broadening the knowledge and application at membership and Secretariat levels. Five organisations were admitted to AFIC membership, bringing the size of membership to 38 organisations. This set in motion process to develop Terms of Reference for the Open Contracting Working Group, leading to registration of budeshi platforms and engaging respective stakeholders in Uganda, Kenya and Malawi. Consequently more countries are committing to open public contracting processes.

During the year, long standing ATI campaigns for adoption of right to information laws in Kenya, Tanzania, Malawi and Togo yielded positive results with adoption of respective national ATI laws. Apart from Togo, the Secretariat had worked with members either directly on campaigns or indirectly through mechanisms like ACHPR, OGP and UPR to support campaigns. We also made significant progress on the development of ATI training manuals for public officials, civil society and journalists.

Fundraising was challenging. We had aimed at getting at least two large-medium size grants but we were not successful. On the positive note, we welcomed new funding (Finance for Development) from Oxfam (3 years), Open Contracting Partnership (completed), Construction Sector Transparency (CoST) Initiative (ongoing) and ActionAid Netherlands (completed). Projects supported by Sida and the National Endowment for Democracy which had started in 2015 were also successfully completed. Learning and knowledge products can be accessed from [AFIC's website](#).

We start the new year 2017 with optimism:

1. Within the framework of AU-EU partnership, AFIC will host a pan African Seminar on Freedom of Expression and Access to Information. The seminar is supported by the EU and we hope that it will generate recommendations to advance ATI and FoE in Africa.
2. ECOWAS Regional frameworks on ATI and FOE: In partnership with the Media Rights Agenda, Center for Media Studies and Peace Building and Ghana FoI Coalition, a regional consultation meeting on the two draft frameworks will be held. The African Union Commission has positively responded to request to partner in the organization of the meeting. Based on this experience, AFIC will work with members in Eastern African for a campaign for similar frameworks in the sub region.
3. State of the Right to Information in Africa Report: In follow-up to the 1st and 2nd issue of the State of the Right to Information in Africa Report in 2014 and 2015 respectively, we will this year produce the 3rd issue. We suggest to you that the focus should be on SDG 16.10.02 and UNESCO has indicated that this would be great and should we have the report end of June, 2017, they will work to ensure that it is part of UN Secretary General's Report to the General Assembly of September 2017. We do not yet have a budget but given the importance, we request members to contribute content based on key questions the Secretariat will share. Please advise if you are fine with the topic and also contributing content.
4. Open Contracting: With active guidance of the chairperson of the Open Contracting Working Group, groundbreaking learning and progress has been made in the past year. In the next few weeks major procurement

data sets for all public agencies in Uganda will be open by default. This has come following a scoping study of public procurement in Uganda (in collaboration with Hivos and Article 19), mapping of Government Procurement Portal against open contracting data standards (in collaboration with the Public and Private Development Centre- PPDC and Open Contracting Partnership) and training and advocacy engagements with Government. In parallel, working with PPDC, Article 19, Centre for Human Rights Rehabilitation, we have initiated replication of [budeshi](#) procurement monitor portal in [Uganda](#) , [Kenya](#) and Malawi. With active guidance and support of the OC Working Group, mapping of open contracting commitments in OGP national action plans and London Summit commitments has been done. In the new year, this will be used as a key resource for the Working Group to develop and implement open contracting strategy for the network.

5. Resource mobilization strategy: We have started our 3rd year of implementation of AFIC's strategic plan whose implementation started in 2015. A lot of work has been achieved but more needs to be done. We believe having a resource mobilization strategy and efforts to implement it will advance ability to implement the strategic plan. In this regard, the process to produce a resource mobilisation strategy is nearing completion. Appreciation goes to selected members and CG for inputs into the strategy..

6. Adoption and implementation of ATI laws will remain a priority in the new year. Previously, members and partners have been requesting for support with specific issues. This will remain but the approach will be modified to strengthen pro-activeness on the part of the Secretariat. In Uganda, we have had a meeting with all members where we reviewed work in Uganda and received important feedback on programming and coordination of ATI interventions. Based on this learning, we will be reaching out to members in individual countries with request for conversation regarding what is ongoing in their countries and explore ways in which we can support or share experience.

Finally, I would like to encourage you to visit AFIC's website for publications and resources whose list has been growing.

We count on your support and partnership.

Best wishes for the new year 2017!

Vision and Goals

Africa Freedom of Information Centre (AFIC) is a pan-African NGO and resource centre that promotes the right of access to information through comparative research, coordinating regional advocacy, facilitating information-sharing and capacity building.

Our Vision

AFIC is a membership civil society organization promoting the right of access to information. We strive to become a reliable, dependable and all round freedom of information support centre on the African continent.

Objectives

AFIC promotes democratic rule and socio-economic justice for African citizens through fostering a culture of increased transparency, integrity and accountability among governments, regional and international bodies;

Deepening freedom of information knowledge base through research.

AFIC promotes legal, policy and social research in respect to access to information. Improved knowledge positively impacts on the demand for information, quality of legislation and implementation. AFIC research strategy involves working with the academic and research institutions as well as working directly with affected communities and consultants.

Promotion of adoption and domestication of regional and international standards and instruments

Information is important for non violence and dispute free elections. AFIC works with the Special Rapporteur for Freedom of Expression and Access to Information and other stakeholders to promote the adopting of the African Charter on Democracy, Elections and Governance as well as other relevant instruments regional instruments on FOI at sub regional and national level.

Advocating for legislating on Access to Information.

Nearly fifty member states of the African Union are yet to adopt comprehensive FOI legislations. AFIC works with sub regional networks and civil society groups to advocate for strong access to information legislations in AU member states.

Advocacy for implementation of FOI legislations.

South Africa, Angola, Uganda, Zimbabwe, Ethiopia and Liberia are the only countries that have adopted FOI specific legislation (with Zimbabwe's being considered constraining rather than facilitating FOI). AFIC works with national civil society, academic and research organisations to promote implementation and learning in respect to implementation of FOI.

Support to ATI Litigation.

Several African countries have ratified international and regional standards and instruments on freedom of information. Fifteen of these have guaranteed the right of freedom of information in national constitutions. However, these provisions have not been operationalised through the enactment of and implementation of enabling legislations. At worst, governments openly work against the principles of the constitution in relation

to FOI. AFIC works with national and other stakeholders to support FOI focussed litigations as a strategy to improve the law.

Monitoring FOI Implementation

AFIC works with national and sub regional civil society groups in monitoring the situation of FOI in AU member states. Shadow reports will be produced and presented to the African Commission on Human and Peoples Rights (ACPHR). To strengthen the monitoring role, AFIC is seeking attainment of observer status at ACPHR.

Strategies

Research and Knowledge Production

Research on access to information in Africa is still at a very nascent stage. The importance of credible information in developing effective advocacy strategies cannot be over emphasized. As a result, AFIC is conducting studies to not only strengthen Africa-based knowledge on access to information but also enhance the quality of right to information policies, laws and programs.

Promotion of Ratification and Domestication of Regional Instruments

The African Union recognizes the right to information through different treaties including the African Charter on Human and Peoples' Rights, the Declaration of Principles of Freedom of Expression in Africa, the African Charter on Democracy Elections and Governance, the African Union Convention on Preventing and Combating Corruption, the Charter on Values and Principles of Public Service and Administration and the African Youth Charter. These instruments provide important opportunities for the advancement of the right to information on the continent. AFIC and its members advocate for their ratification, domestication and effective implementation by African states.

AFIC's work on promotion of ratification and domestication of regional treaties has been supported by the United Nations Office of the High Commissioner for Human Rights –East Africa Office, the Deepening Democracy Program (DDP) and the Right to Information Fund of the Open Society Foundations.

