ADILI

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FREEDOM OF INFORMATION: MEDIA LEFT TO CARRY ON THE ANTI-GRAFT FIGHT UNDER THE NEW REGIME

by Ezekiel Mutua

The electoral victory of the National Alliance Rainbow Coalition (NARC) in December 2002 heightened public expectations in Kenya. NARC won the elections on a platform of change in all sectors of governance. The public, therefore, expected the new government to introduce a new work ethic, respect for the rule of law, enforcement of fundamental rights and freedoms and to generally manage the country differently.

However, these expectations ignored crucial lessons from Kenya's post-colonial experience and experiences from other parts of Africa. This experience is that unless a government is kept on its toes by a vibrant opposition, civil society groups and other non-governmental institutions, it degenerates into authoritarianism. Sadly, the events of the past 20 months indicate this to be the garden path up which the present government is blithely leading us.

Apologists of the current dispensation cite the expanded democratic space and the vibrant media as showcases of the changed environment under the current administration. Whether this vibrancy is due to this administration or not is a matter of perception. What is certain, however, is that during the first decade of pluralist democracy, that is 1992-2002, the media made giant strides despite on-off attempts to stem its growth.

The democratisation process was accompanied by a mushrooming of media houses. In addition to the state owned KBC TV and radio, five other TV stations and tens of radio stations were established. The daily press also increased from three newspapers in 1992 to four after the *People Daily* was established in 1994. In terms of content, these media houses are more courageous and vibrant compared with the timid, conformist media of the early 1990s.

The country also saw the emergence of a new genre of media, the alternative press, whose content and quality challenges our ethical practices. In a twist of irony, no new media house has so far been registered by the new regime. Moreover, the democratisation process also produced other actors within the polity to safeguard democracy, the rule of law, human rights and governance. But since the advent of the Kibaki government, the media stands out for two reasons.

Firstly, the foundation of the media, the freedom of expression, is the lifeblood of a democratic society. This is because the free flow of information and ideas informs public discourse and public policy formulation. The media is a safety valve: people are more ready to accept decisions that go against them if they can in principle seek to influence them. Thus, given the prominent role it played in the 2002 general election, the media has sought to exert itself more than ever before.

The public ... therefore expected the new government to introduce a new work ethic, respect for the rule of law, enforcement of fundamental rights and freedoms and generally to manage the country differently.

Secondly, the media acts as a brake on the abuse of power by public officials. In its watchdog role, the media facilitates the exposure of errors in the governance and administration of justice in the country. This makes the media a powerful tool in the development process. Indeed, the media can take the credit for nipping in the bud the Anglo-Leasing Finance scandal and other corrupt practices more than any other sector.

In the current regime, therefore, the media has shouldered heavy responsibility. Several reasons account for this. Firstly, though the coalition won with a comfortable majority, which should have enabled it to conduct its legislative business with confidence, internal squabbling has dogged the coalition. This squabbling has undermined the performance of the government. Thus, the media has been playing the dual role of highlighting the debilitating NARC wars as well as re-focusing the coalition on the important responsibilities of governance.

This is the third of a series of three issues of Adili focusing on Freedom of Information and its impact on governance and transparency in the conduct of national affairs.

... media left to carry on anti-graft fight..

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Secondly, the once vibrant civil society and religious sectors, which often acted as the intellectual wings of the opposition in 1990s, have been co-opted into the Kibaki administration. This has severely eroded the voices of these two sectors as defenders of human rights and democracy in the country. As a matter of fact,a numberof blunders made by this regime have passed without comment from civil society, something that was unthinkable in the late 1990s.

And thirdly, the internal logic of the current constitutional order is such that the role of the political opposition is severely restricted. This problem is compounded by Kenya's ethnic complexities and the opportunistic nature of our politicians. In the middle of the year, these two converged when a section of the opposition was co-opted into the government, thus weakening the opposition. Needless to add that the part of the opposition that has not yet been co-opted is still struggling to implement an internal democratisation process with a view to repackaging itself as a viable alternative. These shifts in the balance of power have elevated the role of the media as a defender of democracy, human rights and nationalism in the new political dispensation. But for the media to effectively play this role, it has to surmount several challenges.

Firstly, none of the media laws has been reviewed or repealed. Yet, our media laws, a carryover from the colonial and one-party state, militate against the freedom of the press and democracy. Leading the list is the Official Secrets Act Cap 187 that denies media practitioners official information. As a matter of fact, and contrary to standard practice in a democracy, this Act declares all official information a state secret, and requires journalists to show cause why they should have access to this information.

Then there is the Books & Newspapers Act Cap 111, which complicates the registration and operations of newspapers and magazines; and the State Broadcasting Act Cap 221, which gives the Kenya Broadcasting Corporation an unfair advantage over private stations and denies its journalists the right to an association of their choice.

On top of this, we have the Criminal Libel and Defamation Laws under Penal Code Cap 63, which deals with defamation; and Contempt of Court Laws as well laws of *sub judice*, making court reporting very difficult; and the Miscellaneous Amendment Law 2002, which incorporates newspaper vendors in publishing crimes.

Like its predecessor, the Kibaki government has on several on several occasions attempted to use this oppressive legal regime to muzzle the media. Late last year, the police arrested the chief executive and editorial team of the *Sunday Standard* over a story the paper carried implicating an MP in the murder of a University don. At the beginning of this year, the police harassed publishers of the alternative press over stories about domestic squabbles in the First Family, and hundreds of newspaper vendors for selling alternative press publications.

Some months later, a Minister sued all the daily newspapers and several radio stations over a personal story they carried. The Minister further influenced the Minister for Information to appoint a committee to probe a specific media house. The court ruled the probe illegal and asserted the rights of the media house. The government then failed to take legal action against a pro-government media house when it sabotaged the transmission signals of its rival for several days.

Paradoxically, rather than repeal the current legal regime and replace it with a Freedom of Information Act that guarantees press freedom, the government is intent on adding oppressive legislation. For starters, it prepared a Broadcasting Bill whose highlights included outlawing cross-media ownership. Even though the Minister for Information and Communication dropped the Bill following pressure from key players including the Kenya Union of Journalists (KUJ), we are privy to information that the draft aims at legislating the media in the guise of regulation. All these events contradict the assertion that the media is vibrant courtesy of the current government.

The second challenge relates to proprietor interests and working conditions of journalists. Because proprietors primarily aim for profits, they often conform to the wishes of the government of the day. Closely related to these interests are editorial policies, which in many ways influence media reports. This is evident today in cases where media houses have openly taken sides in the NARC wars.

Their working conditions, on the other hand, have condemned our journalists to deplorable existences. In Kenya, over 75% of the news is covered by correspondents; a group of journalists who are poorly remunerated, not allowed to join any union or welfare associations and are not permanent employees. In all fairness, such conditions militate against freedom of the press.

Lastly, the media has to confront the challenge of ethical practices that has arisen with the emergence of FM radio stations and the alternative press. This genre of our media has been gathering, processing and disseminating information without regard to the journalists' ethical code. To address this issue, the KUJ signed a memo of commitment with some publishers of the alternative media. This memo committed them to the code.

In addition, the media industry has established a media council. This council is mandated to receive complaints against media houses by aggrieved parties as well as to "whip" these houses to observe ethics. But the main challenge is still that of replacing the current legal order, which is highly repressive, with a new order that promotes freedom of information.

