

Kenya-The International Commission of Jurists Steps in

Section 79 (1) of the Kenyan Constitution states categorically that all Kenyans have the freedom of expression and freedom to hold and impart opinions without hindrance. However the Official Secrets Acts, the Preservation of the Public Safety Act (Cap 57) and the Penal Code (Cap 63) restrict such freedoms. In addition, Kenya's inherited political culture of suspicion characterised by the institutionalised denial of factual and recorded matters is made worse by an all-pervasive secrecy in money matters.

The International Commission of Jurists (ICJ) (Kenya section) has involved itself in successful lobbying for legislative, regulatory and judicial changes by starting a campaign for the enactment of a law on freedom of information. The campaign aims to reduce official secrecy, and thereby ensure that citizens make well-informed decisions on the basis of participatory governance. Though in theory the Kenyan government is committed to RTI, the Ministry of Information and Broadcasting, and the Kenya Broadcasting Corporation have been used so far, only as a propaganda tool for the ruling party.

Government indifference to the constitutionally guaranteed freedom of information right arises from its interpretation of RTI as merely a sub-text to the freedom of expression which itself is a much abused right, though guaranteed by the constitution. The government has tried to control the media by shelving press bills thereby making access to information for journalists virtually impossible. "The media are still corruptible and there have been allegations of powerful financial and political interests buying back stories from the media. The private media houses are commercial concerns and the state owned media have become political entities", says the ICJ report.

In a public speech, launching the freedom of information campaign on 17 August, 1999, Kathurima M, inoti, the chairperson of ICJ said that "Its time for Freedom of Information", and that "one of our national objectives since independence has been the obliteration from our midst of the evils of illiteracy and ignorance. This and other objectives have been progressively defeated by oppressive laws encouraging *inter alia* , withholding of information". He said that the history of poverty in Kenya would be repeated unless there was a culture of openness, dialogue and participation.

Kenya has other problems besides addiction to secrecy. Corruption makes the Official Secrets Act a farce as top-secret government information can easily be bought. According to ICJ researchers, unless there is a proper institutional framework to support the re-enforcement of such a law, it will have little or no value. The system must pay heed to the protection of individuals, affordability, language diversity, mode of dissemination and a way of authenticating information. The aim of the campaign is to educate the public on the need for such a law. It will focus on members of the public, legislators, the judiciary, financial journalists and lawyers through seminars and workshops. The first workshop was held on July 14, 1999. "Given the extent of political, social and cultural secrecy, and the opposition to openness, the right to freedom of information must be clearly, distinctly,

and boldly spelt out and not as part of another right.' What makes freedom of information difficult is the fact that since Independence, the government has promoted a culture of secrecy and sycophants, where civil servants have been encouraged to give their first allegiance to the President.

ICJ also calls for the streamlining of the Official Secrets Act to render it more specific on criteria, procedure and time frame of classification and declassification of government secrets. "This will ensure that the law is not misused for political or other interests different from those specified as the basis for exemption from disclosure, " says the report.

The freedom of information Act should specifically indicate who should qualify for access to such information. The availability of records must address the cultural and language diversity, affordability, literacy levels; whether Kenyans should pay for information and what the charges should be. Public officials must be accountable and assist those seeking information.

The ICJ recognises the importance of technology in the Information Age. The right to information campaign currently underway in Kenya is aware of the perils of indiscriminate information collection, collation and dissemination. The citizens' right to government information enshrines the right to access such material as and when needed by the individual. The evaluation and the protection of electronic data collected by the government is at the heart of a campaign for new legislation addressing the issue.

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Information promotes democracy by playing a key role in enabling citizens to organise, plan and agitate for their basic rights such as health, food, water and shelter. Freedom of expression and opinion are therefore fundamental to the survival and development of human beings. An effective freedom of information act is essential as it can uphold the universal aim of promoting and preserving a basic respect for human dignity.