

CALLS MOUNT FOR STATE TO REPEAL SECRECY LAW

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Kenyans want the *Official Secrets Act* repealed to consolidate the democratic gains the country has achieved so far. Speakers at a public forum in Nairobi said that being denied information was also impacting negatively on the people's ability to make informed decisions about issues affecting their lives like development and corruption. The forum, at a Nairobi hotel, was organised by the Kenyan Section of the International Commission of Jurists to discuss the Freedom of Information Bill (2006).

According to the latest World Bank Poverty Index, 38 most indebted countries in the world do not have a freedom of information law. And statistics by Transparency International show nearly all countries with a low bribery index have a freedom of information law, unlike a majority of the nations where high corruption is rampant. Ms Priscilla Nyokabi Kanyua, a programme officer at ICJ, said: "It is obvious that there is a link between development and corruption on the one hand, and denial of information on the other ... the earlier the information Bill is enacted, the better for Kenyans."

Kisumu Rural MP Anyang' Nyong'o said the Official Secrets Act was a big hindrance to the growth of an open and democratic society in Kenya. Prof Nyong'o, who introduced the Bill to Parliament, said it was only dictatorships and authoritarian regimes that denied citizens information. Prof Nyong'o said citizens should be facilitated to have as much information as possible to enable them make informed decisions in public affairs. The MP said it was possible for the government to release important information to the public, without necessarily violating the doctrine of confidentiality. He said: "Access to public information is a basic human right and an important pillar of democratic society. A misinformed and disinformed public is also an enemy to democracy." But lawyer Kibe Mungai says the mere repeal of the Act would not get Kenya out of official impunity, unless several other laws in the penal code were either amended or repealed.

However, enacting the information Bill into law would benefit oversight institutions like the Press, Parliament, the Kenya Anti-Corruption Commission, and the Kenya National Commission on Human Rights. The Bill, already tabled in Parliament by Prof Nyong'o, seeks to enable the public access information in the possession of the Government, public authorities, and some private bodies. Public authorities would be required to publish and disseminate information to enable members of the public participate in decision making. The Bill further seeks to entrench access to information as a right, not a privilege. If the Bill becomes law, public officials would be required to release the information on request.

But there are circumstances under which a request may be rejected. They include where a disclosure would constitute a clear danger to national security, or would impede the due process of the law. Also information would not be released if there is reason to believe it would endanger individuals. Likewise, information likely to damage the economy would not be released. The Bill also makes provisions for the protection of whistle blowers.

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