To advance right to information at regional level, AFIC in collaboration with other members of the African Platform on Access to Information (APAI) Working Group championed the development and adoption of APAI Declaration.

Support to Regional Multi-stakeholder Public Contracts Monitoring

Public Contracts Monitoring is one of the most challenged areas in terms of transparency despite being at the heart of delivering public services in Africa. Working with public, private and civil society actors in Eastern and West Africa, and Access to information being at the heart of contract monitoring and based on its experience in facilitating coalition building, AFIC is providing technical support to the multi-stakeholder contracts monitoring coalition in Uganda and the region. In Uganda, focus is on promoting contract transparency in seven thematic areas of priority; Education, health, extractives, water and environment, agriculture, public works and ICTs. Funding for scaling up this initiative in the region is being sought.

Promotion of Legislation and Implementation of FOI frameworks on the African Continent

The objective of this programme area is to improve the legal and policy environment for African citizens' enjoyment of their fundamental right of access to information. Since 2010, eight more African Union member states have adopted national access to information laws, bringing the number of countries with such laws to thirteen all of which are facing different implementation challenges. AFIC is supporting national ATI coalitions to create public awareness, monitor the status of implementation and compliance.

Where laws are yet to be adopted, AFIC supports national coalitions in strengthening national campaigns. With more countries adopting national access to information laws and the African Commission on Human and Peoples' Rights taking more interest in RTI issues, AFIC's work is shifting towards helping its members and national coalitions to hold state parties accountable through the use of the African Union Human Rights mechanisms.

Technical Assistance and Capacity Strengthening of Members and CSO Partners

There are few known organizations on the continent working exclusively on RTI advocacy. This presents an important opportunity to help them mainstream RTI in their work in sectors such as health, natural resources, education, agriculture, elections, anti corruption activities and rural development among others. AFIC's experience with trade unions, media, political parties and civil society organizations across the continent shows that this area needs urgent attention, as information is central to the realization and enforcement of every other right. With support from Friedrich Ebert Foundation, AFIC has assisted civil society organizations to apply access to information in their various activities with positive results. Funding to scale up this work among AFIC's members and partners across the continent is being sought.

AFIC is member of the following organizations or partnerships:

1. African Union CSO Steering Committee on Africa- Europe Partnership since December 2011
2. Observer Status with African Commission on Human and People's Rights since April 2012
3. IFEX – International Freedom of Expression Exchange since June 2013
4. IANRA – International Alliance of Natural Resources in Africa since February 2013
5. AFEX – Africa Freedom of Expression Exchange since December 2013
6. GPSA – Global Partnership for Social Accountability since September 2013
7. OC – Open Contracting since 2012

Programmes and Results

[Enhancing good governance through citizens' access to information](#)

The pilot project “Enhancing good governance through citizens' access to information” supported by Sida had the overall objective to enhance accountability and service delivery through effective citizens' access to information in Uganda, Kenya and Malawi. The project aimed at strengthening citizens' capacity to demand for public information, to enhance capacity of public agencies to implement right to information and to improve collaboration between citizens/CSO and anti-corruption institutions.

To achieve stated objectives, the project trained civil society leaders and journalists on citizens' right of access to information and how it can be applied within health and education sectors. 122 civil society leaders and journalists were trained in the three countries. The training triggered filing of information requests on matters the public felt didn't have information about. By the time follow-up workshops were conducted in Uganda and Malawi, respectively 26 and 24 information requests had been filed by trained participants. Correspondingly, 50% and 37.5% of the information requests had already been responded to by the time of follow-up workshops. 25 information requests were filed in Kenya outside the project period. 50% received full responses in less than 21 days and 35% received mute refusals. 15% received partial and incomplete responses. In all the three project countries, information requests elicited reforms ranging from fixing services which had broken down to ensuring contracts which had been paid for but service not rendered were rectified following exposure. A key learning was that whereas training was biased towards education and health, information requests by participants were on various themes of their concern such as public administration and contracts.

To promote learning and experience sharing among, AFIC and its members in project countries, [case studies](#) of experiences on how RTI training impacted behavior of participants as well as services in the three project countries were documented.

On the public sector side, the project trained 90 officials in the three project countries. Like in the case of civil society, public officials had not been trained on ATI before and the training was ground breaking. The training focussed on the implementation side of ATI with focus on respective national legal frameworks, setting up implementation systems for receiving and responding to information requests, interpreting requests, transfer of requests, processing appeals and annual reporting. The effect of the training was increased responsiveness as 50% of the information requests in both Uganda and Kenya and 37.5% in Malawi were responded to within reasonable time. A key finding was that neither agency in any of the three project countries had an ATI implementation plan.

The baseline study conducted under the project captured some of the outcomes of the project but most importantly baseline data on the status of ATI in the three countries. In particular, lack of awareness of ATI laws and frameworks and how to apply them was a key finding on the civil society side. Indeed majority had not made information request under the law prior to the project. On the supply side, public officials were also not aware of the law and its provisions. Implementation was to a great extent not responsive.

Whereas meetings with respective national anticorruption agencies revealed their recognition of the importance of citizens' access to information in addressing corruption, none of them had ATI implementation as part of their anti-corruption strategies. The project analysed these respective national laws and anti-corruption institutions to determine whether laws are consistent with the treaties and whether practices in the three countries reflect the spirit of to international and regional treaties on anti-corruption.

Findings show that respective countries have enacted laws and established institutional frameworks but are all challenged at implementation and enforcement levels. In addition, the analysis of the two treaties shows that civic engagement and citizens access to information has not cautiously been used by the respective anticorruption agencies in the three countries. Detailed analysis of the two treaties is provided in [this report](#)

The project successfully achieved intended objectives including; strengthening citizens' capacity to demand for public information, enhancing the capacity of public agencies to implement right to information and creating a better understanding of the need to improve collaboration between citizens and anti-corruption authorities in the "war" to address corruption and promote better service delivery in Uganda, Kenya and Malawi. This notwithstanding, there were challenges experienced during its implementation. Choice of using time allocated staff, and in Kenya, changing

of Project Officer in the middle of the project caused delays in the implementation. In respect of the baseline study, data collection took far longer than expected because appointments for interviews with officials mainly in Kenya and Malawi were difficult to secure. The Presidential and national elections in Uganda created an atmosphere where service delivery challenges especially in health, roads and education sectors became prominent. Implementation of an access to information project in this period was met with some suspicion from general public. Last but not the least, project partners would have benefited more from AFIC's support missions and monitoring. This activity was thus not budgeted for. This challenge was overcome by regular online communications (e-mail and skype meetings) with project teams and key partners.

Conclusion, the main learning from the pilot phase is that citizens' access to information is an important instrument to advance good governance and address corruption yet neither do citizens understand how to use it nor do public officials have capacity to implement the right. It was also learnt that regional and international mechanisms such as the African Commission on Human and Peoples' Rights as well as initiatives like open Government Partnership strongly reinforce national initiatives. Despite the learning, it is recognised that the scope and scale of interventions was too limited. Further engagements with anti-corruption agencies is necessary to translate into actions, recommendations and commitments made during the pilot phase. Similarly, some declaration of intentions made by government and MDAs need to be followed as to be implemented. Newly reinforced legislation in Kenya and Malawi bring new opportunities to integrate ATI mechanisms within all public institutions. The three Budeshi e-platforms in Malawi, Kenya and Uganda need to be consolidated and recognised by all stakeholders as channel of reference to access public information. In that regard, further advocacy to develop ATI e-portal is needed.

