

USAID AND MS KENYA SEMI-ANNUAL REPORT
PERIOD: April 2005 to March 2007

Organization Name: Kenyan Section of the International Commission of Jurists
USAID Grant/Co-op. Agreement Number: No. 623-G-00-00-00182-00 Modification No. 4
MS Kenya Grant Agreement Number : No. 104.Ken.132xxxx
Strategic Objective/Activity Name: FOI /Freedom of Information Project

1. Program Goal and Objectives:

• **GOAL:**

To facilitate the adoption and implementation of effective legal and policy frameworks that will facilitate the availability of and access to information for better governance.

• **Program Objectives:**

- i. To secure broad based support for introduction of legislation on access to information
- ii. To secure relevant and effective support for legal, policy and institutional reform to facilitate access to official information.
- iii. To facilitate the creation of effective legislative, policy and institutional frameworks for access to official information.
- iv. To raise awareness of available legislative, policy and institutional frameworks for accessing public information for participatory governance.
- v. To capacity build and sensitise policy makers on the International standards of Freedom of Information

2. Brief description of the project.

The Freedom of Information (FOI) project was jointly funded between USAID and MS Kenya. The project started in 2005 and ran until March 2007. The project was started after the ICJ Kenya conducted a survey report titled, 'The State of Freedom of Information in Kenya' which revealed that lack of the Freedom of Information law was a major impediment to a healthy democracy and to 'effective participatory democracy'. Without an open information system in place, the survey established that

gathering and dissemination of information are subjective and that the institutions of government spent most of their time propagating the political agenda of the ruling party.

In this context, the project sought to ameliorate the situation by advocating for ‘adoption and implementation of effective legal and policy tools that would facilitate the availability of and access to information for better governance. The project has been implemented against a backdrop of excessive official opacity; restrictive media laws, an invasive Official Secrets Act and a judiciary hostile to critical press and quick to deploy both the law of defamation and contempt of court powers to silence critics. Consistent with global best practice, the project envisioned a situation where government operations rested on a presumption of openness

The activities carried out under this project therefore were aimed at advocacy for the enactment of a legal framework under which citizens can access information held by public bodies. This framework would contribute to greater access to information and ultimately, the propagation of participatory and accountable governance in Kenya. The project also seeks to enhance awareness among the public on the right to know and to access information as a fundamental human right. The programme seeks to instil a culture of openness and to impart among public officers the principles on freedom of information in governance.

The key collaborators of the project include the Judiciary, the Ministry of Justice and Constitutional Affairs, the Law Reform Commission, the Attorney General’s Office, Ministry of Information, Law Society of Kenya, the Kenya National Commission on Human rights, Civil Society and the Media.

3. A list of the main project activities during this two year period that contributed to our strategic objectives.

ACTIVITIES
1. Public interest litigation
2. Research and drafting the draft FOI Bill

3. Networking: building coalitions and constituencies
3. Case analysis and compilation of case digests
4 Research and Developing policies briefs
5 Consultative workshops with media, MPs and other stakeholders
6. Advocacy through Radio and TV broadcasts
7. Survey and legal audit on access to information laws
8. Awareness Campaign Activities - Quarterly Public Lectures, workshops etc
9. Regional monitoring on FOI
10. Publication of information, education and communication materials on FOI
11. Project Evaluation

4. Critical events/results during the last two (2) years that made us achieve our objectives?

- i. ICJ Kenya successfully lobbied for the inclusion of the right to information in the proposed constitution which was however rejected during the referendum in November 2005.
- ii. President Mwai Kibaki promised that his government would enact an FOI law after wide consultations.
- iii. The government drafted and posted on its website a draft Freedom of Information Bill, 2005, which unfortunately falls way below internationally accepted standards on Freedom of Information.
- iv. ICJ Kenya in reaction drafted its Freedom of Information Bill, 2006 well drafted in accordance with international standards and in consultation with as many stakeholders in as possible.
- v. The ICJ Kenya FOI Bill was adopted by the Orange Democratic Movement as a Party Bill and thus the Bill got prioritised than would have been an individual member's bill.

