

RIGHT TO INFORMATION AND ITS RECOGNITION AS A HUMAN RIGHT

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For the last two decades or more, global trend towards recognition of right to information is quite positive and constructive in nature. In addition regions of the world, different types of laws have been enacted. Globally it is construed that right to information not only reflects the crucial significance relating to participatory democracy but also recognised as fundamental human right. This recognition is amply demonstrated in different global instruments resolved by organisations like United Nations, the Commonwealth, the organisation of American states and the council of Europe.

ARTICLE 19 of UDHR

Article 19 of the Universal Declaration of Human Rights, 1948 in this regard states as follows:

"Every one has the right to freedom of opinion and expression; This right includes, freedom to hold opinions with out interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".

ARTICLE 19 of ICCPR

The International Covenant of Civil and Political Rights (ICCPR), a legally binding treaty, was adopted by the UN General Assembly in 1966. The corresponding provision in this treaty, Article 19 guarantees the right to freedom of opinion and expression in very similar terms:

1. Everyone shall have the right to freedom of opinion.

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

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

- a) For respect of the rights or reputation of others;
- b) For the protection of national security or of public order, or of public

health or morals.

Common Wealth and Right to Information

In March 1999, the Common Wealth has categorically asserted that the right to know and freedom of information as a human right and proclaimed as follows:

“Freedom of information should be guaranteed as a legal and enforceable right permitting every individual to obtain records and information held by the executive, the legislative and the judicial arms of the state, as well as any government owned corporation and any other body carrying out public functions.”

These principles and guidelines were adopted by the Common Wealth Law Ministers at their May 1999 meeting. The communique from the Law Ministers meeting was forwarded to the Heads of government meeting in November 1999, where it was considered by the committee of the whole on Common Wealth functional co-operation. The committee's report, which was approved by the Heads of government stated:

“The committee took note of the common wealth freedom of information principles endorsed by common wealth law ministers and forwarded to heads of government. It recognized the importance of public access to official information, both in promoting transparency and accountable governance and in encouraging the full participation of citizens in the democratic process.”

ARTICLE 13 of ACHR 1969

Article 13 of the American Convention of Human Rights (ACHR), has stated the following:

1. Everyone has the right to freedom of thought and expression. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:

- a) Respect for the rights and reputations of others; or
- b) The protection of national security, public order, or public

health or morals.

The language of this guarantee closely resembles that of article 19 of the UDHR, as well as article 19 of the ICCPR.

In October 2000, the commission approved the inter-american declaration of

principles on freedom of expression, which is the most comprehensive official document to date on freedom of information in the inter-american system. The preamble reaffirms with absolute clarity the afore mentioned developments on freedom of information:

Reaffirming Article 13 of the American convention on human rights, which establishes that the right to freedom of expression comprises the freedom to seek, receive and impart information and ideas, regardless of borders and by any means of communication;

Reaffirming that the principles of the declaration of the chapultepec constitute a basic document that contemplates the protection and defense of freedom of expression and independence of the press and the right to information;

The principles unequivocally recognize freedom of information, including the right to access information held by the state, as both an aspect of freedom of expression and a fundamental right on its own:

1. Every person has the right to information about himself or herself or his/her assets expeditiously and not onerously, whether it be contained in data bases or public or private registries, and if necessary to update it, correct it and or amend it.

2. Access to information held by the state is a fundamental right of every individual. States have obligations to guarantee the full exercise of this rights. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.

Similarly, the international American Declaration of principles and freedom of expression has affirmed the following:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

2. The exercise of these freedoms, since it carries with duties and responsibilities may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Thus to conclude, a close scrutiny of all global instruments and laws reveals the fact that every country around the world is striving to provide with its citizens the right to information. The guaranteed right to information shows how this major right has globally gained the status of a fundamental human right recently. This is the age of information and everybody and every country is striving to have more and more information to ensure the availability and accessibility of information to each and everybody.