Global Partnership for Social Accountability

The "enhancing accountability and performance of social service contracts in Uganda", project, is a 4 year project funded by Global Partnership for Social Accountability of the World Bank. The project's main goal is to enhance transparency and accountability of public contracting in the Health, Education and Agriculture sectors in the districts of; Ntungamo, Mubende, Mityana, Nakaseke and Nebbi. The project has four objectives; to increase government disclosure of contracting information; improve public participation in contracting processes and collaborative engagement between government and civil society ; to improve informed decision making by the central and district local governments regarding monitored contracts and services ; and to strengthen the capacity of citizens and civil society to collectively and effectively demand for accountability and value for money in public contracting by December, 2018.

In bid to achieve objective 1, the project signed MoUs with the project stakeholders that is to say the District Local Governments and PPDA, continued engagements and trained CSOs and public officials on access to information and open contracting. To this effect the project been able to access 21 copies of contract information from the 3 targeted district local governments of; Ntungamo, Nakaseke and Nebbi as well as PPDA. The information accessed is envisaged to ease the contract monitoring process by identified/trained community monitors strategically located within the the project focus districts.

To improve public participation in contracting processes and collaborative engagement between government and civil society ;(Objective 2) A core component of the project is to mobilize and capacitate citizens to participate in public contracting and service delivery through monitoring of service contracts. The project identified and trained a total of 186 community monitors (124 males and 62 female) to monitor contracts and services in health and education in 5 project districts. Their selection was based on pre-set criteria developed by project partners with inputs from district stakeholders. 5 follow up meetings with monitors have since been held where results of their work were discussed

and identified capacity gaps addressed. A training on Access to Information and open contracting was also conducted targeting the local government district officials (political and technical officers), Civil Society Organizations and citizens. A total of 133(33 Females & 100 Males) participants were reached in the 5 project districts. Details of the training are presented in the [report](#).

To improve informed decision making by the central and district local governments in a timely and efficient manner, AFIC has signed MoUs with the Public Procurement and Disposal of Public Assets Authority (PPDA) as well as with the District Local Governments of Mityana and Nakaseke; the other districts of Mubende, Ntungamo and Nebbi have not formally signed the MoUs but are supportive to the project. The formalization of the partnerships with stakeholders is expected to enforce responsibility and obligation and transparency between the project implementing partners and the stakeholders. Also during the ATI/OC training for public officials and civil society conducted 8th-27th April,2016, 4 recommendations were made to Hon Minister for Information , Communications and Technology (ICT). These were;

- a) To develop an implementation plan for ATI Act,
- b) To institutionalise open contracting in government MDAs,
- c) To engage parliament to allocate adequate resources for implementation of ATI Act and open Contracting
- d) Government of Uganda to consider joining Open Government Partnership.

A letter was written and submitted to the Minister and AFIC awaits response.

Under objective 4; Community monitors have been selected . Based on a selection criteria, a total of 197 monitors were selected by TIU and trained on social accountability monitoring and the health, education and construction tools that were developed by TIU in collaboration if AFIC. Following the training of community monitors by TIU, preliminary data gathering & draft analysis was done. The data gathered accrued important issues from which AFIC and TIU learnt from and reviewed and updated the monitoring tools and also organized a a joint support visit to the community monitors. During the joint support visit, the community monitors were taken through the monitoring tools again, discussed the emerging issues as well as emphasized the issue of contract monitoring. It had emerged that from the gathered data that the monitors had not been able to access any contracts, and thus AFIC wrote to the DLGs requesting for officially to access the contracts for FY14/15,15/16&16/17. Districts of Nebbi and Ntungamo have so far been cooperative and we have so far accessed a total of 11 contracts in both districts and now in process to pursue the other districts to comply and also complying and analyzing the contracts data to be shared with the monitors who will be able to use this information to monitor services and contracts, submit their findings to AFIC who shall then compile, analysis and share the reports. It will be these reports that shall form the basis of engagements with the officials and for the CSOs and citizens.

Financing for Development

The financial year 2016 was graced with a contract agreement signed between OXFAM Novib and Africa Freedom of Information Centre(AFIC) for a three year project “Finance for Development (F4D). For the first year of the project period, the project has directly reached 213 beneficiaries of which 43% were women and 57% were male and approximately 3 million people indirectly reached. During the implementation period AFIC commissioned an assessment of accountability structures study at the national and sub-national level. Furthermore, AFIC conducted

training on access to information in 3 regions of West Nile, Teso/Karamoja and Acholi in which a total of 206 participants were trained from the three regions, with 43% female participants and 57% male participants. The participants were Public officials both technical and political officials, and civil society organisations and representatives from selected F4D Neighbourhood Assemblies.

Following this training participants gained knowledge and use of the access to information Act, and a total of 70 information requests were filled and filed of which 80% were with district local governments while 20% were to government ministries of education, environment, Office of the Prime Minister and works. Four of the information requests were responded to such as the request to the Chief Administrative Officers, Nwoya District and Pader District for information about the total amount of money recovered from Youth Groups under Youth Livelihood Project in the FY 2015/2016 and the selection criteria of beneficiaries of the Youth Livelihood Project . This information helped the town council members to understand why some sub counties received more money than and before others; Another information request filed in Serere lead to a transfer of a head teacher who had been embezzling funds by paying ghost teachers. AFIC also conducted a radio program in Soroti to increase awareness of access to information to citizens and this activity was participatory with listeners calling in for questions and clarity.

Defending and promoting Free expression (Charity)

Enhancing Transparency and Accountability of Electoral Process in Senegal and Uganda

The project aimed at promoting access to information during elections through conducting a study and holding a validation/dissemination workshop in Senegal and Uganda, in an effort to improve the democratic dispensation in the two countries. This project was supported by National Endowment Democracy (NED).

The project aimed at achieving the following set of objectives; a)to enhance transparency and accountability of electoral processes in Senegal and Uganda; b) to empower civil society to engage in monitoring of financing of political parties, and; c) to generate knowledge and create awareness on the need for policies and laws to guide transparency of election candidates and political party financing in Africa.

The overall finding of the study in Uganda and Senegal was that there was lack of transparency in regard to where and how political parties obtain funding, amount of funds got and how such funds are expended by each political party. It was also found in the two countries that whereas political parties are required to declare election finances during campaigns to the respective election management body, it is not a requirement for candidates and parties to disclose such information to citizens. The situation is made worse by lack of citizens' interest in how elections are funded and what candidates actually spend on. This lack of interest is majorly attributed to citizens' lack of information on the funding sources, election spending and implications of these on the overall governance of the country.

The study further found out that political party and candidate finances come from various sources; however, lack of access to information casts doubt on the legitimacy of these sources. In addition, poor party fund management is prevalent in both Uganda and Senegal; this is attributed to weak organizational structure and lack of internal demo-cratic and accountability practices.

Furthermore, the study observed that while some proportion of party and candidate expenditures goes into legitimate and necessary political activities such as campaign rallies, media outreaches, campaign materials/equipment, as well as personnel and other administrative costs, most of the campaign finances are spent on voter bribery to influence citizen's choice of a particular candidate on the election day. And such activities are normally done undercover to avoid detection and possible legal challenges in courts of law. Please follow [this link](#) for details of methodology, findings and recommendations

In the course of project implementation, it was revealed that; disclosure of party finances, including campaign spending and contributions from different funding sources is important to protect the integrity of the electoral process and enable voters to make informed choices on election day on the basis of the broadest possible information. Further, discussions with participants during the workshops in Senegal and Uganda suggest that the main value added by the project was its capacity to raise awareness of the right to access information by various stakeholders at different levels.

In addition to conducting individual interviews, the study also used social media and online methods to solicit relevant data from some of identified respondents in the two countries of Senegal and Uganda. Follow the link provided here for more details. (<https://www.facebook.com/africafoicentre.org/>)

Rather than simply seeking to highlight the value of the right to information, key stakeholders and beneficiaries interacted with during the workshops in Senegal and Uganda, were availed an opportunity to understand that transparency and public knowledge on election financing does not only eliminate the negative effects of corrupt practices/tendencies but also rewards integrity.