- vi. Hon. Prof Anyang' Nyong'o successfully argued his motion to introduce a Freedom of Information Bill in October 2006 and the motion was unanimously passed by the house. ICJ Kenya has shared the draft Bill with him and he is in the process of pushing for its publishing for subsequent introduction into the house for the first reading.
- vii. The government through the Ministry of Information has published a draft Freedom of Information Policy and called for an open forum to receive views from the stakeholders. A committee has been appointed to further revise the policy for subsequent presentation before cabinet.
- viii. The Performance contract of the permanent secretary, Ministry of Information requires that he takes measures to facilitate the enactment of an FOI law.
- ix. The members the Parliamentary Committee on the Administration of Justice and Legal Affairs Committee abandoned their initial view that the FOI Bill ought to be merged with the draft Media Bill and has committed through its chairman to push for the enactment of the FOI law.
- x. Over 70 MPs from across the political divide have committed to support the enactment of a Freedom of Information Act in Kenya.
- xi. The government has prepared a media policy 2006 that has been discussed by Cabinet. The policy provides a strong anchoring for a Freedom of Information Act and will enhance free flow of information, freedom of expression and press freedom.
- xii. The Kenya Law Reform Commission through its Chairman Mr. Kathurima M'Inoti is in support of the FOI Bill and the Bill is one of the priority Bills under the GJLOS Reforms.
- xiii. ICJ Kenya facilitated the formation of an FOI network, made up of both grass root and urban based organisations, which is clamouring for enactment of an FOI law.
- xiv. A survey on the Laws hindering Access to Information has been done and a memorandum sent to the Law Reform commission for action.
- xv. ICJ Kenya has partnered with international actors on Freedom of Information advocacy specifically the World Bank and Article 19. ICJ Kenya has joined other Freedom of Information activists in Africa in campaigning for enactment of more FOI laws in the region seeing that there are only 3 such laws in Africa i.e in Angola, South Africa and Uganda and the upcoming one in Nigeria.

5. Activity Summary Table below:

Activity Summary Table

		1 st Half	2 nd Half		
Specific Activity/Project	Target Amount	Achieved this Period	Achieved this Period	Achieved to Date	Comments/Impact
Main Publications	1	1		1	The ICJ Kenya Draft FOI Bill is based on International standards of an FOI law and is being championed by Prof. Anyang'ØNyong'Ø
a) Freedom of Information Bill, 2006					
b) Judicial Officers guidelines on Application of Freedom of Information	1		1	1	The guidelines were prepared and disseminated among judicial officers both in the Court of Appeal, High Court and the Subordinate Courts. There is considerable improvement in the way judicial officers are interpreting the freedom of expression in Kenya. It is hoped that these guidelines will inculcate among judicial officers the need to interpret the right to information more broadly and not as restrictive as has been the practice.
c) Legal Audit on laws hindering access to information in Kenya	1		1	1	The audit highlights section by section of laws hindering access to information in Kenya. These include the Official Secrets Act, the Penal Code, the Evidence Act, the Preservation of Public Security

					Act, and the Kenya broadcasting Corporation Act among others. The Audit then recommends the manner in which these sections should be amended using international standards.
d) Submissions to Legislators on the Draft Freedom of Information Bill, 2006	1		1	1	This publication is intended to create more awareness among parliamentarians on principles governing access to information. This will hopefully boost the level of debate in Parliament when the FOI bill is introduced by Professor Anyang'ØNyong'Ø.
e) Case Law Digest on Freedom of Information and Expression	2	1	1	2	The digests consists of cases on freedom of information and expression. They seek to establish how the judiciary has performed in upholding these freedoms and the kind of jurisprudence developing from the courts. The 2 nd digest goes further and makes a comparative analysis of the jurisprudence in Kenya as compared to other courts in the US and the European Union and makes a case for expansion of the interpretation of these freedoms within the Kenyan courts.
f) Freedom of Information Handbook	1	1		1	The Freedom of Information handbook is a simplified publication which seeks to create awareness among the public on what freedom of information is and how Kenyans can utilise this freedom to enhance good governance. The handbook also highlights case studies from around the world that show how people from different parts