Mr Ezekiel Mutua is the Secretary General of the Kenya Union of Journalists

CURRENT INITIATIVES IN PROMOTING FREEDOM OF INFORMATION IN KENYA

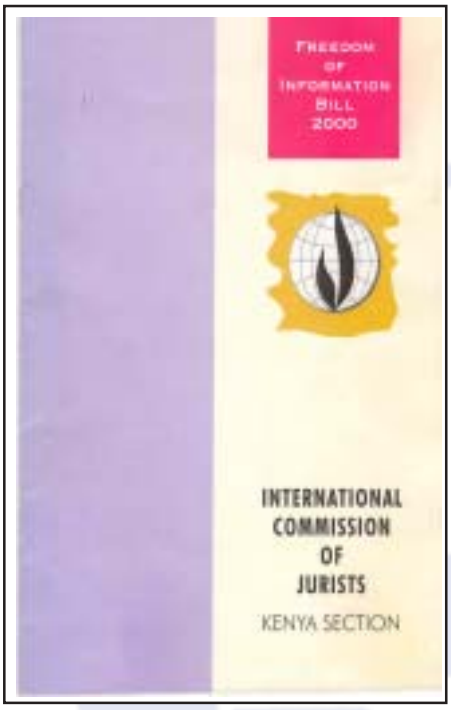
by Priscilla Nyokabi

With the widening of democratic, the idea that freedom of information is important for this country is gaining root. The government has accepted that it is the right of Kenyans to access information; an example of this acceptance is the creation of the post of a Government Spokesperson and appointment of an officer to serve in that position. This is a step in the right direction.

Promotion and protection of freedom of information in Kenya entails government's commitment to the cause. This being the case, current initiatives have seen inclusion of the government as a stakeholder in efforts towards making freedom of information in Kenya a reality. These initiatives include collaborative efforts and programmes with relevant ministries and government departments. Other stakeholders are the media, civil society organisations and the public.

During the constitutional review process, there was a shift in strategy from legislative advocacy, to having freedom and access to information included in the Draft Constitution. This was achieved, as the right is set out in Article 58 under the Bill of Rights of the Draft Constitution

For Kenyans to claim and defend the right to freedom of information, there must be legislation setting out how they will be facilitated to do so. The right entails access to information held by the state or any other person, information which the person requires for the exercise or protection of his/her fundamental rights and freedoms. Freedom of information would require the state to publish and disseminate information that is in the public interest.



The goal of having the right to FOI enshrined in the national laws was the first step towards having freedom of information in Kenya and the basis of advocacy for freedom of information. The International Commission of Jurists - Kenya Chapter (ICJ-Kenya) has been at the forefront in advocating for freedom of information.

Progress in Freedom of Information (FOI) Advocacy

In brief, the progress made in advocacy for FOI in Kenya can be described as follows:

a) In 1999, ICJ-Kenya investigated the State of Freedom of Information in Kenya.

b) In 1999, ICJ-Kenya facilitated the drafting of the FOI Bill through a consultative process.

c) In October 2000, a motion brought by Hon. Dr. Mukhisa Kituyi was passed in Parliament to facilitate tabling of the Draft Freedom of Information Bill 2000 in Parliament.

d) During the constitutional review process, there was a shift in strategy from legislative advocacy, to having freedom and access to information included in the Draft Constitution. This was achieved, as the right is set out in Article 58 under the Bill of Rights of the Draft Constitution.

e) According to the Draft Constitution enabling legislation for FOI, it should be promulgated within six months of entry into force of the new constitution, thus current advocacy efforts are in this direction. Despite the impasse in review process, FOI advocacy is still required and does not have to wait for the new Constitution to come into force.

FOI: The Kenyan Context

Though the right to information has been expressly included in the Draft Constitution, there needs to be a clear legal and policy framework to facilitate the exercise of this right.

There are initiatives towardsbuilding this legal and policy framework, in which the government is also involved.

[1] **The full name is Governance Justice Law and Order Sector Reform Programme (GJLO-SRP). It is understood that the Ethics, Integrity and Anti-Corruption Committee of GJLO has adopted the ICJ-Kenya Draft FOI Bill as a starting point in working towards Freedom of Information Legislation in Kenya.**

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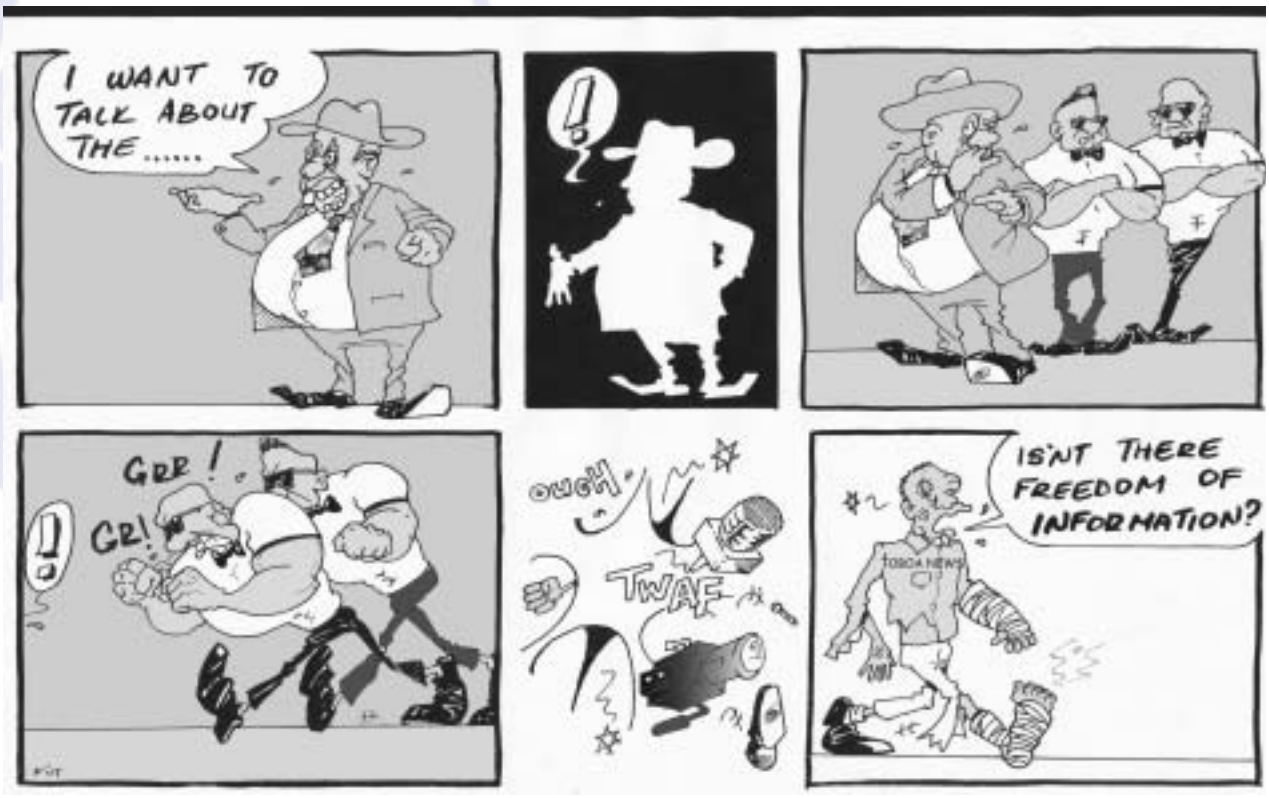

...Current initiatives in promoting FOI in Kenya

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Freedom of information legislation has been identified as one of the areas to be worked on by the Ministry of Justice and Constitutional Affairs-led Legal Reform Sector Programme1 (GJLO). The committee set up to spearhead reforms in the legal sector has members from both the government and civil society organizations. The Kenya Law Reform Commission, Transparency International Kenya, ICJ-Kenya and the Kenya Human Rights Commission are part of the Ethics, Integrity and Anti-Corruption thematic group of the GJLO and are involved in advocacy for FOI legislation in their different organisational capacities and as members of the FOI Lobby Group.

For the purposes of lobbying and advocacy, ICJ-Kenya wishes to collaborate with as many stakeholders and organisations as possible as there must be widespread support for enactment of the Bill and thereafter its widespread utilisation. A good FOI law will serve its purpose only if it is utilised.

The current task at hand is revision of the existing FOI Draft Bill to ensure its provisions reflect best practices for such legislation. The thematic group on Ethics, Integrity and Anti-Corruption of the GJLO has adopted the ICJ-Kenya draft FOI bill as the basis for FOI legislation.

