

**Commonwealth Parliamentary Association/CIDA  
Workshop on Freedom of Information Implementation in the  
Caribbean, Roseau, Dominica,  
27 November to 1 December 2006  
In association with the**



**Parliament of  
Dominica**



**Commonwealth  
Human Rights  
Initiative**



**Carter  
Centre**



**Organization  
of American  
States**

## **CONCLUSIONS**

Parliamentarians, public officials, media and civil society representatives from Commonwealth Caribbean, Americas and Atlantic jurisdictions, meeting at a Workshop in the House of Assembly of the Commonwealth of Dominica from 27 November to 1 December 2006, reaffirmed Freedom of Information as a fundamental human right that serves as a cornerstone of democracy and good governance. They underlined the importance of Freedom of Information to accountability in governance and access to justice for citizens.

As was noted by the Workshop, the exercise of state power in secrecy breeds suspicion and ultimately undermines the relationship of trust between government and citizens.

The right to Freedom of Information has been recognized in numerous international instruments including the United Nations Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Inter-American Declaration of Principles on Freedom of Expression, the Inter-American Convention Against Corruption and the Commonwealth FOI Principles adopted by Law Ministers in 1999. In 2006, the Inter-American Court of Human Rights became the first international tribunal to recognize Freedom of Information as a fundamental right of itself. It also recognized the obligation of the state to institutionalize effective regimes to guarantee this right.

Currently the Caribbean is in the process of adopting a regional Human Rights Treaty that is expected to encourage countries to draft FOI legislation. Such a regional process may also be reinforced by the ongoing integration of countries in the Caribbean Single Market and Economy.

In defending and promoting this human right, Parliaments, Parliamentarians, public bodies and officials, and civil society organizations have a shared responsibility to the people. In view of this, the Workshop made the following recommendations:

### **THE RIGHT OF ACCESS TO INFORMATION**

(1) Where Freedom of Information (FOI) regimes have not yet been established by law, Parliament should legislate as soon as possible to create an effective FOI regime to give the public access to information held by public authorities.

(2) The FOI law should be based on presumption of maximum disclosure of information. While there may be exemptions from disclosure in some cases based on a strict test of public interest,

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the FOI law should not provide a blanket exclusion for entire categories of information or for entire bodies.

(3) As well as legislating for the FOI regime, all efforts should be made to harmonize existing laws with its provisions to remove any inconsistencies.

(4) The development of FOI legislation should be done through a participatory process that ensures the widest possible consultation with the public. In this respect, the Workshop notes the example of the Cayman Islands where this was undertaken as part of the process of drafting the FOI Bill.

(5) The scope of the FOI legislation should encompass all bodies established or created by the constitution and statute, or wholly or partially funded from public finances, or those performing public functions, or in a position of monopoly in providing public utilities. The FOI regime should also extend to all documents pertaining to contracts and agreements entered into by the government and public bodies with private parties.

(6) The FOI regime should provide access to information in any form it is recorded or held by public bodies. It should also require public bodies to provide information in the form requested by the applicant unless it would disproportionately divert the resources of that body.

(7) The FOI law should specify comprehensively categories of information that public bodies should proactively disclose and update at regular intervals so that the public is fully aware of their operations and obligations without needing to make a request for information. In jurisdictions where there are real concerns over the costs of proactive disclosure, it should be noted that voluntary disclosure will reduce costs in the long term by reducing the number of requests for information to be handled.

(8) As far as possible, information should be provided free of charge under the FOI regime. Where fees for requests are imposed, this should be provided for in the law and not left to executive discretion. Fees should not be set at a level that acts as a deterrent and should only cover the cost of reproducing the information.

(9) The FOI law should specify a reasonable timescale for processing requests for information and for disposal of complaints and appeals.

(10) In addition to enacting domestic FOI legislation, government should promote the adoption of similar access regimes in any international organizations to which they belong.

## **PLANNING AND IMPLEMENTATION**

(11) For entrenching the right to information, the Workshop stressed the importance of going beyond enacting the FOI law to having a strong implementation plan, backed by real political will. Governments should provide material and human resources necessary for all aspects of implementing the law. It is equally important to address existing cultures of secrecy in public bodies.

