



STATEMENT READ AT THE PRESS CONFERENCE TO MARK THE 2020 INTERNATIONAL DAY FOR UNIVERSAL ACCESS TO INFORMATION (IDUAI), ORGANISED BY THE COALITION ON THE RIGHT TO INFORMATION, GHANA (RTI COALITION) AT THE CDD-GHANA CONFERENCE ROOM , ACCRA ON MONDAY 28TH SEPTEMBER, 2020

Ladies and gentlemen from the press, members of the Steering Committee of the RTI Coalition here present, civil society colleagues, ladies and gentlemen, we have met here this morning to reflect on that important fundamental human right to information, even as the World marks this year's International Day for Universal Access to Information (IDUAI).

Background

The United Nations (UN) at its 74th General Assembly held in October last year, proclaimed 28 September as International Day for Universal Access to Information. This endorsed at the UN level, the earlier proclamation by the UNESCO General Conference in 2015 following the adoption of the 38 C/Resolution 57, in recognition of the significance of access to information to the people of the World. For those of you who have followed the work of this Coalition over the years, you will know that long before the declaration of IDUAI, we marked the Right to Know Day on the 28th of September each year as a way of increasing public awareness of our fundamental human right to Information.

Today across the World, IDUAI 2020 is being marked with a focus on the Right to Information (RTI) in times of crisis and on the advantage of having constitutional, statutory and/or policy guarantees for public access to information to save lives, builds trust and helps the formulation of sustainable policies through and beyond the COVID-19 crisis.

Here in Ghana, we the members of the RTI Coalition have chosen the theme "**Ghana's Right to Information Law: The need to build public trust in the implementation process.**" This comes on the back of a sluggish implementation of the Right to Information Act, 2019 (Act 989) so far, following the coming into effect of the Act in January this year. In addition to this, are

the largely tokenistic commitments made by the two major political parties in their respective manifestoes as our nation heads to the polls on December 7.

We have therefore invited you here to draw your attention to these issues, as members of the important fourth estate of the realm.

RTI Implementation so far

Ladies and Gentlemen of the Media, it is not for nothing that the framers of our 1992 Constitution placed the Right to Information under the ‘Bill of Rights’ section of the supreme laws of the land. Article 21(1)(f) that guarantees our right to information has been in place since 1992, and almost three decades after the coming into effect of this Constitution, we cannot be seen as a Country going in the reverse especially now that we have an Act of Parliament to operationalise that constitutional provision.

When the RTI Act was assented to by President Akufo-Addo in May last year, we had lots of positive expectations of an era where we will not have to live with opaqueness in public administration. We were further elated by a very proactive Implementation Roadmap that was announced by the Ministry of Information the next month, at a consultative meeting that included us from civil society. We were quick to publicly congratulate the Ministry for this move as we pledged our commitment to support the Ministry in whatever way possible to see to a smooth implementation process just as we supported Parliament for about a decade when the Bill was in the august House. As you will recall, we went ahead to announce a civil society RTI Implementation Committee in readiness to work with state actors on this important journey.

However, on 7th June this year, we organised a webinar on the topic “One year after the assent of the RTI Act: Reviewing the Implementation Roadmap in the context of the COVID 19 pandemic” and we could only feel disappointed after that meeting. We therefore chronicled our key observations and recommendations towards reversing the disappointing path of implementation and forwarded it to the Honourable Minister for Information, Mr. Kojo Opong Nkrumah, who was represented in the said webinar by his Technical Assistant.

In the spirit of access to information, we wish to share with you some of the issues we enumerated in that letter to the Ministry on 14th July, 2020.

- *Inadequate Civil Society Involvement in the Implementation of the Law:* Participants at the Webinar which included members of the RTI Coalition, media practitioners, international experts on access to information, representatives of donor foundations etc, expressed disappointment with the limited role of civil society in making inputs into the processes and procedures for the implementation of the law. One clear signal of this gap was the fact that, it was at the said webinar that