Suffice it to note that the draft FOI Bill and the report on *the State of Freedom of Information in Kenya* have been disseminated to as many stakeholders as possible by ICJ–Kenya.

Other proposed activities towards enactment of the Bill include pre-legislation lobbying in which a nationwide public awareness campaign will be undertaken to get grassroots support for FOI. This will be through social mobilisation and awareness campaign. Issues around FOI will be advocated for in both print and selectronic media and this will be important in maintaining public debate on FOI.

There will also be a need to lobby Members of Parliament and their constituent committees to prioritise the FOI Bill and thereafter pass it so that FOI can be promulgated into law in Kenya. Parliament is a key player in fruition of the efforts to have FOI made into law.

The thematic group on Ethics, Integrity and Anti-Corruption committee of the GJLOs has adopted the ICJ-Kenya draft FOI Bill as the basis for FOI Legislation.

Post-legislation lobbying and awareness raising on the provisions of the FOI Act and its utilisation will be important. This will, for instance, stimulate demand for information from public bodies by members of the public.

Other activities at this stage will include giving technical advice on the provisions of the Act and repeal and review of existing legislation to ensure it is in line with freedom of information principles.

Of singular importance here is the Official Secrets Act, which will have to be repealed. Other than reviewing these laws, there will be a need to develop attendant legislation such as Open Government in the Sunshine laws.

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...Current initiatives in promoting FOI in Kenya

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In summary, post-legislative activities would include:

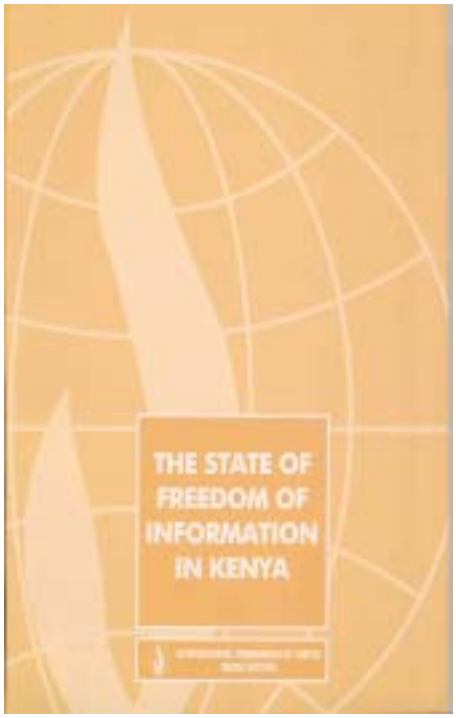
a) Legal reforms and review to ensure all laws are compliant with freedom of information principles and legislation. An example of such laws is the Official Secrets Act. Provisions of the Evidence Act will also be scrutinized in as far as they stop production of documents and statements in court on the reasoning that state security is of more paramount importance.

b) Policy reviews and reforms to facilitate effective implementation of the Act.

c) Public education on the Act.

d) Training of government officials on their roles and duties in implementation of the Act.

e) Issuance of guidance on implementation of the Act.



Test cases and impact litigation on FOI will be another useful avenue to force consistent interpretation of the law and to enhance its enforcement.

It is hoped that freedom of information is a right that will be enjoyed by Kenyans.

ACCESS TO INFORMATION AND THE FIGHT AGAINST CORRUPTION IN KENYA

by Betty Muragori

Expectations that the public entertained of fundamental reforms by the NARC government, especially the fight against corruption, have not been realised. The policy, legal, institutional and behavioural barriers that inhibit access to information consequently persist despite there being a new governent in power.

The barriers emanate from Kenya's colonial legacy, legal regimes, state repression and official misinformation or lying by government sources.

The first challenge for access to information emanates from the colonial legacy, which introduced alien governance structures and used secrecy to maintain distance from the local African population. Successive independence African governments including the NARC regime found this form of secrecy useful for governing and continued the trend. The consequence of poor access to information has been alienation among sectors of the public.

The second set of barriers is legal in nature. Section 79 (1) of the Constitution guarantees freedom of speech. It provides that,

Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

Section 79 (2) outlines many exceptions to this right, which allow for the enactment of laws, that supersede the right to freedom of information. Access to information is a qualified right in Kenya. One of the most important laws that limits public access to government information is the Official Secrets Act Cap 187. A colonial relic, it was re-enacted in 1968 to "provide for the preservation of state secrets and state security." These legal regimes combine with financial, bureaucratic and physical barriers, to make access to public information a time consuming and onerous task that is only undertaken by those who are financially able and persistent.

The existence of this legislation, which is the primary statute expressly providing for access to information, has led to a government culture of secrecy. It is routinely evoked to deny citizens even the most mundane information. Among its manifestations is the administrative requirement of a permit to conduct research from the Office of the President. State officials are often reluctant to provide information. With the high levels of all forms of corruption present in Kenya, even state information has become commodified.

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Access to information and the fight against corruption

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Under the NARC government, this legislation has been recently evoked to prevent the media and the general public from accessing information from government sources. An order was issued by the Head of the Public Service in June 2004 to this effect. The order, which prohibited government officials from releasing information to the public, was seen as an attempt by the government to stop the flow of information to the public about grand corruption and other forms of abuse of office that implicated NARC government officials. Information implicating government officials in wrongdoing has however continued to reach the public arena through the media and other sources.

The refusal to acknowledge the gag order shows just how much the Kenyan people have overcome their fear of government and its directives. It is an indication that citizens of this country have claimed the right to freedom of expression.

Third is the phenomenon of "unofficial state repression". Control of information has been routinely used by those in authority at state level right down to community level, to violate the rights of vulnerable sectors of the public and to deny them facilities and resources.

The sinister context of control of information emanates from policy ambiguities or the presence of official and unofficial policies in certain geographical sectors or on certain issues. The impact of this dual policy has been to create a smoke screen for government, making it difficult for the public or sections of the public to engage government effectively. And because unofficial policy is not written, government can simply deny its existence and avow its commitment to official policy.

Such policy ambiguities leave room for what has been termed "unofficial state repression" among other things. Concern among civil society at the rise of this form of repression has been on the increase. In 1997, four organisations from four different countries came together to launch a programme aimed at monitoring informal state repression. The four organisations were the Kenya Human Rights Commission (KHRC) in collaboration with London-based Article 19, the Durban based Network of Independent Monitors (NIM) and the Lagos-based Civil Liberties Organisation (CLO). At a joint meeting in 1997, the four organisations defined the phenomenon as follows; "…Informal repression refers to state sponsored repression that is carried out through surrogate agents with the aim of disguising the involvement of the State in violation of rights."[7]

Interestingly the return of Prof Ngugi wa Thiong'o has exposed the face of this form of unofficial state repression under the previous regimes to the general public. The secrecy that surrounded this form of terror ensured that few people knew the specific forms it took as those who experienced it rarely talked about it. In the *Daily Nation* of August 26, 2004, Henry Chakava, Prof Ngugi's publisher related his experiences.

Control of information has been routinely used by those in authority at state level right down to community level, to violate the rights of vulnerable sectors of the public and to deny them facilities and resources.

"I would leave the office, and when I got home, I'd find the phone ringing," he recalls. "They would say: 'We followed you up to the gate.' "

These chilling calls, long before the advent of the mobile phones, had the hallmarks of state terrorism. They climaxed in a brutal attack outside his home, in which his forefinger was chopped off… "When Ngugi came to visit me in hospital, he wore a hat to cover a cut he had suffered at night when he was attacked by a man and a woman to whom he had given a lift."[8]

In the article in the *Daily Nation*, Chakava goes on to reveal how the faceless people who trailed him eventually tried to extort money from him. He was asked to give them Ksh. 200,000. He reported the matter to the regular police force who then laid a trap for them. Chakava reports that at the scene of the crime, the regular police were extremely reluctant to arrest and prosecute the extortionists and notes, "[To] this day, the matter has not gone to court."[9]

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We all know what befell Prof Ngugi's recent homecoming; the robbery in which he and his wife were attacked and tortured.

