

Experts Group Meeting

on:

Freedom of Information and Sustainable Development, Sealing the Link

17-18 March 2008

UNESCO Headquarters, Paris

The right to freedom of information (FOI) is a fundamental human right¹. Even though it can be interpreted more widely, for the purposes of this Experts Group Meeting, FOI or right to information is defined as the universal right to access information held by public bodies.

Over the past 10 years, the right to FOI has been recognized by an increasing number of countries, including developing ones, through the adoption of a wave of right to information laws. FOI laws reflect the fundamental premise that all information held by governments and governmental institutions is in principle public and may only be withheld if there are legitimate reasons, such as privacy or security, for not disclosing it.

There are many ways in which FOI can be seen as an essential component for sustainable development and fighting poverty through empowerment, as it impacts on its economic, social and political aspects. Where information flows freely, democratic and sustainable development is facilitated.

Access to information is for instance essential for citizens to make informed choices during election time or for civil society organizations to fulfill their mandates. FOI and the government transparency it promotes, has a direct consequence on fighting corruption which in turn has a tangible impact on development because it restricts the funds available for public services, quality education for all, and anti-poverty programmes.

While from an economic perspective, when businesses have access to accurate market prices or interest rates this will reduce market biases; and if regulatory procedures are transparent and easily accessible this will facilitate small and medium entrepreneurship, and encourage foreign direct investment.

Finally, the sharing of scientific information is also crucial when addressing global problems such as climate change. There is no hope of combating such complex environmental threats if there is no sharing of research data and pooling of resources by governments, scientists and organizations.

¹ UN General Assembly, (1946) Resolution 59 (1), 65th Plenary Meeting

However, despite the importance FOI for sustainable development and empowerment, it has nonetheless rarely been prominent on the development agenda, and it is more likely to be found within the framework of good governance and human rights.

On the occasion of the launch of the new updated and revised edition of Toby Mendel's book on "Freedom of Information: a Comparative Legal Survey", this experts meeting aims to brainstorm and contribute to debate on the relationship between FOI and sustainable developments; whilst drawing attention to the complexities of the topic.

This activity will fall under the implementation of World Press Freedom day's Dakar Declaration on Media and Good Governance which calls for UNESCO: "to promote the adoption of national access to information legislation and to develop international principles on access to information". The outcomes of this brainstorming session will be consolidated in a report and conveyed during the conference in Maputo, Mozambique, "Press Freedom, Access and Empowerment" celebrating World Press Freedom Day 2008.

This activity is also in the light of WSIS follow-up, therefore the following WSIS texts are included for reference:

Paragraph 21 of Declaration of Principles²:

"21. Connectivity is a central enabling agent in building the Information Society. Universal, ubiquitous, equitable and affordable access to ICT infrastructure and services, constitutes one of the challenges of the Information Society and should be an objective of all stakeholders involved in building it. Connectivity also involves access to energy and postal services, which should be assured in conformity with the domestic legislation of each country. "

Paragraphs 10 a) and b) of Plan of Actions³:

"10. ICTs allow people, anywhere in the world, to access information and knowledge almost instantaneously. Individuals, organizations and communities should benefit from access to knowledge and information.

a) Develop policy guidelines for the development and promotion of public domain information as an important international instrument promoting public access to information.

b) Governments are encouraged to provide adequate access through various communication resources, notably the Internet, to public official information.