					of the world have utilised this freedom to improve governance and reduce corruption.
g) An Evaluation of the Status of Access to Information in Kenya	1		1	1	This publication is a compilation of findings of a Freedom of Information monitoring exercise in five regions in Kenya. These regions are South Nyanza, North Rift Valley region, Meru Region, Coast region and Nairobi and the exercise focused on devolved funds. The report highlights the challenges encountered by the various FOI monitors in accessing information and it also exposes irregularities and corruption occasioned by lack of transparency in the administration of devolved funds.
Litigation Public Interest litigation	2	1	1	2	These cases are on the freedom of expression and information. The case of David Ochami vs. the AG no. 243 of 2006 seeks to have section 66 of the penal code declared unconstitutional and an infringement of the freedom of expression while the Standard case No. 113/2006 O.S, seeks an interpretation as to what constitutes national security and a declaration that the action by the governments agent by raiding the press were a violation of the freedom of expression and information.

Awareness Campaign					
a) Quarterly Public Lectures	8	4	4	8	<p>A public lecture was held on 22nd September 2005 at the Hilton Hotel which focused on 'Gains and losses in the proposed new constitution focusing on the chapter on Judiciary and the Bill of Rights. A total of 197 participants attended.</p> <p>A Public lecture was held on the 11th April 2006 at the Grand Regency Hotel on the topic, "Freedom of Information in Kenya: Campaign for the enactment of the Freedom of Information Bill 2006. The forum was advertised in the newspaper and was open to all, members of the Public. The forum enjoyed an audience of over 100 participants.</p> <p>Another public lecture was held on Friday, 21st of April 2006 at the Norfolk Hotel, from 9:30a.m – 12:00 a.m. The topic of the Public Forum was, "Freedom of Information in Kenya and the Campaign against Corruption: Campaign for the enactment of a Freedom of Information Act in Kenya. The forum was well attended, with over 130participants.</p> <p>A public Forum was held on 19th May 2006 in Nairobi to discuss the legal framework governing the Constituency Development Fund. The public was encouraged to demand information regarding the application of these funds. Subsequently members of the public have brought complaints to ICJ Kenya on the use of CDF funds which have then been</p>

				<p>forwarded to the relevant authorities for action.</p> <p>A Public lecture was held in Mombasa on 7th July 2006 on the Right to information. The forum was intended to create awareness on the Freedom of Information Bill and the importance of access to Government –held information. Further suggestions for incorporation into the Bill were made by members of the public.</p> <p>A public lecture was held on 31st October 2007 to evaluate the efforts at jumpstarting the constitutional review process which were being led by the Minister for Justice and Constitutional Affairs and the multi sectoral forum. The call for minimum constitutional reforms was also discussed.</p> <p>A public lecture was held on 9th November 2007 to discuss the Draft Freedom of Information Bill and why the government should enact it into law. Professor Anyang Nyong'o who is championing the enactment of the FOI law was the guest speaker.</p> <p>Another lecture was held on 15th February 2007 and addressed the topic 'A review of the legal framework governing elections in Kenya: Recommendations for Reform'. Recommendations were made on the necessary amendments to the law to allow for free and fair elections.</p>
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b) Media Workshops	8	6	2	8	The workshops targeted the Media and Members of Parliament. ICJ Kenya used these forums to sensitise the media and the MPs on the need for a freedom of Information law. The stakeholders were also trained on freedom of information, the draft bill and the benefits of FOI in development. The training workshops were also aimed at making the media collaborators and stakeholders in this process. Media owners, editors and other journalists on the draft FOI bill and the benefits it would bring on enactment. Subsequent to the training for the media people, there was a lot of media coverage on the issues around FOI.
c) Radio and TV Broadcasts	3	N/A	3	3	Following the meetings with the various news editors and Kenya Parliamentary Journalists Association (KPJA), and other informal meetings with the media, various TV and radio talk shows on the topic were aired. The radio and TV Programmes were aimed at creating public awareness on information as a right and a public good and to create awareness about the draft bill among the citizens. The Programmes were also aimed at including the members of the public in the process and ensure that upon enactment, they will utilize the law.