This case shows how a combination of corruption, abuse of power and crime thrive in an environment in which information is controlled by the state, and how extra-judicial means are used to control people who appear to challenge the state. The alleged extortion amied at Chakava may not have been sanctioned by the authorities. However, it is evident that the extortionists were taking advantage of their power and the official secrecy surrounding their existence and the role that they played to engage in criminal conduct.

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Access to information and the fight against corruption

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The fourth barrier to access to information has become a speciality of the current NARC regime. This is the tendency of government officials to simply lie or be selective about the truth when caught in a situation in which they are expected to be accountable.

The issue of corruption has been especially illustrative of this tendency. When the NARC government came into power in December 2004, "zero tolerance to corruption" was one of its election pledges.

In one of its sections the NARC manifesto recognizes that corruption in Kenya today is systemic, and permeates all segments of our society. And that in order to eliminate corruption, the NARC government will systematically pursue a stringent policy of zero-tolerance of corruption and will strengthen anti-corruption agencies in order to enforce this policy.

Today, government's record on fulfilling this pledge appears patchy at best. A few cases of grand corruption under the previous regime have been successfully prosecuted, 20 months into the new government's tenure. Meanwhile, allegations of new grand corruption involving senior officials of the NARC government dominate the news with little action being taken against the alleged perpetrators.

Furthermore, the institutional framework required to fight corruption is still not wholly in place. With the appointment of Justice Aaron Ringera as director of the Kenya Anti-Corruption Commission, it is hoped the fight against corruption will commence in earnest.

This tendency of government officials to lie has irked an NGO, which has taken legal action in one case. On 20 August 2004, the *East African Standard* carried a story on its front page of a non-governmental organization (NGO) called Public Corruption, Ethics and Governance Watch, which is suing the Foreign Affairs Minister for allegedly "abusing the authority of his office by issuing unconfirmed false allegations to his masters the Kenyan tax payers by stating that the hostages (captured in Iraq) were released."

Lying has been an especially effective approach employed by government officials to avoid taking responsibility for their actions and the consequences of those actions.

This case represents a new and interesting attempt by civil society and the public to hold public officials to higher standards of accountability than has been possible in the past.

Lying has been an especially effective approach employed by government officials to avoid taking responsibility for their actions and the consequences of those actions. Indeed, Prof Ngugi wa Thiong'o's new book, *Murogi wa Kagogo* (Wizard of the Crow) is about a government in a fictional country, which comes to power and fails to keep the pledges and promises it made before the elections.

SEPTEMBER 28: 'RIGHT TO KNOW' DAY

by Jack Muriuki

On 28September 2002, freedom of information organisations from various countries around the globe meeting in Sofia, Bulgaria, created a network of Freedom of Information Advocates (FOIA) and agreed to collaborate in the promotion of the individual's right to access to information and open and transparent governance.

The day provides a forum for activists from around the world to promote this fundamental human right and to campaign for open, democratic societies in which there is full citizens empowerment and participation in government

The group of FOI Advocates also proposed that 28 September be nominated as international "Right to Know" Day in order to symbolize the global movement for promotion of the right to information. This was the genesis of the Right to Know Day and from then onwards, the world has marked the Right to Know Day every year on 28 September. The aim of the Right to Know Day is to raise awareness of the right to information. The day provides a forum for activists from around the world to promote this fundamental human right and to campaign for open, democratic societies in which there is full citizen empowerment and participation in government.

Examples of the kinds of activities that civil society groups engage in on this day are:

a) national media campaigns to raise awareness of the right to know
b) publication of reports about the current state of access to information in a country or region
c) advocacy for adoption of an access to information law in countries that do not have one
d) dissemination of information about how to use access to information laws in countries where they exist
e) seminars for local civil society groups on how to access government-held information (whether or not a law exists in a particular country)
f) meetings or televised debates about open government and public participation.

HOW CAN E-GOVERNANCE IMPROVE ACCOUNTABILITY, TRANSPARENCY AND EFFICIENCY OF PUBLIC SERVICES?

by J. Walubengo

What is e-governance?

E-governance or electronic governance may be defined as delivery of government services and information to the public using electronic means. Such means of delivering information are often referred to as information technology or 'IT' in short. Use of IT in government facilitates an efficient, speedy and transparent process for disseminating information to the public and other agencies, and for performing government administration activities.

The focus of such an initiative is on provisions of services to the following stakeholders:

i) Communication and Collaboration within and between government ministries/agencies
ii) Communication and Collaboration between the government and private business enterprises (private sector)
iii) Communication and Collaboration between the government and the public (citizens)

If the Hansard, the Constitution and other Parliamentary Documents were readily and freely available on the Web, we would have a more informed citizenry that would be capable of sound decisions regarding their civil/human and other rights

Communication and Collaboration within and between government ministries/agencies

How nice it would be if after having imported a car and paid your duty to Kenya Revenue Authority, the other Ministries associated with this transaction e.g. those processing log-books, those issuing Road Licences and those monitoring Insurance who could not all be made instantly aware of your single transaction and were able to leverage on it. As things stand now, each associated department provides service almost in total disregard of whether or not another related department has previously handled (partially or otherwise) the matter or not.

How common it was for the then Ministry of Tourism & Information to issue a broadcasting licences to an investor who then could not commence his business since the Communications Commission of Kenya (CCK, under the then Ministry of Transport and Communication) was 'not aware' of such an issuance from the Tourism & Information Ministry and considered such an issuance 'irrelevant' in as far as provision of transmission frequency (CCK's mandate) was concerned. Clearly, the government departments in this case were not in sync.

...why should the same government that keeps copies of your birth-certificate send you on a wild tour of your home district when you attempt to get a National ID?

A more current citation would be the saga of the COMESA sugar importation in which shrewd sugar barons are said to be playing the Kenya Revenue Authority (Ministry of Finance), the COMESA office (Ministry of Trade) and the Kenya Sugar Authority (Ministry of Agriculture) off against each other and succeeding in laughing all the way to the bank after questionably importing tonnes of sugar.

How can e-governance help?

A successful and effective implementation of e-governance depends not just on the procurement, deployment and use of electronic systems, but even more on the pre-implementation of the exercise of re-organising the existing work-flows within and between government ministries and departments. The biggest pay-off of e-governance is the opportunity for governments to effectively execute a BPR (business process pre-engineering) exercise that will in turn result in more efficient work-flows and procedures. Redefined procedures weed out duplication of efforts between ministries, seal gaps arising from these overlaps and provide a single source of data for one particular transaction or event.

Communication and Collaboration between the government and private business enterprises (private sector)

It appears that a foreign investor needs not less than 15 documents signed by different government offices (departments) situated at different geographical locations before they can set up and commence a business. Even basic investments like setting up a restaurant requires several visits to offices spread between the AG's Chambers, the Ministry of Trade, the Ministry of Health and the Ministry of Local Government, among others.

It is common knowledge that the provision of services in Kenyan government agencies has never been straightforward. Each step along the way is crowded by self-appointed 'brokers' who claim to simplify things at a fee. Never mind that these brokers are the very ones employed to give the said service in the first place. And indeed, if you ignore them, you are likely to never even get the initial form to fill, and if you do get it, it is likely to get lost after filling , and if it does not get lost, the mandatory signatory may always be in a meeting, etc.

