

Atlanta Declaration and Plan of Action for the Advancement of the Right of Access to Information



International
Conference on
the Right to
Public Information

February 27–29, 2008

THE
CARTER CENTER



ATLANTA DECLARATION AND PLAN OF ACTION FOR THE ADVANCEMENT OF THE RIGHT OF ACCESS TO INFORMATION

We, over 125 members of the global access to information community from 40 countries, representing governments, civil society organizations, international bodies and financial institutions, donor agencies and foundations, private sector companies, media outlets and scholars, gathered in Atlanta, Georgia from February 27-29, 2008, under the auspices of the Carter Center and hereby adopt the following Declaration and Plan of Action to advance the passage, implementation, enforcement, and exercise of the right of access to information:

PREAMBLE:

Recognizing that Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant of Civil and Political Rights, Article 13 of the American Convention on Human Rights, and Article 9 of the African Charter on Human and People's Rights provide for a right to "seek, receive and impart information," and Article 10 of the European Convention on Human Rights establishes a similar right to "receive and impart information;"

Emphasizing that the Inter-American Court of Human Rights in the case of *Claude Reyes v. Chile* found that Article 13 of the American Convention on Human Rights recognizes a general right of access to information and that states must provide a system for exercising that right;

Considering that the Council of Europe, the Organization of American States, and the African Commission on Human and People's Rights have adopted clear statements and declarations on the right of access to information, that there are important right to information initiatives underway at the Organization for Economic Cooperation and Development, and that the recent United Nations Convention Against Corruption calls on all states to ensure that the public has effective access to information;

Acknowledging that the right of access to information is a foundation for citizen participation, good governance, public administration efficiency, accountability and efforts to combat corruption, media and investigative journalism, human development, social inclusion, and the realization of other socio-economic and civil-political rights;

Appreciating that the right of access to information promotes efficient markets, commercial investment, competition for government business, fair administration and compliance of laws and regulations;

Convinced that political commitment to the right of access to information is necessary for adoption and full implementation and enforcement of access to information legislation and instruments;

Stressing that although there have been great advances in the right of access to information over the past decade, there remain many challenges including the absence of national legislation, widely varying levels of implementation, and continued political resistance;

FINDINGS:

The assembled conference hereby finds that:

1. The fundamental right of access to information is inherent in all cultures and systems of government.
2. A lack of access to information disproportionately affects the poor, women and other vulnerable and marginalized people, and as such the right should be guaranteed to all sectors of society.
3. The right of access to information is fundamental to human dignity, equity and peace with justice.
4. Transparency is a necessary and powerful instrument for promoting human and state security.
5. New technology offers a great potential for facilitating access to information, yet factors that limit access and data management practices have prevented many from benefiting from its full potential.
6. Enacting a comprehensive law is essential, but insufficient, to establishing and sustaining the right of access to information.
7. Equally important is constructing an appropriate institutional framework and developing public administration capacity to manage and provide information.
8. It also is critical to raise public awareness of the right of access to information, ensure capacity to exercise the right including through public education, and foster support for transparency among all sectors of society.
9. A free and independent media is a fundamental component to the establishment and full enjoyment of the right of access to information.

PRINCIPLES:

Further to these findings, we set out the following key principles:

1. Access to information is a fundamental human right.
2. All states should enact legislation to give effect to the right of access to information.
3. The right of access to information applies to all intergovernmental organizations, including the United Nations, international financial institutions, regional development banks, and bilateral and multilateral bodies. These public institutions should lead by example and support others efforts to build a culture of transparency.
4. The right of access to information should be entrenched in international and regional instruments as well as national and sub-national laws and should respect the following tenets:
 - a. Access to information is the rule; secrecy is the exception;
 - b. The right of access to information should apply to all branches of government (including the executive, judicial and legislative bodies, as well as autonomous organs) at all levels (federal, central, regional and local) and to all divisions of the international bodies listed above;

- c. The right of access to information should extend to non-state actors under the conditions enumerated in principle 5 below;
 - d. The right of access to information should include a right to request and receive information, and a positive obligation on public institutions to disseminate information related to their core function;
 - e. The right to request information is independent of a personal interest in that information, and there should never be a need to provide a justification or reason;
 - f. The instrument or law should include procedures designed to ensure the full implementation and ease of use, with no unnecessary obstacles (such as cost, language, form or manner of request) and with an affirmative obligation to assist the requester and to provide the requested information within a specified and reasonable period of time;
 - g. Exemptions to access to information should be narrowly drawn, specified in law, and limited only to those permitted by international law. All exemptions should be subject to a public interest override, which mandates release of otherwise exempt documents when the public benefit of release outweighs the potential public harm;
 - h. The burden of proof to justify a denial should always fall on the holder of information;
 - i. The instrument should mandate full disclosure, after a reasonable period of time, of any document that was classified as secret or confidential for exceptional reasons at the time of its creation;
 - j. The instrument should include clear penalties and sanctions for non-compliance by public officials; and
 - k. The requester should be guaranteed a right to appeal any decision, any failure to provide information, or any other infringement of the right of access to information to an independent authority with the power to make binding and enforceable decisions, preferably an intermediary body such as an Information Commission(er) or Specialist Ombudsman in the first instance with a further right of appeal to a court of law.
5. The right of access to information also applies to non-state actors that: receive public funds or benefits (directly or indirectly); carry out public functions, including the provision of public services; and exploit public resources, including natural resources. The right of access to information extends only to the use of those funds or benefits, activities or resources. In addition, everyone should have the right of access to information held by large profit-seeking corporations where this information is required for the exercise or protection of any human right, as recognized in the International Bill of Rights.
6. States and international organizations should ensure a system of implementation that provides for:
- a. The equitable exercise of the right of access to information;
 - b. Training of all public officials on the practice and application of the right;
 - c. Public education and training to empower persons to make full use of the right;
 - d. Allocation of necessary resources to ensure efficient and timely administration;
 - e. Strengthening of information management to facilitate access to information;
 - f. Regular monitoring and reporting on operation of the law; and