(12) The FOI law should provide for a dedicated body to oversee its implementation and promote a culture of openness in all public bodies.

(13) Implementation of the FOI law should be according to a timeline defined in the law and to an action plan drawn up by the implementing body.

(14) Where resources are scarce the action plan should provide for phased implementation with an early focus on those bodies that have higher levels of interaction with the public. The Workshop noted the example of Jamaica in this regard.

(15) The implementation process should include harmonizing all existing laws and regulations with the FOI law so as to remove any inconsistencies and contradictions that could restrict the right to information.

(16) Implementation of the FOI law should not lead to the termination of any previously existing mechanisms or procedures – formal and informal – for providing access to information to the public. Provisions of the FOI law should not be used as an excuse to subject information already in the public domain to any exemption.

(17) An adequate number of information officers should be appointed in each public body at the earliest possible stage of implementation of the FOI law. They should be provided with all possible assistance to ensure successful implementation.

(18) A good records management system is vital to the successful implementation of the FOI law, just as it is for good governance. The Workshop notes that in the Caribbean, as in many other jurisdictions, the state of records management in public bodies is a cause for concern. Therefore, implementing the FOI law must concentrate at an early stage on improving standards. Even where there is good records management, the system should still be brought in line with the requirements of the new FOI regime.

(19) In planning and implementing the FOI regime, every consideration should be given to the need to make request procedures easily accessible to all members of the public, especially where the population is dispersed or where geography would mean that a centralized structure would effectively act as a barrier to access for parts of the population. One suggested way of decentralizing access points to public information would be to use the public library system.

#### **EDUCATION FOR OFFICIALS AND THE PUBLIC**

(20) There should be a concerted effort on sensitization and training in government and public bodies to address the problem of any existing culture of secrecy. Priority should be given to training a core group of public officials who will then sensitize and train their colleagues in the FOI regime, thus encouraging a multiplier effect. This would help mitigate any loss of human resources through staff transfers.

(21) Guidelines should be drafted on provisions of the FOI law and on all related procedures, and they should be widely disseminated throughout public bodies to assist public officials in fulfilling their obligations under the FOI regime. The use of new technologies should be encouraged in this regard and the Workshop noted the examples of Trinidad and Tobago and Jamaica where electronic resources have been used to disseminate guidelines.

(22) FOI training for public officials should aim not only to inculcate a culture of openness, but also to recognize FOI obligations as part of their jobs rather than a peripheral responsibility.

(23) It is crucial that public education campaigns are undertaken to ensure that people are aware of their right to information and of the procedures to exercise it. Public awareness programmes on FOI issues should be collaborative exercises that include government, public bodies, civil society and the media. Educational institutions should also develop special curricula on FOI awareness courses and training.

(24) FOI education programmes should use a variety of means of communications to ensure the widest possible outreach, also take into account any local cultural sensitivities. Programmes can also be designed to show that these sensitivities are not incompatible with open governance.

### **MONITORING COMPLIANCE**

(25) The FOI law should provide for an independent body empowered to enforce compliance. It should be led by and staffed with persons of integrity and adequately resourced to make it independent in practice.

(25) The independent body should also investigate and rule on complaints and appeals against decisions of public bodies related to FOI requests. In this function, it should operate free of interference. The FOI law should also specify that decisions of the independent body are still subject to review by an appropriate court identified in the law.

(26) The FOI law should ensure that the appeals process is not so cumbersome or costly as to act as a deterrent to the public.

(27) The FOI law should specify the obligation of all public bodies to report regularly on compliance with its provisions. The independent body should be responsible for oversight in this regard and itself report regularly to Parliament with recommendations included on improving implementation of the FOI regime.

(28) As the democratic institution representing the people, Parliament is ultimately responsible for ensuring that the enacted right to information is protected and promoted. Parliament should therefore regularly review progress made in entrenching transparency in public bodies and take appropriate actions based on the recommendations of the independent body.

The Workshop called on all jurisdictions in the region to assist each other and share expertise on FOI issues to facilitate adoption and implementation. The CPA and partners organizations for the Workshop also stand ready to assist Caribbean countries and Parliaments where possible.