² Document WSIS-03/GENEVA/DOC/4-E: "Declaration of Principles: Building the Information Society: a global challenge in the new Millennium", 12 December 2003

³ Document WSIS-03/GENEVA/DOC/5-E: "Plan of Action", 12 December 2003

Establishing legislation on access to information and the preservation of public data, notably in the area of the new technologies, is encouraged. ”

Objectives of the Experts Meeting

- 1) Explore the link between FOI and sustainable development and empowerment;
- 2) Analyze regional specificities of FOI laws and the link to particular development contexts;
- 3) Brainstorm on strategies as to how FOI can be made more visible on the development agenda;
- 4) Share challenges faced by FOI advocacy campaigning;
- 5) Share challenges faced in the implementation of FOI laws;

Expected Outcomes:

- Raising the profile of FOI and its links to sustainable development
- Generating a discussion both for the participants and for the member state delegates attending on the second day;
- Compiling final report consolidating experts views emerged during the meeting which will serve as the foundation for further work on this topic and to be presented during Maputo, Mozambique, “Press Freedom, Access and Empowerment” celebrating World Press Freedom Day.

Format:

The Experts meeting will be organized by UNESCO with the participation of academics, NGO leaders, and IGO’s specialists; with a special focus on developing countries and Africa (about a dozen of participants funded by UNESCO, 10(+)? funded by invited organizations or self-funded). During the first day and a half the experts will work in plenary and in sub-groups while in the afternoon of the second day they will present their conclusions and open them up for discussion to a wider meeting, open to delegates from UNESCO’s 193 Members States.

DRAFT**Experts' Meeting**
“Freedom Of Information for Sustainable Development,
Sealing the Link”

17-18 March, 2008
UNESCO Headquarters, Paris
(Room XV, Bonvin Building and Room XI, Fontenoy Building)

Provisional Agenda**Monday 17 March, Room XV**

9.30am Opening remarks by Mogens Schmidt, Deputy Assistant Director-General for Communication and Information and Director of division Freedom of Expression, Democracy and Peace, UNESCO

9.45am Presentation of “Freedom of Information: a Comparative Legal Survey”, new edition, updated and revised by author Toby Mendel (followed by questions and answers session)

[10.45am Coffee Break]

11am Session 1**Freedom of Information and sustainable development**

Moderated by Agnes Callamard, Executive Director, Article 19

Panelists:

- Issa Luna, Professor, Autonomous National University of Mexico
- Edeaten Ojo, Media Rights Agenda, Nigeria
- Shekhar Singh, National Campaign for the Peoples' Right to Information, India
- Representative from World Bank (t.b.c.)
- Representative from UNDP (t.b.c.)

(15 minutes each and open floor and round up)

[1pm Lunch Break]

3pm Session 2**Challenges for advocacy and implementation of Laws**

Moderated by Andrei Richter, Moscow Media Law and Policy Institute

Panelists:

- Helen DARBISHIRE, Executive Director, Access Info Europe, Madrid - Spain
- Cece Fadope, Article 19, United Kingdom
- Priscilla Nyokabi, International Commission of Jurists, Kenya
- Hisham Kassem, Organization for Human Rights, Egypt

- Representative from Council of Europe (t.b.c.)

(15minutes each, followed by open floor and round up)

[4.30pm Coffee Break]

4.45pm Session 3

Freedom of Information visibility on the development agenda,

Moderated by Edeaten Ojo, Media Rights Agenda

Panelists:

- Shushan Doydoyan, Freedom of Information Centre, Armenia,
- Nepo Malaluan, Action for Economic Reform, Philippines
- Juman Quneis, Birzeit University Media Institute, Palestinian Authority
- Andrei Richter, Moscow Media Law and Policy Institute, Russian Federation
- Roberto Saba, Asociación por los Derechos Civiles (ADC), Argentina
- Representative from Transparency International (t.b.c.)
- Representative from OECD (t.b.c.)

5.45pm Screening of “Hear My Voice”, UNESCO/OHCHR-funded documentary on the Freedom of Information campaign in Nepal.

[6.15pm Cocktail]

Tuesday 18 March

9.15am-1pm Working group session

Group 1 Links between Freedom of Information and citizens’ participation, empowerment, and sustainable development;

Group 2 Best-practices and lesson-learned in the implementation of Freedom of Information legislation in developing countries;

Group 3 Strategy to strengthen Freedom of Information advocacy at the global/regional/national level.