More still, a strong recognition emerged that, transparency during electoral processes presents such a platform to verify and detect malpractice, thus enabling citizens to make informed decisions when choosing their political leaders. A case in point is the uniqueness of the study conducted that combined human rights law and democracy principles so as to promote citizen engagement during the electoral processes.

In addition participants during the workshops in Senegal and Uganda emphasized their appreciation for project's focus on access to information noting that previous work on election and democracy related matters failed to engage citizens directly; but that study approach employed contributed to empowering and enabling citizens to challenge traditional perceptions about election finances such as not disclosing information on finances spent on campaigns by a political party or individual candidate.

The African Charter on Democracy, Elections and Governance stresses the importance of citizens' access to information as a key ingredient of democratic development. In view of this treaty and findings of this study already highlighted above, it is recommended that:

- a. Uganda and Senegal should urgently amend or enact and fully implement laws and measures geared at ensuring that people can access information regarding the funding sources, spending and expenditure on election campaign and political party financing by candidates.
- b. Respective election management bodies in the two countries (Senegal and Uganda) should implement proactive and statutory disclosure of all information regarding elections in general and campaign finance in particular.
- c. To ensure enforcement and oversight, election management bodies should submit annual reports regarding political party and election financing to respective national assemblies. And once submitted respective national assemblies should be under legal obligation to debate and make declarations and decisions on the reports.

d. Public awareness on the citizens' right to electoral information should be intensified in both Uganda and Senegal as well as other African countries, in consistence with the African Charter on Democracy, Elections and Governance.

In order to strengthen capacity of CSOs to monitor election financing, AFIC developed a Handbook on [Monitoring Transparency of Election Campaign Finance](#). This was based on the study findings on the subject matter in Uganda and Senegal. The handbook provides the context of transparency on election financing, ATI regarding the financing of elections, analysis of different sources of funding as well as expenditures.

Two validation/dissemination workshops were held, one in Uganda and one Senegal to validate and disseminate study findings/recommendations as well as Handbook on Monitoring Transparency of elections Campaign Financing. In total, the two workshops attracted 97 participants, of whom 53% were from Senegal and 47% from Uganda.

AFIC developed a short video for the Kampala based workshop as a complement for citizens to learn about access to information on election financing in Uganda.

Mining Legislation Advocacy in Uganda

The African continent is richly endowed with mineral resources. Africa produces more than 60 metal and mineral products. The continent hosts about 30% of the world's total mineral reserves and according to the US Geological society ranking, Africa is the largest or second largest reserve of bauxite, cobalt, industrial diamonds, manganese, phosphate rock, platinum group metal and zirconium. These minerals are exported internationally and used as raw material for numerous daily life products.

Throughout a research about the impacts of mining industry on local communities, IANRA identified thirteen problems regularly encountered in African countries. Some of these challenges are: inadequate or poorly implemented legislation to provide guarantee for local community rights where mining is involved, a lack of inclusion of local communities in the benefits sharing of mining revenues and a lack of information compared to the companies and the state. On the one hand, these gaps challenge public authorities and citizens to respond to issues between them and the mining companies. On the other hand, the sector of extractive lack of good governance and transparency. Therefore, it diminishes citizen capacities to hold accountable the public authorities in defending national interests and people rights in the mining industry.

In Uganda, mining extraction is regulated under constitutional provision and the Mining Act 2003. These legislative documents provide for some protection of local communities and guarantee redistribution of mining beneficiation to them. Unfortunately, this legal framework is poorly known by both local community members and local government.

This lack of knowledge impact significantly on the capacity of the people to stand for and protect their rights as well as the local government to fulfil its duty in protecting people's rights and act for the public interest. In Uganda, there is a need for awareness of the people regarding mining law principles, application of the existing law and reform of the legislation toward a more inclusive and fair legal framework that takes into account the benefits for the local communities.

With the support of European Commission and IANRA, Africa Freedom of Information Center and Kick Corruption out of Kigezi organised four activities in Uganda:

- A pre-visit on the 9th of June 2016 in Muko sub-county

- The MML Launch in Uganda on the 13th of June 2016 in Muko sub-county
- A radio talk show on the 13th of June 2016 in Voice of Kigezi Radio (regional radio)
- A multi-stakeholders workshop on the 27th of June 2016 in Kampala

The objectives of these activities were:

- To create awareness regarding existing Ugandan mining legislation
- To promote MML and its principles in Uganda and specifically in mining areas
- To identify issues of local communities regarding mining industry
- To engage the local and central government in protecting local communities' rights in regard of the mining companies.

The attendance to the launch was above expectations. Whereas the planned activity was targeting 500 people, the event attracted 703 people which attests in itself of the interest of the local communities regarding the subject of the event. The local government was also well represented with public officials from LC I to district level. This allowed a fruitful exchange between local communities and local government. The questions asked and the exchange demonstrated a blatant lack of information regarding the Mining Legislation and the rights of the local community vis a vis of the mining industry. In this regard, inputs provided by the organisers during the intervention brought awareness and were welcomed by both local communities and local government. Finally, the members of the local communities expressed readily their issues vis a vis of the mining companies, the local government and the mining industry in general. The content of the exchange was relevant to the objectives of the event and the local government representatives were responsive to the different testimonies from the local communities' members. At district level, they committed to follow on issues raised and take actions in requiring the district labour officer to visit the mining companies and in looking into the process of royalties' distribution according to the proportions defined by the Mining Act 2003. However the results are mitigated by the absence of the mining companies that had been identified and invited after the pre-visit. This impacted on the dialogue between the different stakeholders involved as it was missing one important stakeholder

During the radio talk show, auditors called in abundance to discuss mining industry impacts on the local communities. They asked relevant questions and awareness regarding the Mining legislation was achieved. The participation of the vice chairperson of Kabale district was not planned initially but the opportunity to invite her occurred during the launch of the MML on the same day. Her participation to the talk show enriched the content of the discussion as citizens could directly address questions to her

The multi-stakeholders workshop allowed participants to acquire knowledge regarding the MML and the continental scope of the problematic of mining industry impacts on local communities. Experience sharing of Muko communities and others communities in Uganda brought comments on how to engage the government to resolve the issues. Participants with expertise in engaging the government encourage the local CSOs based in Kabale and other districts to call for their support. The intervention on the review of the mining legislation brought a lot of inputs from the CSOs represented and have been noted by ACEMP to be taken into account during the national consultative meeting. Moreover, ACEMP gave space for interested organisation to participate to the meeting and some participants expressed their interest.

Cross-cutting issues

Engagement of regional mechanisms

During 2016, AFIC engaged a number of regional and international engagements on transparency and accountability that have bearing on project countries and beyond.

African Commission on Human and Peoples' Rights (ACHPR)

In 2016, engagement with the African Commission on Human and Peoples' Rights (ACHPR) was intensified. AFIC in collaboration with its members in selected countries submitted shadow report on the state of ATI. They also proposes to develop and implement an action plan to popularize, advocate for and monitor implementation of ACHPR recommendations by selected State Parties. This work would strengthen compliance while at the same time provide ACHPR with feedback on state of implementation of its recommendations.

The 59th Session of ACHPR

Shadow Report to ACHPR on Mauritius

AFIC submitted shadow report in respect of the state of the right of access for citizens of Mauritius ahead of the 59th Session of ACHPR. AFIC concluded that whereas the Republic of Mauritius is commended for being update with its treaty reporting obligations, it is a concern that it has either ignored or refused to implement recommendations made concerning citizens' right to information by treaty bodies, the African Commission on Human and Peoples' Rights in particular. In addition to failure to adopt and implement an access to information law to implement Article 9 of the African Charter on Human and Peoples' Rights, Mauritius has neither ratified nor domesticated a number of African Union treaties that recognise the right to information highlighted in the report. If this trend is not reversed, Mauritius will not meet Sustainable Development Goals as the African Union Agenda 2063 targets relating to citizens access to information.

