

Concluding Recommendations

Four common problems impede development and democracy in the Commonwealth: the inequality of power between government and citizen; the consequent lack of accountability and near impunity of politicians and public officials; corruption; and exclusion of the public from participating in decisions that affect their lives. Open governance and assured access to information offer the key to address these complex issues.

In this interconnected, speeding information age, the combination of technology and easy availability of know-how, coupled with guaranteed access to information, offers unprecedented opportunities for the radical overhaul of governance. Information must be harnessed to create short cuts to development and democracy. It must be shared equitably and managed to the best advantage of all members of society. The means are available, but sadly the will is often not. It is an indictment on the performance of the Commonwealth that so many member states continue to fail to live up to the democratic ideals that are reflected in the commitment to the right to information.

Good governance and democracy are the cornerstones of national and international politics. Autocrats that operate government like a closed shop will not long remain unchallenged. Zimbabwe and Pakistan are examples of the international community's unwillingness to tolerate governments that are not open to their people. Commitments to open government must be taken seriously by members of the Commonwealth if they want to be taken seriously themselves. Putting in place people-friendly access regimes sends a strong message of commitment to democracy and development to the global community. It is long overdue for all Commonwealth countries to dispense with secrecy and information-hoarding and reap the benefits of openness. Doing so might dismay autocrats, but it will be welcomed by democrats committed to building a more dynamic and prosperous society.

CHRI recommends

The Commonwealth must:

- **Call on member countries to introduce liberal access to information legislation.** CHOGM 2003 should declare that the right to access information is *central* to democracy and development and should obligate themselves to adopting laws that are in conformity with international best practice by the next CHOGM at the latest. The minimum standards for such laws are listed on page 77.
- **Assist member countries to put in place effective access to information regimes.** Containing vibrant civil society organisations and some states with exemplary laws, the Commonwealth is well placed to assist members to design and implement effective regimes. For example, the Commonwealth Secretariat can facilitate cooperation with other member states and provide financial and intellectual resources to support the development of access regimes; its Human Rights Unit can provide training to government officials; and the Commonwealth Foundation can encourage public participation in the law-making process and build civil society capacity.

- **Be a role model of open governance.** Each of the agencies of the Official Commonwealth must put in place a clear policy on disclosure, have mechanisms that facilitate openness and must proactively disseminate information about their governance structure, norms and functioning. To implement previous commitments to partnerships between the official and unofficial Commonwealth, the Commonwealth must open up its ministerial meetings and CHOGMs, which currently remain so stubbornly inaccessible.
- **Introduce a reporting mechanism to monitor Commonwealth commitments.** Declarations of support and intent are not enough and a clear procedure for systematically monitoring the implementation of pledges is essential for accountability. The Commonwealth should require its member countries to report to each CHOGM on their implementation of Commonwealth commitments, including those on access to information regimes.

Member countries must:

- **Introduce liberal access to information laws by no later than CHOGM 2005.** These must include the minimum requirements listed below. As with all legislation, the law-making process must be open and individuals and civil society groups must be encouraged to participate to the fullest.
- **Ensure that access to information is effectively implemented.** This requires recognition of the fact that structural and attitudinal obstacles exist, and the will to overcome them.
- **Report to each CHOGM on implementation of past Commonwealth commitments.** This includes reporting on progress towards realising the right to access information, as well as other key commitments.
- **Cooperate with the Commonwealth's efforts to assist members to operationalise open governance.**
- **Demonstrate their commitment to open governance by disseminating information about the structure, norms and functioning of public bodies.** This requires proactive publication of information about, for example, the basic activities of government departments, their rules of operation and procedure, their decision-making criteria, performance indicators, points of public access and financial information including expenditure.

Civil society must:

- **Create public awareness of the value of a guaranteed right to information; act as a bridge between marginalised people and governments to ensure people's information needs are known; and engage with government towards creating the legal regime that best serves the people's interests.**
- **Monitor the use and implementation of access to information laws.** This includes testing and extending the limits of accessibility; reporting upon the extent of secrecy, the availability of information and the need for further reform; and reminding governments of their obligation to ensure access to information.

Minimum Standard for Maximum Disclosure

Access to information legislation must:

- Begin with a clear statement that establishes the rule of maximum disclosure and a strong presumption in favour of access;
- Contain definitions of information and bodies covered that are wide and inclusive, and include private corporations and non-government organisations where their activities affect people's rights;
- Strictly limit and narrowly define any restrictions on access to information. Any body denying access must provide reasons and prove that disclosure would cause serious harm and that denial is in the overall public interest;
- Override inconsistent and restrictive provisions in existing laws;
- Require governments to create and maintain records management systems that meet public needs;
- Include clear and uncomplicated procedures that ensure quick responses at affordable fees;
- Create powerful independent bodies that are mandated to review any refusal to disclose information, compel release, and monitor and promote implementation;
- Impose penalties and sanctions on those who wilfully obstruct access to information;
- Provide protection for individuals who, in good faith, provide information that reveals wrongdoing or mismanagement;
- Contain an obligation to routinely and proactively disseminate updates about structure, norms and functioning of public bodies including the documents they hold, their finances, activities and any opportunities for consultation;
- Contain provisions obligating the government to actively undertake training for government officials and public education about the right to access information.