d) Policy Briefs	4	2	2	4	These are brief outlines demonstrating how the principles of FOI can be used to address specific issues such as corruption, environmental governance, development and access to information on devolved funds held by government bodies such as local authorities
e) Citizen's Guidebook on using FOI law	1		1	1	The Citizen's guidebook is a simple, easy to read publication intended to guide the public on how to apply the freedom of information law when it comes into force. The guidebook is based on the draft ICJ Kenya FOI Bill which is due to be introduced into Parliament by Prof. Anyang' Nyong'o. The publication also highlights experiences from other jurisdictions.
e) Media Information Kit			1	1	ICJ Kenya has published a media information kit with relevant information to the media in relation to the media legal environment.
f) Newsletters			4	4	The right to know newsletter is an awareness creating medium that was published for purposes of sharing experiences by members of the FOI network and creating awareness on the right to information campaign
g) Right to Information campaign brochure			1	1	This is an easy reference campaign brochure for general members of the public on the importance of the right to information.

h) Bookmarks and fliers			1	1	These are easy reference materials on the right to information. The fliers contain a brief summary on the right to information.
i) Publication of 'Uhuru wa upataji wa habari'			1	1	This is a direct Kiswahili translation of the Freedom of Information handbook for members of the public.
j) Lobbying workshops for MPs			2	2	Two workshops were held to educate the MPs about the FOI bill and the principles and developmental benefits that a functional FOI regime can bring about. It was also a strategic lobbying tool where we got MPs committing to support the FOI law.
k) Consultative fora			6	6	These were meetings intended to ensure full participation of all stakeholders in the process of lobbying for enactment of the FOI law
Regional Monitoring on FOI	5		5	5	The monitoring exercise was done by members of the Kenya Correspondents Association based in Kisumu, Nairobi, Eldoret, Meru and Mombasa. The monitors carried out the respective activities in Nyanza, Nairobi, Rift Valley, Eastern and Coast province. The exercise was intended to identify the challenges experienced by members of the public in accessing information from government offices and the effects of lack of access to information. The monitors dealt with information relating to devolved funds.

					An analysis of the monitors reports was done and a report titled 'an Evaluation of the Status of Access to Information in Kenya, 2006' was compiled.
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Activities	Remarks
<p>Research and Publication</p>	<p>Objective: The research was intended to come up with publications that would be used as advocacy tools for policy makers on the need to promote the right to information and repeal laws that hinder access to information.</p>
<p>a) The ICJ Kenya Draft Freedom of Information Bill</p> <p>b) Guidelines on Freedom of Information for Judicial Officers</p>	<p>The Draft Bill was published in 2006 after a validation seminar was held to review the bill. The bill is based on internationally accepted FOI principles which include maximum disclosure, proactive disclosure, promotion of open government, limited scope of exceptions, facilitating access and whistle blower protection. (appendix 1)</p> <p>This publication is intended to create awareness among judicial officers on the application of the Freedom of information principles. The guidelines demonstrate the application of the right to information using comparative jurisprudence and interpretation of the right by the international human rights bodies. The judiciary has a key role in expanding the freedoms enshrined in the constitution through interpretation. The guidelines will serve as a reference point for judicial officers in determination of cases on freedom of information thus building on the jurisprudence on freedom of information in Kenya. (Appendix 2)</p>