participants heard for the first time some of work that had been done by the Ministry towards ensuring effective implementation of the Act. As per international best practises, an access to information law works well, if amongst other things, the demand side (the citizenry and more especially civil society) are continuously involved in the implementation planning and execution processes. We further identified a number of reasons, why the Ministry needs to engage and collaborate with civil society on the planning and implementation processes going forward, such as to take advantage of the vast amount of expertise and enormous skill-sets that are available within the CSO community on this issue, given the leadership role that the sector played in the almost two decades long advocacy for the enactment of the legislation; and to make sure that the implementation process is sufficiently insulated from the usual governmental pressures and also to ensure that it serves the utmost interest of the people. Over two months after this letter which argued the urgent need for the Ministry to continuously engage the Coalition and by extension civil society, as well as disclose information on the implementation plans and processes to the general public, so that not only would the best structure for effective implementation of the law be created for the country, but also that both the CSO community and the general populace can be carried along, since the law is mostly aimed to serve our interest as a people, we are sad to announce that not much has changed. We are yet to even receive a formal acknowledgement of our letter from the Ministry.

- *Problematic provisions in Act 989 with regards to the establishment of the RTI Commission and its Board:* The meeting observed that it will be challenging to have an oversight Board that sits once every three months with allowances and then prohibits members of the Board from occupying any office of profit as instructed by the Act. It was also highlighted that an effective and robust model of the Information Commission is to have a full time Board that sits regularly to take far reaching decisions, however provisions of the Act do not support this model. In recognizing that this is a major legal problem which cannot be solved by a subsidiary legislation and considering its implication for the effective implementation of the law, we espoused the need for the Ministry to consider initiating processes for the necessary amendments to the Act in this regard.
- *The issue of Proactive Disclosure:* In the world of RTI, Proactive Disclosure which can simply be defined as the virtue of having public institution put out information by themselves even before they are requested by the

people. We identified in our letter to the Information Minister that the Ministry's Roadmap for implementation is silent on the proactive disclosure components of the Act in a time when there is the need for it to be mainstreamed into the implementation framework. The Implementation Roadmap focuses on creating processes to respond to requests for information, but nothing is said about creating processes for ensuring that information is proactively disclosed, continuously, by all institutions to which the Act applies. We emphasized the need to build on some of the positives of the COVID-19 pandemic, which include the deployment of proactive disclosure of information by the Government as a strategic tool for information dissemination, which is at the heart of the Government's containment measures for managing the impact of the Pandemic. Experiences across the World in relation to RTI implementation (including during the current Pandemic) has shown that the default position of an RTI regime should actually be proactive disclosure. Consequently, there is the urgent need to ensure that public institutions are made to fully understand their obligation to proactively disclose information to the people. Continuous proactive disclosure of information effectively reduces the burden on citizens to be making requests for information, which also reduces the burden on institutions to undertake piece-meal responses to information requests by the citizenry. It is worth noting that proactive disclosure of information is also a major avenue for addressing the trust deficit between the government and the governed.

- Other issues such as timelines for the passage of Legislative Instrument for the Act; prioritizing capacity building for security sector institutions; relationship between the Information Commission and the Data Protection Authority; prioritizing selected key sectors in the implementation process; and revising the Ministry's Implementation Roadmap were all elaborated in that letter to the Ministry.

Ladies and gentlemen of the Press, we also took advantage of this letter to the Ministry to request a copy of a report covering the status of the implementation of the RTI Act so far, and the record of funds, if any, that have been released for the implementation by the Ministry of Finance, considering the massive financial constraints that the COVID-19 pandemic has imposed on government resources. It is instructive to note that the Ministry of Information – which is the Government agency assigned to lead this initial implementation process – has not responded to this request for information from us. This in our considered opinion is not the kind of leadership that should be shown by the Ministry championing access to information.

Disappointing Outcomes to Requests for Information across the Country

Ladies and Gentlemen of the Press, you are very well aware of some of the classic cases of denial of access to information by some public institutions this year, including the case of the Electoral Commission working hard to deny a Member of Parliament access to some information even after a ruling by the High Court. We have also recently experienced the very wrong understanding of provisions of the Act by the National Communication Authority (NCA) in its response to the request for information by the Media Foundation for West Africa, which made the NCA announce an exorbitant fee to process MFWA's request, contrary to the spirit of the RTI law.

