

**CONTEMPORARY ISSUES AFFECTING THE ENJOYMENT OF  
HUMAN RIGHTS: THE RIGHT TO INFORMATION**

**Memorandum by the Commonwealth Secretariat**

1. The meeting already has before it, in respect of Agenda Item 3(b)(i), paper number **LMM(99)24** and **LMM(99)24(Supplement)** to facilitate the discussions on this agenda item.
2. The attached extract publication issued jointly by the Commonwealth Secretariat and Transparency International and entitled *Access to Information in Developing Countries*,\* is circulated by way of additional background information to facilitate the discussions on Agenda item 3(b)(i). If you require the full publication, please contact the address below.

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April 1999

# **ACCESS TO INFORMATION IN DEVELOPING COUNTRIES**

A study prepared by Robert Martin and Estelle Feldman

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*Published with assistance from the Ford Foundation*

# PREFACE

This publication is the result of a joint collaboration between the Legal and Constitutional Affairs Division of the Commonwealth Secretariat and Transparency International (TI), a non-governmental organisation active in the field of building integrity and countering corruption. It builds on a long history of the Commonwealth Secretariat's work with like-minded and appropriate non-governmental organisations in the pursuit and promotion of common goals.

This particular study, funded by the Ford Foundation, addresses the need for members of the public to have rights of access to official information both to enable them to enforce their rights and to strengthen the democratic processes which are the hallmark of the Commonwealth's Harare Declaration.

Given the depth and breadth as well as the variety and wealth of the Commonwealth's experience in this area, it is appropriate that the contributions by member countries should feature throughout the study. We believe that this publication is a useful addition to the literature on this subject and commend it to policy makers, researchers and those campaigning for needed reforms in an area of critical importance.

We join in thanking the two authors, Robert Martin of Canada and Estelle Feldman of Ireland for the signal contribution they have made to our understanding of the issues and for pointing the way forward to possible reforms.

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# ABOUT THE COMMONWEALTH SECRETARIAT

The Commonwealth Secretariat (established 1965) is the main intergovernmental agency of the Commonwealth, facilitating consultation and co-operation among member governments and countries. It is responsible to member governments collectively.

The Secretariat organises Commonwealth summits, meetings of ministers, consultative meetings, and technical discussions; it assists policy development and provides policy advice, and facilitates multilateral communication among the member governments. It also provides technical assistance to help governments in their social and economic development and in support of the Commonwealth's fundamental political values.

The Secretariat is headed by a Commonwealth Secretary-General who is elected by Heads of Government.

The Legal and Constitutional Affairs Division of the Secretariat facilitates Commonwealth legal co-operation over constitutional issues, commercial crime, human rights and other aspects of law. This legal co-operation is a unique feature of the Commonwealth, made possible because members have similar legal systems, most based on, or greatly influenced by, the common Law. The division:

- facilitates dialogue among governments on legislation and other legal matters. It organises three-yearly Meetings of Law Ministers, Law Officers of Small Commonwealth Jurisdictions, and Meetings of Senior Law Officers of Ministries of Law;
- informs governments of international legal developments;
- keeps governments apprised of developments in law in other Commonwealth countries through responses to requests from officials and judges, and regular publications including the Commonwealth Law Bulletin;
- promotes co-operation between governments on legal matters including combating corruption in public life.

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**Incorporating international conventions:** The division also assists governments to bring their national laws in line with international conventions such as the UN Declaration on the Elimination of Violence against Women, the Recommendations of the Financial Action Task Force on Money Laundering, and relevant World Trade Organisation (WTO) Agreements.

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# TRANSPARENCY INTERNATIONAL'S MISSION STATEMENT

## Rationale

- Corruption is one of the greatest challenges of the contemporary world.
- It undermines good government, fundamentally distorts public policy, leads to the misallocation of resources, harms the private sector and private sector development and particularly hurts the poor.
- Controlling it is only possible with the co-operation of a wide range of stakeholders in the integrity system, including most importantly the state, civil society, and the private sector.
- There is also a crucial role to be played by international institutions.

## TI's Purpose

- To curb corruption by mobilising a global coalition to promote and strengthen international and national Integrity Systems.