AFIC recommended that the following:

1. The Government of the Republic of Mauritius should commit to implement and report on all previous recommendations made by the African Commission on Human and Peoples' Rights in respect of citizens' right of access to information.
2. Mauritius should expedite the drafting and adoption of an access to information law with the Model Law on Access to Information adopted by the African Commission on Human and Peoples' Rights in 2013 as a reference point.
3. Ratify and domesticate outstanding African Union treaties that recognize citizens right of access to information including the African Charter on Democracy Elections and Governance, African Union Convention on Preventing and Combating Corruption and the African Charter on Statistics

4. In consultation with civil society organisations and academia, develop a National Action Plan to implement Sustainable Development Goal 16 Target 10 relating to freedom of expression and access to information.

Economic Community for West African States

In 2016, AFIC continued to engage the Economic Community for West African States (ECOWAS) in respect of finalizing the adoption of regional frameworks on freedom of expression and access to information. This process had started earlier in 2013 when ECOWAS requested AFIC to draft and propose the two frameworks. AFIC submitted report in February 2014 with recommendation that a wider regional consultation meeting of key stakeholders be held to get their inputs and buy-in. However, ECOWAS didn't have funds and it was agreed that a joint fundraising effort be conducted to realise this objective.

In light of the above, funds have been successfully sourced from the Open Society Initiative for West Africa (OSIWA), Ford Foundation and Google. In addition, the Government of Liberia has agreed to host the event in September 2016. Once adopted, this will be a landmark development as it will be the first regional body to adopt standards on access to information and freedom of expression. The implication is that West African countries which have for some time been without national freedom of information laws will this time round have the option to approach ECOWAS for determination of ATI matters.

Engagement on international and regional platforms

UN institutions

In 2014, AFIC engaged the President of the UN General Assembly as well as a number of African Governments to call for their support towards the need for inclusion of access to information as one of key sustainable development goals. In addition, AFIC engaged UN Sustainable Development Solutions Network, the Unit that drafted Post 2015 development indicators with suggestion that the ratification of ATI related treaties, adoption and implementation of ATI laws should be considered as indicators for ATI under the SDGs.

During the implementation of this project, this conversation continued this time round discussing the measurement of SDG Goal 16 Target 10 on citizens' access to information. In particular, AFIC engaged UNESCO and UNDP on this subject. To further this discussion, an experts' meeting to which AFIC has been invited is scheduled to take place on September 19, 2016 in Jakarta, Indonesia. On September 19, 2016 AFIC was invited by UNESCO to join expert Working Group meeting in Jakarta, Indonesia to discuss indicators and measurement of SDG target on ATI.

AFIC has also been requested by UNESCO to collaborate on the production of the State of the Right to Information in Africa Report. This report will be used to provide feedback on progress by individual African countries in realizing SDG 16.10.02 on citizens' access to information.

Campaign for Declaration of September 28th as International Day for Access to Information

AFIC together with its CSO partners in the African Platform on Access to Information (APAI) Working Group successfully campaigned for UNESCO to adopt Resolution 38 C/70 on the Declaration of September 28th as International Day for Universal Access to Information. The resolution was adopted by UNESCO General Conference on November 17, 2015 in Paris, France. The day presents an important opportunity to discuss the realization of citizens' access to information in the context of UN Sustainable Development Goals and African Union Agenda 2063. Details of the campaign are in this [blog written by AFIC](#)

Campaign to maintain and reinforce ATI in the World Bank Operations

In May 2016, the World Bank Group disbanded its Access to Information Unit which had hitherto played a key role in ensuring that citizens' access to information and transparency in general remains central in the operations of the bank and its clients. Considering the far reaching implications of this development, AFIC initiated and led a campaign expressing concern and calling upon the World Bank President, Jim Yong Kim to reconsider the downgrading of ATI in the World Bank. AFIC mobilized nearly 150 signatures from CSO networks and organisations from Africa, Europe, Asia and Americas in support of the campaign. The [petition](#) was submitted to President Kim on June 6, 2016.

In the World Bank's response dated June 18, 2016 the World Bank through its Vice President for Equitable Growth, Finance & Institutions Jan Walliser, assured AFIC and other civil society leaders that ATI remains a core priority of the bank except that under the new strategy, support for ATI would be coordinated at regional level rather than the central unit in Washington.

AFIC inquired from CSO networks if any had information regarding the new strategy and how it works but none had this information. Twenty information requests were filed to regional offices but no information or clarity was provided. AFIC then led CSOs to request Mr. Jan Wallisaer to share a copy of the new World Bank strategy on ATI alongside a meeting with CSOs to discuss implementation arrangements. After several weeks of silence and AFIC's reminder about the inquiry, Mr. Jan Walliser wrote back on July 29, 2016 confirming that the Governance team of the World Bank would respond to both issues.

During the World Bank/ IMF Annual civil society seminar at an AFIC initiated panel, Ms Deborah Whetzel, World Bank's Senior Director for Governance Global Practice stated that the Bank was looking at hiring consultants to boost its ATI capacity. She also stated that a consultation meeting with CSOs on the Bank's new strategy for ATI will be held in January 2017.

Open Government Partnership and Open Contracting Partnership

Public contracting continues to be one of the most challenged areas in terms of citizens' access to information and corruption in Africa. During the project's implementation period, AFIC continued to advocate for open contracting in Africa. In particular, proposed a panel and got approval to co-host a session on open contracting in Africa during the Open Government Partnership Africa Regional Meeting held in Cape Town, South Africa from May 4-6, 2016. During the session, co-hosted with the Open Contracting Partnership, AFIC presented the status of open contracting in Africa where only Ghana had committed to make contract information proactively disclosed in accessible formats. This was an improvement from 2015 when [a joint report by AFIC and PPDC](#) found that there was no African country that had made a commitment on opening contracts.

During the panel discussion, the Governments of Cote d'Ivoire and Sierra Leone expressed interest in open contracting and committed to include open contracting and access to information in respective Open Government and National Action Plans. This was re-echoed during a High Level Panel, hosted by the Open Contracting Partnership with Dr. Mo Ibrahim of Mo Ibrahim Foundation, with the Governments of South Africa and Zambia and AFIC were panelists.

Indeed, following this conference, AFIC reviewed and provided inputs into draft commitments of the Government of Cote d'Ivoire and proposed the framing of open contracting commitment for Sierra Leone. Through the active

engagement of AFIC members in Kenya, particularly Article 19 and International Commission of Jurists and in Malawi, commitments on access to information and open contracting have been included in the new Open Government National Action Plan of [Kenya](#) and [Malawi](#) respectively. The implementation phase of the project should consider monitoring implementation of these commitments.



Figure 6: Mo Ibrahim, other Panelists and the audience listen to AFIC's experiences during a High Level Panel on Open Contracting at the OGP Africa Regional Meeting, Cape Town, South Africa

Open Contracting

AFIC, its members and partners as OCP have worked to promote Open Contracting Initiatives in Africa in developing governments and citizens awareness on opportunities, gaps and tools to strengthen their capacities to implement such initiatives. Furthermore, AFIC and its partners advocate for the integration of Open contracting commitments within [Open Government Partnership](#) National Plan of African OGP members.

Open Contracting Initiatives such as [Open Contracting Partnership](#) (OCP) provide important methodologies to strengthen multi-stakeholder engagement to resolve common challenges in a constructive manner. It has developed the open contracting methodology and [tools](#) based on Open Contracting [Global Principles](#) which seek to enhance disclosure, public participation and engagement between citizens and governments in the context of public contracting. The [Open Contracting Data Standard](#) (OCDS) developed to guide and support disclosure for participation has proved useful for both civil society and governments in different parts of the world.

