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Theoretical Perspectives on the Right to access to Information

Expanding the Democratic Space

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Expanding the Democratic Space:
Theoretical Perspectives on the Right to Access to Information

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Introduction

Birkinshaw points out that that information is a feature of power and so too is its control, use and regulation. Those possessing and controlling information have power and their power is augmented if they have exclusive use of that information.[1] The possessors of information often disallow access to their information. Sometimes the reasons for refusal to allow access may be legitimate, but often they are not.

Modern governments engage in a huge range of activities and hold massive amounts of information. Yet almost all governments jealously guard the information in their possession and are most reluctant to surrender it. The dominant culture in government systems is still a culture of secrecy. So too in the private sector. Economic globalisation and the prevalent trend of liberalisation of economies by governments, for instance privatising state enterprises, has placed enormous power into the hands of private commercial enterprises. Much of the information possessed by these organisations is kept secret and is not accessible.

This paper examines the dangers of allowing a culture of secrecy to prevail both within the public and private sectors and explores what is required to transform this culture and to allow far more access to information. It also, however, accepts that that there are certain types of information that both public and private bodies are fully justified in keeping secret such as military secrets during times of war or trade secrets.

Access to information in the Public Sector

The topic of right of access to information, or freedom of information as it is also known rather misleadingly,[2] and the closely related topic of greater openness in systems of government, have become an important theme in contemporary political discourse. The subject raises complex questions of legal and political theory and often leads to heated controversy.[3]

The political values of a country will obviously shape the policies in relation of access to official information. A dictatorial and autocratic regime will only release the information that it believes the people should receive and that is usually only information that will portray the government in a good light. Corrupt and inept governments will conceal information or will tell half-truths. The more the government has to hide, the more it will resist moves to have a system of easier access to government information. The competitive multi-party electoral system also lends itself to the manipulation of official information. The ruling party will often supply the public with highly

[1] At p 24

[2] This is somewhat misleading as freedom requires simply absence of restraint. However, so-called freedom of information legislation creates a right to have access to information and an obligation on the part of the holders of the information to supply that information.

[3] Birkinshaw p 1

selective information to enhance its chances of re-election. Many systems of government claiming to be democratic are extremely secretive with official information. Michael suggests that Britain "is about as secretive as a state can be and still qualify as a democracy."[4] On the other hand, political systems that attach importance to transparency and accountability and public participation will allow easy access to official information.

Regarding the role of the law in relation to access to official information Birkinshaw points out that the law can play one of three roles in relation to official information, it can protect government information, it can adopt a neutral role or it can compel greater openness.[5] In England the law has strongly played the first role and public officials are very secretive in relation to official information.

The proponents of open government argue that access to information in the possession of Government should be extended as far as possible by law. People have a right to know as much as possible about how they are governed. Openness should be the rule and secrecy should be the exception. The overall approach should be that there should be a general right of access to official information held by both central and local government authorities and this right should only be denied where there are compelling reasons for doing so on the grounds of necessary protection of genuine and essential public interests or legitimate private interests.

This portion of the paper examines the nature of the right of access to official information and its place in contemporary democratic societies. It starts with an historical survey of the development to a right to information. It sets out the positive benefits that are supposed to ensue when the information system is opened up to the public and suggests the sort of questions that need to be asked to test the validity of the claims that such positive benefits will result. It deals primarily with access to information held by the executive branch of government, although it also touches upon access to information about the activities of Parliament. It deals primarily with access to such information by the public, but also makes mention of access by Parliament to information about the way in which the executive is performing its functions.

Historical background

Historically the first Western democracy to incorporate a constitutionally guaranteed right of access[6] to public information was Sweden where this right was first established in 1776 and since then the "right has existed almost unbroken to the present and has been developed into a cornerstone of Swedish democracy." [7] In other countries the debate about the need for recognition of a right of access to official information has occurred only in recent times and it is over the last few decades that some of these countries have started to legislate so as to provide for this right. Mathews says that "the question whether executive actions should be subject to

[4] Michael p 3
[5] Birkinshaw p 10
[6] Germany and Austria have also such constitutional guarantees.
[7] This provision was suspended during the absolutist reign of Gustav III, but restored in 1809.

public scrutiny has become a serious issue in Western political and legal writings only in the past two or three decades." [8]

In the United States the right of access government documents did not find its way into the American Constitution but legislation providing for access at the federal level was finally enacted in 1966. Most states have also enacted legislation providing for a right of access to official information held by state administrations. Again at a federal level Australia first enacted legislation providing for access to information in 1982 and one Australian State, Victoria, also enacted in 1982 its own freedom of information legislation to provide access to information held by State officials. Although there has been concern over the nature of the Official Secrets legislation in Britain for some time, it is only over the last few years that the issue of access to information has been vigorously debated. The Labour Party is now actively pursuing this issue and there is likely to new legislation on this topic within the near future. [9]

In Southern Africa the only countries to incorporate an access to information guarantee into their Constitutions are South Africa and Namibia.[10] Far-reaching open democracy legislation has been drawn up in South Africa setting out detailed mechanisms for the exercise of this right and for access by the public to the meetings of Parliamentary committees. This legislation is currently before the South African Cabinet.

Commenting upon the belated entry into political debate of the issue of access to information, Mathews observes that "if access to government files and deliberations is an essential aspect of democracy, the realisation of its importance has dawned very later in the history of political theory and practice."[11] Mathews' explanation for why this issue has only entered the picture in relatively recent times is along these lines. The main reason, he says, has to do with the political perception of democracy that was dominant up until recent times. This was the old notion of representative democracy espoused by the Tories that used to hold sway in Britain and was also practised elsewhere. The basic features of this notion were "the belief in hierarchy as a condition for order, the acceptance of authoritative leadership and the duty of the masses to obey their elected leaders." The citizen had only a right to select parliamentary representatives; he had no right continuously to direct policy and thus had no need for information about policy formulation. Indeed exponents of elitist democracy propounded the view that the information upon which the governing class acts cannot and should not be shared with the citizenry because the capacity to govern will thereby become debilitated. Some of the exponents of this viewpoint included the following.