## Guiding principles

TI is based on the following guiding principles:

- TI recognises the shared responsibility of actors in all regions for corruption, and its emphasis is on prevention and on reforming systems, not on exposing individual cases;
- TI considers that the movement against corruption is global and transcends social, political, economic and cultural systems;

Internally, TI observes the principles of participation, diversity, accountability and transparency;

- TI is politically non-partisan; and

TI recognises that there are strong practical as well as ethical reasons for containing corruption.

## How TI achieves its purpose

- TI builds national, regional and global coalitions, embracing the state, civil society and the private sector, in order to fight domestic and international corruption;
  - TI co-ordinates and supports National Chapters to implement our mission;
  - TI assists in the design and the implementation of effective integrity systems; and
- TI collects, analyses and disseminates information and raises public awareness on the damaging impact of corruption (especially in low-income countries) on human and economic development.

## What makes TI different?

- TI is the only international movement exclusively devoted to curbing corruption.
- TI is an international centre of expertise on combating corruption, pooling a large number of highly professional volunteers for an integrated approach.
- TI seeks to empower civil society to play a meaningful role in countering corruption.

April 1998

### **The Rationale:**

“Real democracy cannot be worked by men sitting at the top. It has to be worked from below by the people of every village and town. That sovereignty resides in and flows from the people. So said the Father of the Nation in whose name we swear. Therefore, “Who will watch the watchman?” is the vexed question before our democracy. For this people’s participation at all levels is a must.”  
*Narendra v. Manikrao* A.I.R. 1977 S.C. 2171 (India)

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### **The Publishers:**

**Transparency International (TI)** is a not-for-profit non-governmental organisation with its headquarters in Berlin, Germany. Founded in 1993, it presently has over seventy national chapters formed or in formation, in all parts of the world. TI’s Mission Statement appears on page 2. Full details of the organisation and its finances are on the TI web site, together with the *TI Source Book on National Integrity Systems* to which this publication is an adjunct.

TI is a non-political global movement against corruption. It brings together into a coalition with civil society groups and NGOs interested in promoting just and honest government, a wide range of stakeholders, including development agencies, private sector interests, and international financial institutions.

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## **Authors' Acknowledgments**

*The authors wish to acknowledge their indebtedness to Toby Mendel, Legal Adviser, Article XIX, London and to Maurice Frankel, Director, Campaign for Freedom of Information, London. Their help was invaluable. We also thank Jeremy Pope, Managing Director, Transparency International, for his encouragement and support throughout the project. Thanks also to Brian Cooksey, Cyrus Das, Venkat Iyer, and Jonathan Klaaren for answers to questions. Maja Daruwala and Abha Joshi of the Commonwealth Human Rights Initiative in New Delhi kindly clarified a number of points. Frances Andrews and Amy Jacob of the Faculty of Law, The University of Western Ontario helped with a host of word-processing and electronic essentials. Very special thanks go to Barbara Martin. Her assistance with editing was indispensable.*

## **Transparency International's acknowledgements**

Transparency International (TI) acknowledges with gratitude the financial assistance from the Ford Foundation which made this study possible.

An extended version of this study, including additional legislation from Ireland and prepared for Hong Kong, appears on TI's web site: see <http://www.transparency.de>

*This study is one of a series being prepared to empower civil society to engage in meaningful and effective debates about the development of their countries' National Integrity Systems. An up-to-date list of the studies published, and the publications themselves, may be seen on the TI web site.*

