

African Regional Findings and Plan of Action for the Advancement of the Right of Access to Information

Accra, Ghana



African Regional
Conference on
the Right of Access
to Information

February 7–9, 2010

THE
CARTER CENTER



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We, the 130 participants from 20 countries throughout Africa, representing governments, civil society organizations, international and regional bodies and financial institutions, donor agencies and foundations, the private sector, media outlets and scholars, gathered in Accra, Ghana from February 7-9, 2010, under the auspices of The Carter Center, in collaboration with the Special Rapporteur for Freedom of Expression and Access to Information in Africa, the Media Foundation for West Africa, and Open Democracy Advice Centre, to advance the right of access to information.

PREAMBLE

Endorsing the principles, global findings, and plan of action set out in *the Atlanta Declaration and Plan of Action for the Advancement of the Right of Access to Information*, including the international conventions referred to therein;

Acknowledging the leadership of the African Commission on Human and Peoples' Rights, which adopted the Declaration of Principles of Freedom of Expression in Africa based on Article 9 of the African Charter on Human and Peoples' Rights; the important work of the Special Rapporteur for Freedom of Expression and Access to Information in Africa; the African Union Convention Against Corruption; the Charter on Democracy, Elections and Governance; as well as the efforts in many nations to establish and promote the right of access to information;

Recognizing the great diversity of the African continent, its peoples and cultures, wealth of resources and natural environments, political and legal systems, indigenous and ancestral traditions, and colonial legacies;

Understanding the need for access to information to serve the essential goals of deepening democracy, strengthening political stability and promoting socio-economic justice and sustainable development;

Encouraged by the creative use of new technologies and traditional communication approaches to disseminate information that help people to access and realize their basic rights and needs;

Confident that African nations will build on past achievements, progress in their respect for the voices of the people, and continue to seek transparency;

FINDINGS

The assembled conference hereby affirms the findings of the *Atlanta Declaration* and further asserts that in Africa:

1. Access to information is a fundamental human right, and as such the State has a duty to respect, protect and fulfil this right.

2. Everyone has a need for information even though it is not always articulated. Access to information and voice ought to be a guarantee to all, including vulnerable populations, marginalized persons and the powerless. This will require reducing barriers and empowering people to seek information, including through oral and informal channels.
3. Transparency is essential to good governance, yet paradoxically in many countries it is seen as a costly luxury rather than a development priority that can bring economic gains.
4. Political and institutional constraints in Africa have limited the opportunities to exercise the right of access to information.
5. Increased understanding about how to realize the right to information would positively serve both public servants and the general population.
6. Quality information should be easily accessible and understandable to the general public, and should be available through timely proactive release of information as well as in response to specific requests.
7. Though separate, access to information, media freedom, and freedom of expression are mutually supportive and equally necessary for effective information flows to the public.
8. Where regional instruments, constitutional provisions and national laws exist often they have inadequately advanced the right of access to information due to factors such as insufficient political will, weak legal and administrative guidelines and structures, and ineffective implementation and enforcement. At their worst, some national legal frameworks have even repressed rather than enabled the right of access to information.
9. Fear that information will be used by political opponents, increase risks to their personal interests, expose government failings, and demystify their power causes some politicians to impede the right of access to information. Champions understand that the incentives for greater transparency, including the potential increase in confidence and economic and political gains, outweigh these fears.
10. The values of transparency extend beyond the State to numerous other influential actors, whose activities are vital to peace, democracy, development and human dignity. Where these ideals have not flourished, such as in political parties, extractive industries, public utilities, and government procurement, it has contributed to corruption and undermined democratic governance and fair competition.
11. In addition to the executive, institutions such as Parliament, national human rights commissions, national anti-corruption agencies, consumer protection agencies, and the judiciary have not been sufficiently engaged in the promotion and realization of the right of access to information.
12. A worrying absence of transparency characterizes some traditional authorities who control funds and resources, especially land held in the public interest.
13. Regulatory schemes and disclosure practices for multinational corporations are insufficient to protect rights and ensure transparency in the African countries in which they function.

14. A number of multilateral organizations, including the World Bank and the African Development Bank, have recently improved or are soon to review their access to information policies and practices, presenting an important window for advocacy.
15. Advocates for access to information may increase their effectiveness by framing the right in a variety of ways to gather support from different constituencies and by taking greater account of the political realities when developing their strategies, such as looking for various points of entry, envisioning alternative approaches, encouraging sectoral and voluntary approaches, and building buy-in.

REGIONAL PLAN OF ACTION

To give effect to the *Atlanta Declaration* and the *African Regional Findings*, we call upon the relevant stakeholders to undertake the following actions:

For Regional and International Bodies:

1. The African Union and sub-regional bodies should lead by example and increase openness through a comprehensive disclosure policy related to their operations and functioning.
2. The African Union and its partners should incorporate a review of the right of access to information into the African Peer Review Mechanism.
3. The Special Rapporteur for Freedom of Expression and Access to Information in Africa should be provided an enhanced mandate and the necessary resources and support to:
 - a. carry out an analysis of existing relevant regional Charters, Declarations, Protocols, Conventions and other instruments to determine their scope, application and limitations and provide recommendations for making them more effective and, where necessary, for future instruments;
 - b. convene a multi-stakeholder panel of experts to advise on establishing norms and standards on access to information, developing benchmarks and monitoring compliance;
 - c. facilitate the drafting of a region-specific model law, through a participatory process with inputs from all relevant stakeholder groups, to support the passage of national laws and encourage observance of the highest standards of transparency.
4. The upcoming revisions of the African Development Bank's disclosure policy, which may be under review in 2010, should bring the institution up to the standards of the *Atlanta Declaration* and should seek maximum engagement of civil society actors throughout the review process.
5. The work of the International Financial Corporation (IFC) serves as a model and sets standards for other actors, particularly private banks and corporations. The on-going review of its disclosure policy also should bring this institution up to the standards of the *Atlanta Declaration* and include a requirement that all IFC-financed or co-financed project agreements and related contracts be disclosed.