- Bagehot believed that democracy can be made to work only "if its real rulers are protected from vulgar enquiries".
- Walter Lippmann declared that an elected executive official's main duty is to his office and not to the people who elected him, and he denounced popular control of government by saying that "Where mass opinion dominates government, there is a morbid derangement of the

[8] At p 2

[9] Other countries to enact such legislation include Finland (1951), New Zealand (1982), the Netherlands (1978), Canada (1982), Norway (1970), Denmark (1970)

[10] See Article 32 of the South African Constitution and Article 19(3) of the Namibian Constitution.

[11] At p 2

functions of power. This derangement brings about the enfeeblement, verging on paralysis, of the capacity to govern.' Proceeding from the argument that public interests can be managed only by a specialised class, he added: "This class is irresponsible for it acts upon information that is not common property, in situations that the public at large does not conceive, and it can be held to account only on the accomplished fact."[12]

The rise to prominence of the issue of access to official information seems therefore to have coincided with the movement towards establishing a more participatory form of democracy. Today there is a widespread belief that government should be much more of a two-way process rather than an essentially hierarchical, one way mechanism. Access to information is seen as an essential pre-condition for active public participation in governmental processes Access to government information allows the public to understand better government processes and to engage in more informed and rational discussion and debate on government policies and the mechanisms for implementing these policies. An open style of government permits Parliament, pressure groups and interested members of the public to participate in policy decision-making. An open government is more likely to be better informed than a government than a closed one. A consequence of openness in government is that the quality of decision-making may be improved.

Reasons for wanting information

We need to ask questions such as what sort of information is being sought, by whom and for what purpose?
An individual may require information to protect or advance his own personal interests as, for example, he needs that information in connection with litigation in which he is engaged. Or he may want the information in order to serve the public interest by, for example, exposing corruption in government.

There are two main public interest purposes for which information will be sought. The first is to check that the Executive is performing its duties competently and honestly. (When members of an opposition political party seek to uncover instances of incompetence and dishonesty in the public administration, they will usually make use of any such information to embarrass government and thereby strengthen that party's own political standing.) The second public interest reason is to allow the public to participate more fully in the democratic process. There are two further reasons why an individual may want to find out more about administrative action. Where a person has been personally affected by the action, that person may seek information to use in litigation challenging the executive action.. Finally if the executive is holding documents containing information about an individual, the reliance upon which information could have prejudicial consequences to him or her, that person may wish to have access to those documents to check upon the accuracy of that information contained in them about him or her.

People may also wish to have information upon how Parliamentarians are performing their work either to be able to assess their performance or in order to be able to try to influence

[12] These are taken from Mathews' book at p 3.

Parliamentarians in their decision-making processes. In most countries the judicial and parliamentary processes are open for public observation. In the English system the public's right of access to the courts and to Parliament is a long-standing one. Mathews notes that

> The public were freely admitted to Parliament in the late eighteenth century but their presence in the House of Commons was recognised by official orders of the House only in 1945. The right to publish debates was finally won, after protracted struggle, at the end of the eighteenth century. The courts of law have always been open, with minor exceptions, throughout the course of English legal history.[13]

In Zimbabwe ordinary Parliamentarian sessions are open to the public but Committee proceedings are not. It is only after the Committee has reported to Parliament that the report is accessible to the public. Indeed currently it is a serious criminal offence to publish the proceedings of a Committee of Parliament before the proceedings of the Committee have been reported to Parliament. [14]

Anticipated benefits

Those pressing for less secrecy and more openness in relation to public administration believe that by providing the public with greater access to official information a number of positive consequences will ensue. These include:

- that the Executive will be more accountable for its actions and this will lead to a more efficient and less corrupt public administration;
- that more information about public matters will allow greater participation by the people in the affairs of state and this will improve the quality of government decision-making;
- that greater dissemination of information will enhance development processes and will fortify other fundamental human rights such as freedom of expression.

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[13] At p 1.

[14] Section 22 of the Privileges, Immunities and Powers of Parliament Act [*Chapter 2.08*].

Interplay between democracy and access to information

Information is seen as at the core of the governance issue. The free flow of information is considered to be a necessary pre-requisite for the proper functioning of a democracy or, at the very least, as greatly enhancing the democratic process. A democratic government is elected by the people to serve the interests of the people and is answerable to the people for carrying out this mandate. The people are therefore entitled to have information about how the government is carrying out its mandate; they should be allowed as much access as possible to information about the operations of government as a whole and of government departments and public authorities.

When it comes to the issue of the role that access to information plays in a democratic system, a distinction must be drawn between representative democracy and participatory democracy. Broadly speaking in a representative democracy the people vote into office at periodic elections the persons whom they believe will be best able to represent them. Those persons are then left to get on with the process of governing. If the elected representatives fail to do what their electorate elected them to do, the electorate can vote them out of office at the time of the next election. The elected persons will thus make decisions on behalf of the people and the people will simply be the passive recipients of those decisions. But even in this sort of passive democracy where the people are supposed to remain in a state of inertia until election time, there is still an assumption that the people will not be kept completely in the dark about the actions of their elected representatives between elections. They will need some information in order to evaluate whether their representatives have performed satisfactorily and whether they deserve to be re-elected. However, the ruling party is likely to provide selective information, and to release predominantly information that is favourable to the ruling party. So too a representative democracy does not mean that the elected representatives should not be held in any way accountable for their actions during the time that they are in office. The accountability though is more *ex post facto* accountability in the sense that it is only after they make decisions on behalf of the people they will be accountable for such decisions.

In a participatory democracy, on the other hand, there is supposed to be a far more active involvement of the people in the decision-making processes between elections. [15] Involvement in the democratic process does not end with an election vote; citizens should have the opportunity to contribute to the system of government decision-making between elections. The most direct type of participation is where the people take an active part in the actual decision-making processes. Another less direct form of participation is where there is a process of consultation prior to decisions being finalised. Here the people are entitled to express their views on proposed measures and in this way seek to influence the nature of the ultimate decisions that are made.

The essential premise of a participatory democracy system is that the elected officials can only remain responsive to the needs and aspirations of the people if they find out what the views of the people are prior to making decisions that will affect those people. The government still makes the decisions, but it does so taking into account the views expressed by the people. Those elected into

[15] In the Athenian democracy all adult males took a direct part in decision-making within the city state.

office are thus supposed to be politically and financially accountable to the people for their actions not just at election time but also between elections.