# TABLE OF CONTENTS

1.	WHAT IS ACCESS TO INFORMATION?	1
2.	WHY IS ACCESS TO INFORMATION IMPORTANT?	5
3.	ELEMENTS OF ACCESS TO INFORMATION	10
	a) The Johannesburg Principles	10
	b) General principles on access to information	10
4.	PRECONDITIONS FOR FREE ACCESS TO INFORMATION	13
	a) Political stability	13
	b) Autonomy of the legal system	15
	c) Infrastructure	15
	d) Library services	19
	e) Quality of data	22
5.	WHY IS ACCESS IMPORTANT IN DEVELOPING COUNTRIES?	25
	a) What is a developing country?	25
	b) Poverty and access to information	26
	c) Why is access to information important for growth and development?	27
	d) Development aid and the right to know	28
	i) <i>The status of the recipients</i>	28
	ii) <i>Donor governments and organisations</i>	30
	iii) <i>Access to information and development programmes</i>	32
6.	UNIVERSALITY OF HUMAN RIGHTS	33
	a) The developed countries:	
	The European Convention on Human Rights	33
	b) Developed and developing countries:	
	The American Convention on Human Rights	34
	c) Developing countries:	
	The African Charter on Human and Peoples' Rights	35
7.	NATIONAL LEGISLATION ON ACCESS TO INFORMATION	37
	a) South Africa	37
	b) Namibia	40
	c) Mozambique	42
	i) <i>Political and legal background</i>	42
	ii) <i>Constitutional guarantee to right of information</i>	43
	iii) <i>Access to information in Mozambique</i>	43
	d) Malaysia	44
	e) Commonwealth Caribbean	45
8.	A CASE STUDY: INDIA AND ACCESS TO INFORMATION	48
	a) Political background	48
	b) Constitutional background to access to information	48
	c) Supreme Court judgments relating to access to information	50
	d) Regulating the press and other media	52
	e) Access to information legislation	54
	i) <i>Freedom of Information Bill, 1998</i>	54
	ii) <i>Additional amendments, classification and training</i>	56
	f) Conclusion	58
9.	CONCLUSIONS AND RECOMMENDATIONS	60

## **APPENDICES**

<b>Questionnaire -</b>	<b>63</b>
<b>Extract from Access to Information Act 1997 (Ireland) -</b>	<b>67</b>
<b>Access to Information Bill (Hong Kong)-</b>	<b>91</b>

# CHAPTER 1

## WHAT IS ACCESS TO INFORMATION?

Access to information may be defined as the ability of the citizen to obtain information in the possession of the state. Some states provide for access in their constitutions and laws; many do not. Even where access is recognised, it is invariably subject to limitations. In addition, states may impose fees, and require the payment of administrative costs before citizens actually obtain the information they are seeking.

It has been argued that access to information is an essential element of democratic government. That is, if democracy is to flourish, citizens must be adequately informed about the operations and policies of their government. As a recent report prepared for the Government of India noted:

It is now widely recognised that openness and accessibility of people to information about the government's functioning is a vital component of democracy.<sup>1</sup>

Access to information attempts to ensure that this will happen.

The purpose of this study is to survey existing laws and practices respecting access to information in the developing countries. The study is also intended to assist those democracies whose constitutions pledge the passage of freedom of information legislation in framing such legislation. It may also benefit the citizens of those democracies by ensuring that the legislation is clear, well thought-out, and effective. We will begin by discussing access to information in general and then look in more detail at the current situation in the developing countries.

Many people believe that access to information is a fundamental human right. This belief is reflected in international human rights instruments, the most significant being the Universal Declaration of Human Rights, proclaimed in December 1948. Article 19 reads:

*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers.*

Article 19 is reaffirmed and expanded upon in the International Covenant on Civil and Political Rights of 1966. This provision, also titled Article 19, states:

***Everyone shall have the right to hold opinions without interference.***

***1. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.***

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<sup>1</sup> Working Group on Right to Information and Promotion of Open and Transparent Government, Report, Ministry of Personnel, Public Grievances and Pensions, New Delhi, 1997 paragraph 2.1. Cited as India Report.

2. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*

*For respect of the rights or reputations of others;*

*For the protection of national security or of public order (ordre public), or of public health or morals.*

Section 1 of Article 19 establishes the right to hold opinions and section 2 expands on the scope of freedom of expression. Section 3 is a limitation clause in which certain legal restraints are acknowledged as being consistent with the freedom. It is important to note that section 3 specifies that these restrictions “*shall only be such as are provided by law.*” There are two permissible bases for limitations on expression: the first relates to individual rights and the second to state powers.

For the purposes of this paper, the key words in both international instruments are the *freedom to seek, receive, and impart information*. It can be noted that of themselves *seeking, receiving, and imparting information* are not part of a separate and distinct right, but are included in both documents as elements of freedom of expression.

Freedom of expression presupposes something to express. Therefore, access to information is inextricably tied to freedom of expression. The words “to seek, receive, and impart” are set out in the Universal Declaration as if they were the constituent parts of one indivisible right.

While it may be that a right of access to information can be implied from international and national guarantees of freedom of expression, it is nonetheless important to maintain the conceptual distinction. Access to information and freedom of expression are closely related, both practically and theoretically, but they are not identical.