<p>c) Legal Audit on the legal framework governing access to information in Kenya</p>	<p>Objective: This was a comprehensive audit of laws hindering access to information in Kenya. The audit looks at various laws and identifies the manner in which the laws hinder access to information. The audit then makes recommendations for amendments to the identified law using internationally accepted FOI standards. The audit is an important reference point in determining the collateral legal reforms required to buttress the effectiveness of the FOI law. (appendix 3)</p>
<p>d) Submissions to legislators on the Draft Freedom of Information Bill 2006</p>	<p>Objective: This publication is intended to create more awareness among legislators on the principles governing FOI which should inform the debate on the FOI bill when the same is introduced in the house. The publication also gives an overview of the ICJ Kenya draft freedom of information Bill 2006. It is hope that MPs can use these submissions to progressively expand the scope of the FOI law thus enhancing disclosures to themselves and the members of the public. (appendix 4)</p>
<p>e)Case Digests on Freedom of Information and Expression</p>	<p>Objective: To provide comprehensive and analytical case law digest that has substantial bearing on freedom of information, constitutionalism, democracy and governance, human rights and the rule of law.</p> <p>The first of the two digests under this project was published in September 2005. It assessed the extent to which courts have either progressively or retrogressively enforced the provisions of the Constitution as relates to freedom of information. Application and interpretation of section 79 of the constitution, Defamation Act, rules of contempt of court and <i>sub judice</i> rules as they affect the right to information were the main focus of this publication (appendix 4)</p> <p>The 2nd case digest is a comparative digest on how the right to access information has been applied and interpreted in various jurisdictions. The digest samples cases from Kenya, the United States Supreme Court and the European Court on Human rights (appendix 5).</p>
<p>f) Freedom of information handbook</p>	<p>Objective: The handbook is geared towards promoting awareness on the right to information and the benefits it will have in our society. The handbook highlights success case studies on application of the</p>

<p>g) An evaluation of the status of access to information in Kenya report</p>	<p>Freedom of Information law from other jurisdictions in the world and ways in which different stakeholders can promote freedom of information in Kenya</p> <p>The handbook is simplified and the case studies very easy to apply. It is hoped that those who read the publication will be better able to apply the freedom of information law when it comes into force (appendix 6).</p> <p>Objective: The report is intended to expose the challenges/difficulties involved in accessing information from government offices and is an important tool in advocating for the enactment of the FOI law.</p> <p>This report is a compilation and analysis of reports submitted by regional FOI monitors who carried out the research in five regions in Kenya. The regions covered in the report are Nairobi, North Rift Valley region, Coast province, Meru region and South Nyanza. The research focuses on devolved funds and the monitors identify numerous obstacles to accessing information in Kenya. The report also shows the correlation between lack of access to information and vices such as corruption, embezzlement of funds and poverty appendix 7).</p>
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<p>Litigation Public interest litigation</p>	<p>Objective: The cases identified are intended to serve as public interest cases which will have an impact in policy and legal reform in the area of freedom of information and expression. The media has been a target for harassment by government as they disseminate information and as such there is need to affect laws that most affect the media as they carry out this core business.</p> <p>Two cases relating to freedom of expression are on going. The case of David Ochami & anor vs. the Attorney General NBI HCCC No. 236/2006 seeks an interpretation of section 66 of the Penal Code as an oppressive law that infringes on freedom of information and is inconsistent with the Constitution. (appendix 8).</p> <p>The other case is the Standard Newspapers Limited & Baraza Limited vs. the Attorney General and the Commissioner of Police NBI HCCC No. 113/2006. This constitutional case seeks orders declaring that the raid, vandalism and shutting down of the offices of the Standard Group offices is a violation of section 70 of the Constitution and the Switching off of the petitioners transmission by the governments agents is a violation of the petitioners freedom to communicate ideas and information without interference under section 79(1) of the Constitution. The case also seeks to have the court interpret what constitutes matters of national security for purposes of accessing information. (Appendix 9)</p>
<p>7. Consultative Fora</p>	<p>Objective: To ensure full participation in the process by all key stakeholders.</p> <p>Breakfast meeting with the News Editors, 6th April 2006 at Norfolk Hotel – The breakfast meeting was to sensitize the news editors from the various media houses on freedom of information and the draft FOI law and also to make them aware of the immense benefits that the Bill will contain for the media. The journalists gather the stories but the editors have the final say on what is covered, the breakfast meeting was to bring the news editors from the various media houses on board the FOI campaign. The breakfast meeting was well attended with a fair representation of editors from most media houses.</p> <p>Breakfast Meeting with the Media Council of Kenya at the Stanley Hotel – the breakfast meeting was to discuss the way forward on the Media Bill. In attendance were representatives from the various media houses,</p>

