

The right to information & human rights in the Pacific

CLAIRE CRONIN, external collaborator with the Commonwealth Human Rights Initiative (CHRI), discusses how right to information (RTI) laws are often essential for the realisation of a wide range of other rights.

More than 60 years ago, in 1946 the UN General Assembly asserted that freedom of information was the 'touchstone for all freedoms to which the United Nations is consecrated'. The right to information is not well known or commonly discussed in the Pacific, but it is a fundamental right with a pivotal role in the human rights discourse.

The right to information is enshrined in the *Universal Declaration of Human Rights* and finds international legal protection in Article 19 of the *International Covenant on Civil and Political Rights*, which states that 'Everyone shall have the right...to seek, receive and impart information and ideas of all kinds, regardless of frontiers'. The right to access information is not merely important as an aspect of freedom of expression. It is also a practical tool for bringing about the full realisation of all other human rights. Access to information law – commonly referred to as freedom of information (FOI) laws in the Pacific region – provide a means by which people can come to know about their entitlements, identify when their rights are being violated and hold governments to account for their constitutional and international human rights obligations.

Over 70 countries worldwide have passed RTI legislation including Aotearoa NZ, Australia, and most recently the Cook Islands, which passed its *Official Information Act* in February 2008. Countless case studies from around the world demonstrate how these laws have proven to be powerful tools for enabling individuals, the media and civil society to advocate successfully for a range of human rights and social justice objectives. From the right to be free from torture and inhuman treatment, to the right to a healthy environment, RTI laws have empowered civil society to demand that legal and policy commitments are translated into practical realities that benefit people's lives.

In India, where it is estimated that more than 40% of the population lives below the poverty line, poor communities used Delhi's *Right to Information Act* to realise their right to food. People wanted to find out why they were not receiving the subsidised food grains that they were entitled to under the Public Distribution System (PDS). They used their state freedom of information law to request copies of the PDS

distribution records. The records revealed huge discrepancies between what PDS shopkeepers had claimed to have distributed and what had actually been received. It became apparent that over 80% of cheap wheat and rice was being siphoned off and sold on the black market. As a result of this discovery, a complete overhaul of the PDS was ordered.

Closer to home, women in Australia used their freedom of information law to fight for their right to life, and the highest attainable standard of health. Women used the law to ask why the Federal Government had refused to subsidise *Herceptin*—a breast cancer drug with the potential to save hundreds of lives. The information was refused, but the pressure generated by the request led to the eventual subsidisation of the drug under the Australian Pharmaceutical Benefits Scheme. The importance of access to information was reiterated when the Aotearoa New Zealand government's Pharmaceutical Management Agency showed that only the results of the most favourable trials of *Herceptin* had been published, biasing the very information the pressure was based on.

Although many Pacific Island countries have recognised the importance of the right to information, few have enacted specific laws guaranteeing its protection. The Constitutions of the Federated States of Micronesia, Fiji, Kiribati, the Solomon Islands and Tuvalu all recognise the right to seek and receive information as part of the right to freedom of expression. The Papua

New Guinea Constitution explicitly recognises the people's right to access official documents. *The Constitution of Fiji* requires that Parliament pass FOI legislation but this article has not yet been implemented. The Cook Islands has paved the way with the enactment of its *Official Information Act* in February 2008 and has set an important precedent for other Pacific Island governments.

In the Pacific, where there sometimes exists a tendency to distrust concepts such as 'human rights' and 'good governance' by policy-makers, the right to information offers a unique way of ensuring that respect for rights evolves organically from the grassroots, rather than being promoted by external actors. The right to information is at the heart of democracy as it empowers ordinary people and communities to ask questions of their government and re-engage with the decisions and programmes that impact on their daily lives.

Pacific rights NGOs would do well to advocate for the right to information in support of their central mandates. RTI legislation can assist NGOs, their members and ordinary people to more effectively promote human rights, sustainable development and participatory democracy.

*This article pre-empted the release of the CHRI collection of RTI case studies **Our rights, our information: Empowering people to demand rights through knowledge**. To find out more, go to www.humanrightsinitiative.org.*



Activists from the Association for India's Development U.S. demand that the Indian government withdraw its amendments to curtail the *Right to Information Act*. Photo: Association for India's Development (AID).