The phrase “freedom of information” originated in the United States. There is a widely held view that the United States has one of the world’s most open and transparent systems of government. But Sweden, in 1766, was the first to enshrine a right of access to information in its laws.<sup>2</sup> Interestingly, it was not until the latter part of the twentieth century that the U.S. Supreme Court interpreted the First Amendment to the Constitution as including a right of access to information.

Freedom of speech and the press are expressly guaranteed by the First Amendment, but this guarantee had previously been interpreted as only indirectly ensuring the public’s right to know.

Prior to the 1970s,

. . . members of the (U.S. Supreme) Court on occasion did acknowledge the amendment’s embodiment of affirmative rights, such as the right to receive and gather or obtain information, but only in dicta and dissenting opinions. Furthermore, throughout the 1950s and 1960s affirmative rights to acquire information were recognized only as reciprocal or corollary rights, not independently assertable constitutional rights.<sup>3</sup>

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<sup>2</sup> “The oldest [freedom of information] law (anticipating the rest of the world by two centuries) is called the Swedish Freedom of the Press Act, though its right of access provisions are not limited to the press at all.” Michael, James *Freedom of Official Information*. *OSCE Office for Democratic Institutions and Human Rights Bulletin* Vol 5:1 Winter 1996/1997 ps.1-21 at 1

<sup>3</sup> O’Brien, David M. *The Public’s Right to Know: The Supreme Court and the First Amendment* 1980 p.119

An extract from a judgment of Justice Thurgood Marshall, pronounced in 1972, illustrates this earlier position:

In a variety of contexts this Court has held that the First Amendment protects the right to receive information and ideas, the freedom to hear as well as the freedom to speak. The reason for this is that the First Amendment protects a process . . . and the right to speak and hear -- including the right to inform others and be informed about public issues -- are inextricably part of that process. The freedom to speak and the freedom to hear are inseparable: they are two sides of the same coin. But the coin itself is the process of thought and discussion.<sup>4</sup>

In this judgment, *the right to inform others and be informed about public issues* is considered to be part of the process of free speech; but, whereas the rights to speak and hear are referred to as two sides of the same coin, the right to information is not so clearly recognised. Indeed, it is nearly impossible to discover a definition of the right to information which is not somehow linked to forms of expression. Perhaps, therefore, the most appropriate metaphor is that information is the metal from which the coin of expression is minted.

Why does defining the right to information matter? Clearly, when one is construing international treaties for legal purposes, the meaning of the words matters a great deal. Moreover, since this paper is specifically about access to information in developing countries, coherence requires an attempt to untangle various well-worn themes.

This confusion of terminology relating to “information exchange” was highlighted by Martin in his book, Media Law:

One must distinguish between four different though related notions: freedom of speech, freedom of the press, freedom of expression, and freedom of information. It is essential to keep the four separate, even though they are often used interchangeably. Although they relate to similar things they are not identical.

Freedom of speech addresses the ability of individuals to communicate ideas and information without interference from the state. Freedom of speech has typically meant the freedom to publish -- publish being used here in its widest possible meaning as writing, speaking, printing, or broadcasting ideas and information-- without prior restraint imposed by the state. A prior restraint is any state-created limit whereby individuals must seek some form of official permission before they may lawfully publish material. When we speak of censorship as a legal concept, we mean prior restraint.

Freedom of the press is a related notion, but it is not identical. Freedom of the press includes the absence of prior restraint, but there can be circumstances where distinctions, even contradictions, arise between freedom of speech and freedom of the press. If freedom of speech is to be meaningful in the kind of society in which we live, it must include some notion of access to the mass media. If freedom of speech simply means that I can set up my soapbox in the corner of a field and rave at the blue sky, it may not be a practical or useful freedom. While freedom of the press contains elements of free speech, it also ensures that the managers or proprietors of a newspaper, journal, radio station, or television network are free to have the last

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<sup>4</sup> ibid ps.118/9 Judgment given in *Kleindienst v. Mandel*, 408 U.S. 753, 775 (1972)

word about what they will or will not print or broadcast. While freedom of speech and freedom of the press may often be synonymous, there can be instances where there is tension or even direct contradiction between the two.

Freedom of expression contains many of the basic elements of free speech, but it is a consciously broader and more expansive notion. It clearly embraces the freedom to speak, write, print, and publish but it also means that pure physical acts can attract the same kind of protection. Freedom of expression may also protect the communication of ideas or opinions through purely physical acts.