One would therefore expect people in a system that practices participatory democracy to allow the public much more access to official information than in a representative democracy. Participation in decision-making processes presupposes that the participants will have access to information otherwise their interventions will be uninformed and therefore unhelpful. It also requires that there be a constant supply of information about government process rather than information merely being supplied in the period leading up to elections.

Of course the dichotomy between representative democracy and participatory democracy is not usually as stark as this. There will usually be some elements of participation even in a representative democracy and there will often be many areas in a participatory democracy where decisions are made on behalf of the people without any participation by the people in those decision-making processes.

The key theory that needs to be tested is that greater access to information and better communication and dissemination of that information will inevitably lead to greater participation in decision-making and a strengthening of the democratic process. There is a need to try to assess the likely impact of greater access to information in our particular socio-political context. This requires investigation of a whole range of matters such as:

- Which groups will be likely to exploit the right of access to information and will dominant groups, such as the economically powerful, end up making greatest use of this right in order to advance their own interests? Will disadvantaged groups have the capacity to organise and mobilise to confront, lobby and influence power structures?
- How do communications processes work within our society?
- Are there functioning systems for communication by the people to Government?
- Are there processes enabling the people directly to participate in government decision-making?

Access to information and transparency and accountability

Another important reason for the pressure in the direction of greater access to official information has been a growing realisation that where politicians are able to conduct their business in secrecy, abuse of power, dishonesty and ineptitude are likely to thrive. In America the Watergate affair in the 1970s has graphically illustrated this as have the many other corruption scandals world-wide. These numerous scandals have provided the impetus for the growing movement to demand more open and accountable government systems.

Public scrutiny of the functioning of the Executive branch of government is seen as being necessary to ensure that members of the executive perform their official functions honestly, efficiently and responsibly. Corruption, fraud, nepotism, negligence and inefficiency, it is argued, are more likely to come to light and can be dealt with or corrected if executive actions are

transparent and the public is able to obtain information about how government officials are behaving.

Woodrow Wilson once stated that "everyone knows that corruption thrives in secret places and avoids public places, and we believe it is a fair presumption that secrecy means impropriety." Arthur M Schlesinger has said that "by the 1960's and 1970's the religion of secrecy had become an all-purpose means by which the American Presidency sought to dissemble its purposes, bury its mistakes, manipulate its citizens and maximise its power." [16] More recently Nelson Mandela has talked about the vital importance of a free press in these terms:

> It is only such a free press that can temper the appetite of any government to amass power at the expense of the citizen. It is only such a free press that can be the vigilant watchdog of the public interest against the temptation on the part of those who wield it to abuse that power. It is only such a free press that can have the capacity to relentlessly expose excesses and corruption on the part of government, state officials, and other institutions that hold power in society.[17]

He could also have added that the "free press" can only perform this role properly if it has adequate access to documentation and other official information.

There are various devices for securing financial honesty in public administration. These include internal audits, external audits, control and supervision by Parliament and scrutiny by the courts, the media and the public. Many systems now have ombuds (public protector) systems to deal with the cases of persons affected by maladministration. In the English Parliamentary system it is Parliament itself which is supposed to be the key institution for achieving honesty and regularity in the executive process. Under the English system the Prime Minister, and the Ministers of State appointed by the Prime Minister are directly answerable to Parliament for all their executive actions. Parliament is therefore expected to exercise a strong supervisory role over the performance of their official duties by members of the Executive. Again in England in the area of financial accountability the National Audit Office is headed by the Comptroller and Auditor General who is an officer of Parliament and in constitutional terms he acts on behalf of Parliament. This office therefore plays a pivotal role in achieving Parliamentary control.

As regards Parliamentary control the phenomenal growth in administration in modern times has often led to domination of Parliaments by the Executive. In many Parliamentary democracies the Executive has gained complete ascendancy over Parliament, resulting in a reduced capacity by Parliament effectively to supervise the Executive. In earlier times in countries like England when the range of tasks performed by the Executive was relatively small Parliament was able to exert far more effective control over the Executive. In America although the system of separation of powers has prevented the Executive branch from grasping the reins of power to the same extent as in parliamentary democracies, nonetheless for most people the Executive is still the most important branch of government whose actions most directly affect them.

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[16] Taken from Mathews' book at p 4

[17] Speaking at the International Press Institute's 43rd Annual Assembly in Cape Town 13-16 February 1994.

In many countries, including Zimbabwe, whose parliamentary system was originally based on the English system, Parliament has become little more than an extension of the Executive and is dominated, and dictated to, by the Executive. Where the ruling party holds an overwhelming majority in Parliament, most Parliamentarians will tend to consider that they are subordinate, and beholden to, the ruling party hierarchy and they will not be prepared to stick their necks out by exposing wrongdoing on the part of high-ranking members of the Executive.

Even where Parliaments have developed a greater degree of autonomy and independence from the Executive, the overview mechanisms may still remain weak and ineffectual. Given the huge range of activities of the Executive, unless overview institutions are well funded and properly staffed they will not be able to probe properly these activities and establish control systems that will help to minimise abuses in the future. These institutions will also not be effective unless they are able to gain access to all the necessary documentation and information. Presently there is a lot of attention being paid world-wide on how to strengthen Parliamentarian capacity to ensure better accountability to Parliament by the Executive.

The key theory here is that greater access to information about public administration will lead to greater government accountability. It is postulated that if the media and the general public have greater access to information about how public officials are performing their duties, this is likely to reduce the incidence of corruption and other wrongdoing and is likely to lead to greater efficiency in public administration because officials will know that their misconduct is likely to come to light. Public officials are less likely to engage in illegal activities, it is suggested, if they have to conduct their affairs openly rather than secretly. If the media and the public are able to have access to such information they will be able to find out about any wrongdoing and publicly expose it.

Whether access to more information will have the results suggested depends upon a number of factors. It depends, for instance, on whether effective use will be made of the right of access. The media will be assisted in probing allegations of misconduct by being afforded a right to have access to public documentation, always provided that it has not "disappeared". Where there have been complex scams in respect of which concerted steps have been taken to cover up the tracks, painstaking professional investigation may be required and the journalists may not possess the necessary skills to carry out such investigations. However, the journalists may still uncover sufficient evidence to hand over to the police or other investigation agencies.