During AFIC General Assembly in February 2016, a session on open contracting was jointly facilitated by Ms Valentina Ugochi from Public and Private Development Centre, one of AFIC's members based in Nigeria, whose focus is on promoting open contracting (access to contract information and public participation through monitoring) and Edetaen Ojo from Media Rights Agenda. As part of the presentation, cases on open contracting as well as a portal (www.budeshi.org) which has been developed by PPDC to promote open contracting was presented. At the end of the session, members resolved that open contracting is important and should be promoted across the whole

AFIC networks. A Working Group was set up for this purpose. Terms of reference for the working group are presented in Annex 3.

The Working Group has analysed all Open Government National Action Plans of African countries with a view to identify which countries have made commitments to make contracts accessible and allow for citizen monitoring of public contracts. Findings reveal good progress in this direction. In 2015 when AFIC and PPDC carried out a similar analysis no country had committed to open contracts. A recent analysis by AFIC Open Contracting Working Group shows that South Africa, Malawi, Tanzania, Kenya, Ghana, Cote d'Ivoire, Sierra Leone and Tunisia have all made commitments on open contracting. During the implementation phase, AFIC will liaise with its members and partners in none project countries to monitor implementation of these commitments. In project countries the project will promote CSO engagement and monitoring of implementation of these commitments.

In May 2016, AFIC conducted a scoping study on Open Contracting in Uganda with the support of Hivos that shows the country has a robust legal and institutional environment enabling the implementation of open contracting initiatives. A set of legislative instruments^[1] provide a substantial framework in regard to a public disclosure process which is an absolute pre-requirement to transparency and accountability all throughout the procurement process cycle. Ugandan Government and top level leadership also committed to prioritising this issue as a mean to reduce mismanagement, waste, corruption and to improve the value for money in public services deliveries. President Museveni recently declared that his current term of his presidency "Hakuna Machezo"- No jokes in reference to his determination to ensure government projects deliver to citizens' expectations while at the same time addressing corruption. Though, there is no central agency responsible for promoting open contracting in the country, there are a number of government institutions like Ministry of Finance, Public Procurement and Disposal of Public Assets (PPDA), Ministry of Local Government, Directorate of Ethics and Integrity, and Office of the Prime Minister with essential elements necessary for promoting open contracting. PPDA is the principal regulatory body for public procurement and disposal of public assets in Uganda. It discloses data procurement on his new [Government Procurement Portal](#). Though the legal framework provides for obligations and guarantees regarding citizen access to information and public disclosure of data procurement, Global Integrity findings for Uganda in 2015 reveals gaps between commitment and implementation, rating both rights effectiveness at 25 over 100 in the practice

In Uganda, AFIC engaged several procuring entities in regard to the compliance with their disclosure obligations. Under its project GPSA, AFIC has signed MoUs with three district local governments to strengthen access to public information and enable citizens to monitor public expenditures and value for money in the public services delivery. Under its project "Enhancing good governance in promoting citizens' access to information", AFIC trained public servants and CSOs on ATI to enhance the implementation of the legal framework and promote citizens demand for accountability in the health and education public services delivery. Overall, AFIC has identified 13 districts in which it conducts contract monitoring in the scope of projects it currently implements. However, the lack of information available to the public as considerably hindered the process and mitigated the results.

In September 2016, AFIC engaged PPDA in expressing gaps identified and recommendations for its Government Procurement Portal, especially about missing data for the five districts in which GPSA project is implemented. In a later communication, PPDA informed AFIC that recommendations had been taken into account and the GPP was being updated. In a meeting with PPDA Director Capacity Building & Advisory Services, Mr Moses Ojambo, AFIC acknowledged PPDA for the GPP and appreciated the changes on-going following AFIC feedbacks. At this occasion, AFIC also informed PPDA of its initiative in mapping GPP compliance with OCDS. The entity expressed its interest in the findings of the prepared report.

This efforts and commitments in Uganda illustrate a trend for improvement on Open Contracting and provide for new opportunities to strengthen the public disclosure process. If these initiatives and commitments were to be fully implemented, it would result in a significant progress towards good governance and transparency.

Although, Open contracting initiatives do not limit themselves to improve public disclosure but also to encourage public participation in both using the information generated, and holding accountable responsible entities. It relies on a partnership between government, private sector and civil society to ensure that there is transparency in the delivery of publicly funded projects. These efforts will increase performance and value for money in public procurement. PPDA has made significant commitments to its current strategic plan to "promote civil society monitoring of contracts" and has signed a Memorandum of Understanding with Uganda Contracts Monitoring Coalition (UCMC) in this regard.

In order to foster such partnerships, public participation mechanisms in public affairs also need to be strengthened. For instance, internal and external institutional oversights should be more inclusive such as to favour exchange of information with the public. Another type of partnership could be induced in a consultative instance such as Baraza. This initiative offers opportunities for citizens and government to exchange information, identify public issues and remedies.

AFIC Institutional Capacity and Governance

AFIC's General Assembly

AFIC's General Assembly and capacity building workshops on access to information, litigation, advocacy and open contracting were held between, March 4-5, 2016 in Kampala Uganda. 39 members attended this important governance and capacity building workshop. The first part of the workshop was the General Assembly where key governance discussions were held. This covered: (i) receipt and discussion of the reports of the Governing Council (ii) review of the functioning of the organization (iii) election of the Governing Council and, (iv) assessment of strategic plan implementation.

This was followed by capacity building workshops on litigation and advocacy. Prior to the meeting, AFIC administered a question which sought members inputs on the topics on which they would wish to receive training or share experiences on. The litigation workshop was facilitated by Mr. Edetaen Ojo, Executive Director of Media Rights Agenda, one of AFIC's members which has extensively litigated on the basis of Nigeria's Freedom of Information Act. The presentation highlighted why litigation is an important part of RTI implementation and enforcement. It was established that lack of litigation may breed impunity which in turn undermines the right to information and the law. A Working Group to promote and support litigation across AFIC membership and the continent was established. Details of the workshop are presented in Annex 1.

The workshop on advocacy facilitated by Mr. Henry Maina of Article 19, Kenya on the other hand discussed, experiences, strategies and tactics and how these should respond to the environment. Details of the advocacy workshop are presented in Annex 2.

A Working Group was set up for this purpose. Terms of reference for the working group are presented in Annex 3.

Election of the Governing Council

At the end of the General Assembly, a new Governing Council was elected. Table 5 below presents elected AFIC Governance council members;

Table 1: Elected AFIC Governance Council Members at the General Assembly

S/N	Name	Gender	Designation	Organisation	Country
1	Emmanuel SaffaAbdulai	M	Chairperson	Society for Democratic Initiatives	Sierra Leone
2	Anne Nderi	F	Vice Chairperson	International Commission of Jurists	Kenya
3	Zoe Titus	F	Treasurer	Media Institute of Southern Africa	Namibia
4	Levison Kabwato	M	Secretary	Open Democracy Advice Centre	South Africa
5	Henry Maina	M	Member	Article 19	Kenya
6	Edetaen Ojo	M	Member	Media Rights Agenda	Nigeria
7	Henri Christian Longedja	M	Member	Collectif 24	DRC

AFIC membership

AFIC membership grew from 34 to 40 members in 21 African countries. In addition, five more applications were received recently and are being evaluated by AFIC's Membership and Governance Committee. The new applications are from Uganda, Tanzania, Nigeria, Ghana and Madagascar. Whereas membership recruitment was not one of the objectives of the pilot project, AFIC believes the work of the project interested organisations to seek membership to AFIC.