Freedom of information is a very different notion from freedom of speech, freedom of the press, or freedom of expression. Freedom of information is a phrase which was invented in the United States and which is misleading. It has to do with the ability of individuals to gain access to information in the possession of the state. Freedom of information legislation in the United States gives people a legal right of access to such information. The federal legislation in Canada is more accurately titled as the Access to Information Act. This title describes what the statute is about.

Many people who do not understand what freedom of information means have, in recent years, confused freedom of information and freedom of speech and expression. The confusion is compounded by the fact that freedom of information is a phrase with little inherent meaning.<sup>5</sup>

*Access to information* is a short way of stating the totality of seeking and receiving information -- the right of individuals to be informed about the activities of their state, past, present, and future.

The phrase *freedom of information* is widely used when referring to the ability of individuals to gain access to information in the possession of the state. In writing this paper, we have treated *access to information and freedom of information* as being synonymous. More important, for the reasons outlined above, we believe the phrase *freedom of information* to be inaccurate and misleading. Throughout this paper we will use *access to information*.

Finally, it is important to distinguish between access to information—*real* information—and access to what is known colloquially as “bumf.” The information to which citizens want access is useful, practical information, not simply unlimited amounts of government propaganda. The Government of Malaysia, for example, makes an enormous volume of information available. Its online “Civil Service Link” is a highly sophisticated, exceedingly detailed guide to government departments and services. This is an admirable initiative, but it is not necessarily the same thing as access to information. Access to information is fundamentally about the quality of the information available from the state, not the quantity.

Often, in a practical sense, access to information means getting information the government doesn't want you to have.

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<sup>5</sup> Martin, Robert *Media Law* Toronto 1997. Quoted liberally from Introductory chapter.

## CHAPTER 2

# WHY IS ACCESS TO INFORMATION IMPORTANT?

Before analysing this question in detail, a word of caution is necessary. We believe access to information to be important. We believe access can render the processes of government more open and make those in power more accountable to their people. But access to information is not a magical cure for all social ills. It can be a useful tool in improving societies, but it cannot, in and of itself, bring about radical transformation.

It is clear that, in order to place value on freedom of expression, people must be informed. One cannot exercise freedom of expression unless one has something to express. Information is a necessary element in the generation of knowledge. The theme of the 1994 Conference of the International Group of the Library Association (IGLA) was *Emerging Democracies and Freedom of Information*. Recent significant political events were cited to illustrate the power of television as an information source contributing to social change.

As one speaker observed:

The public in the German Democratic Republic (GDR) had access to television from the Federal Republic, proving that when the Communist leaders told the GDR citizens that they were living in an ideal socialist society this was not correct. The public had access to information and from it they could make their own comparisons and form their own opinions, rather than accept the opinions that were dictated to them by the Party. Similarly the Albanians had access to Italian television; witness the rush over the Adriatic Sea to Italy when the regime in Tirana collapsed. Today that fear in information from television is still present. For example, the banning of satellite dishes in Iran recently and, ... the banning of ownership of dishes in China. Both countries, for different reasons, appreciate the importance and dangers for the régimes of citizens having access to information which they can use to make comparisons with the situations that they are told exist beyond their borders and to make comparisons with the situation inside their own country.<sup>6</sup>

The speaker continued with examples, from Poland and Nigeria, of the importance of printed sources of information and the courageous role of librarians in ensuring that banned literature remained in circulation. In the early 1980s, the literary works of Solzhenitsyn and Pasternak were banned but circulated underground demonstrating both the power of information, and,

professional responsibilities by librarians in Cracow collecting Polish zamizdat literature illegally and dangerously, believing that at some stage in the future this literature will be seen as an important part of the literary and cultural national heritage.<sup>7</sup>

In Nigeria, during the civil war of 1967 – 1970, the government banned access to any material published on behalf of the break-away régime in Biafra.

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<sup>6</sup> Bowden, Russell *Emerging Democracies and freedom of information* in Emerging Democracies and Freedom of Information: Conference Proceedings 1994 ed. Turfan, B with Ladizesky, K and Smith, I.A. p.6

<sup>7</sup> *ibid* p.6

The national librarian consulted the military government at some risk to himself to get permission to obtain this material and hold it confidentially, arguing that it was part of Nigeria's literary heritage.