6. The international community should maintain the practice of including transparency in “country dialogues” as part of funding agreements, and multilateral institutions should encourage the establishment of national access to information laws.
7. In celebration of the 20th anniversary of the Declaration of Windhoek on Promoting an Independent and Pluralistic African Press, UNESCO’s International Conference on Press Freedom should be held in Namibia in 2011 and focus on the advancement of the right of access to information.
8. The international community should prioritize funding support for:
 - a. activities by States and non-state actors which promote demand for, monitoring, and use of the right of access to information;
 - b. the provision of universal access to information and communication technologies;
 - c. fostering an African peer-reviewed network to develop policy and advocacy-pertinent research;
 - d. building capacity on the right of access to information for parliamentarians through mechanisms such as the Inter-Parliamentary Union; and
 - e. an initiative to convene African Information Ministers to facilitate regional impetus towards enhanced transparency in both regional and national laws, policies and practices.

For States:

9. Political will should be cultivated and customary in those who govern.
10. States should accept responsibility and take leadership by ensuring the right of access to information and fulfilling existing constitutional provisions for the right by:
 - a. enacting and implementing comprehensive right to information legislation and supportive policies;
 - b. repealing, amending or reforming all laws and administrative measures inconsistent with the right of access to information; and
 - c. assuring adequate budgets for full and effective implementation of access to information laws and instruments.
11. Where unjust access to information laws exist, States should amend or repeal such legislation.
12. Consistent with the *Atlanta Declaration* principles, access to information laws should be entrenched in regional instruments as well as national and sub-national laws and should extend to all levels and branches of government, particularly local levels, to public information held by the private sector, and cover other non-state actors. Moreover, exemptions to access to information should be narrowly drawn, specified in law, and limited only to those permitted by international law, and subject to a public interest override.
13. Governments should timely and proactively disseminate public information, including all national and sub-national laws and regulations, criteria for resource allocation, budgets, and standard procedural guidelines on availability of and means for accessing public services.

14. User-friendly information should be disseminated through all possible channels, including: radio, newspapers, signage, meetings, depositories, archives, internet, mobile telephone, TV and images, and more advanced technologies.
15. States should establish the policy framework and enabling regulatory mechanisms, including opportunities for competition and liberalization, for citizens to easily access accurate, reliable and affordable information.
16. In addition, States should build capacity for those responsible for fulfilling the right and develop public awareness campaigns to encourage people to claim their right of access to information.
17. Institutions such as Parliament, national human rights commissions, national anti-corruption agencies, consumer protection agencies, and the judiciary should be capacitated and engaged to advance and protect the right of access to information.
18. States and their international partners should further the tenets of multi-stakeholder initiatives in areas such as extractive industries, pharmaceuticals, armaments, international aid and construction sectors, as a complement to comprehensive right to information efforts.

For Non-State Actors: Civil Society, Media, Private Sector, and Multinational Organisations

19. All persons should fully exercise their right of access to information, including making requests and pursuing all legal and administrative remedies available when denied.
20. As the media and civil society organisations advocate for access to information, they should lead by example and ensure their own transparency in matters of interest to the public.
21. Civil society organisations should monitor the implementation and enforcement of access to information provisions by States, public institutions, private sector actors, and multilateral bodies, including the new World Bank information policy reforms.
22. Civil society organisations should fully participate in the African Development Bank review process of its information disclosure policy, including in the Civil Society Working Group, and encourage provisions that restrict the right of national governments to veto the Bank's disclosure of information related to the public interest. In addition, civil society should take an active role in the review of the International Financial Corporation's disclosure policy.
23. Civil society organisations should identify, analyse, and disseminate information about access to information mechanisms, laws, and obstacles (such as tax policy and regulatory frameworks) which affect the full realization and enjoyment of the right.
24. Additionally, civil society should conduct a mapping exercise on the scope of work being done on the advancement of access to information on the continent, and work to create coalitions and networks of access to information advocates.

25. The private sector should increase its leadership in promoting access to information, including forming or joining coalitions with civil society organisations and States to increase access to information.
26. Private corporations and non-state actors should include access to information provisions into their codes of conduct and comply with national and international laws and norms of best practices for proactive disclosure and access to information.
27. Traditional leaders should be subject to access to information instruments for management and use of public resources and encouraged to provide additional information through voluntary disclosure.
28. Multinational organisations, such as donors, international NGOs and multinational companies, should implement and support high standards of access to information in their operations and activities. These organisations should provide access to information which complies with both the access to information legislation in the country of their headquarters as well as with the laws of the countries in which they operate.
29. Multi-stakeholder initiatives, such as in the extractive industries, pharmaceuticals, armaments industry, international aid and the construction sectors should be promoted as an important complement to ongoing efforts to establish or strengthen right of access to information instruments.
30. The access to information community should strive to build solidarity and links with a full range of stakeholders who share a common transparency agenda.

We call upon all regional and international bodies, States, and the regional access to information community to establish, develop and nurture the right of access to information on the African continent, in accordance with the principles, findings and global plan of action enunciated in the *Atlanta Declaration* and in the *African Regional Findings*, and to commit to the *African Regional Plan of Action* in furtherance of our common objective.

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