

Opinion: Government good at limiting access to information

By Whitney Evans, Quill

The freedom of speech, assembly, religion, the press and to petition government are seen as fundamental rights, thanks to the U.S. Constitution. Beyond that, though, is access to government information a fundamental human right? And if so, do journalists need to do a better job informing the public about the importance of it?

The right to free expression and information is seen as a fundamental human right, listed alongside other rights such as fair public trial and freedom from arbitrary arrest and slavery.

Although free speech and access to information may not seem to fit with other human rights laws, its existence in a sense ensures the existence of other laws, according to Frank LoMonte, executive director of the Student Press Law Center. He said citizens cannot really be informed without access to government-held information.

Freedom of information laws have been spreading rapidly across the world, and people are beginning to more fully understand the importance of gaining access to government-held information.

Cheryl Ann Bishop, author of "Access to Information as a Human Right," said there has long been agreement among government about the right of citizens to speak freely and to access information.

However, access to government-held information has only

recently been recognized as a fundamental human right. Access to government-held information is trending across nations, with recent rulings in the European Court of Human Rights and Inter-American Courts helping establish its legitimacy.

One reason access to government-held information is so important, Bishop says, is that other disclosure laws are essentially meaningless without it. If citizens do not know how their government is functioning, they cannot fully experience freedom of expression.

Despite the basic need for transparency, government officials often fail to place citizen access to information as a national priority.

“I really think it is grounded in distrust for the sophistication of the public,” LoMonte said. “There is a sense among many in government that they can’t level with the public. “

LoMonte said he senses government officials assume the public would react poorly to information, which is a cynical view of the public. As a result, government officials often think they have the right to take a different position in public than behind closed doors. They give incomplete information about the quality of their services and their business dealings because they think it is their private business.

“It’s almost like government officials believe there’s a right to lie,” LoMonte said.

The change, he said, needs to begin when government officials take office. They should be trained to know there is no such thing as “private business” when it comes to governing a country. They need to realize that what they call “their” filing cabinet, computer or notes are not theirs, and mentally adjust to being the public’s employee.

In turn, citizens need to realize the power they have in the

relationship. They also need to be involved in learning about public record laws.

“The public is not going to get excited about freedom of information if they think of it as something that only benefits reporters. They have to start thinking of it as something that benefits them as taxpayers,” LoMonte said. “The more people feel an ownership of those laws, the harder it will be for government officials to ignore that.”

Thus, it’s incumbent upon journalists and news outlets to explain FOI laws and citizens’ rights to the public.

United States: Not so good

The Associated Press published a study last year looking into the global state of freedom of information. What the AP found was that many new democracies did better with compliance to the law than more established democracies.

As part of the study, freedom of information requests were sent to the European Union and to 105 countries with known constitutional provisions or laws for freedom of information. They found newer democracies to be more proactive and responsive than older, more established countries.

For instance, Guatemala acknowledged receipt of the request within 72 hours and had the information to the press within 10 days; Turkey sent information within seven days, and Mexico fully responded and posted documents online within two months. Conversely, the United States responded only partially, and six months late, along with England and Wales responding 80 days late and only in part.

Nathaniel Heller, executive director of non-profit transparency and accountability researchers Global Integrity, gave one possible explanation: Newer democracies tend to be more innovative with their technologies relating to transparency because in general they have a fresh starting

point. They don't have to worry about grafting in various parts of an older law to make changes. Conversely, he described the U.S. Freedom of Information Act as "entrenched," "crusty" and "old."

Because of this, it will take more than legal reform to effect meaningful change in making freedom of information a national priority. It will take public action to spark meaningful change, LoMonte said, because government officials have little incentive: Informed citizens are not the ideal of incumbent elected officials.

At this point, he said, even in the worst non-compliant situations, city or county taxpayers end up paying the fees. Instead, government officials must be given the motivation to respond.

"We need real teeth in these disclosure laws so that people who disobey them get removed from public service," LoMonte said.

Short of citizen initiatives and voter referendums, this may not happen.

"It's going to have to be forced upon the government by the public," LoMonte said.

In the face of apparent indifference from both the government and public at times, the push for greater access to information may seem like a fruitless cause. In comes the question of what journalists in the U.S. can do to help encourage citizens to take advantage of access to information as a fundamental human right.

"The worst thing reporters can do is use the term access to information," Heller said.

If citizens are to understand and use their right to government-held information, people need to see why it's

important for them to understand. Especially in our fast-paced, sound-bite culture, it is important to present this information to them in a way that applies to their everyday lives.

Instead of extolling the importance and position of access to government information as a right affecting all other human rights, he said, journalists should make the information relevant to citizens. Journalists have a responsibility to act as translators. If parents are presented with the right to see teacher performance scores, scores of the class and school information, for instance, it becomes something they can get behind.

LoMonte agrees. He said individually outrageous cases tap into people's emotions and motivate them to act. As an example, he said, journalists can use the Jerry Sandusky and Penn State scandal as an example to inform the public about what could have been prevented with greater disclosure. Citizens are then left with no question about a direct link between a culture of secrecy and the atrocious behaviors that were left unchecked.

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