	<p>media owners and Hon. Kenneth Marende who is fronting the Bill. As earlier highlighted, due to proposal by certain MPS that the Media Bill and the FOI Bill should be merged as there were clear areas of convergence, it became imperative that ICJ (K) attend a forum where the Media Bill was being discussed, to render their researched legal opinion on that issue.</p> <p>Evening meeting with Peter Noorlander a representative of Article XIX, the global campaign for freedom of expression, which is an organisation based in London that specifically deals with freedom of information and expression. The meeting was aimed at getting an expert opinion on the draft FOI Bill and also get an opinion on the proposed merger of the Media Bill and the FOI bill as suggested by some MPS, including the Minister for Information and Communication. The meeting was also to seek an expert opinion on the Media bill and on the recommended mode of regulation, whether statutory or self regulation. Following this meeting, Article XIX wrote a legal opinion on the above issues.</p> <p>Breakfast meeting with Professor Anyang' Nyong'o to further discuss with him the idea of him Championing the FOI Bill, give him a briefing on FOI and give him publications on the topic. Pursuant to this meeting, Prof Anyang' agreed to champion the Bill and gave notice in parliament on his intention to table a Motion on an FOI bill to aid in development. It was pursuant to this meeting that he agreed to attend the MPS workshop.</p> <p>Lunch meetings with professor Ruth Oniang'o and Justine Muturi, the KANU chief whip. These meetings were strategically targeted at getting a lobby for FOI among the women parliamentarians and also in KANU.</p> <p>Meeting with Dr. Kilemi Mwiria – The meeting with Dr. Mwiria was to inform him about the FOI Bill and to request him to lobby for the enactment of the Bill among his NARC and government counterparts. Following this meeting, Dr. Mwiria assisted ICJ (K) in mobilising the MPS to attend the MPS workshop on FOI which was held from the 27th – 29th April 2005 at Naivasha.</p>
<p>8. Regional Monitoring on FOI</p>	<p>Objective: This exercise was intended to identify challenges to accessing information in Kenya. The exercise focused on five regions, Nyanza, Rift valley, Nairobi, Coast and Eastern. The reports handed in by the monitors are a reflection of the status of accessing information in Kenya. The reports were analysed and form</p>

	the basis of the status of accessing information report in Kenya which exposes the challenges involved in accessing information in Kenya..
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Final Financial Table (See attached sheet)

6. Project Evaluation

An end of Project evaluation was carried out in March 2007 and the said evaluation brings out pertinent issues relating to the successes of the project. Some of the areas addressed include:

- Building a constituency for change
- The campaign network
- Engaging Government and Parliament
- Popular Constituency
- Implementation of activities
- Program management
- The political environment
- Forward planning

7. Qualitative results of this project include.

1. ICJ Kenya successfully lobbied for the inclusion of the right to information in the proposed constitution which was however rejected during the referendum in November 2005.
2. The government drafted and posted on its website a draft Freedom of Information Bill, 2005, which unfortunately falls way below internationally accepted standards on Freedom of Information.
3. ICJ Kenya in reaction drafted its Freedom of Information Bill, 2006 well drafted in accordance with international standards and in consultation with as many stakeholders as possible.
4. The ICJ Kenya FOI Bill was adopted by the Orange Democratic Movement as a Party Bill and thus the Bill got prioritised than would have been an individual member's bill.

