

AIR

REPUBLIQUE DEMOCRATIQUE DU CONGO
 PRESIDENCE DE LA REPUBLIQUE
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REÇU LE 08 SEPT 2014
 N° POUR



3 September 2014

Senators and Members of the National Assembly
 People's Palace
 Gombe, Kinshasa
 Democratic Republic of Congo

Honourable Senators and Members of the National Assembly,

I am writing on behalf of the Centre for Law and Democracy (CLD), an international human rights NGO that specialises in providing legal and policy expertise to promote foundational rights for democracy. Specifically, I am writing to urge you to move quickly to adopt the proposed Law on Access to Information (Loi sur l'accès à l'information or draft Law), which has been submitted by Senator Moise Nyarugabo.

The right to information is internationally recognised as a human right, which is critical to democratic and accountable government. Among other benefits, an effective right to information promotes citizen participation and an informed populace, it builds trust in government by preventing false rumours from spreading and it works to combat corruption and promote effective and efficient governance.

The right to information is already guaranteed under Article 24(1) of the Democratic Republic of Congo's 2006 Constitution. However, this constitutional protection cannot be properly implemented without a legislative framework setting out the rules governing access to information. The Law on Access to Information would give substance to this right.

Globally, some 100 countries containing 80% of the world's population have passed right to information laws. Africa remains one of the world's weaker performing regions, but that trend is beginning to change. Five years ago, only three countries in Africa had passed right to information laws. Today there are thirteen, most recently Mozambique, with the Parliamentary Assembly having approved a right to information law on 21 August 2014.

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CENTRE FOR LAW AND DEMOCRACY

39 Chartwell Lane
 Halifax, N.S.
 B3M 3S7
 Canada
 Tel: +1 902 431-3688
 Fax: +1 902 431-3689
 Email: info@law-democracy.org

ASSEMBLEE NATIONALE
 CABINET DU PRESIDENT
 SECRETARIAT

08 SEPT 2014

9303

Board of Directors
 Lee Cohen
 Toby Mendel
 Alex Neve
 Dawn Russell
 Jim Cruikshank

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We strongly welcome the adoption of a right to information law, and we note that the draft Law contains a number of progressive features, including a wide scope of application and user-friendly procedural rules. At the same time, there are a number of ways in which the draft Law could still be further improved. We note, in particular, two areas which would benefit from attention. First, the regime of exceptions, found in Articles 2 and 5-11 of the draft Law, needs to be drafted more clearly and narrowly, so as to avoid the risk of public bodies using flexible exceptions to deny access to information which is not sensitive.

Second, we strongly urge you to establish an administrative oversight body, with the power to hear appeals from refusals to provide information. Such bodies play a crucial role in ensuring appropriate implementation of right to information laws in countries around the world. Significantly, this was identified as a serious weakness with the South African law, which has now been remedied with the establishment of an oversight body through the Protection of Personal Information Act, No. 4 of 2013. We are aware that the creation of an oversight body requires resources, but experience around the world has shown that this is an essential factor in the success of right to information laws.

The Democratic Republic of Congo now has an important opportunity to move forward in terms of respect for human rights and to strengthen democratic accountability for its people. We urge you to act without delay and ensure the speedy passage of the Law on Access to Information. For our part, we are ready to provide any assistance we can to help you to achieve this important objective.

Yours truly,



Toby Mendel
Executive Director
Centre for Law and Democracy
toby@law-democracy.org

CC:

H.E. President Joseph Kabila Kabange
Palais de la Nation
Avenue de Lemera
Gombe, Kinshasa
Democratic Republic of Congo

H.E. Augustin Matata Ponyo Mapon
Prime Minister
Hôtel du Conseil
Gombe, Kinshasa

Democratic Republic of Congo

H.E. Léon Kengo wa Dondo
President of the Senate
People's Palace
Gombe, Kinshasa
Democratic Republic of Congo

H.E. Aubin Minaku
President of the National Assembly
People's Palace
Gombe, Kinshasa
Democratic Republic of Congo

H.E. Dominique Kilufyi Kamfwa
Ambassador of the Democratic Republic of Congo to Canada
18 Range Road
Ottawa, Ontario
K1N 8J3
Canada