

FACTSHEET – UPR 2017, GHANA

3rd CYCLE UNIVERSAL PERIODIC REVIEW

RIGHT TO INFORMATION (RTI)



SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES AND RECOMMENDATIONS MADE

During the 2nd cycle review in 2012, Ghana was specifically asked to amend the Right to Information (RTI) Bill in line with the recommendations made by the Commission on Human Rights and Administrative Justice (CHRAJ) and take immediate steps toward the adoption of the Bill, building on its efforts to improve good governance, accountability and transparency. These recommendations received the support of Ghana but it was only in October 2016 that the age long Bill was finally revised and re-laid in Parliament under the name “RTI Bill 2016”. The previous administration, however, did not pass the Bill into law until their tenure ended on January 7th 2017.

DELAYED PROCESSES AMIDST SEVERAL COMMITMENTS:

The advocacy for the passage of the Bill by civil society has been on-going for more than 13 years. The RTI Bill was first drafted in 1999 and after several reviews presented to Parliament for the first time in 2010. However, from 2010 to date, government has failed to fulfil its commitments on both local and international platforms to pass the Bill into law. For example, Ghana failed for the second time to fulfil her obligations under the Open Government Partnership (OGP) Initiative and the commitment made at the 117th Session of the UN Human Rights Committee of the ICCPR, to pass the Bill by July 2016.

CURRENT STATUS OF THE RTI BILL

Following the elections in December 2016, the Attorney General reviewed the Bill and submitted it to Cabinet in May 2017. Cabinet however is yet to approve the Bill for submission to Parliament to pave the way for the passage of the Bill.

UNFAVOURABLE RTI REGIME

Obtaining information from public institutions in Ghana is a herculean task. Findings from an access to information monitoring exercise carried out by the RTI Coalition and the Commonwealth Human Rights Initiative (CHRI), Africa Office, in five regions of Ghana in 2014, and Accra in 2015 revealed that most public officials are averse to disclosing information. Requests for information are sometimes seen as an attempt to make Government appear unpopular particularly in the District Assemblies, to the extent that some requesters have been accused of spying on Government merely because they exercised their right to access information. Citizens are confronted with a myriad of bureaucratic bottlenecks in their attempt to access basic information that normally should be proactively disclosed. These bottlenecks include among others, the unavailability of the authorizing officer to provide information, the excuse that the Civil Service Act (1993), the State Secrecy Act (1962) and/or the Oaths Decree (1972) prevent public officials from giving out information and in certain cases the excuse that information cannot be given to an individual.

Additionally, public institutions do not keep proper records as a result most information requests often receive no reply. The current RTI regime has been a major hindrance to the fight against corruption. For example in 2013, the Sole-Commissioner of the Commission of Enquiry set up by government to investigate payments of judgement debts, Justice Yaw Apau, while explaining the delay in getting more witnesses to testify at the Commission noted that ‘the lack of proper record keeping particularly by state agencies appeared to have hampered the work of the Commission as most of the agencies have indicated that they were relying on Public Records Archives and Administrative Department (PRAAD) to furnish them with vital documents needed by the Commission’.

THE RIGHT TO INFORMATION UNDERPINS THE ENJOYMENT OF OTHER HUMAN RIGHTS:

Access to information is crucial for promoting human rights in general because it enables citizens to more meaningfully exercise their rights, assess when their rights are at risk and determine who is responsible for the violation. For example, Freedom of expression and thought inherently rely on the availability of adequate information to inform opinions. Access to health information helps people to make informed decisions about their own health, including the availability of alternatives to medical care, it leads to more appropriate usage of health services which in turn improves health status and reduces cost. Additionally, the realisation of the right to personal safety requires that people have sufficient information to protect themselves.



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RIGHT TO INFORMATION AND ITS IMPACT ON NATIONAL DEVELOPMENT

In the absence of an RTI law, there is no incentive for public institutions to disclose information, as a result, CSOs are unable to track resource flows and expenditure through the various strata of government in order to determine how much of originally allocated resources reach its intended end user and whether or not such resources are used in the most economical, effective and efficient manner such that more resources are available to deliver on more public services for poor communities. Presently, Ghanaians in most instances are restricted to the information given to them by politicians and the media. There is no effective means of verifying the information being churned out ultimately hindering citizens' effective participation in governance.

NATIONAL FRAMEWORK

In Ghana, citizens' right to information takes its root from the democratic principle that 'the sovereignty of Ghana resides in the people of Ghana in whose name and for whose welfare the powers of government are to be exercised in the manner and within the limits laid down in this Constitution. This principle is further affirmed in Article 21(1) (f) of the 1992 Constitution which guarantees the right to information subject to such limitations as are necessary in a democratic society. This constitutional mandate imposes an inevitable disclosure obligation on all public institutions to disclose information both proactively and upon request.

PARLIAMENT HAS AN OBLIGATION TO PASS THE RTI LAW

The Parliament of Ghana has the responsibility to pass the RTI Bill to spell out the mechanisms for accessing information from public institutions as well as the responsibilities of public officials in granting requests for information. Because of this failure by Parliament, currently, citizens are unable to fully enjoy their fundamental right to information.

THE PASSAGE OF THE RTI LAW IS IN TANDEM WITH THE GLOBAL GOALS - AGENDA 2030

The Sustainable Development Goals (SDGs) with the 17 target areas have become de-facto universal development goals for countries all around the world. Significantly, the Goal 16:10 recognises the need for countries to ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.

RECOMMENDATIONS

1. Enact the RTI Bill 2017 as revised.

ABOUT THIS FACT SHEET

This fact sheet is presented under the auspices of the Ghana Human Rights NGOs Forum by the following organizations:

1. Commonwealth Human Rights Initiative (CHRI), Africa Office
2. Coalition on the Right to Information, Ghana

REFERENCES

See Article 162(5) of the 1992 Constitution of Ghana

<http://www.myjoyonline.com/news/2014/august-5th/ghana-leads-in-violation-of-free-expression-in-west-africa-report.php>

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