If the general public is afforded the right of access to information the question is how far this right will be exercised. This right is most likely to be exercised by members of the public for personal reasons, for example to check the accuracy of information about them in government files or to obtain necessary information to enable them to litigate cases challenging government decisions or actions affecting them.

Interrelationship between access to information human rights and international human rights law

The right to freedom of access to information has a solid coverage in international and regional human rights instruments. The Universal Declaration of Human Rights article 19 offers the original formulation of the right as follows:

> 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 and regardless of frontiers.

Although not explicitly referred to in the Charter of the United Nations, the centrality of the freedom of information was recognised right in the preparation of the establishment of the UN at the San Francisco conference in 1944. Two years later, in Resolution 59(1) of the first UN General Assembly session in 1946, freedom of information (previously referred to as freedom of the press) was proclaimed as a fundamental human right, and the touchstone of all the other freedoms to which the UN was consecrated. [18]

A close link that is now being established between the right to freedom of opinion and expression on the one hand, and the right to access to information on the other in article 19; Arguably, freedom of access to information is seen as essential for expressing one's opinion and thus for the effective exercise of freedom of expression. This interlinkage of the right to access to information and other human rights has been reflected in recent legal developments in this area; while the conventional approach has been to provide legal *protection* of the right to receive and impart information from Government interference, there has been a trend over the past few years to emphasise the obligation of governments and others to *provide* information necessary for the enjoyment of other human rights. The state is not supposed merely to be a guarantor, it should also be an active provider. Reflecting this trend. the Human Rights Committee and the Inter-American Commission on Human Rights have concluded (in Advisory Comments) that governments have a duty to protect the rights to life and health and that this arguably includes an obligation to publish information that could assist people in protecting their life and health. As with human rights in general, it is essential for human rights fulfilment that persons be empowered to protect their own rights. A basic tenet of the right to access to information is that it provides a mechanism by which the right-holder can make efforts to cater for his or her own rights, be they civil. political, economic, social or cultural.. Article 19 of the Declaration was elaborated further in the UN International Covenant on Civil and Political Rights (1966/1976).

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[18] (General Assembly Resolution 59(1), adopted 14 December 1946, UN GAOR, first session, UN Doc., A/RES/59/1946.)

Systems for access

Introduction

Access to information that a public official does not object to releasing is no problem. The problem lies in getting access to information that a public official wants to hide away because it will embarrass government or will expose wrongdoing or ineptitude on the part of the public official. The basic idea of freedom of information systems is to ensure that the right of access to information is practically enforced. Instead of leaving it to the discretion of public officials to decide whether or not to release the information being sought, such systems oblige officials to release the all information except where it falls within an exempted category. Any weaknesses and loopholes in any system will be exploited by public officials who do not want the information in question to be disclosed.[19] The most effective system will be one where there is an independent body to check upon whether the public officials have made a full disclosure of information and have not withheld some relevant information. There will also have to be some sort of independent check on whether the information which is claimed falls into an exempted category does indeed fall into that category and, even if it does, the independent body should still be empowered to order the release of the information to the applicant if the public interest in releasing it outweighs the public interest in not releasing it.

Whether or not any system providing a right of access to government information will actually lead in practice to greater accessibility of such information will depend upon a number of factors. Two factors will be particularly important. These are how the scheme is administered and what sort of exceptions from disclosure are allowed. A scheme to allow access to information can end up being ineffectual if it is so bureaucratically administered that it frustrates free access to information or if the fees charged for supplying requested information are set at a level that places the scheme out of the reach of many people.

Exemptions from disclosure

Probably the biggest obstacle to accessing information under such a scheme is where there are a series of wide, vague exemptions that can be relied upon by public officials and there are no independent mechanisms to check whether the information does actually fall within the exempted areas. There will clearly be a need for some exemptions to protect the secrecy of information where there is a legitimate and justifiable reason to require protection. However, unless all exceptions are precisely and narrowly defined they will be wide open to abuse by officials claiming on a bogus basis that the information falls into exempted areas. Wide and vague exceptions will provide government officials with too much scope for denying access and will end up rendering access legislation ineffective. Even after the exceptions have been precisely defined, however, the burden should rest on the government authority to show that the information it is withholding falls within one of the permitted grounds for denying access. The claim for exemption should be subject to independent scrutiny by a body that will ensure that the claim is not being falsely made.

[19] See Appendix 1 for a critical analysis of the shortcomings of the proposed legislation in Zimbabwe.

If necessary the scrutiny will be carried out in such a way that the secrecy of the information is protected until the body has made its decision on whether the information should or should not be disclosed. In most instances even where the information falls under one of the exceptions, there should be an override provision which obliges the government authority to disclose the information if the public interest in disclosure outweighs that of secrecy.

In Article 19(3) of the International Covenant on Civil and Political rights there is this limitation clause, namely that the exercise of the right of freedom of expression is subject to restrictions,

> such as are provided by law and are necessary: a) For respect of the rights or reputations of others: b)For the protection of national security or of public order (*ordre public*). or of public health or morals.

The limitation clause reflects the potential contradiction between national security on the one hand, and freedom of expression and the right to information on the other. The common presumption is that these two things are at odds with each other. As we have discussed above in this paper, governments have often curtailed the freedom of expression and access to information on the basis that the disclosure of "secret information" would potentially undermine national security, and hence ruin the social fabric of society and political stability. On the other hand, the abolition of the right to information has often been conducive to some of the worst violations of human rights. For instance as Amartha Sen has convincingly argued, absence of large scale famines in India over the last decades is largely due to a vivid and vocal independent press that has been able to alert the local, national and international communities about the likely escalation of a looming hunger crisis, and hence mobilise resources in order to prevent it. [20] In China, on the other hand, no information at all was made public about the famine (when was it in the early 1960s) which apparently killed millions of people.[21]

More recently, the relationship between national security, freedom of expression and access to information has been addressed by the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, adopted in Johannesburg on October 1, 1995.[22] The chief purpose of drafting the Principles (drafted by a group of experts in international law, national security and human rights), was to address this potential tension between national security and the right to expression and information. The Principles suggest that these concerns - national security and freedom of expression and information - are not fundamentally contradictory. Rather. they lend support to the view that

> a clear-eyed review of recent history suggests that legitimate national security' interests are. in practice, better protected when the press and public are able to scrutinise government decisions than when governments operate in secret. Freedom of expression and access to information. by enabling public scrutiny of government action, serve as safeguards against government abuse and thereby form a crucial component of general

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22 The conference was organised by Article 19 in collaboration with the International Centre against Censorship. and was hosted by the Centre for Applied Legal Studies at the University of Witswatersrand.

