



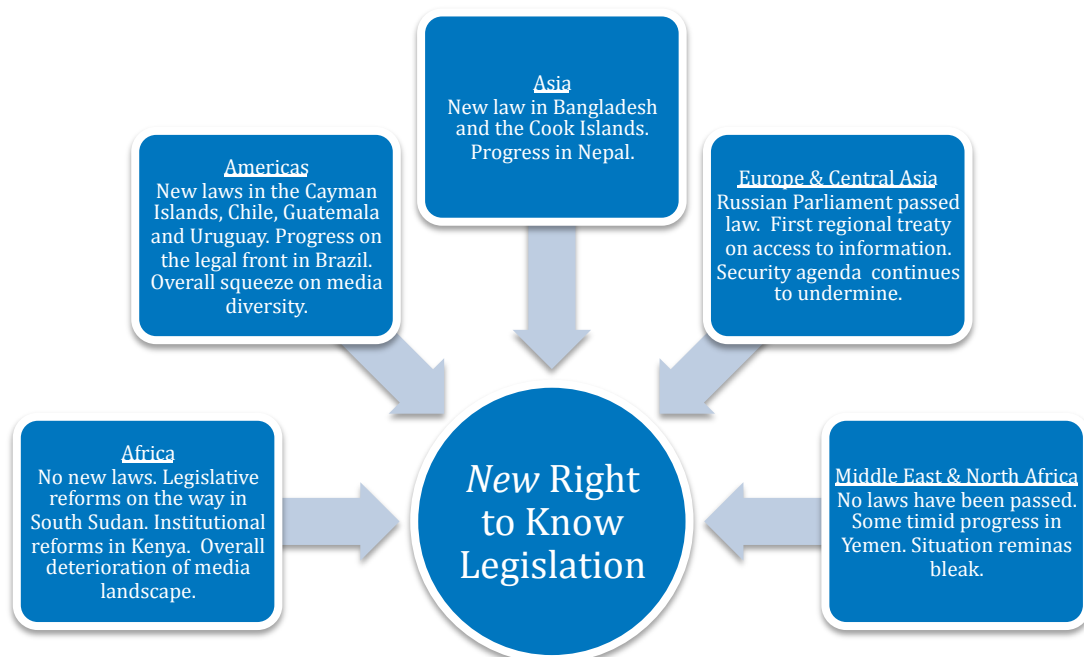
28 September 2009

STATEMENT

Right to Know Day 2009: a Global Snapshot

The right to know has changed lives. Across the world opaque governments have crumbled under new pressures to be transparent and accountable. Members of the public have become re-engaged in democracy, with new tools to question unworkable policies, unveil hidden statistics, and uncover corrupt practices.

Laws on access to government-held information constitute one of the important tools to ensure government transparency and accountability. Since Right to Know Day on 28 September 2008, a number of countries around the world have adopted new access to government-held information legislation:



ARTICLE 19 has led the global campaign calling on countries to adopt access to information laws. We advise countries on best practice and critique legislation that falls below international standards. Since the last Right to Know Day, ARTICLE 19's international offices have reported the following legislative regional updates:

Africa

The right to know revolution has largely bypassed Africa and the last 12 months have unfortunately continued this trend.

South Africa, Zimbabwe, Angola and Uganda are the only countries with access to information legislation. However, they all present significant weaknesses and problems. The Zimbabwean legislation lacks the safeguards that would ensure maximum disclosure, and is in practice a law promoting non-access. In South Africa, the law has rarely been put to use. In Uganda the regulations to implement the law were placed before cabinet after a delay of four years.

There have been a few successes over the last 12 months though.

ARTICLE 19 and our partners have successfully campaigned for a new right to information bill in South Sudan. Following three years of concentrated work the bill has now been passed by cabinet and is waiting to be passed by the parliament of the government of South Sudan.