If access to government services is a nightmare, then procurement of government services from the private sector is a truly a well-documented tragedy. If it is not the Goldenberg scam, it is the Anglo-Leasing saga. If it is not someone supplying chalk to the City Council water treatment facility, it is someone else supplying non-existent generators to Telkom Kenya. If it is not tarmacking a non-

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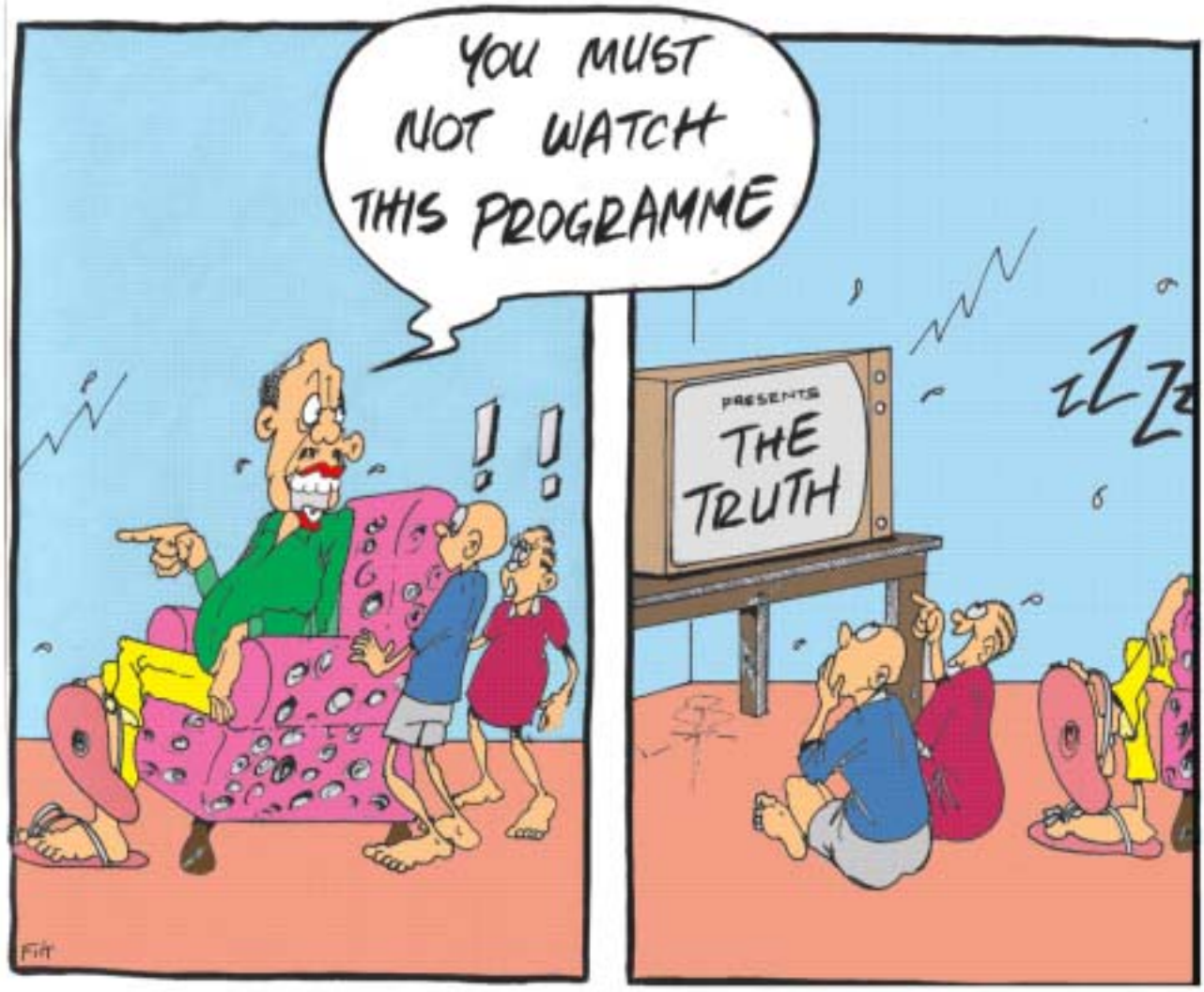

How can e-governance improve... public services?

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existent road, then it is doctoring the cost of constructing one. The list can go on forever, but its genesis is in the lack of transparent and accountable procedures as regards the procurement process.

How can e-governance help?

Information and Communication Technologies (ICTs) exist that automate most government procedures. Business enterprises should be able to apply for licences online. E-procurement (electronic procurement processes) are already practised and tested in several countries abroad and to some extent within Africa (Rwanda & SouthAfrica).

Automated systems would base evaluations more on facts rather than influence, as is common in non-transparent human-heavy procurement procedures.

Automation often eliminates the middlemen (self-appointed brokers) who are constantly lurking in government corridors with a view to 'speeding up' processes for clients at a fee. Automation also levels the playing field, allowing 'non-connected' or politically neutral suppliers equal opportunity to stay informed about aware of existing government contracts and to compete openly and fairly for the same.

Automated systems base evaluations on facts rather than on influence, as is common in non-transparent, human-heavy procurement procedures.

Communication and collaboration between the government and the public (citizens)

Have you ever tried to renew your driving licence, make your tax returns, transfer your log-book, or get a birth-certificate? All these procedures are fraught with uncertainty, intrigue and suspense.

The queues are unbelievable, and even once you beat the queues, there is no guarantee on the time frames within which you are likely to get whatever it is you are seeking. The self-appointed brokers are again abundantly available and in most cases prefer and thrive in such environments.

What of parliamentary business? Have you ever participated in the general election, tried to reach your MP or access the Hansard? Have you ever wanted to scrutinise how, when and where your taxes were spent by the government. At the moment, mechanisms for some of these activities are non-existent, unstructured, unpredictable or simply prohibitive in terms of the time and effort required on the part of the citizen.

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How can e-governance improve public services?

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How can e-governance help?

Most government records in different ministries about a citizen contain the same data. Part of what is on a birth-certificate is repeated on the National ID, the Passport, the Driving Licence and many other legal documents. So why should the same government that keeps copies of your birth-certificate send you on a wild-goose-chase around of your home district when you attempt to get a National ID? The answer is simple. The records are not in electronic form and therefore very difficult for the same government to access. So they would rather you do the leg-work to your sub-chief, chief, district officer and others in the endeavour to prove to them that you are indeed the same Kenyan who, according to the birth certificate, was born 18 years ago.

Have you ever tried to renew your driving licence, make your tax returns, transfer your log-book, or get a birth-certificate? All these procedures are fraught with uncertainty, intrigue and suspense

A single electronic record, created at the moment of birth, should be the same record that is used over time as you acquire your various IDs, get married, buy assets and finally get buried. It is well-documented across the globe how incumbent governments have manipulated the voting system to perpetuate their stay in power. The very nature of the voting procedures lends itself to manipulation. The higher the electronic proportion of the voting system the harder it gets to manipulate it.

If our MPs had email addresses and knew how to use them, then some computer literate citizen would have the opportunity to engage with them, as opposed to playing cat and mouse games at Parliament Buildings, as it happens at the moment. If the Hansard, the Constitution and other Parliamentary documents were readily and freely available on the web, we would have a more informed citizenry that would be capable of making sound decisions regarding their civil/human and other rights. Sound decisions on the performance (or lack thereof) of the government, legislature and the judiciary would be made.

Recently, a couple of school-children in Western Kenya died from the so called river-fever. Apparently, their lives could have been saved if the local medics had consulted (e.g. through searching electronic medical databases) widely and quickly on the symptoms, before administering treatment based on the wrong diagnosis of the disease.