> national scrutiny. Equally, national security is a precondition for the full enjoyment of all human rights, including freedom of expression".[23]

Nonetheless, the restrictions of the right to access to information enshrined in Article 19 (2) of the ICCPR (respect of the rights or reputations of others and the protection of national security', public order or of public health or morals) require definitions that identifies the scope and limitations of permissible government restrictions that may be put on the right. Here, the Johannesburg Principles offer important advancements of legal operationalisation. The thrust of this effort is the necessity of securing the principle of legality when any restrictions are being made, that restrictions are governed by procedures appropriately defined with the option of judicial review for the claimant, and that restrictions are properly defined. For instance Principles 12 and 13 state that the state may not absolutely deny access to all information related to national security, but must designate in law those narrow categories whose disclosure could harm legitimate national interests. The public interest in obtaining information must be given considerable weight ("primary consideration") when the need for secrecy is being assessed. Principle 14 states that individuals must be able to seek review of a government's refusal to release information on national security grounds. Grounds for the refusal should be offered "in writing and as soon as reasonably possible", the validity of the denial should be made by an independent authority, which has the right to examine the information withheld. These Principles, in other words, require that proper procedures and institutions are identified or constructed in order to uphold the right to access to information.

Punishment of persons who disclose information

In the Johannesburg Principles there are five separate Principles dealing with the issue of punishment for disclosure of secret information in the public interest is being addressed. As a general rule, Principle 15 states that no person may be punished on national security grounds for publishing information if the disclosed information does not actually harm or is not likely to harm national security interests. In this respect. the Principle reflects a trend in a growing number of countries to refrain from prosecuting or punishing media unless disclosure of secret information actually harmed a legitimate national security interest. Contrary to what often has been the case, the Principle states that this protection should not merely be offered to the media and journalists, but must cover "any person", except for those who might have obtained the information in the course of government service. Protection of the rights of the latter group of people is addressed in Principle 16 stating that no person who obtains and discloses secret information that has been learned through government service should be subject to any detriment on national security grounds "if the public interest in knowing the information outweighs the harm from disclosure". Concerning the protection of the anonymity of sources, Principle 18 states that protection of national security may not be used as a reason for compelling a journalist to reveal a confidential source.

In summary, the Johannesburg Principles to some extent reflect trends in a growing number of countries to provide better protection of the rights to access to information. Although they are extra-legal principles. the offer important guidelines to the interpretation of relevant provisions of the ICCPRs and comparable provisions of regional human rights instruments concerning the

[23] Sandra Coliver, "Commentary to: The Johannesburg Principles on National Security, Freedom of Expression and Access to Information" in 1998 *Human Rights Quarterly* 20.

relationship between national security, freedom of expression and the right to access to information.

Other obstacles

Public officials will inevitably seek to circumvent a system of access to information in other ways. They will file non-exempt records with exempt records, they will not record in writing administrative actions taken and decisions made and, if all else fails, they will destroy records, or portions of them, and claim that these records or portions thereof never existed. It will be incumbent upon the independent body under the system, and other institutions such as the Ombudsman's office, to try to prevent such attempts to frustrate access.

Objections to access to information systems

Opponents of freedom of information legislation firstly argue that it will be far too expensive to run a system, that such a system will be of little use in rooting out abuses of power and facilitating greater participation in decision-making and that opening up of official information will impair efficiency within the public service. Advocates of such legislation need to counteract these arguments if they are to succeed in lobbying for freedom of information legislation.

Cost

To establish such a system it would be necessary to systematise files and index them. Considerable staff resources will be required to deal with requests for information, to check that exempt material is not included and to deal with appeals.

Operational cost figures from a number of countries that have such systems establish that the argument that inordinate expense is involved are somewhat exaggerated. There can be no doubt, however, that not insignificant initial expenditure is involved. The costs involved once the scheme is up and running will largely depend on the volume of requests for information.

Objectives will not be achieved

In relation to the exposure of abuse by government officials critics of such schemes argue that it would be far more effective to spend money on specialist investigatory and oversight bodies with the expertise to detect abuses. Allowing members of the public to have access to official information will only occasionally lead to the uncovering of abuse. Critics dispute claims that such schemes will result in greater public participation in decision-making processes. They maintain that members of the public will only request access on a sporadic basis and this will not lead to any broad enhancement of public knowledge such as to enable the general public to influence significantly decision-making. They argue that it would be far more practical to concentrate upon setting up effective mechanisms for direct public participation such as public consultation and public involvement in the meetings of Parliamentary Committees.

Impairment of efficiency of public administration
Opponents also maintain that such legislation is a charter for interfering busybodies and for captious and ill-informed criticism of officials. Many of the requests for information will come from cranks and extremists who will then use the information to raise all sorts of specious criticism. Government departments will waste appreciable amounts of time dealing with such requests and trying to trace requested documents. Additionally, it is claimed, public officials will be likely to be far less candid when giving written advice if they know that members of the public may later have access to such documentation.

The position in Zimbabwe
Zimbabwe does not have a open government system. There is no constitutional guarantee of the right of access to official information. There is no freedom of information legislation. Members of the public and the non-government press have extreme difficulty in accessing official information. The position is further worsened by an antiquated and highly restrictive Official Secrets Act.[24] The Constitution of Zimbabwe does however provide in section 20, the section guaranteeing freedom of expression, that no one "shall be hindered in his right to freedom of expression, that is to say, freedom to hold opinions and receive and impart information without interference ..."[25]

Government proposals have been drawn up in which it is accepted that the Official Secrets Act requires complete overhaul and which set out a possible model for freedom of information legislation. The latter are of a very conservative nature and would be unlikely to have any significant positive impact if passed.[26]

Transforming the information order
The reform of the legal order relating to access to information will be an important step in the right direction but it is not enough on its own to produce any radical change in the information order. Birkinshaw has this to say:

