

**Commonwealth Expert Group Meeting on the Right to Know
and the Promotion of Democracy and Development
Marlborough House, London, 30-31 March 1999**

FINAL DOCUMENT

**PROMOTING OPEN GOVERNMENT
COMMONWEALTH PRINCIPLES AND GUIDELINES ON
THE RIGHT TO KNOW**

I. INTRODUCTION

The Commonwealth Law ministers at their Meeting in Barbados in 1980 emphasised that "public participation in the democratic and governmental process was at its most meaningful when citizens had adequate access to official information".

Since that time a number of Commonwealth countries have enacted freedom of information legislation establishing a public right of access to government information. Their experience has demonstrated that these laws enhance the effectiveness of government. Other Commonwealth countries are preparing legislation drawing on this practical experience.

During the 1990s the Commonwealth, guided by its Fundamental Political Values enshrined in the 1991 Harare Commonwealth Declaration, has sought to promote democracy, the rule of law, just and honest government and fundamental human rights. In consolidation the achievements of the past decade the Commonwealth seeks to focus its efforts on strengthening the processes of open and accountable government together with the promotion of sustainable development.

The 1990s has been a decade of democratisation with a number of countries, many within the Commonwealth, making the transition from one party and authoritarian regimes to elected representative governments.

The new millennium promises to be an era for transparency and accountability on the part of government and all sectors of society concerned with public life. These trends will be further stimulated by the growth of information technology and increased globalisation and inter-dependency of national economies.

II. BENEFITS OF FREEDOM OF INFORMATION

Freedom of information has many benefits. It facilitates public participation in public affairs by providing access to relevant information to the people who are then empowered to make informed choices and better exercise their democratic rights. It enhances the accountability of government, improves decision-making, provides better information to elected representatives, enhances government credibility with its citizens, and provides a powerful aid in the fight against corruption. It is also a key livelihood and development issue, especially in situations of poverty and powerlessness

Following a review of the successful experience of Commonwealth freedom of information laws, the Expert Group of the Right to Know submits for the consideration and endorsement of Commonwealth Law Ministers, at their forthcoming meeting in Trinidad from 3-7 May 1999, the following *Principles and Guidelines on the Right to Know*. The Group further recommends that the Law Ministers submit the Principles and Guidelines to the Commonwealth Heads of Government at their summit in South Africa from 12-15 November 1999 for their consideration and adoption.

III. PRINCIPLES

- Freedom of information should be guaranteed as a legal and enforceable right permitting every individual to obtain records and information held by the executive, the legislative and the judicial arms of the state, as well as any government owned corporation and any other body carrying out public functions.
- The legislation should contain a presumption in favour of maximum disclosure.
- The right of access may be subject to only such exemptions, which are narrowly drawn, permitting government to withhold information only when disclosure would harm essential interests such as national defence and security, law enforcement, individual privacy or commercial confidentiality, provided that withholding the information is not against public interest.
- Decisions under the legislation should be subject to independent review capable of ensuring compliance.

IV. GUIDELINES

- Governments should enact freedom of information legislation containing appropriate administrative measures for its implementation.
- Governments should permit any individual to obtain information promptly and at low or no cost.
- Legislation should provide for an independent review of decisions capable of providing an effective remedy in any case of delay or denial.
- Governments should maintain and preserve records.
- Government should promote a culture of openness, publicly disseminating information related to the exercise of their functions and the information held by them.

V. THE ROLE OF THE COMMONWEALTH

The Commonwealth through its various institutions should take steps to promote these principles and report periodically on their progress in this regard. The Secretariat should report to the Commonwealth Law Ministers about the progress achieved at their meeting in 2002.

In particular, the Commonwealth Secretariat should facilitate and assist governments in promoting these principles through technical and other assistance including measures to promote the sharing of experience between member states and the involvement of civil society in this process.

Commonwealth associations and organisations are encouraged to consider ways in which they can contribute to this process