

## **Right to Information: Ensuring the Pen Remains Mightier Than the Sword**

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To a journalist, the observation that “knowledge is power” is so obvious as to be a cliché. Knowledge, and more specifically, information, is the bedrock on which the work of a functioning, useful media is built. Without reliable information, the press is hamstrung – reliant on rumour, leaks and luck. Unfortunately, governments throughout the Commonwealth have been notoriously reluctant to facilitate the work of the press by entrenching a right to information and thereby ensuring the free flow of accurate information.

The right to information has been recognised internationally for more than fifty years. In 1946, the very first United Nations General Assembly recognised that “Freedom of Information is a fundamental human right and the touchstone for all freedoms to which the United Nations is consecrated”. This idea has since been reflected in numerous international and regional agreements.

The right to information holds within it the right of any person to seek and obtain information, from their government and public officials, and even from private bodies where the information is needed for the exercise of the person’s rights. In practice, the right obligates governments to proactively disseminate important information and at a bare minimum to ensure that people can access information upon request, unless the public interest requires that it be kept secret.

Sadly, the reality throughout the Commonwealth is that the vast majority of governments continue to prefer to operate in secrecy and to keep the public – including the media – in the dark. Only ten of the Commonwealth’s 53 member states have passed legislation entrenching the right, and many of these laws are weak and/or have not been properly implemented. This is incredibly disappointing, particularly for press people who require access to accurate information in order to ensure that the public is kept properly informed.

Governments are not stupid however; it is not an accident that they remain so reluctant to entrench the right to information. They are acutely aware that enabling access to information about their decisions and activities will allow the public to better assess their performance and, most notably, empower the media to effectively and consistently expose their mismanagement and corruption.

Taking the offensive, governments have done all they can to withstand calls for greater openness, and have often even gone further, punishing officials and journalists who have dared to publish information reflecting badly on the government using draconian laws like Official Secrets Acts. As recently as this May, the Kenyan Government, concerned at the press’s use of leaked confidential documents to expose corruption, actually specifically wrote to all Permanent Secretaries “warning against the leakage of classified information to the Press and other unauthorised persons or institutions”<sup>2</sup> and threatening harsh punishments to whistleblowers.

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<sup>2</sup> Julius Bosire (2004) “Top secret order to hide Narc scandals”, *The Nation*, 3 May.

Refusing to accept governments' resistance to enabling access to information, civil society – including NGOs, academics, community groups and the media – in many Commonwealth member states has been incredibly active in pushing for the effective operationalisation of the right to information. Notably, the press have played a key role in supporting right to information campaigns. In Nigeria for example, the Media Rights Agenda has been a leader of the civil society campaign pushing for right to information legislation. Likewise, seven chapters of the Media Institute of Southern Africa are currently spearheading national campaigns for access laws under the banner of the regional “ASK” campaign.

In Sri Lanka, it was the Editors Guild that was responsible for the first draft of a right to information law. Likewise, in India, the Press Council took the lead in developing a draft Bill, in an attempt to prod the Government into taking action itself. Although the Press Council's efforts did not bear fruit, the nation's media played a key role in the 1990s in drawing attention to the fight of the Mazdoor Kisan Shakti Sanghatan (MKSS) movement to use the right to information to enforce the labour rights of poor farmers in the State of Rajasthan. It was this work that spurred the national campaign for the right to information in India; the media was a crucial partner spreading news of their success story throughout the country and mobilising support for their campaign.

The United Kingdom Campaign for Freedom of Information has specifically commented on the importance that strong links with supportive newspapers played in strengthening their hand when lobbying the Government to enact effective legislation. Even today, *The Guardian* newspaper has a page dedicated to Freedom of Information. Likewise in Australia, *The Australian* newspaper has a dedicated Freedom of Information editor who uses information obtained under federal and state laws as the foundation of exposés.

Clearly, the press has a strong interest in supporting campaigns for the right to information. In the absence of a right to information, reporters are exposed to government allegations that their stories are inaccurate and reliant on half-truths instead of facts. The only alternative in a closed environment though, is to rely on press releases and voluntary disclosures from the very politicians and officials they are seeking to investigate.

The legal entrenchment of the right to information means that journalists will not be dependent on the indulgence of politicians or the bravery of whistleblowers. Rather, journalists will be empowered to initiate their own investigations and will literally not have to take “no” for an answer from government officials who have previously hidden behind secrecy legislation and used it as a shield against the inquiring eyes of the press. This can only be a good thing – for the press, for the public and for democracy.

*For more information on the status of the right to information in your country, go to CHRI's Right to Information Home Page at <http://www.humanrightsinitiative.org/programs/ai/rti/rti.htm> and/or download a copy of CHRI's 2003 Report, “Open Sesame: Looking for the Right to Information in the Commonwealth.”*