In Kenya, two transparent institutions have been formed in the past year. The Public Complaints Standing Committee will request information from government bodies on behalf of the public, and they will be obliged to respond. A review of parliamentary procedures has also led to 'Question Time', a weekly opportunity for the legislature to ask the executive questions. Previously classified policies and issues can now be openly discussed among parliamentarians and civil society. Prime Minister Raila Odinga has recently published a list of Mau Water Catchment beneficiaries, which includes past and present senior government officials. Odinga stated: *"for the sake of this house, I reluctantly table the list."*

Meanwhile over the past year the Anti-Corruption Coalition has been campaigning to enhance government accountability and transparency in the delivery of water, health and education in Uganda. ARTICLE 19 and its partners have also been working to revive the discussions about access to information legislation in Nigeria after they were thwarted by then president Olusegun Obasanjo.

Decreasing political will from African leaders is largely responsible for the lack of clear progress. In Kenya and Tanzania politicians have continued the political rhetoric of accountability and transparency, but have done little. The situations in Kenya and Rwanda are deteriorating, challenged in both cases by regressive legislation that prohibits free speech under the banner of security. In Francophone Africa, only Mali, Senegal and Burkina Faso have initiated processes towards development of access to administrative information legislation.

Americas

The Americas have been one of the leading regions in adopting access to information legislation. Over the past year, three new access to information laws have come into effect in the region. On 17 October 2008 Uruguay passed a law: *"promoting transparency of administrative functions of all public organs, state-owned or not, and assuring the fundamental right of people to access public information"* which came into force this year on 3 August, under the auspices of the Access to Public Information Unit.¹

¹ Ley 18.381

The ‘Law on Transparency of Public Functions and Access to Information of the State Administration’ came into effect in Chile in April, implemented by the new Council for Transparency.² Also in April the ‘Law on Access to Public Information’ came into force in Guatemala, ensuring that *“all interested person, without discrimination, the right to request and to access public information held by authorities and subjects obliged by this law”*.³

Over the past year ARTICLE 19 has been working with the Brazilian government to fully implement Article 5 of the Constitution, which guarantees the right to information. A Special Commission, announced during an ARTICLE 19 event, was established on 2 September to speed up the process. In El Salvador, one of the last countries in the Americas without access to information legislation, the National Assembly has continued to discuss the Bill on Transparency and Access to Public Information.

In Mexico, civil society organisations and academics have rocked the agricultural sector by developing a website that discloses the allocation of government subsidies and their beneficiaries to the amount of 171 thousand million MXN (13 billion USD). The website showed that 57 per cent of the subsidies were given to just 10 per cent of the applicants, most of which included governors, business leaders and drug traffickers.

Across the region the past year has seen signs of a squeeze on media diversity. Governments in Venezuela, Bolivia and Argentina have limited their public’s access to a range of different opinions by closing down or undermining radio and television stations. In Bolivia, the Mayor of Santa Cruz, Percy Fernández, went as far as saying that he wanted journalists “to die”, because they are “ridiculous” and “traitors”.

Asia and Australasia

India’s Right to Information Act remains one of the world’s best Right to Know laws with a strong history of implementation. The Right to Know is used by local Indian communities to assert other rights, with people lodging information requests in order to get the police to act or to get their social security payments.

In the past 12 months Bangladesh and the Cook Islands were the only countries within Asia and Australasia to pass new access to information legislation.

The Bangladeshi Right to Information Act has retrospective effect from 20 October 2008 and requires both public and non-governmental organisations to provide information relating to their *“structure, composition [and] activities”*. The new Information Commission will face a number of problems in implementing the new law however, with Bangladesh’s prevailing culture of public sector secrecy, a long list of exceptions, and poor public awareness of rights and responsibilities.

Local communities in Bangladesh are already using the new access to information law. In one case, a request by local activists clearly showed how public officials are

² Ley 20.285 – Ley de Transparencia de la Función Pública y el Derecho de Acceso a la Información de los órganos del Estado

³ Decreto 57-2008 – Ley de Acceso a La Información Pública

trying to maintain their local power by rejecting their new responsibilities. It took a complaint right up to the District Commissioner to force a district education officer to publish information on how government education subsidies were awarded.