5. Hon. Prof Anyang' Nyong'o successfully argued his motion to introduce a Freedom of Information Bill in October 2006 and the motion was unanimously passed by the house. ICJ Kenya has shared the draft Bill with him and he is in the process of pushing for its publishing for subsequent introduction into the house for the first reading.
6. The government through the Ministry of Information has published a draft Freedom of Information Policy and called for an open forum to receive views from the stakeholders. A committee has been appointed to further revise the policy for subsequent presentation before cabinet.
7. The Performance contract of the permanent secretary, Ministry of Information requires that he takes measures to facilitate the enactment of an FOI law.
8. The members the Parliamentary Committee on the Administration of Justice and Legal Affairs Committee abandoned their initial view that the FOI Bill ought to be merged with the draft Media Bill and has committed through its chairman to push for the enactment of the FOI law.
9. Over 70 MPs from across the political divide have committed to support the enactment of a Freedom of Information Act in Kenya.
10. The government has prepared a media policy 2006 that has been discussed by Cabinet. The policy provides a strong anchoring for a Freedom of Information Act and will enhance free flow of information, freedom of expression and press freedom.
11. The Kenya Law Reform Commission through its Chairman Mr. Kathurima is in support of the FOI Bill and the Bill is one of the priority Bills under the GJLOS Reforms.
12. ICJ Kenya facilitated the formation of an FOI network, made up of both grass root and urban based organisations, which is clamouring for enactment of an FOI law.
13. There is a wide constituency/network of well informed actors clamouring for enactment of an FOI Law and more particularly the Media, as a result of awareness campaigns undertaken by the ICJ Kenya and other FOI network members.
14. The Criminal case instituted against the Kenya times editors, David Ochami and Omollo who were represented charged with false reporting was terminated by the state. The two editors were represented by ICJ Kenya.
15. ICJ Kenya is pursuing two constitutional references, one on interpretation of section 66 of the Penal code, on false reporting, and the other one on section 79 of the Constitution on what constitutes matters of national security. The later case is based on the arson attack of the Standard group offices in March 2006.
16. A survey on the Laws hindering Access to Information has been done and a memorandum sent to the Law Reform commission for action.
17. ICJ Kenya has partnered with international actors on Freedom of Information advocacy specifically the World Bank and Article 19. ICJ Kenya has joined other Freedom of Information activists in Africa in campaigning for enactment of more FOI laws in the region seeing that there are only 3 such laws in Africa i.e in Angola, South Africa and Uganda and the upcoming one in Nigeria.

18. There is increased demand for information from government and this can be verified by the complaints being brought to ICJ Kenya on mismanagement of public funds.
19. There is enhanced awareness on freedom of information. This is due to increased coverage through the media and ICJ Kenya's own publications, reports and materials. The ICJ Kenya Freedom of Information materials have been widely disseminated to various regions in the country and these include Nairobi, Nyeri, Kisumu, Nakuru, Eldoret and Mombasa.
20. The Ministry of Information has now offered to negotiate with Hon. Prof Anyang Nyong'o of the Orange Democratic Movement on the contents of the Freedom of Information Bill. Previously the government side was adamant and did not want to negotiate.
21. ICJ Kenya has also contributed to citizens' increased participation in governance issues through public fora such as public lectures.
22. ICJ Kenya has become the leading and authoritative NGO on FOI in Kenya and has received international recognition as such.

8. Other key achievement(s) relating to other donors funding during this reporting period.

An audit was done on the status of administration of Justice since the judicial purge in 2003. In addition, judicial officers were trained on application of International human rights standards in resolution of cases with the support of UNDP. The KONRAD Adenauer Foundation supported a publication titled 'Reinforcing judicial and Legal Institutions: Kenyan and Regional Perspectives'. The publication addressing issues of constitutionalism, rule of law and human rights in East Africa. In addition two rule of law reports, 2005 and 2006 were published.