Monitoring, Evaluation & Learning (Moses)

AFIC communication

Website downloads

During the past year, settings of AFIC website were formatted to capture statistics on number of downloads of content on the website. Over the past few months, we have observed high level of downloads of reports and publications on AFIC website. In fact, we have received testimonies from various stakeholders that AFIC's website has been a key resource to them.

AFIC Finances (Pamela)

Conclusion

Annex 1: Report of AFIC Strategy Workshop on Litigation

Kampala, March 3, 2016

Facilitator: Mr. Edetaen Ojo, Media Rights Agenda

Participants:

1. Alfredo Libombo, Acreditar Mozambique
2. Sempala Robert, HRNJ
3. ElsySainna, ICJ Kenya
4. Peter Wandera, HURINET
5. Alfred Taban, AMDISS
6. Anne Ndeni, ICJ Kenya
7. Peter Katonene, AFIC
8. Gilbert Sendugwa, AFIC
9. Mutabazi Sam, URSSI
10. Fatou Jagne Article 19 West Africa
11. Blessing Usie , OSJI
12. Eve Nwankya, R2K
13. Edetaen Ojo, MRA
14. TatuaneWansi, CGI
15. BaldeAmadou, CADES
16. MagaliSumbu Zola, Collectiff 24
17. Malcom Joseph, TCIB
18. Pamela Muganzi, AFIC
19. Emmanuel AbdulaiSaffa, SDI

Introduction

Whereas the number of FOI laws has more than tripled over the last five years, their implementation and enforcement remains challenged. Use of continental mechanisms has also not been exploited to litigate on FOI. This session aims to share experience with the rest of AFIC members and to draw strategies to promote continuous experience sharing and FOI capacity strengthening within the network.

Mr. Edetaen Ojo, from Media Rights Agenda facilitated the workshop on litigation for FOI among which he shared challenges, experiences and implementation mechanisms of FOI litigation.

Challenges

- A major challenge facing the FOI Community in Africa is how to enforce compliance with FOI Laws.
- Non-compliance by the government which is most evident in:

- Uncooperative public institutions where few submit periodic reports with the majority not.
- High rate of denial to access to information by government and public institutions
- The culture of impunity imposed on requesters.
- Lack of effective mechanisms for enforcing compliance

Considering the complexity of the challenges involved while carrying out litigation for freedom of information, the facilitator noted that fundamental role of civil society organizations and members is to ensure and enforce compliance with the law.

Freedom of Information Enforcement Mechanisms

Edetaen noted that most FOI Laws in Africa provide judicial & non-judicial mechanisms for enforcement while some FOI laws do not specifically provide for non-judicial mechanisms (e.g. Nigeria's FOI Act), virtually all of them have judicial mechanisms. [Enforcement mechanisms](#) for FOI in Africa range from Information Commissioners, Ombudsman, National Human Rights Institutions to Government ministries, Parliaments and courts of law.

Challenge: It is difficult for ordinary men and women to approach enforcement mechanisms when denied access to information. Litigation is costly both money and time. It has many costs involved like filing fees, hiring laws and the processes, on the other hand litigation cases tend to drag on for many years.

Nigerian Experience

Edetaen Ojo shared the Nigerian experience on litigation of FOI.

The Nigerian Act provides for those denied access to information the mandate to file to court for a review of the refusal.

However, many individuals and organisations are unable to engage lawyers to represent them and this has made public institutions very redundant and continued to deny them access to information.

Reaction to the above:

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

We therefore decided that there was a critical need to put in place a mechanism through which many, if not all, of such wrongful refusals as well as other forms of disregard for the provisions of the Act can be legally challenged.

Media Rights Agenda therefore established a national Network of Freedom of Information Lawyers to provide pro bono legal services to citizens & organizations around the country who are wrongfully denied access to information.

The network is chaired by former Vice-President of the Nigerian Bar Association (NBA), Ike Akaraiwe. Network members come from different parts of Nigeria, mainly Lagos & Abuja. The Lawyers sometimes file & handle FOI cases themselves in courts in the Lagos area. They routinely track decisions in FOI cases from courts around Nigeria. The lawyers also track decisions in FOI cases of particular significance from other countries & from international courts

Question and Answer Session

Having finished his discussion, Edetaen welcomed remarks and inquiries from members.

What can countries without FOI laws do?

Ans. Use existing laws.

1. Gabriel

- What can countries without existing FOI legislation do to litigate of FOI.

Edet

- Most countries have constitutional provision for ATI therefore they can use that for enforcement.
- Countries without any provision for ATI can now invoke international instruments and begin lobbying to have ATI included in there laws.

2. Malcolm

- How do we secure funding of litigation, donor shy away from funding litigation?

Edet

- This is a general problem as litigation is seen as combat in the African context. Therefore seeking lawyers who are willing to do pro bono work so that they can get presitige is the way to go
- Secondly publicity will attract donors to litigants in many cases if the cause is just.

3. Emmanuel

- We should look at international regional bodies for FOI litigation.

Edet

- MRA has never conducted litigation on FOI at regional level but are studying the possibility.

4. Alfred Baja

Narrates instance where information is denied in South Sudan. He is now happy that South Sudan has a law; am glad says they shall start using it for enforcement.

5. Peter:

Comments on litigation in Uganda, and gives examples of current ATI cases.

- Proactive publishing is not taking place.
- Lawyers just want publicity so that we give them incentives
- We should look at International jurisdictions

6. Fatou

- We need to develop a litigation data base so that members can study cases and pick guides on how to proceed with litigation.

Having answered the questions and received the remarks from members, Edetaen concluded by emphasizing that litigation for Freedom of Information is a necessity.

Conclusion

It was established that within the AFIC network there exists rich body of knowledge and expertise which needs to be shared on a continuous basis for the benefit of members. Litigation on such areas as proactive disclosure and confidentiality clauses is urgently needed to strengthen compliance and implementation. In the absence of donor funding, peer support from across AFIC members can help to mitigate the challenges. The workshop set Working Group on FOI litigation to draw and coordinate strategy for advancement of FOI litigation. Edetaen Ojo accepted to coordinate as the Secretariat approach members to join the Working Group.

Annex 2: Report of the workshop on Right to Information Advocacy

Thursday 3rd March 2016, Kampala, Uganda

Participants

1. Peter Sebina, University of Botswana
2. Denise Nzila, FIFEF, DCR
3. Sam Mutabazi, URSSI, Uganda
4. Ugochi Ekueme, PPDC, Nigeria
5. Levi Kabwato, ODAC, South Africa
6. Moses John Ntandu, TCIB, Tanzania
7. Patson Gondwe, CHRR, Malawi
8. Zoe Titus, MISA Regional, Namibia
9. Sulemana Braimah, MFWA, Ghana
10. Henri Longendja, CODHOD, DCR
11. Mina Mensah, CHRI Africa, Ghana
12. Patrick Tumwine, HURINET, Uganda
13. Sarah Faguet, AFIC Secretariat

Facilitator: Henri Maina, Article 19, Kenya

Discussion and sharing of experience about Advocacy

Advocacy is a broad area. The aim of this workshop was to share experience, keys strategies, innovative and good practices.

What is the difference between Advocacy and Litigation?

Advocacy is the actions that you undertake to influence changes of policies whereas litigation is actions you take through judicial intervention.

Advocacy encompasses different strategies:

- Negotiation
- Mediation
- Litigation

Advocacy strategies need first to analyse the context, the stakeholders and their incentives in changing the policies. From this analysis will derive different possible strategies.

Strategies

Identify your allies and enemies

You need to identify the target of the advocacy, the allies and the “enemies” in this particular context. You have to be aware that stakeholders involved are shifting from allies to enemies and vice-versa, depending on the situation. Individuals change of incentives when they change of context. An ally that was working in a civil society organisation might become an enemy when he or she shifts to a political position. The same shift can apply to governments, institutions and organisations.