What it takes

In January, 2004, the Head of the Public Service and Secretary to the Cabinet launched the E-Government Strategy Paper. The document, like many others from the government, is well researched and captures the vision, mission and objectives of the newly established Directorate of E-government, whose role is basically to oversee and actualise all of the preferred automated activities described above and many others. I have deliberately avoided reproducing all the good ideas contained in this 70-page document, simply because while it is easy to get a consultant to put together strategy papers, it is quite another game-plan to operationalise the same. I have instead preferred to point out the challenges and obstacles that are popping up daily against the implementation of this brilliant E-Government Strategy Paper.

a) Detrimental vested interests

Two types of groups will always have a stake in the success (or lack thereof) of the e-government strategy. The first group correctly appreciates that automation will take away the sources of illegally acquired revenue that arise from inconvenient or flawed government procedures. It is therefore in their own selfish interest to ensure that e-governance never sees the light of the day as long as they continue holding influential offices. Resistance will manifest itself in various forms e.g. delays in authorising ICT-related procurement, delays in training, citing unsupported security concerns, etc. The second group comprises those providing consultancy and other ICT related services. The best example here is none other than the Anglo-Leasing group, which saw government computerisation efforts as a money-making scheme and was least concerned with whether or not the government did eventually and effectively automate. Their was to get in, make the money, pay their brokers and get out faster than they came in.

b) Low computer literacy and utilisation

A very small percentage of the civil service is computer literate. In cases where the officers are computer literate, you will find that the computers do not exist and if they do exist, they are simply used by secretaries as glorified typewriters or to play computer games. Improving and increasing computing skills within the public service and the general citizenry presents a huge challenge against which the success or failure of the e-government strategy will be measured. Of what use are expensive automated systems if no one within and outside government is using them?

c) Lack of an ICT (political) champion

Just as the HIV-AIDS campaigns have psychological support beyond what the doctors (i.e. the professionals) say, it does make a huge difference if and when ICT is evangelised by a senior non-technical, government official who is passionate about leveraging ICT to provide better services and improve productivity, transparency and accountability.

Previously, ICT-related functions were dispersed between three Ministries, of Transport & Communication, of Tourism and Information and the Ministry of Trade & Industry.

FREEDOM OF INFORMATION IN SOUTH AFRICA

Struggling to give practical effect to a constitutionally-entrenched right

by Rolf Sorensen

South Africa's Constitution enshrines a right of access to information. The Promotion of Access to Information Act 2000 (PAIA) gives legislative expression to thi right. In terms of formal constitutional and legislative arrangements in this area, South Africa is ahead of almost all other countries in Southern Africa and Africa in general, and indeed some developed countries.

The scope of PAIA's application to private bodies is unique in the world. The Act is often looked upon as a model in the region. The battle to properly implement PAIA, however, is still in its early stages. In this regard, the context of limited resources and training of relevant officials is significant.

An express time limit needs to be placed on the period for which access to Cabinet records in general can be refused on any ground, in light of one interpretation of PAIA which would result in Cabinet records remaining permanently inaccessible in the absence of voluntary disclosure by government

Also significant is the lack of any transitional period for the development of supporting institutions and information dissemination, such as that which has been provided for in England and Scotland, where the appointment of Information Commissioners preceded by the coming into effect of the new legislation.

In 2001, the South African History Archive (SAHA) launched a Freedom of Information Programme dedicated to using PAIA to extend the boundaries of freedom of information and build up an archive of materials released under the Act for public use.

To date, SAHA has submitted some 300 requests, about half on behalf of other organisations or individuals. It has made over a dozen internal appeals against refusals of access to information and several appeals to the High Court, only one of which remains outstanding, all the rest having been settled on terms satisfactory to SAHA. SAHA has also undertaken considerable work in public education and advocacy, including sharing of information in national and international networks on freedom of information and publication of articles and delivery of presentations on PAIA.

In the course of pursuing its Freedom of Information Programme, SAHA has noted a number of comments with respect to the operation of PAIA and suggestions for its reform. It is notable that they focus overwhelmingly on problems with implementing PAIA, rather than on amendments to the Act.

A pleasing recent development was the publication by the South African Human Rights Commission in February this year of statistics regarding requests to each public body subject to the Act, which PAIA requires be published annually on the basis of information each public body is in turn obliged to submit to the Commission.

While the statistics must be published annually, those published in February relate only to PAIA's second year of operation. The statistics relating to the Act's first year of operation have not appeared. It is nevertheless encouraging that there is now more information publicly available than ever before about the impact of the Act.

Lack of such statistics has previously been noted as a limitation on the ability to assess the impact of the Act.

Also pleasing is that political commitment to the successful implementation of the Act is being demonstrated by tangible action on the part of the South African Human Rights Commission to secure the required statistical information and by Ministers responsible for relevant Departments of the South African Government who have intervened to support the efforts of the Human Rights Commission and to encourage compliance with PAIA in particular instances.

Practical problems of implementation nevertheless still remain. There is a particular need to ensure that access to information is supported at a practical level by the devotion of adequate resources to the implementation and maintenance of appropriate standards for the creation and retention of records and to the training of management and staff in the administration of the standards and in compliance with the legislation.

The scope of application of PAIA's requirement that organisations produce a manual outlining what information they hold, should be extended. It should be made more prescriptive to enhance its usefulness in facilitating requests for information.

There is also a need to ensure that any legislation passed to protect the constitutional right to privacy does not inhibit the retention, transfer and maintenance of records of enduring value, or access to such records, any more than is strictly necessary to protect that right. Provisions of PAIA providing for automatic disclosure of information without a formal request should also be made more prescriptive and other legislation providing for more liberal access than PAIA does should be maintained.

Specific attention needs to be given to records created during Apartheid. A thorough audit of these records should be conducted, voluntary disclosure undertaken, the exemption of Cabinet records from disclosure

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Freedom of information in South Africa...

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removed and operatives of agencies responsible for state security under apartheid freed from any undertaking of secrecy as to their work. An express time limit in any case needs to be placed on the period for which access to Cabinet records in general can be refused on any ground, in light of one interpretation of PAIA that would result in Cabinet records remaining permanently inaccessible in the absence of voluntary disclosure by government.

Legislation passed during apartheid that restricts access to information more than does PAIA should be repealed and replaced with legislation consistent with South Africa's constitutional right to access to information.

The practical effectiveness of PAIA also depends on development of a more appropriate mechanism for resolving disputes under the Act than litigation in the courts. The mechanism should be cheap, accessible, quick, effective and authoritative

The practical effectiveness of PAIA also depends on development of a more appropriate mechanism for resolving disputes under the Act than litigation in the courts. The mechanism should be cheap, accessible, quick, effective and authoritative.

Consideration should be given to a range of options able to fulfil these requirements in light of the existing arrangements for resolving disputes under PAIA and proposed arrangements for resolving disputes under legislation protecting privacy. Perhaps the most promising option is the establishment of a new Information and Privacy Commissioner, or enhancement of the Human Rights Commission's powers to allow it to play a more authoritative role in dispute resolution.

A cheaper and more accessible mechanism for dispute-resolution would in turn create a greater ability for those applying for access to information to seek resolution of substantive issues regarding the right of access under PAIA.

For the most economically marginalised members of society, however, an issue requiring attention even before those involving dispute resolution may be that of provision for appropriate relief from fees for applications for information under PAIA

These include the scope of the exemption of records subject to undertakings of confidentiality, the balance to be struck between the right of access to information and the right to privacy and the scope of the provision for release of otherwise exempt records in the public interest.

Consideration should also be given to making provision for urgent applications for access which would have to be dealt with in less than the 30 days currently prescribed by PAIA and extending the unduly short 30-day period within which appeals against refusals of access must be commenced in a court.

For the most economically marginalised members of society of all, an issue requiring attention even before those involving dispute resolution may be that of provision for appropriate relief from fees for applications for information under PAIA.

For further information see:

- South African History Archive (SAHA) and Public Service Accountability Monitor (PSAM), Proposed Amendments to the Promotion of Access to Information Act, August 2003; http://www.wits.ac.za/saha/foi-amendments-to-PAIA.pdf, Page 3
- Sorensen, Rolf; Statistics With Respect to PAIA: Report to the National Assembly by the Human Rights Commission, March 2004; http://www.wits.ac.za/saha/PAIA%20stats%20analysis.pdf
- SAHA; Privacy and Data Protection: Submission to the South African Law Reform Commission, November 2003, http://www.wits.ac.za/saha/foi-privacy-and-data-protection.pdf
- SAHA, Strengthening the Role of the South African Human Rights Commission in Relation to the Promotion of Access to Information Act, July 2003 (commissioned by the South African Human Rights Commission)
- Open Democracy Advice Centre; The Promotion of Access to Information Act: Commissioned Research on the Feasibility of the Establishment of an Information Commissioner's Office (commissioned by the South African Human Rights Commission)
- Klaaren, Jonathan; The Gap Report: Issues Regarding the Disclosure of Information by Public Officials, June 2002; http://www.wits.ac.za/saha/foi_gap_report_2.pdf

Rolf Sorensen of the South African History Archive is the Freedom of Information Programme (FOIP) Co-ordinator in South Africa.