Both actions indicate the courage of librarians in upholding the concept of free access to information.<sup>8</sup>

The eminent American law professor, Thomas Emerson, in his classic commentary on the First Amendment to the United States Constitution, wrote as follows:

[S]uppression of belief, opinion, and expression is an affront to the dignity of man, a negation of man's essential nature. . . From these concepts there follows the right of the individual to access to knowledge; to shape his own views; to communicate his needs, preferences and judgments; in short, to participate in formulating the aims and achievements of his society and his state. To cut off his search for truth, or his expression of it, is thus to elevate society and the state to a despotic command and to reduce the individual to the arbitrary control of others.<sup>9</sup>

In Emerson's view, society uses freedom of expression to protect certain values which can be grouped in four broad categories. The first of these is assuring individual self-fulfilment. The second set of values focuses on means of attaining the truth. The third addresses a method of securing the participation of members of society in social and political decision-making; and the fourth category of values seeks to maintain the balance between stability and change in society.

In expanding on the concept of participation in decision-making, Emerson noted:

The third main function of a system of freedom of expression is to provide for participation in decision-making through a process of open discussion which is available to all members of the community. Conceivably the technique of reaching the best common judgment could be limited to an elite, or could be extended to most members of the society excluding only those who were felt to be clearly unworthy . . .

It is through the political process that most of the immediate decisions on the survival, welfare and progress of a society are made. It is here that the state has a special incentive to repress opposition and often wields a more effective power of suppression. Freedom of expression in the political realm is usually a necessary condition for securing freedom elsewhere. It is in the political sector, therefore, that the crucial battles over free expression are most often fought . . .

Freedom of discussion in public affairs serves as an important function regardless of whether the political structure of a nation is democratic or not. Every government must have some process for feeding back to it information concerning the attitudes, needs and wishes of its citizens, to make known their wants and desires.<sup>10</sup>

These are strong statements in support of open and transparent government. While Emerson did not directly refer to access to information, it seems clear that freedom of speech cannot be achieved without it.

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<sup>8</sup> *ibid* p.7

<sup>9</sup> Emerson, Thomas I. *Toward a general theory of the First Amendment* The Yale Law Journal Vol 72, 1963 ps.877-956 at p.880.

<sup>10</sup> *ibid* p.882ff

As recently as late 1996 and in a more direct vein, a European expert on access to information suggested that its purpose is to redress the imbalance of power between the citizen and the state and to promote efficiency.

He observed that:

Most "Freedom of Information" statutes evolved from administrative law. There was first established a basic rule that government is subject to law, and that the citizens have rights to take legal actions against the state for breaches of the law. A consequence of such a right is that citizens have legally enforceable rights of access to records in the possession of government that are relevant to their claims. Once such a right of access is established, the next major step is to remove the requirement that the records be relevant to a legal claim, making the right of access a right of citizenship (or often simply a right of humanity).<sup>11</sup>

Commenting on the most recent experiences of access to information, the same writer related access to encouraging efficiency and honesty in government:

Open government laws are not simply for the satisfaction of citizens' curiosity. They usually derive from rights of access to records relevant to a legal interest, and there is a continuing connection between the interest which a citizen has in how the country is governed and a right of access to records about government. Such a right of access may be important in disclosing inefficiency and even corruption.<sup>12</sup>

The article concluded with a brief explanation of terminology. This is included here as further evidence of the complexity that can be encountered in attempting to explicate the topic of access to information across borders and across cultures.

The term "open government" has generally been preferred ... to that of "Freedom of Information," as the subject has been laws which establish a public right of access to government records. As such legislation has been adopted, several languages have provided for expressions of the basic principle. Swedish was first by far, with *offenlighetsprincip* (with similar expressions in other Nordic languages), usually being translated as "the publicity principle." Although the United States is committed to the words "Freedom of Information" ... by the U.S. Act, Americans also use "the people's right to know" and "open government." The 1978 French law has contributed *transparence administrative*, usually translated into English as "open government" or "administrative openness." From the former Soviet Union, we have the word *glasnost* for the principle "that every citizen has the inalienable right to obtain exhaustive and authentic information on any question of public life that is not a state or military secret."<sup>13</sup>

Once again, we observe the complexity in addressing the many facets of information. In this instance, information is the basis of open government. Rooting out inefficiency and corruption is viewed as the principal objective of openness and transparency in government.

