



CPA/CHRI PACIFIC WORKSHOP ON FREEDOM OF INFORMATION

**With the Support of the Parliament and Government
of the Fiji Islands and NZ Aid
1-2 September 2005, Nadi, Fiji Islands**

More than 40 Parliamentarians, including government Ministers, and senior parliamentary officials from seven Commonwealth Pacific countries met in the Fiji Islands on 1 and 2 September 2005 with a team of experts assembled by the Commonwealth Parliamentary Association to discuss issues related to freedom of information, especially in the context of the specific needs of Pacific societies.

At the conclusion of the Pacific Workshop on Freedom of Information, the following points were drawn up as reflecting the discussions and exchange of ideas between participants:

1. A freedom of information system will above all be aimed at – and beneficial to – members of the public, it is not something only for the media to use. The system must be designed to help members of the public have access to the basic kind of information that they need in their own everyday life, e.g. about the activities of local schools, local hospitals and nearest government institutions.
2. Free public access to information held by government and public institutions is good for economic and social development because it leads to a more efficient economy and better public sector performance, increasing investor confidence in the country's economy and reducing waste and corruption. It also promotes government accountability and public participation in governance and development.
3. The exact details in any FOI law and system are decided by lawmakers to reflect the needs of their countries, and therefore they can differ from country to country. There should not be one single model that can be imposed in all countries. FOI legislation can be designed to reflect both universal principles and local conditions and traditions.
4. In all countries where FOI legislation has been or is being introduced, the process is dependent on the existing environment. In Pacific countries too, the debate on drafting and introducing FOI laws can be complicated by political conditions, e.g. the demands of coalition government or the relationship between the government and the opposition, or between the government and the media. Even where such conditions create difficulties, they should not stop efforts toward greater openness in governance. In fact, greater openness in governance can help solve the underlying problems.

5. In Pacific societies the different cultural sensitivities are highly important and must be taken into account in preparing any FOI legislation but they are not incompatible with greater openness in governance. Cultural concerns can be addressed when drafting legislation by ensuring exemptions protect sensitive information. Also, when applying the law, the 'public interest test' can be defined and applied to take into account cultural sensitivities. Officials can also prioritize 'negotiation' between parties to ensure that sensitivities are properly handled.
6. Any FOI law should be drafted to take into account the linguistic diversity of the country, such as in the case of most Pacific countries, and this could be done, for example, by permitting applications for information to be submitted in different languages and by allowing for translation of information in the public interest.
7. Public institutions like government ministries and Parliaments can gradually take initiatives to improve the flow of information to the public without waiting for FOI legislation to be passed, for example through proactive disclosure of key information of relevance to the public. This will be a first step towards encouraging a culture of openness and educating the public.
8. Lawmakers can also design an FOI system that is gradual and evolutionary by implementing key parts in stages to take into account national priorities and sensitivities, resource constraints and the importance of long-term bureaucratic culture change. This will also address the issue of the demands and costs of data collection and records management, which are especially important in small and developing countries such as those of the Pacific.
9. Concerns over possible misuse of information released through FOI applications can be dealt with (1) by existing criminal and libel legislation etc. and (2) by having a well thought out regime of exemptions in the FOI law itself.
10. An FOI system can help improve the level of public debate and media reporting in a country by making more facts available to the public, and therefore reducing the risk of debate and reporting being based mostly on rumours and unverifiable allegations.
11. After the adoption of FOI legislation, a specific body – such as an existing oversight body or a new Information Commission or even a government department - can be charged with educating the general public and public officials to facilitate the use of the system. In small countries such as the ones of the Pacific, the role of an Information Commission could be combined with that of another oversight body such as that of the Ombudsman. It is important to devise a system that maximizes efficiency as resources are often scarce.
12. Due to the specific nature of small countries, some conflict of interest might arise when applying the FOI law (processing applications and appeals) but these can be dealt with by referring cases to another senior staff member or another oversight agency.



13. Delegates at the Workshop also discussed whether when drafting an FOI law consideration should be given to permitting access to information held by private bodies (either commercial or non-governmental), at least where those bodies receive any public funds. Pacific countries might consider the different provisions to that effect in the FOI regimes of such Commonwealth countries as South Africa, Jamaica, India and the United Kingdom.
14. The representatives of the different Pacific Countries meeting at the Workshop called on all the relevant Commonwealth bodies and international organizations to provide them with technical and other forms of assistance to help them draft FOI legislation and implement any FOI regime following the passing of such laws by their Parliaments.

Nadi, Fiji Islands, 2 September 2005

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