RELICS OF THE AUTHORITARIAN STATE: THE GERMAN BATTLE FOR A FREEDOM OF INFORMATION ACT

by Reinold E. Thiel

Germany and Luxembourg are the last of the industrialised countries to have no Freedom of Information Act (FoIA). Obviously, the tradition of the old authoritarian state has been strong enough for a long time to prevent legalising this kind of citizens' right. Enough public servants do not see themselves as servants of the public, but as servants of the government, and what they store in their files has to be kept an "official secret", not to be viewed by the citizens.

The discussion has now been going on for 12 years. After the re-unification of the two Germanies, the five new "Lander" (federal states) gave themselves constitutions, and one of them, that of Brandenburg, in 1992 stipulated that "everybody has the right to consult the files and other official documents of the authorities and administrative bodies of the Land and the communities, as long as there are no grave conflicting public or private interests." This initiative was due to the fresh democratic impulse of the citizens' movement that brought down the East German state, but it took another five years to cast the idea into the shape of an ordinary law.

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The first Bill was introduced into the Landtag (state parliament) in 1994 by the Green Party, but was rejected. In September 1997, the state government introduced another Bill, which was finally passed in February 1998. Thus, the first FoIA on German soil came into existence.

Three more of the 16 German states followed suit: Berlin (1999), Schleswig-Holstein (2000) and North-Rhine-Westphalia (2001), but then the series came to an end. Each of the 12 remaining states have in the meantime had Bills, but none of them was passed by parliament. Most came from the Green Party; in some cases, they were defeated by Christian-Democratic majorities, in other cases by Social-Democratic majorities, but always in the same conservative spirit. In most of the states, the pretext today is that "we will wait until a law is passed on the federal level".

Germany and Luxembourg are the last of the industrialised countries to have no Freedom of Information Act. Obviously, the tradition of the old authoritarian state has been strong enough for a long enough time to prevent legalising this kind of citizens' right

The Bundestag, the Federal German Parliament, saw a Bill introduced by the Green Party (then in the opposition) in August 1997, nearly parallel to the development in Brandenburg. The Greens are a small party, in some matters an avant-garde party, and their Bill, after long deliberation, was rejected in June 1998. The Christian-Democrats were against it, the Social-Democrats abstained, arguing that they might agree if some changes were made – only there was no time because the parliamentary period came to its end.

But after elections, there was a new situation, as a joint Green and Social-Democratic government took power. In their coalition agreement of October 1998, the two parties promised, under the heading of "participatory rights", that "by means of a Freedom of Information Law, the citizens should be granted access to information". Good news. But the public has been waiting ever since. No law. *For six years.*

While the first Bill at the federal level, in 1997, had been written by the Green Parliamentary Party, the job of writing a text was, in 1999, handed over to the Ministry of the Interior, where it got stuck. The Ministry prepared a draft and then set out to check it against the wishes of other ministry: Justice, Economy, Finance, Defence, Foreign Affairs.

The latter two were afraid to endanger "state secrets and asked to be completely excluded. So did Finance, though the law could certainly, by making corruption more easily detectable, help to keep the public coffers filled.

The Ministry of the Economy was afraid that its clientele might suffer if trade secrets were disclosed – which is understandable, but how are trade secrets defined? Is fraud a trade secret? Anyway, the staff of the Interior did not have the guts to fight against these limitations, they themselves not being too keen to see the law in effect.

The four years of the parliamentary period passed, and no Bill was presented. Finally, a small news agency got hold of the draft-in-making and published it without official authorisation, in the hope that the Ministry would follow suit in publishing it officially. The text contained all the restrictions mentioned above, it would give the public only very limited access to official files, and was not ripe for parliamentary deliberation.

New elections were held in 2002 and a new coalition agreement was reachedbetween the Red and the Green parties with the same promise: Freedom of Information Act is to be written. Again, the Ministry of the Interior is given the job; again they run up against the resistance of other ministries. But now, something new happens. In 2003 a

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group of two civil society organisations – the Humanist Union and Transparency International Germany – plus three journalists' associations come together to write a draft of their own, in order to give a push to the political parties.

The main job was done by Christoph Bruch- who had done a great of comparative research into FoIAs on the international level and written his doctoral thesis on this subject- and Wilhelm Mecklenburg, the original author of the FoIA of the federal state of Schleswig-Holstein, both men well qualified for the task.

In April 2004, when the draft was ready, the group of five organisations handed it over in an official Act to Wolfgang Thierse, president of the Bundestag, who then passed it down to the parties.

In the meantime, the staff of the Ministry of the Interior had admitted that they could not overcome the obstacles and had thrown in the towel. Consequently, some Members of Parliament of the Red and Green Parties decided to take the initiative back into their own hands. They formed a group to draft the text, based among other materials on the draft of the group of five.

The parliamentary group soon had a draft of their own, but could not avoid checking it with various government departments, as the Ministry of Interior had done before.

The difference was that they, as parliamentarians, were in a better position to resist pressure from the departments. In August 2004, at the end of the parliamentary session, they declared publicly that they had their draft ready and would introduce it after the vacations.

Early in September, a meeting was held between representatives of the group of five and of the parliamentary group, out of which came the information that the text needed fine-tuning and would be introduced in October, hopefully to be passed in January 2005.

There are still problems with the exceptional treatment demanded by certain departments. But it seems that solutions can now be found. So the Bill will not refer to exceptions to be made in all matters concerning the Ministry of Defence, but only in matters of defence policy – which allows to open procurement matters, extremely prone to corruption, to investigation. And the same could be done in respect to other departments.

Another problem is that of fees to be paid for inquiries, which some in the administration would like to put at prohibitive levels, while the parliamentarians insist that they not be so high as to put citizens off from using the instrument. A third matter still under discussion is the definition of trade secrets.

Transparency Germany, while generally interested in establishing a higher degree of political participation for all citizens and an instrument of accountability, has a particular interest in using the FoIA in preventing and fighting corruption of all varieties.

A good example is the building of a waste incineration plant in the city of Cologne, which was one of the big corruption scandals of recent years. A considerable bribe was paid for the acquisition of the building contract, and that too for building a plant much larger than was needed, so that people's waste fees were higher than necessary.

In Schleswig-Holstein where an FoIA is in effect, a consumer protection group asked to see the results of official verifications of the correctness of quantities of canned food... the verification office did not hand out their results, and when the group went to court, they were advised that the results could not be disclosed because this would result in a restraint in competitiveness for the fraudulent enterprises.

It all came out in the end, and it was found that in the case of other incinerators in the whole region, the same mafia was active. Now, if at the time of building a FoIA had existed and members of the public had been allowed to look into the contracts and the related calculations, this might have been prevented. But if these contracts and calculations are considered as trade secrets, even with a FoIA in existence, corruption cannot be prevented.

There is another very recent case where the same problem is evident. In Schleswig-Holstein, where a FoIA is in effect, a consumer protection group asked to see the results of official verifications of the correctness of quantities of canned food.

It is a well-known fact that many of the cans are found to be underfilled. Nevertheless, the verification office did not hand out their results, and when the consumer group went to court, they were advised that the results could not be disclosed because this would result in a restraint in competitiveness for the fraudulent enterprises. This is a scandalous decision and the consumer protection group will appeal against it.