The extent of corruption in government world-wide has led to the recent establishment of Transparency International (TI), a non-governmental organisation based in Berlin. To focus attention on corruption, TI conducts surveys of the perceptions of international business people

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<sup>11</sup> Michael, *op cit* p.15

<sup>12</sup> *ibid* p.15

<sup>13</sup> *ibid* p.21 including n6 Gorbachev, Mikhail *Perestroika* p.304, Fontana edition 1988

concerning corruption in the countries where they operate. The results are published in an annual Corruption Perception Index. The 1997 Index found Nigeria perceived to be the most corrupt country, followed by Bolivia, Colombia, and Russia; Denmark was perceived to be the least corrupt.<sup>14</sup> TI considers one of the first steps in fighting corruption should be:

to ascertain what the public perception is regarding existing levels of corruption and where corruption takes place in order to provide a baseline against which the progress of anti-corruption reform can be measured. Secondly, the legal and administrative environment should provide an enabling environment for a free press. The freedom of the press will be aided by several measures, such as passing Freedom of Information laws giving private citizens, including journalists, access to government information; repealing or revising anti-defamation laws and "insult" laws to ensure that these cannot be used to threaten and fetter the press; ending press and media censorship; raising the professional standards of journalists; ending government discrimination such as controlled access to newsprint, advertising of certain media; and, ensuring that state-owned media employees can maintain professional standards of independence and responsibility.<sup>15</sup>

In relation to developing countries, TI regards South Africa as an exemplar in introducing open government. South Africa has attempted to render the entire parliamentary process as open to the public and the press as possible, empowering select committees, particularly the Public Accounts Committee, to hold the Executive accountable. In the TI Source Book the comment is made that:

The inauguration of public accountability through parliament in South Africa demonstrates in a very practical way, the worst features of a secretive and highly corrupt form of governance -- the apartheid years were characterised by obsessive secrecy -- and the very best features of open government . . .

All select committees must meet in public, and if they wish to go into a closed session they must publicly debate the reasons for doing so. (South African journalists used to processing only pre-prepared government handouts, are now complaining that there is too much for them to cover!) Parliamentarians have been empowered to call civil servants to account, and the passage of budgetary estimates through the democratic process has been a frightening experience for senior civil servants who were accustomed to getting approval literally "on the nod."

. . . In the hands of a newly, and transparently appointed and high-powered constitutional court, these constitutional provisions can be expected to take a bite out of parliamentary corruption.<sup>16</sup>

Thus, the constitution of the country not only purports to guarantee open, fair, and transparent government procurement, but also to ensure access to information.

Another model for open government legislation is found in the Bolivian Transparency Decree (Number 23318-A of 3 November 1992). An unofficial translation of Article 5 has been provided by Transparency International:

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<sup>14</sup> Transparency International ([www.transparency.de](http://www.transparency.de)), Corruption Perception Index, 1997

<sup>15</sup> *ibid*, The TI Source Book *National Integrity Systems*, extract from Executive Summary

<sup>16</sup> *ibid* extract from Chapter 5: The Democratic Process

*The transparent performance of their duties by public servants is fundamental for the credibility of their acts and comprises:*  
*the generation and transmission in an appropriate manner of useful, timely, comprehensive, reliable and verifiable information to their hierarchical superiors, public entities which provide the funds being used, or any other person who is empowered to supervise their activities;*  
*preserving and allowing access at all times to such information by their superiors and persons who are in charge of internal or external controls, as well as verifying the efficiency and trustworthiness of the information system;*  
*open information before, during and after the execution of their acts in order to report to society with regard to the essence of public funds allocation, their use, main results obtained and main issues affecting their investment and results; and,*  
*providing processed information to all persons who require it and demonstrate a legitimate interest in it.*

*Any limitation on, or reservation of, transparency must be specified for each category of information and shall not be expressed in general terms in respect of any entity or its agencies. It must also be expressly authorised by a law which indicates clearly to which independent office such limitations or reservations must be accounted for and how individual classified or reserved acts are to be accounted for.*

The exposure and ultimate elimination of corruption are important in all countries. Resources are finite and governments need to be efficient as well as effective in their application. Transparency in government in order to ensure that citizens' interests are pursued and protected by those in power is just one of the reasons access to information is essential to good governance.