> The law can only play a minimal role in opening up closed societies or secret relationships...Freedom of information legislation is important but unless the legislation is accompanied by wide-ranging change in constitutional culture, institutions and practices, it must be questioned whether it will be of lasting utility to all but powerful organised interests who have the resources to use it; to a few academics; to journalists; and to the occasional public-spirited individual. No one should expect an FOIA will change the nature of government or the behaviour of the governed overnight. Much work, effort, goodwill and education will have to be provided. Progress and democratic development will take time. But they are worth striving for. Unless, however, there is a change in attitude and ethos in our public administration, FOIA by itself will be something of a confidence trick. It is an inescapable development in democratic and responsible

[24] See "Open or closed Government? An open and shut case for major alteration to the Official Secrets Act" 1995 Vol 7 No 2 *Legal Forum* 14
[25] See Appendix 2 for verbatim provisions and the provisions in the new South African Constitution.
[26] See 1997 *Legal Forum*

government. But an FOIA must be accompanied by more widespread changes in attitude and in major institutional reform if we are to be better informed and more open. Those are the necessary conditions to help reduce the abuse of power. The forces and the sources operating against such conditions should never be underestimated and overlooked.[27]

Access to information in the private sector

It is not only in Government that corruption and abuse of power can occur. Under the economic structural adjustment programme the private sector is becoming ever more powerful as government privatises and commercialises state enterprises. As the power of the private sector increases, so too does its potential to abuse its power. Just as we demand transparency and accountability from the public sector, so too we have a right to demand the same from the private sector. Obviously private companies cannot be made to reveal trade secrets the revelation of which could be exploited by competitors. However, there is a need for greater access to information about management and financial affairs of companies so that a check can be kept to detect possible corruption, bribery, money laundering activities and illegal export of finance that can be damaging not only to shareholders but also to the national economy. Information is also needed to curb other damaging activities such as pollution and environmental degradation. Finally for there to be fair and informed bargaining over salary and other conditions of service, workers need far greater access to information held by management pertaining to the current financial position of the company and its financial planning for the future.

This need for more information about private business was expressed in these terms by the Editor-in -Chief of ZIANA, Mr Muradzikwa, as follows:

> The operations of the private sector boardrooms are shrouded in secrecy and this prevents the press
> from properly monitoring their activities.

There is thus a need for separate freedom of information legislation to regulate access to information held by private business corporations subject of course to reasonable exceptions to protect legitimate business interests. This must be different legislation regulating the public sector as the relationship between the individual and the State is quite different from that between the individual and private enterprises. Every citizen is a stakeholder in the State as a voter, rate-payer, tax- payer or citizen. This is not the case with a private enterprise. Shareholders and employees have a stake in their company, but not every person outside the company has a comparable interest. Statutes such as the Companies Act, the Insurance Act and the Labour Relations Act already provide for a lot of information to be made available in the public domain or to interested parties.

[27] At pp 351-2.

Selective bibliography

Patrick Birkinshaw *Freedom of Information The Law, the Practice and the Ideal* (2nd ed 1996 Butterworths)

Anthony S Mathews *The Darker Reaches of Government Access to information about public administration in three societies* (1978 Juta & Co Ltd)

James Michael *The Politics of Secrecy Confidential government and the Public Right to Know* (Pelican Books 1982)

KG Robertson *Public Secrets* (1982)

Appendix 1

Access to information legislation
Some comments on proposal contained in final report of Ministry of Justice, Legal and Parliamentary Affairs (Sept 1996)

General principles

The democratic process is well served by allowing the public as much access as possible to information about the operations of government as a whole and of government departments and public authorities. A democratic Government is elected by the people to serve the interests of the people and is accountable to the people for carrying out the people s mandate. Access to government information allows the public to understand better government processes and to engage in more informed discussion and debate on government policies and the mechanisms for implementing these policies. Government transparency also ensures accountability in that its activities are subject to public scrutiny and thus misconduct such as corruption, fraud, nepotism, negligence and inefficiency are more likely to come to light and can be dealt with or corrected.

For these reasons the right of the people to access to information in the possession of Government should be extended as far as possible. Openness should be the rule and secrecy should be the exception. The overall approach should be that there should be a general right of access to official information held by both central and local government authorities and this right should only be denied where there are compelling reasons for doing so on the grounds of necessary protection of essential public interests or legitimate private interests. All exceptions must be narrowly precisely and narrowly defined so that they are not subject to abuse by government officials. Wide and vague exceptions will provide government officials with too much scope for denying access and will end up rendering access legislation ineffective. After the exceptions have been precisely defined the burden should rest on the government authority to show that the information it is withholding falls within one of the permitted grounds for denying access. In most instances even where the information falls into one of the exceptions, there should be an override provision which obliges the government authority to disclose the information if the public interest in disclosure outweighs that of secrecy.

Another important requirement for a system of access to information to be effective is that the mechanisms for obtaining access must be simple and non-bureaucratic and must enable the information to be obtained within a reasonable period of time. The persons or bodies under the obligation to supply the requested information must be made known to the public. So too where there is a right of appeal against a decision to deny access to a court or tribunal that will make an independent decision, there should be simple and expeditious procedures for exercising this right.

Whilst the Ministry of Justice's report is to be applauded for accepting the principle of the right of access to government information, the proposed terms of the legislation leave too

many loopholes that would enable government agencies to deny access to documents where access should be allowed. The weaknesses in the proposed legislation are dealt with below.

Procedure for applying for access

An application for access to a document must be in writing to the Secretary or the Minister in the relevant Ministry and must identify the document sought with reasonable clarity. The purpose for which the document is required must be stated in the application.

Comment

There can be no objection to requiring the applicant to state the purpose for which the information is required. However there is presently no provision that allows the application to be rejected because of the nature of the reason given for wanting access. The sole basis for refusal seems to be that the document in question falls under one of the exceptions. If this requirement is to have any significance some sort of provision would have to be included that allows for the rejection of the application on the basis that the applicant has only frivolous or vexation reasons for wanting access.

Time period for deciding on application

The decision must be made within seven days of the application unless the Ministry requires a deferment, in which case the decision must be made within thirty days. If no decision is made within the specified period it is presumed that the application has been refused.

Comment

These provisions are generally acceptable except that it must be made clear that the Ministry must have good grounds for deferment.

