

FROM RIGHT TO ACCESS:

Pass the Freedom of Information Bill Now!

We are concerned citizens of the Republic of the Philippines representing various sectors and organizations. We come from different backgrounds and experiences, including non-government organizations, people's organizations, the academe, youth and students, government personnel, business, labor, and other sectors. We are bound together by our common concern for the public interest, and by our aspiration to actively participate in public life.

We call on the House of Representatives and the Senate to immediately pass a freedom of information law that will secure for us the full functioning of our right to access information of public concern. Our right to information is guaranteed by no less than the fundamental law of the land. Section 7 of the Bill of Rights of the 1987 Constitution reads:

The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

While the Supreme Court has consistently upheld such right and compelled the disclosure of withheld information in cases brought before it, still the denial of access to information on matters of public concern remains widespread. Despite the Constitutional guarantee and the judicial affirmation of the right, there are critical problems that need to be addressed by legislation:

1. The absence of a uniform, simple and speedy access procedure.
2. Even as in law there is no discretion in giving access to information, in practice it remains discretionary.
3. There is still untested, if not insufficient, basis for sanctions in cases of violation of the right to information.
4. There remains ambiguity in the scope of the guarantee. The Supreme Court itself notes that "there are no specific laws prescribing the exact limitations within which the right may be exercised or the correlative state duty may be obliged". (Chavez vs. PCGG, G.R. No. 130716, 9 December 1998).
5. The remedy to compel disclosure, primarily judicial, remains inaccessible to the general public.
6. In the context of increasing private sector participation in the provision of public goods and services, an increasing amount of information that is clearly

of public concern is now held and controlled by the private sector, which is outside the scope of the Constitutional guarantee.

To be effective, the legislation must contain the following essential features:

1. An expansive scope in terms of government agencies as well as of information covered.
2. An express legislative determination that all information in the possession, custody or control of any government agency is of public interest, to provide operational teeth to the legal theory that agencies have no discretion in making this determination.
3. A clear, uniform and speedy procedure for access to information.
4. A cumulative system of remedies that a citizen who has been denied access to information may choose from.
5. Administrative, civil and criminal liability for the denial of access to information without a valid ground.
6. A regulatory component giving the public the right to access specific information of public concern that are in the hands of the private sector, such as records pertaining to publicly guaranteed obligations, and to the operations of key public utilities such as water and electricity.

Our right to information is a key democratic right. It gives us the tool to learn about the affairs of government, and consequently enables us to meaningfully participate in governance.

Our right to information is also an economic necessity. It builds our capacity to give timely feedback and to engage policy debate in an informed manner. It helps us fight corruption. It also informs us of rules, policies and programs that allow us to make sound private decisions and choices.

The continued delay in the passage of a freedom of information law sets us back as a nation. We call for the passage of a freedom of information law now!