

The Draft model Law on Access to Information in Africa.

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What's in the presentation

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- Who is involved.
- The model law process.
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Genesis of the model law

- This law was developed in pursuance of resolution 167 of the African commission on Human and Peoples Rights (ACHPR).
- This commission is established in terms of the African Charter on Human and Peoples' rights. (African Charter), and has been in existence for 25 years with its headquarters in Gambia.

Genesis

- The commission has powers to create subsidiary mechanisms e.g. committees, working groups and Special Rapporteurs; and as such the Special rapporteur on freedom of Expression and Access to Information in Africa was created.
- This office's major role is promotion and protection of the rights to freedom of expression and access to information on the African continent.

Who is involved?

- A resolution by ACHPR authorized the Special Rapporteur on FOE and ATI to initiate a process to develop a model ATI law for Africa. (home grown).
- This law would assist State parties to the African Charter who are in the process of drafting or amending their ATI laws.

Who is involved

- The law provides minimum standards to guide African Union member states in their adaptation or review of ATI legislation and provide benchmarks for evaluating implementation.
- The draft model law was developed by the Centre of Human Rights, University of Pretoria, under the auspices of the Special Rapporteur.

The process

- This initiative started in 2010. In its 48th ordinary session, the African commission adopted resolution 167(XLVIII) 2010 on "securing the effective realization of Access to Information in Africa."
- From 29th -31st October, 2010 the Special Rapporteur together with partners held an expert meeting at which guidelines and principles to form basis of the model law were adopted.

The process

- A working group and drafting committee was established.
- From 19th -21st January 2011, in collaboration with the centre of Human rights, University of Pretoria and financial support of Open Society Initiative for Southern Africa, a working group meeting was held in Pretoria to discuss the draft law made by the drafting committee.

The process

- Sub-regional consultative meetings on the draft have been held between June 2011 and June 2012 in Southern Africa (Maputo), East Africa (Nairobi), West and Central Africa (Dakar), and North Africa (Tunis).
- Participants included, government- justice, foreign Affairs, communication and information; human rights bodies, academia, media, civil society organizations, election handling bodies and intergovernmental organizations.

Process

- Feedback was also received through email and the website postings where stakeholders were given an opportunity to comment.
- The model law was presented to the 52nd Ordinary session of the African commission pending finalization of the commission's consideration hopefully by next session scheduled for February 2013.

What it entails

- Part 1 - definitions, objectives, principles- right to access, duty to disclosure and obligation to disclose enshrined in the African charter for human and peoples' rights.
- Part 2- spells out details about public disclosure, details about information officers and their deputies and procedures of how information can be accessed from public bodies.
- Part 3- spells out procedures of how to obtain information from private bodies.

What it entails

- Part 4- Exemptions-details circumstances under which information may be denied.
- Part 5- handles the internal review of decisions.
- Part 6- Oversight mechanism- provides for independent and impartial body to promote, monitor and protect the right of access to information.
- Part 7- judicial review-review decision of oversight mechanism.
- Part 8- transitional provisions i.e. periods of dealing with requests.
- Part 9- miscellaneous provisions.

Outcomes so far

- When the model law process began only 5 countries had ATI laws but now the number has risen to ten.
- Other countries like Burundi, Egypt, Kenya, Botswana, Malawi, Ghana, Rwanda, Senegal, Mozambique, Sierra Leone, South Sudan, Tanzania and Zambia have bills pending adoption, some have borrowed from the provisions of the model law.

Way forward

- Sensitization is still continuing- raise public awareness at all levels
- Advocacy visits to countries that are in the process of adopting ATI laws to encourage them to comply with model law standards.
- Encourage state parties to expedite drafting their own ATI laws and strategies for implementation.

Way forward

- Collaboration between governments and civil society organizations should be enhanced to make implementation a reality.
- Lobby governments to repeal laws that restrict the access to information.
- Where legislation exist, strong political will is required for effective implementation.

Conclusion

- Access to information is undoubtedly pivotal in strengthening transparency and accountability, as well as good governance. Hence Governments need to embrace and promote information access in order to improve the development process.