

Access to Information and the Right to Know – a Namibian Perspective

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Introduction

I want to make bold and say that **access to information is a fundamental human right in any constitutional democracy** and no country can truly call itself democratic, unless citizens have the right to access and request information that is held by public and certain private bodies.

I would like to start of with a quotation:

1. *“Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law.*

2. *The right to information shall be guaranteed by law in accordance with the following principles:*
 - *Everyone has the right to access information held by public bodies;*
 - *Everyone has the right to access information held by private bodies which is necessary for the exercise or protection of any right;*
 - *Any refusal to disclose information shall be subject to appeal to an independent body and/or the courts;*
 - *Public bodies shall be required, even in the absence of a request, actively to publish important information of significant public interest;*
 - *No one shall be subject to any sanction for releasing in good faith information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment save where the imposition of sanctions serves a legitimate interest and is necessary in a democratic society; and*
 - *Secrecy laws shall be amended as necessary to comply with freedom of information principles.*

3. *Everyone has the right to access and update or otherwise correct their personal information, whether it is held by public or by private bodies”.*

Many people on the streets of Africa and even educated and informed citizens would think that this is a quote from a foreign document. But the reality is that this is an extract from our very own African Commission on Human and Peoples' Rights' Declaration on Freedom of Expression adopted by African States in 2002.

The question therefore is why are we, as African states not abiding by this noble principles and guidelines? MISA indicated in its statement on World Press Freedom Day, 3 May 2010 – that the right to know remains a dream for the people in Southern Africa and we are home to the most secretive governments in the world!

I believe that, as part of access to information, that we have the right to know WHY we are so secretive!

Just this week it was reported that the Angolan government was threatening to sue several media houses, because they have published the name of a senior police officer that was arrested and charged with rape. The reason – because the media has brought the name of the police in disrepute! It however appears that the report first appeared on the state-controlled media, so who will be sued now?

Why are we so secretive when information is needed to make decisions on individual, community and national matters?

Access to information is important

Access to information about government decisions, statistics, research findings, commissions' findings, new laws and policies etc, are important, because it affects almost everyone in society. The more people any decision is likely to affect, the more important it is that the relevant information be shared as widely as possible. People need such information to participate in the democratic process and to influence certain outcomes to get the feeling of true ownership in their destiny.

Citizens need to be informed for them to be able to form an opinion and express their views on the state of affairs. And they need to be informed so that they could decide how successfully – or otherwise – they are governed. They cannot rely on the occasional press statement or public address by an official or politician to get information. Unless they have unhindered access to information they can not hold public officials accountable for their performance.

To quote from Access to Information Toolbox 4, developed by fesmedia:

'It is now generally agreed that the development process can only be successful if it is actively supported by a strong civil society. And for this support to be gained, the authorities need to lay open all the available facts, projections and possible alternatives. After all, they are in possession of all this relevant information not because of their superior wisdom but because they collected it in the course of their duties as mandated by – and at the expense of - the tax paying public'.

The Namibian Context

The Namibian constitution does not entitle citizens to access to information and currently there is still no Access to Information legislation in Namibia, instead we have the apartheid era “Protection of Information Act of 1984” still on our statutes.

In practice public information is difficult to access by journalists and ordinary members of the public. Officially, if information is requested from a particular ministry, the enquirer must go through the Permanent Secretary to access the information, even appointed spokespersons and liason officers refuse to give information without the blessing of the Permanent Secretary. And if the Permanent Secretary is out of town or on leave or study leave the enquirer has to wait...

According to the findings of the African Media Barometer for Namibia (2010), most government websites are outdated and not functional in terms of providing current public information. Even the website of the Ministry of Information and Communication Technology is in a very poor state. An exception is the broadcasting regulator Namibian Communications Commission (NCC) that has been forthcoming in making relevant documents, such as the draft Communications Bill, as well as draft policies on broadcasting and information and communication technology, available on the NCC website. The Ministry of Finance is also making an effort to make important public documents, such as the annual budget, more readily available on its website. One should also mention that the Namibian Broadcasting Corporation (NBC) has revamped its website and more information is now available to the public who have access to the internet.

It is important to note that the Office of the Prime Minister has initiated a policy framework for the development of access to information legislation for Namibia. According to Under Secretary of the Office of the Prime Minister in a statement presented in August 2008 – “we have moved beyond the stage of the ‘why’ and ‘should’ questions on this matter, rather we concern ourselves now with the ‘when’ a legal

framework on Access to Information will be tabled in Parliament.” This is encouraging, but it is almost two years ago.

Conclusion

In the absence of a constitutional provision on access to information, Government should as soon as possible implement the policy framework for the enactment of legislation on access to information. The Office of the Prime Minister should also set clear guidelines to be followed by all Ministries on how information could be accessed by the public and made available by Ministries.

Citizens in Namibia should be more active in demanding access to information legislation, because ultimately our present circumstances, decisions and the wellbeing of future generations depend on what we know now and how we use such information and knowledge.

I will end with a quote

“Access to information is a crucial element in the effort to reduce corruption, increase accountability and deepen trust among citizens and their governments”.

– Jimmy Carter foreword in “Access to Information – a Key to Democracy”

I THANK YOU