Reasons for refusal

Reasons for refusal must be given and if no reasons are given it will be presumed that there are none.

Comment

This is a sound provision but it should be noted that as the sole basis for refusal is that the document falls within one of the specified exceptions, the reason that will be likely to be forthcoming will be simply to state the particular exception under which the document falls. Such a bald statement of the ground for refusal will not allow any proper appraisal of whether the refusal is reasonable in the circumstances. The provision of reasons will in any case only be of much significance to the aggrieved party where it is one of the decisions he can take on review. As will be seen below many decisions are not reviewable. At least where the decision is reviewable the official making the decision should be obliged to go into some further detail as to why he is claiming that the document is exempted from disclosure on this ground.

The nature of the exceptions

The exemptions and exceptions to the right of access are set out below.

A. Documents from certain agencies

The public will be denied access to all documents held by certain agencies, namely:

- The Reserve Bank
- The Auditor-General
- The Scientific and Research Council

- The Defence Procurement Agency
- The Central Intelligence Organisation.

The President will also be empowered to add further agencies to this list.

Comment

The blanket exemption of all documents from these agencies is highly questionable and unnecessary. It would be far better to lay down that documents from these agencies will only be exempt if their disclosure would be harmful to sorts of public interests as laid down under the other proposed exemptions dealt with below. For example disclosure of Reserve Bank documents will usually qualify for exemption on the basis that their disclosure will harm the economic interests of Zimbabwe and documents of the CIO will usually qualify for exemption on the basis that their disclosure would harm public safety or would prejudice the operation of law enforcement. But if disclosure of a document held by one of these agencies will advance rather than prejudice public interests by, for instance, revealing criminal activities within that agency it should not be completely immune from disclosure.

B. Documents deemed to be particularly sensitive

Category 1

The following fall into this category:

Documents containing matter which if disclosed would or could reasonably be expected

- to affect adversely defence, public safety, public order, the economic interests of Zimbabwe, public morality or public health
- to cause damage to relations between Zimbabwe and any other State

Documents relating to Cabinet, namely documents

- which have or are proposed to be submitted to Cabinet for its consideration;
- which are official records of Cabinet;
- which if disclosed would involve disclosure of Cabinet deliberations.

In respect of this category of documents there is no right of appeal against a denial of access. If an appropriate Minister or Secretary to the Cabinet certifies that any class of documents falls into one of these classes that shall be conclusive evidence that it is of that kind and the Administrative Tribunal is bound by this certificate.

Comment

Most countries exempt from disclosure documents relating to Cabinet deliberations and most countries make government the final arbiter as to whether interests such as defence and international relations will be harmed by disclosure of state documents pertaining to these matters.

But it is doubtful whether government should in fact be made the sole judge of whether vague interests such public safety, public order, public morality and public health. These interests can be very widely interpreted and can be used by government officials to prevent disclosure of documents that would not advance rather than prejudicing state interests by exposing blunders or inefficiency. Provisions that exclude any independent review of such decisions are dangerous as they can end up defeating legitimate interests in finding out what is going on. Even allowing complete exclusion of access on the basis of the certificate of an official such as the Secretary of Defence is questionable. Government officials are very prone to use an

extremely expansive definition of defence interests to cover up information that they do not want to emerge as it will embarrass government. For example, if a defence contract has awarded because of bribery government should not be able to prevent this illegal conduct from emerging by saying that the document cannot be revealed because it relates to matters of defence.

There are a number of ways of seeking to control the possible abuse of these grounds for exemption. One way is to allow a judge in chambers or the Administrative Court members to scrutinise on a confidential basis the document in question to satisfy himself or themselves that there is a good basis for refusal of access and that government is not simply using the exemption as a smoke-screen to cover up misconduct on its part. Another is to oblige government to spell out in what way the particular state interests in question would be harmed if the document in question were to be revealed. In other words, where for instance the ground for refusal of access is defence or public safety the official should be obliged to spell out how these interests will be adversely affected if the document is disclosed. This would make it more difficult for the official to rely on the exemption in question on a spurious basis. Finally there should be an obligation on the official making the decision to consider whether despite the fact that *prima facie* the document falls into one of the exempt categories there are overriding reasons of public interest for its disclosure.

Category 2

The following fall into this category:

- internal working documents of any Ministry which if disclosed would reveal decisions or policies that it would not be in the public interest to reveal
- documents affecting law enforcement which if disclosed would prejudice the operation of proper law enforcement or the administration of justice
- documents affecting personal privacy which if disclosed would prejudice private persons affairs
- documents relating to private business affairs such as company documents
- documents affecting audits, tests, examinations, experiments etc. conducted by the State.

In respect of documents in this category the Administrative Tribunal will be able to review the refusal to grant access on the ground that no reasonable grounds exist for regarding it as a document in this category. The Ministry document goes on to say that in other words the tribunal will not be entitled to substitute its own decision unless the refusal was irrational or based on no grounds at all. In arriving at its decision the tribunal is entitled to require that the document concerned be produced to it in private.

Comment

These aspects of the proposal are progressive and are broadly acceptable. However, the basis for exemption could be more closely and narrowly defined in some instance. As stated in the proposal presumably irrationality is intended to cover the same basis as absence of reasonable grounds for regarding the document as falling under a particular exemption ground. But the provision should go further and allow the Administrative Tribunal a general power to order disclosure even if the document falls under a particular exemption ground if the public interest

in disclosure outweighs the need for secrecy. For example the Tribunal should be able to order the disclosure of a document containing information relating to a product or environmental test results if the public interest in disclosure as it affects public health, public safety or the protection of the environment
is greater than the need for secrecy.

Re: Internal working documents
This provision is too wide. An exemption is justified in respect of advice, opinion or recommendation for the purpose of policy formulation by an official in the course of his official duties within the government organisation but as in Australia the internal working documents exemption should be limited to opinion, advice or recommendation or consultation or deliberation in the course of, of for the purpose of, deliberative processes; the exemption should not extend to factual statements, scientific and technical reports, interpretation or evaluation of information and statements of reasons for the exercise of a power given to the government. The exemption should also not apply to a report prepared by a non-government consultant or adviser.

In New Zealand the exemption can only be claimed where this is necessary for protecting the confidentiality of advice given by officials or the effective conduct of public affairs through free and frank expression of opinion by, or between or to Ministers or civil service in the course of their duties.