Unfortunately, these are not isolated cases, as an exercise commissioned by our Coalition towards accessing information from eighteen (18) public institutions in Accra and Kumasi between June and August this year showed a disappointing 11% compliance. Out of the eighteen requests made in the two biggest cities in the Country where a lot of the Public Institutions under this Act are based, only two institutions responded to the requests, with the remaining institutions completely ignoring the requests made to them to date. We also discovered that only eight of the Institutions, less than 50%, had Information Officers appointed or designated to process information requests. This is in sharp contrast to the provisions of the Act, and to the public announcement by the Minister for Information in February this year that all MDAs have been directed to “designate their information officers to enable people to access information as required by the law.”

We find these developments very worrying, considering that the Ministry's representative at the Coalition's Webinar held in June this year announced that it had developed and widely circulated to all public institutions as at 5th January 2020, a transition document for implementation, referred to as the 'Transition Pack' which included guidelines for compliance; guidelines for designating existing staff within Institutions to serve as Information Officers; and Standard Application Form which encapsulated the application procedures spelt out in the Act.

The outcome of the exercise by the Coalition does not seem to support the Ministry's assertion that it has equipped public institutions with training on the importance and application of the RTI Act. It is worth noting that these are only the cases recorded by the Coalition. One can therefore imagine the many instances where individual Ghanaians and organizations have been denied information without it coming into the public domain.

Making RTI a Key Issue for Election 2020

A careful look at the manifestoes out doored by the two major political parties reveal that, many of their promised plans and policy proposals will require the existence and effective functioning of robust access to information culture and structures, yet both parties drafted their manifesto promises as though they are not aware of the current realities of the RTI Implementation.

The ruling New Patriotic Party (NPP) is promising to “provide resources for the Right to Information Commission to operationalize effectively the Right to Information Law,” explaining that “over the next four years, we will improve the financing of governance and anti-corruption MDAs as we have done over the last few years, to enable them recruit, continue to train, and retain dedicated staff to support the fight against corruption and provide resources for the effective functioning of the Right to Information Commission.” The challenge with this promise is that, it is presented as though an RTI Commission already exists and that everything seem to be going fine with the implementation of the law. As the Political Party that forms the current Government, they should be aware that this is not so, and should be seen to be proposing solutions to whatever challenges the Government is currently having with the implementation process, including the issues that have stalled the setting up of the RTI Commission and its Board among others.

More disappointing is the nearly absent indications in the manifesto of the opposition National Democratic Congress (NDC) on the issue of RTI. Under the section titled ‘Freedom of the Media’ in their manifesto, they provide a one-liner that reads “continue the implementation of the Right to Information Act 2019.” Not only is this an inadequate indication of what they commit to do on RTI if they are voted into office, they also continue in the erroneous impression that the RTI law is all about the media, considering the section under which they captured this promise. We wish to state emphatically again, that RTI is not only about journalist. It is a law for all of us - including state actors, the private sector, academics and every Ghanaian and non-Ghanaians - as we all require information at one point or the other. It appears to us that the NDC is also not in touch with the current status of implementation of the RTI Act, because they probably would have committed to more if they knew how far behind time we are with implementation.

It is our expectation that you, our friends from the Media, will put these issues to the two political parties and their leaders so they come clear on how they really intend to promote a culture of access to information that will go a long way to advance many of the socioeconomic development policy agenda they have highlighted. Need we remind you that RTI is one of our most potent tools in fighting corruption – a canker that has robbed this Country and its people of

badly needed resources for our badly needed development. RTI is an anti-corruption matter and it must be a key issue for election 2020.

Our Next Steps

The Coalition is presently working on a Zero Draft of a Legislative Instrument (LI) to the RTI Act which we hope could accelerate the process towards promulgating the subsidiary legislation to the current Act, as envisaged under the provisions of the Act. The Coalition will also continue with the request for information exercise to monitor institutions compliance with obligations under the Act. The exercise will culminated into a 'hall of fame and shame' activity where institutions that are complying with the RTI Act will be commended and those that are not will be called out.

The Coalition will also use infographics to carry out public education on key sections of the Act, as we will take advantage to continuously call on the Government to work speedily on the implementation process and without further opaqueness.

We call on you, our friends from the media, to join us in this regard. You have proven to be useful allies that gets results, and our dear nation and her people will be counting on you ones again to keep these issues on the top of the agenda within the media landscape to ensure that we do not lose out on our collective right to information.

Thank you very much for coming and long live Ghana.

Coalition on the Right to Information, Ghana