- g. Review of the operation and compliance with the law, by legislative and key oversight bodies.
- 7. Companion legislation that would further promote the right of access to information and provide a supportive legislative framework should be enacted, including: laws compelling disclosure of political party and campaign financing; lobbying disclosure; archiving legislation; whistleblowing protection; and professional public administration laws. Moreover, contradictory provisions, such as those contained within an Official Secrets Act, should be repealed.

PLAN OF ACTION

To give effect to the Findings and Principles, the following action plan should be undertaken:

For the International Community:

1. Intergovernmental organizations - including the United Nations and all of its bodies, Council of Europe, Organization of American States, African Union, the Organization for Economic Cooperation and Development and international financial institutes, regional development banks, and trade bodies - and international and domestic non-governmental organizations should give effect to the right of access to information in accordance with the findings and principles enumerated above.
2. As the first intergovernmental institution to formulate a specific convention on the right of access to information, the member states of the Council of Europe should ensure that the above findings and principles are respected in the future “European Convention on Access to Official Documents.”
3. During the World Bank Group’s forthcoming review of its Policy on Disclosure of Information, the Bank should engage in an open and consultative process to bring its policy into line with the findings and principles enumerated above. Other international governmental organizations also should take steps to adopt or bring their information policies into line with the findings and principles.
4. International and regional bodies should:
 - a. take measures to ensure that all states have effective mechanisms to promote and protect the right of access to information;
 - b. develop instruments on the right of access to information;
 - c. conduct ongoing monitoring of compliance with this right, through formal and informal follow-up mechanisms such as peer review.
5. International donors should support countries’ efforts to establish, implement and enforce the right of access to information by providing technical assistance and sufficient long-term funding, including through new aid modalities such as program-based and sector-wide approaches.
6. Donor funding agreements should require that donors and recipients provide access to information regarding the amount and use of international funds.

7. Regional and international bodies considering the establishment of right of access to information instruments should ensure that they consult fully with civil society and with experts in the right of access to information. A panel of experts should be convened to support these efforts.
8. Passage and implementation of access to information laws should be prioritized as essential to reporting on progress toward and achievement of the Millennium Development Goals.
9. Donors should provide funding to support monitoring, analysis and assessment of the implementation and impact of the right of access to information, including through scholarly research, the development of appropriate indicators and practical evaluation tools.

For States:

10. Every state should provide for the right of access to information in keeping with the findings and principles enumerated above.
11. States should integrate promotion of the right of access to information into their own national development and growth strategies and sectoral policies.
12. States should seek multi-stakeholder partnerships to enhance their capacity to implement the right of access to information in practice.
13. States should establish independent enforcement mechanisms, such as Information Commissions, that provide for accessible, affordable, and timely appeal remedies. Where appropriate these bodies should have the power to make binding decisions and order disclosure of information.
14. States should put in place effective information management policies and systems, which facilitate their ability to properly create and maintain records and discharge their right to information obligations.
15. Effective training methods should be developed for officials charged with the responsibility of providing access to information along with structures for the sharing of best practice from around the world, and support from non-governmental organizations and donors should be sought.
16. To give effect to the right of access to information held by profit-seeking corporations, states should establish rules which ensure minimal administrative burdens, exemptions in accordance with general principles governing the right of access to information, and a threshold test for size to define which entities are subject to this duty.
17. Access to information regimes should incorporate some mechanisms for monitoring and evaluation, including quantitative and qualitative measurement, collection of statistics, and mandatory annual reporting.

For Corporate, Professional and Civil Society Organizations:

18. Multi-national corporations and large domestic businesses should establish voluntary commitments to proactively disclose information in the public interest, and such efforts should be encouraged and supported.
19. Technology innovators should develop and share new methods for the promotion of the right of access to information.
20. Additional scholarship and study on the right of access to information, implementation of relevant laws, socio-economic impact, politics of compliance, exercise of the right, its enforcement, and how it changes peoples' lives should be undertaken.
21. Right of access to information advocates should focus further efforts to develop and update guidelines on the drafting of right to information instruments and national laws, as well as on their implementation. These guidelines should be widely disseminated with a view to promoting right to information regimes that conform to the above principles.
22. All stakeholders should engage in the monitoring and assessment of the implementation and impact of the right of access to information, including through the development of appropriate indicators and practical evaluation tools.
23. Civil society should ensure full enjoyment of the right of access to information by demanding and using public information, and promoting and defending the right.
24. A free and independent media should be developed and promoted, and journalists should be trained in use of the right to information.
25. The access to information community should strive to build solidarity with a full range of stakeholders who share a common transparency agenda.
26. The Carter Center will work with others to disseminate the Atlanta Declaration, through high level communications, publications, conferences and meetings.

We call upon all states, international and regional bodies, and the global access to information community to establish, develop and nurture the right of access to information across the world, in accordance with the findings and principles enunciated in this Declaration and to commit to the plan of action in furtherance of our common objective.

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www.cartercenter.org/accesstoinformation.html