Each group is invited to brainstorm its topic, outlining challenges as well as possible solutions. Each working group will appoint a person who will be the focal point in charge of recording the discussion and its conclusions. The groups will condense their findings and prepare a short presentation which will be given in the afternoon’s open meeting.

[1pm Lunch Break]

Room XI (Fontenoy)

(Session open to delegations, and the media)

3pm Introduction by Toby Mendel author of “Freedom of Information: a Comparative Legal Survey”

3.10pm Working groups’ presentations:

Group 1 Links between Freedom of Information, citizens’ participation, empowerment, and sustainable development;

Group 2 Best-practices and lesson-learned in the implementation of Freedom of Information legislation in developing countries;

Group 3 Strategy to strengthen Freedom of Information advocacy at the global/regional/national level.

3.45pm Open floor

4.30pm Concluding remarks by Mogens Schmidt, Deputy Assistant Director-General for Communication and Information and Director of division Freedom of Expression, Democracy and Peace, UNESCO

Background points for reflection:

Investigating the link: It is widely argued that there is a positive correlation between FOI and sustainable development. Here are some of the most common arguments which highlight this link:

Democracy demands that individuals are able to participate effectively in decision making and in assessing the performance of their government. This participation depends on access, for instance, to information about the state of the economy, social systems, and other matters of public concern such as the use of public funds. One of the most effective ways of addressing poor governance is through open, informed debate. FOI and the public oversight it engenders, notably through the media, can be effective in generating checks and balances on the exercise of public power. Effective access to information may also promote a sense of ownership within society and therefore give meaning to and strengthen the concept of citizenship.

Public bodies are often the principal collectors, holders and disseminators of population, cultural and scientific data and materials. This information can be a key resource for shaping how individuals, civil society, communities, associations and businesses can participate; and it can facilitate their actions by providing an accurate information base. In short, empowerment means enabling right-holders to claim their rights and participate within the development process- thereby making it sustainable.

However, these links also conceal a multitude of questions:

- *Can we demonstrate and quantifiably measure the correlation between FOI and development, FOI and poverty eradication? If so, what methodological tools could be elaborated and would this even be useful in promoting FOI projects?*
- *How can this FOI be made more prominent on the Development Agenda? How can it be “marketed” as an integral part of the fight against poverty and ensure donor support for related initiatives?*

Collection and sharing of data: Difficulties arise with the collection, publication, communication and access to information. Most freedom of information laws oblige public bodies to publish key information.

- *What constitutes essential information that governments should collect? How can they be encouraged to do so?*

For example, some countries may not collect data on unemployment of marginalized groups, but this does not make it irrelevant.

Since the adoption of the MDGs, the international community has become ever more reliant on statistical data that pin-points where development assistance is most needed, thereby enabling international and cross-time comparisons. However, there are

difficulties relating to the cost and practicalities, but also to the political will, of gathering such data.

- *If there is no commitment to compiling information, should international organizations take it upon themselves to fill in the gaps? Should funding be widely available from the international community in order to make this possible?*

New technology and the digital divide: E-governance offers the practical means of putting FOI into action. E-Governance is the public sector's use of information and communication technologies with the aim of improving information and service access and delivery, encouraging equal citizen participation in the decision-making process and making government more accountable, transparent and effective. Increasingly, internet connectivity and IT resources become crucial to FOI access. Their absence can highlight the digital divide and the ensuing digital and knowledge gap. This inequality of digital access exists between developing and developed countries; but also within countries, where certain marginalized groups are excluded from access or lack the necessary skills to make use ICTs.

- *How can the digital/knowledge divide be addressed on a micro, macro and international scale with relation to promoting FOI?*

FOI laws: FOI law implementation also relies on a multitude of factors: From the surrounding constitutional laws, to the availability of funding for its implementation, to the dynamism of civil society including the activism of transparency NGOs.

- *What monitoring and reviewing of the implementation of FOI laws should take place and who should be doing it?*