Public interest groups in Nepal recorded some success in the past year. The National Information Commission held that exam answer sheets should be provided to those submitting a request. There were signs of reversal in China following an Open Government Information Regulation in 2008. In June 2009 the government amended the State Secrets Law and changed the rules around “confidential information”.

Indonesia adopted a Law Regarding Transparency of Public Information in 2008 but it has not yet come into force. There are already some concerns that the members appointed to the Central Information Commission are not high-powered enough to pry open the government. An attempt in September 2009 to pass a weak secrecy law that would have largely defeated the freedom of information law was only just defeated by civil society.

Europe and Central Asia

In Western Europe, the year was marked by the British MPs’ expenses scandal following requests for information by journalists and activists. The scandal demonstrated particularly well the potential impact of the Right to Know on strengthening democracy and accountability.

Twelve European countries have signed the first regional treaty on access to information. ARTICLE 19 called on all 47 Council of Europe member states to sign the Convention on Access to Official Documents. At a meeting of ministers in June, Belgium, Estonia, Finland, Georgia, Hungary, Lithuania, Macedonia, Montenegro, Norway, Serbia, Slovenia, and Sweden signed and ratified the convention.

After years of campaigning by ARTICLE 19 and our partners, a draft access to information law is in front of the Ukrainian parliament. The draft, which was developed from ARTICLE 19’s model law, passed first reading, and is at the second reading stage.

In Azerbaijan, ARTICLE 19’s right to know projects have begun to change the political discourse. One stakeholder commented: *“We asked the Novkhani municipality for information about problems with our infrastructure. After two weeks we received a call from the head of the administration, who arranged a meeting with us and orally answered our questions. He didn’t respond in writing, but instead met with the towns people and partially managed to solve their problems.”*

Three years after the access to information legislation was passed in Azerbaijan there is still however no Information Ombudsman. Despite international and domestic criticism, the government continues to evade demands for transparency and accountability by blocking the establishment of this key institution.

Tajikistan has also adopted access to information legislation, but increased time limits, delaying responses, and an inclusion in the law relating to paying the expenses of providing information, have all discouraged applicants.

Limits on access to information in Europe have come from anti-terrorism legislation and the general security agenda. Journalists' fundamental right to keep sources confidential has been undermined in such countries as Italy and France. Newsrooms have also been searched and officials publicly criticised on grounds of protecting secrets and enforcing national security.

Middle East and North Africa

Despite demands from civil society, the governments of the Middle East and North Africa have made little recognition of the right to know. Jordan has been the only country in the region to enact (admittedly weak) access to information legislation in June 2007. Other countries have largely delayed and rejected attempts to empower the public with the right to know.

Civil society groups in Yemen and Lebanon are spearheading a movement for the right to know. In Yemen the access to information legislation under discussion is more progressive than in Jordan but the government is reluctant to endorse it and multiple drafts have fallen from the table.

Restrictions in Egypt are on the rise with the Egyptian Organisation for Human Rights being threatened with dissolution for holding a regional conference on access to information. Egypt also joined with Saudi Arabia in the introduction of an Arab League Regulation that would prohibit satellite television broadcasts that “*negatively affect social peace, national unity, public order, and public morals*”, or “*defame leaders, or national and religious symbols*”. The regulation was approved instantly by 20 countries and effectively bans access to any information that the government does not approve of.

Algeria, Iraq, Libya and Syria saw little change whatsoever. In Iran, for the first time ever there were open discussions about the right to know during the run-up to the presidential elections amongst the reformist candidates. New technologies have allowed for subtle changes in accessing information, as illustrated during the organisation of the demonstrations in Iran. Accessing different opinions from television channels and websites, and discussing and organising through mobile phones, social networking and information feeds such as Twitter, is challenging governments in ways they have little ability to control.

FURTHER INFORMATION:

- For more information please contact: Oliver Spencer, oliver@article19.org +44 20 7324 2500
- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.