E.g.: Henri Maina shared an example of an advocacy case about Human Right violation towards journalists in Eretria. Article 19 found that Ethiopia was its biggest ally for its advocacy strategy even though one of its staff was previously deported from this country and that is far from being a model regarding respect of Human Rights. This unlikely ally was the first to back Article 19 advocacy campaign in asking UN a special mandate against the forfeiture. The reason was that Ethiopia had motivations to pressure Eretria and oppose to it.

So when elaborating an advocacy strategy, you have to think that an ally is a stakeholder that has a common interest in your targeted aim.

When defining the strategy for advocacy, it is important to look at complementarities within the allies. Sometimes, the government rejects a proposition because of the status of the one carrying it, not because of the content.

E.g.: When Peter Sebina from the University of Botswana helped draft a project of an RTI bill for Botswana, the government gave orders to their MPs to reject the proposition saying that it had been draft by foreigners and that University had ties with the opposing part. Afterward, MISA found an MP of the ruling party that approved of the bill and was willing to carry it. When the exact same text was brought to the Parliament, it was passed without hurdles.

Take into account the level of influence of your allies and enemies.

Identify your tactics

The choice of tactics is crucial. It depends on the context. One tactic can work here and not there.

You might have to use direct or indirect paths, orthodox or at the limit of the legality to achieve your goal.

E.g.: When a bill regarding genital mutilation was to be presented to Ghanaian Parliament, Article 19 arranged invitations in overseas events for MPs known as strong opponents to the text. Article 19 had the information that these MPs liked to travel and took advantages of their soft spot. When the bill was presented these MPs were not present and thus couldn't vote against it.

You have to be cautious about the use of media in your strategy. When you use media for advocacy, you become labeled by the government as an opponent.

E.g.: Sulemana Braimah from Media Foundation for West Africa, Ghana shared his experience from when the government wanted to pass a broad main surveillance mechanisms project bill. A journalist called to ask him an interview to give his point of view on the project bill. Sulemana gave his opinion and stated that the law was not good. However, it was amplified in the media as a strong contestation.

In this particular case, it was an election year. So, MFWA approached MPs explaining that this law would allow the ruling party to monitor their campaign strategy. This way of presenting was much more efficient in having MPs' attention.

Be sure to use media only when you are "clean". If you think that there are accountability matters on your part, then restrain on the use of media. Because once you use it, it can easily be backfiring at you.

Make the effort of solidarity. Use continental or international conferences as a space to engage other governments about their commitment regarding Fol legal framework.

Different tactics:

- Accommodate to work with ruling party as an expert. It will reduce the tension and the perception of the government seeing you as an opponent.
- Foster building trust within institutions and identify whistleblowers. Those last are essential because you cannot fight against something you don't know it is happening.
- Find champions within institutions that will back your strategy.
- Opinion pieces. It is crucial to demonstrate that you have a lot of supporters.
- For the benefit of the campaign, allow others such as academia, trade unions, ruling party to carry your idea.

- Produce analysis memo very simple and condensed for MPs.
- Policy briefs. Don't advertise an anti-corruption law as such. The ones targeted by the law include most likely the MPs themselves. In that case, it is better to speak of FoI law.
- Find weaknesses of your enemies. Look at their background, their former alliances. Use to your advantage the adage "the enemies of my enemies are my allies". In Africa, ruling parties are not intact. There are breaches within that you can exploit. Use the dissensions.
- Use the legacy building. It is a soft spot of leaders, and most of them remain frustrated about it. Flatter their ego. *E.g. Dangle before them the possibility of being part of the panel of the eminent persons of AU or other positions of international stature.*

Challenges

The binary perception in political space

In the political space, there is a trend to categorize stakeholders either as pro-government or opposition. It is not easy to avoid this dichotomy and to assert your position as independent.

The shrinking space of civil society

As the global trend of shrinking space of the civil society also applies to African countries, the perimeter of action becomes more and more narrow. Democratisation is on a declining slope and advocacy becomes harder.

The shifting between allies and enemies

As explain above, shifts of individuals from allies to enemies happen easily. Therefore, it is better to invest trust building with institutions rather than with individuals.

Annex 3: Terms of Reference for AFIC Open Contracting Working Group

Background

Every year, Governments around the world spend over US\$9.5 trillion on contracting with the Organisation for Economic Cooperation and Development (OECD) estimating that governments spend up to 20% of national budgets on public contracting. According to the 2012 Country Procurement Assessment Report for Sierra Leone, *out of a total estimated yearly government budget of US\$342 million per year, about US\$160 million (close to 50% of government expenditure and 16% of GDP) is spent through public procurement processes. The government's priority therefore, is to put in place sound public financial and procurement management systems that ensure maximum levels of efficiency, value for money, transparency and fairness in competition.*

Unfortunately, for many African countries, this laudable goal has not been achieved. A recent commission of inquiry into Uganda's National Roads Authority is discovering that billions were paid to non-existing firms, contracts were poor managed and double payments were common. These problems are not new. In 2012 the Inspectorate of Government reported that 99.3% of contracts overshoot original budgets while the Public Procurement and Disposal of Public Assets Authority reported in the same year that 71% of the contracts are not completed on time. Similarly, in Sierra Leone, 12 Million Dollars was recently spent to purchase 100 buses to help solve the transportation crisis in the country through an emergency purchase; a practice that many considered inequitable. More recently, in Ghana, the Government spent US\$ 1 million to repaint 100 buses (about US\$10,000 per bus) with portraits of the country's leaders.

AFIC and its membership recognize the potential to address challenges in public contracting by promoting citizens access to information and participation in public contracting. In 2015, AFIC working with Public and Private Development Centre analysed Open Government National Action Plans of 7 African countries in terms of open contracting. The two organisations have either jointly or independently implemented actions at national or international level to promote and share on open contracting. PPDC has also worked with Media Rights Agenda and Open Democracy Advice Centre on the same issues while AFIC methodologies have been shared with some members some of whom are preparing to implement actions. Our experience and learning is that open contracting:

- a) Improves delivery of goods and services to citizens
- b) Creates a better, fairer playing field for businesses
- c) Fosters entrepreneurship and innovation
- d) Saves governments time and money

- e) Detects and deters fraud and corruption

The above experiences notwithstanding, the impact both at the AFIC membership as well as country regional level is still very minimal. During AFIC's recently General Assembly, a strategic decision to set up a Working Group on open contracting was made following an illuminating presentation by PPDC and MRA.

WG Members:

1. Public and Private Development Centre (Convener)
2. Media Rights Agenda
3. Kenyan Section of International Commission of Jurists
4. Article 19 East Africa
5. Society for Democratic Initiatives
6. Open Democracy Advice Centre
7. AFIC (Secretariat)

Goal

To provide the leadership, conceptual and technical skills to review the current architecture of the Open Contracting in Africa.

Objectives

1. To strengthen understanding of open contracting and programming within AFIC membership
2. To support member campaigns for open contracting in respective countries
3. To promote open contracting knowledge and experience sharing in Africa
4. To advance open contracting on various platforms in Africa and around the world.

Key Tasks

- Develop action plan for open contracting across AFIC membership
- Develop a strategy for ongoing consultation and sharing with members

- Develop and share knowledge products in Africa
- Support monitoring of OC developments in Africa
- To work closely with the Open Contracting Partnership in championing open contracting across Africa.
- Identify key regional and international areas to engage on open contracting. Some of those identified are:
 - To support the inclusion of Open Contracting in the National Action plans of OGP members across Africa.
 - To support the buy-in of open contracting within working groups on Access to information groups regionally and globally.