

Access to Information: A Fundamental Right

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**A Q&A with Laura Neuman, J.D.
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Access to Information Project manager**

Access to information is a fundamental right. Allowing people to seek and receive public documents serves as a critical tool for fighting corruption, enabling citizens to more fully participate in public life, making governments more efficient, encouraging investment, and helping persons exercise their fundamental human rights. For this reason, The Carter Center is actively involved with governments and civil society partners around the world, currently focusing on three Latin American countries, in the implementation of access to information policies. In this Q&A, the Carter Center's Laura Neuman, assistant director of the Americas Program and Access to Information Project manager, shares her insights.

Q: Why should ordinary citizens care about access to information?

I am often asked why people who sometimes don't have even pennies to their name should care about a right that to them seems very distant, such as the right to information, and my response is simple: citizens should care because information allows them to participate in priority setting and decision-making, to hold their government accountable, and to assure equal treatment and equal justice. Information belongs to the people; governments simply hold information in their name. Public documents include anything from a birth certificate to a contract for road construction to studies that underpin public policy. The right to information was considered so important that when former South African President Nelson Mandela was drafting their new democratic constitution, he made certain that this was one of the first rights included. Mandela understood that it is a lack of information and a lack of knowledge that allows systems such as apartheid to thrive. With information, citizens can better secure their democratic rights.

Q: Why should governments care about providing access to information?

Many governments are confronted with the urgent need to improve their economy, reform their constitution, strengthen institutions, modernize the public administration, fight corruption, and address civil unrest. For these governments, access to information can be used to achieve all of these objectives. With an access to information law, governments must establish record keeping and archiving systems, which serves to make them more efficient, reduce discretionality and allow them to make better decisions based on factual information. Moreover, greater transparency can help reestablish trust between government and its citizens.

Q: What is the process for incorporating access to information strategies into a country's consciousness?

Changing a culture of secrecy to one of openness is a difficult task that can take generations. However, a first step is to raise the community's awareness of their right to information. In many Latin American countries, the constitution provides a right to information. In other countries,

governments have signed international instruments or declarations for a right to information. In addition, it is important for legislatures to pass comprehensive laws that set out the procedural framework for requesting and receiving the information.

Developing an access to information culture can be divided into three phases: the passage of the law, its implementation, and its enforcement, leading ultimately to the law's use. Our ATI project at The Carter Center includes activities at all three phases. Passing the law is the easiest part. The most difficult part, for governments, is the implementation, and enforcement is arguably the most important.

Q: Who are the key players in the development of an access to information law?

It is critical to work with both government and civil society. There is co-responsibility in the development of a vibrant access to information program. The government must pass a good law and implement the necessary procedures and processes, while civil society has the responsibility of using the law and monitoring government's efforts. Both need support, and The Carter Center is committed to providing the requested assistance to ensure that all sectors are successful.

Q: What are some of the best examples of the use of freedom of information laws by citizens?

There are great examples from throughout the world. In India, documents obtained through access to information requests uncovered the fact that money for infrastructure projects, such as a canal for clean water, was being stolen by the contractor and the paperwork forged. Photographs depicting flag-draped caskets carrying U.S. soldiers killed in Afghanistan and Iraq, initially withheld from the public by the Pentagon, were ultimately released following a lawsuit filed under the U.S. Freedom of Information Act. Also, an access to information request was made in Jamaica under their new law to find out why fish were dying in a river, whether it was due to a chemical spill, and what the government was doing to clean up the water used for drinking, bathing, and fishing.

Q: How is The Carter Center involved in access to information work?

The Carter Center began work in Jamaica in 1999 as part of our 'transparency' project. The Access to Information Project officially began in March 2003, and has included work in [Jamaica](#), [Bolivia](#), [Nicaragua](#), and [Mali](#), and at the [regional level](#).

Activities in these countries have included advice on draft legislation, workshops to raise awareness, development of materials and guidebooks, and creation of mechanisms such as a volunteer attorneys' panel to represent poor persons for free when appealing information denials. In addition, we assisted missions of the Organization of American States in drafting a declaration for access to information, which was approved at their general assembly in 2005. The Carter Center has shared our international experiences and provided support to interested governments and civil society representatives throughout Latin America and the Caribbean, including Mexico, Peru, Ecuador, Argentina, Costa Rica, Canada, Belize, and Guatemala. We continue to partner with regional organizations such as the Organization of American States (OAS), the Inter-American Development Bank, and with the World Bank.

We have had the presence of field staff in all four countries, enabling the Center to provide continuing technical assistance and support to the government, congress, and civil society, and contextually addressing issues specific to that particular country.

Q: What are some of the achievements of the Carter Center's Access to Information Project?

In Jamaica, The Carter Center engaged civil society in drafting the first access to information law and encouraged the government to consult widely before the full parliamentary debate. Some have said that it was the first time there was the opportunity for true participatory lawmaking. In all of our country projects, we have published multiple guidebooks on the right to information and have provided observations on how proposed laws measure up to the emerging international standards. The Carter Center has provided technical assistance to both government and civil society, working to ensure that both sectors are successful, and we have brought the groups together, facilitating meetings and workshops.

Q: How effective has the U.S. Freedom of Information Act been since its implementation in 1966?

Initially, the U.S. Freedom of Information Act was not very effective. It was not until 1975, following Watergate and the 1972 major amendments to the act, that the legislation truly began meeting the objectives of its drafters to "remove every barrier to information about - and understanding of - government activities" so that the American public can be "adequately equipped to fulfill the ever more demanding role of responsible citizenship." The American public has certainly taken their responsibility seriously, with more than two million FOIA requests filed annually.

The congress took important steps in December 2007 to amend the Freedom of Information Act to include, for example, an ombudsman who can help mediate between the requestor and those who hold the information. Unfortunately, in February 2008, President Bush undermined these advanced by failing to fund this independent ombudsman's office at the National Archives and moving it to the Justice Department, one of the key agencies that have failed to provide information.

Q: What impact does the current global political climate have on implementation of current freedom of information laws and the adoption of new ones?

There used to be very few countries in the world with freedom of information laws, such as the United States, Canada, and Sweden. However, in the past decade, more than 50 countries have passed access to information laws. Although many governments are struggling with the difficulties of implementation, they remain committed to providing an expansive right to information. This is in stark contrast to what is happening in the United States. Following Sept. 11 and the passage of the Homeland Security Act and the Patriot Act, we have seen a tendency to restrict access to public documents, in some cases using national security as a pretext for subverting the right to information.