Re: Law Enforcement and administration of justice
There are without doubt certain areas where secrecy is required. If investigations had to be conducted out in the open under the glare of publicity it would often be impossible for criminal wrongdoers to be convicted. But secrecy should be limited to the essential minimum reasonably required for the proper administration of justice. Law enforcement agencies and the prison officers wield considerable power and they should be subject to scrutiny and supervision in order to try to minimise abuse of that power. Thus it is important that the Administrative Tribunal ensure that secrecy is kept within reasonable bounds. In relation to prisons, secrecy about prison conditions may sometimes be justified. For example, disclosure of security arrangements for top security prisoners may jeopardise security. But casting a veil of secrecy over prison conditions generally will allow abuses to go on unchecked.

Re: Personal privacy
This provision is too wide and vague. Personal privacy is not an absolute right. There are many situations where a person forfeits the right to privacy or where the public interest in disclosure outweighs any invasion of privacy that could result from disclosure. This would be the case, for example, where he commits a crime or where he engages in immoral conduct that makes him unsuitable for public office. What should be disallowed is the unwarranted and unjustified intrusion into a person s private life.

Re: Private business affairs for instance company documents
Once again this provision is too wide and vague. Such documents should only be subject to secrecy where there are valid reasons for keeping them secret. This would apply for instance where the information concerns trade secrets or where the information was provided by the private company on a confidential basis or where the disclosure of the information could reasonably be expected to result in material financial loss to the company. But even where information is supplied in confidence there should still be an obligation to balance the public interest in disclosure against the interest in maintaining confidentiality.

Government itself should be able to protect the secrecy of its own trade, commercial and scientific secrets where it is engaged in business activities.

The Government should also be able to keep secret any information that would lead to damage to the national economy as for instance where there is premature disclosure of Government economic or financial policies on such matters as exchange rates and taxation. However, much of information relating to the way in which Government is managing the economy should be made public. Thus rather than having a provision such as that proposed in the Ministry's policy document where a Minister would be the final arbiter on whether the disclosure of the economic information in question would adversely affect the economic interests of Zimbabwe, it would be far preferable to allow the Administrative Tribunal to scrutinise the document in question and taking full account what the Minister has said, decide whether there would indeed be such adverse effects claimed by the Minister or whether the public interests requires disclosure of the document.

Re: Audits, tests etc.
Again this exemption is far too widely stated. The public have a right to know about the results of audits of government departments carried out by the Auditor-General or other auditors, especially where these uncover misappropriation, financial mismanagement or profligacy. This should be subject to the proviso that such information should not be revealed where criminal investigations are underway and the disclosure of this information would interfere with the investigations. So too as pointed out above test results should normally be subject to disclosure rather than secrecy unless their disclosure would result in prejudice to Government by revealing government's trade, commercial and scientific secrets.

The composition of the tribunal to review decisions refusing access
A person refused access will be able to ask an Administrative Tribunal to review this decision. This tribunal will be headed by a judge of the High Court or Supreme Court appointed by the Chief Justice. It will also have two other members appointed by the Minister of Justice who are either magistrates or persons selected by the Minister because of their special skill, experience or standing in society.

Comment

As this tribunal will be reviewing government decisions it is necessary that this tribunal is seen to be independent of Government. This is particularly important given the fact that under the proposals there will be no appeal against the decision of the Tribunal. Therefore rather than the Minister appointing two of the three members of the tribunal it would be better if someone

like the Ombudsman were to recommend the appointment of the two other members. Alternatively the two other members could be drawn from the Ombudsman s staff.

Appendix 2

Constitution of Zimbabwe

20 Protection of freedom of expression

(1) Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision-

(a) in the interests of defence, public safety, public order, the economic interests of the State, public morality or public health;

(b) for the purpose of-

(i) protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings;

(ii) preventing the disclosure of information received in confidence;

(iii) maintaining the authority and independence of the courts or tribunals or Parliament;

[Subparagraph as amended by section 26 of Act 31 of 1989]

(iv) regulating the technical administration, technical operation or general efficiency of telephony, telegraphy, posts, wireless broadcasting or television or creating or regulating any monopoly in these fields;

(v) in the case of correspondence, preventing the unlawful dispatch therewith of other matter;

or

(c) that imposes restrictions upon public officers;

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(3) No religious denomination and no person or group of persons shall be prevented from establishing and maintaining schools, whether or not that denomination, person or group is in receipt of any subsidy, grant or other form of financial assistance from the State.

(4) Nothing contained in or done under the authority of any law be held to be in contravention of subsection (3) to the extent that the law in question makes provision-

(a) in the interests of defence, public safety, public order, public morality, public health or town and country planning; or

(b) for regulating such schools in the interests of persons receiving instruction therein;

except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(5) No person shall be prevented from sending to any school a child of whom that person is parent or guardian by reason only that the school is not a school established or maintained by the State.

(6) The provisions of subsection (1) shall not be held to confer on any person a right to exercise his freedom of expression in or on any road, street, lane, path, pavement, side-walk, thoroughfare or similar place which exists for the free passage of persons or vehicles.

South African Constitution

Freedom of expression

16. 1. Everyone has the right to freedom of expression which shall include
- (a) freedom of press and other media;
- (b) freedom to receive or impart information or ideas;
- (c) freedom of artistic creativity;
- (d) academic freedom and freedom of scientific research.

2. The right subsection (1) shall not extend to -
- (a) propaganda for war;
- (b) incitement of imminent violence; or
- (c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

Access to information

32. (1) Everyone has the right of access to -
- (a) any information held by the state; and
- (b) any information that is held by another person and that is required for the exercise or protection of any rights.

(2) National legislation must be enacted to give effect to this right, and may provide for reasonable
measures to alleviate the administrative and financial burden on the state.

Namibian Constitution

Article 19

FREEDOM OF SPEECH, ASSEMBLY AND INFORMATION

1. There shall be freedom of thought, speech, expression and opinion, including a free press, which shall report and comment fairly and respect the right to reply.
2. All men and women shall have the right to assemble peacefully and without arms, and to submit petitions for the redress of grievances and injustices.
3. All men and women shall be entitled to all the information necessary to enable them to make effective use of their rights as citizens, workers or consumers.

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