9. Main lessons learned during this period.

- ❑ Party bills get prioritised more than the private members bills and as such the FOI Bill being an ODM party Bill is likely to get a priority in the house.
- ❑ There is need to create further awareness among Kenyans on the need to demand information. This demand will promote a culture of openness among government officials who will realise the advantages of opening up to the public.
- ❑ Due to its secretive nature, the government has not identified the Freedom of Information Bill as a priority Bill and thus there is need for further advocacy for the enactment of the bill and subsequent implementation.
- ❑ The media remains the key medium through which information is disseminated and as such there is need to urgently review laws governing the media in Kenya.
- ❑ The importance of strengthening relations with institutions such as Ministry of Information, Media Council, Media Owners Association, KMJA, Kenya Law Reform Commission, Judiciary, Kenya National Commission on Human Rights (KNHRC), Civil Society among others cannot be gainsaid.
- ❑ The need to create awareness among the various actors to appreciate the freedom of information as a fundamental human right.

- The need for more capacity building initiatives among parliamentarians on the right to information.

10. Key problems/constraints experienced while implementing this project during this period – both internal and external constraints.

External

The Ministry of Information, despite having posted a draft Freedom of Information Bill, has failed to prioritise the enactment of a Freedom of Information Act and as such the ICJ Kenya has had to interest a private member (Prof. Anyang' Nyong'o) to introduce the Freedom of Information Bill into parliament. The motion to introduce the Bill was allowed in October 2006 however parliament went on recess before the Bill had been brought for first reading and the said Motion lapsed. Besides, the FOI law is not one of the priority bills lined up for debate by government.

Besides, the Bill posted at the Ministry of Information website is weak and fails to meet international standards on freedom of information. This clearly presents a challenge when it comes to negotiating with government due to the low standards exhibited by the Government draft.

The legislative parliamentary calendar remains a challenge. The legislative process in Kenya moves very slowly and it is even worse off when the FOI bill is not a government Bill.

The political scenario and divisions in the house are another challenge. The opposition is not well represented in the house business committee and there is a risk that such a law could be defeated and sacrificed at the altar of political scores rather than merits.

The looming 2007 general elections are another challenge and members of parliament's focus seem all bent on ensuring a level playing field for all parties, thus the FOI bill may not necessarily be a priority.

The Constitutional reform process has since stalled though there are efforts jumpstart the talks between government and the Opposition. Civil society is also represented in the negotiations.

11. Corrective measures undertaken by your organization to resolve these problems and what major adjustments your project has had to make in order to accommodate these changes.

In April 2006, ICJ Kenya approached Prof. Anyang' Nyong'o to introduce the Motion and the Bill has now been taken up by his party which is the Orange Democratic Movement. The motion having been allowed, ICJ Kenya has scheduled various meetings with key stakeholders including the Clerk of the National Assembly to prioritise the publication of the Bill and to introduce the Bill into Parliament for the first reading. Others targeted for lobbying by the ICJ Kenya include the members of the Administration of Justice and Legal Affairs Committee headed by Honourable Paul Muite SC. Efforts are being made to popularise the Bill through the media.

In an effort to assist in any negotiations between the government and Prof. Nyong'o on his Bill, ICJ Kenya has prepared a memorandum of views on the Government draft FOI Bill using international standards and shared these views with the Ministry of Information.

ICJ Kenya has also developed submissions to Legislators on the Draft Freedom of Information Bill, 2006 meant to popularise the draft Bill among Members of Parliament from both sides of the house.

ICJ Kenya is also collaborating with the Ministry of Information in reviewing the Ministry's Freedom of Information Policy with a view to strengthening it to reflect internationally accepted FOI standards.

12. State whether someone from your organization has attended training(s) by:

USAID- Anne Ndungu, programme officer attended training on strategic management organised by KPMG
Michael Nderitu, programme officer attended training on project management by KPMG

Other donors

Anne Ndungu attended a human rights camp partly funded by the UNDP

Priscilla Nyokabi, programme officer attended training on Media at Oxford with the support of MS Kenya.

Signed on 08 October 2008

Priscillah Nyokabi

Ag Executive Director

Kenyan Section of the International Commissions of Jurists