Fraud should never be a trade secret to be protected by the state! One of the state's Members of Parliament, confronted with this court decision in a meeting with the NGO group of five, said that the coming federal FoIA should be made watertight against such wrong interpretations. We shall see whether he can push this through against the industry lobby, when the Bill is introduced in October.

GLOBAL CORRUPTION NEWS

WORLD BANK MOVE TO REDUCE PRIVATE SECTOR BRIBERY WELCOMED BY TRANSPARENCY INTERNATIONAL

World Bank will require firms bidding for large contracts to certify steps taken to prevent bribery

Transparency International (TI) welcomes the World Bank's decision to require companies bidding on large Bank-financed projects to certify that they 'have taken steps to ensure that no person acting for [them] or on [their] behalf will engage in bribery'. "This is an important step toward reducing the incidence of bribery in such projects, and remarkable after the many years of sometimes contentious discussions on the issue" said Peter Eigen, chairman of TI, the leading international non-governmental organisation engaged in the fight against corruption. He said this was a testament to the effectiveness of the anti-corruption movement in getting and keeping the anti-corruption message on the global agenda.

According to the World Bank, bribes cost the global economy over US$1 trillion every year, with a substantial amount of public funds lost in government contracting. Given the magnitude of the problem and its destructive impact, particularly in developing economies, TI has long advocated both greater transparency in procurement processes as well as requirements to ensure that bidding companies have the policies and systems in place to prevent bribery and corruption.

"The new certification requirement will promote the adoption of codes of conduct and help level the playing field for companies that operate with integrity," said TI Director Jermyn Brooks. The Bank action follows discussions with TI and the urging of construction industry leaders who have adopted an industry-wide code of conduct. This code was developed by a World Economic Forum task force based on the Transparency International Business Principles for Countering Bribery.

"We applaud the World Bank for taking yet another step to strengthen its procurement procedures. But further action is needed," cautioned Brooks. "We call on the Bank to encourage all lenders, public and private, to adopt similar requirements for all bidders, not only those engaged in competitive bidding on large civil works projects", he continued. "We will also continue to urge the Bank to require companies bidding on Bank-financed projects to have anti-bribery codes and programmes, and to implement other bribery-prevention tools." Brooks went on to say that TI now calls on all development banks and lenders to take up the challenge of improving their procurement guidelines.

With the widespread enactment into national law of the OECD Convention on Bribery of Foreign Public Officials, there are now laws criminalising foreign bribery in most major exporting nations. This has led to broader acceptance by international companies with headquarters in OECD countries of the need for corporate codes of conduct. An international group of companies and other stakeholders led by TI developed the Business Principles for Countering Bribery in order to provide a comprehensive template for such codes.

Washington/Berlin, 23 September 2004

TRANSPARENCY INTERNATIONAL PREPARES GUIDE TO TACKLE CORRUPTION FOR ARAB WORLD

Anti-corruption experts and activists from North African and Middle Eastern countries gathered in Beirut, Lebanon, for a two-day workshop organised by Transparency International (TI) and Transparency Lebanon from 8-9 September 2004. Transparency International is the leading non-governmental organisation devoted exclusively to fighting corruption worldwide. The meeting offered a unique opportunity for all concerned to debate vital questions related to the phenomenon of corruption and to lay the basis for a global approach to combating this scourge.

The workshop, entitled '*Adaptation of the Transparency International Source Book*', follows on the success of an earlier regional workshop held by TI in Casablanca, Morocco, on 27-29 February 2004. The workshop in Beirut looked at practical ways to implement the models outlined in the *Transparency International Source Book - Confronting Corruption: The elements of a National Integrity System*, published by Transparency International in 2001. Participants engaged in a series of discussions concerning the adaptation of the *TI Source Book* and to pool their anti-corruption knowledge and know-how. Members of Parliament, university professors, research institutions, human rights activists and members of the media attended the meeting. The meetings also included representatives from TI national chapters in the Middle East and North Africa (MENA) region and provided them with an opportunity to debate vital questions related to the phenomenon of corruption in the MENA countries and to lay the basis for a regional approach to combating corruption.

The *Transparency International Source Book - Confronting Corruption: The elements of a National Integrity System* has been published in 20 languages and it continues to be a pivotal resource for anti-corruption activists across the globe. TI has used adaptation workshops to ignite civil society and the media to come together, expand and adapt the models described in the Source Book to fit the social, legal and economic situation in each society. It is hoped that recommendations emerging at the workshop will serve as inputs into the adaptation of the TI Source Book relevant to the realities of the MENA region and useful to activists and policymakers. TI hopes to work towards developing a strong, long-term and mutually beneficial relationship with a new dynamic network of Arab activists and experts specialised in the fight against corruption.

Lebanon/Berlin, 8 September 2004

Upcoming Events

Oct 7- 8: African Chapters Meeting
Theme: Creating Change Together Towards a World Free of Corruption
Oct 7 – 12: Annual Members Meeting
Oct 8: Transparency International Integrity Awards 2004
Oct 11 – 13: New Governments Meeting on 2004
Theme : New Anti-Corruption Governments: The Challenge of Delivery

Venue: Safari Park Hotel, Nairobi, Kenya
Contact: transparency@tikenya.org
Website: www.tikenya.org

Think about it...

"Corruption is a universal problem. What we see is not a singular phenomenon, is not a curiosity, is not individuals having lost their direction. It looks like a system."

Eva Joly, Integrity Awards winner 2001.

On a lighter note

A client of a hospital where they did brain transplantations asked about the prices.
The doctor said, "Well, this Ph.D. brain costs $10,000. This other brain belonged to a top NASA scientist and costs $15,000. Here we have a police officer's brain as well. It costs $50,000."
The client asked, "What? How's that possible?"
The doctor replied, "You see, it's totally unused."

CREATING CHANGE TOGETHER TOWARDS A WORLD FREE OF CORRUPTION

Transparency International Kenya welcomes delegates from around the world attending two **International Anti-Corruption Conferences in Nairobi from October 6-13, 2004.** The conferences take place at a critical juncture in the development of the Kenyan anti-corruption reform campaign.

Kenya is among those countries that have witnessed the emergence of a new political leadership with an anti-corruption campaign agenda. In the face of high public expectations, such governments face enormous pressure to deliver on election promises and overcome resistance to change. The NARC regime came to power on promises of a major system change. Anti-corruption was a stated aim of its political platform prior to assumption of office. Some concrete anti-corruption measures have been taken following assumption of office. Against this background, TI-Kenya saw it fit to bring together participant countries and constituencies working for anti-corruption reform around the world to share experiences and forge a way ahead in the fight against corruption and for the promotion of good governance. Participants are expected from all regions and fromover 90 countries as diverse as Georgia, Mexico, Indonesia, Nigeria and Papua New Guinea.

New Anti-Corruption Governments: The Challenge of Delivery

A new government coming to power with anti-corruption as a political platform is seen as having a 'window of opportunity' of 18-24 months. After this period, the window of opportunity slams shut, and if significant progress has not been made, the county risks falling back into the endemic corruption of the past. After 21 months of the NARC regime, it is time to take stock of anti-corruption reforms in Kenya. As a country, where do we stand? Is there still the political will to fight corruption? What are the pitfalls? What are the challenges? What is the way forward?

Transparency International Integrity Awards 2004

Key among the highlights of the Conferences is the Transparency International Integrity Awards Ceremony 2004. The Transparency International Integrity Awards are presented annually in recognition of the courage of anti-corruption fighters who risk their lives to call attention to corruption. This year, the award ceremony takes place in Kenya for the first time. In another first, two Kenyans will be among six nominees for the awards.

Tune in every Saturday from 10.00 am to 11.00 am to Pasha Nikupashe, a KBC Swahili Service program. Call in live with your comments.

Adili is a fortnightly news service produced by TI-Kenya's Communications Programme. The views and opinions expressed in this issue are not necessarily those of TI-Kenya. The editor welcomes contributions, suggestions and feedback from readers.
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