

ACCESS TO INFORMATION: THE ROLE OF FREEDOM OF INFORMATION LEGISLATION AND CONSTITUTIONAL GUARANTEES

Peter M. Sebina
Doctoral Student (University College London)
Email: uczcpms@ucl.ac.uk

Abstract

Constitutional guarantees of access to information and their enabling legislation, Freedom of Information Acts are present challenges, prospects and opportunities for records managers. It is widely accepted that records management plays a pivotal role in Freedom of Information implementation. For instance, the preface to the Lord Chancellor's Code of Practice on the Management of Records under section 46 of the Freedom of Information Act 2000 states "(a)ny freedom of information legislation is only as good as the quality of the records to which it provides access. Such rights are of little use if reliable records are not created in the first place, if they cannot be found when needed or if the arrangements for their eventual archiving or destruction are inadequate."

The same can be said about constitutional guarantees of access to information. Constitutional guarantees of access to information would be fruitless where good quality records are not created, where access to them is difficult, and where procedures are lacking on records disposal. Constitutional guarantees of access to information on their own have minimal impact. However, it is becoming common that countries with constitutional guarantees of access to information end up enacting freedom of information legislation as enablers. Constitutional guarantees on access to information therefore present the records manager with the opportunity developing records management programmes which will fit perfectly once freedom of information is legislated.

To translate into anything meaningful constitutional guarantees of access to information just like freedom of information rely on sound records management. The records manager should use the enactment of freedom of information to promote and market sound management of records. Institutional placement of a national archival agency might need to be reviewed in a government setting with the move towards freedom of information across the world.

Keywords: Access to Information, Constitutional Guarantees, Freedom of Information Legislation

Introduction

The importance of information access in modern societies cannot be over-emphasized. As a matter of fact, the value of information is as old as the human race. In the 6th Century, the Roman Emperor, Flavius Justinian issued a decree

demanding that all provinces allocate a public building for preserving information in the form of records and archives so that these remained uncorrupted and accessible (Schellenberg 1956:1).

In 1946, the United Nations adopted a treaty recognizing the importance of information. This treaty, ultimately ratified by individual nation states and regional as well as international organizations formed the basis upon which the rights of individual citizens to information were to be recognized the world over. While some UN member states chose to acknowledge this right through access to information legislation others did so through constitutional guarantees. Further still, others adopted both.

Over time, the management of records has come to be recognized as a vital component in the provision of access to information. It is on this basis that the British Government, through Section 46 of the Freedom of Information Act 2000 declared that a code of practice on the management of records be drawn up and disseminated to all organs of government. Consequently, the British National Archives (formerly PRO) went ahead to prepare a Code of Practice and Action Plans to enhance the management of government records.

This article examines the principles of information access with particular reference to the choice between Freedom of Information (FOI) legislation and constitutional guarantees. It further explores the significance of records and archives management in promoting access to information. Last but not least, it examines the challenges that are likely to confront archivists and records managers as they strive to satisfy access requirements stipulated by law in specific jurisdictions.

Access to information: the principles

The concept of information access in modern societies goes back to 1946 when the United Nations adopted Resolution 59(1) acknowledging freedom of information as “a fundamental human right and... the cornerstone of all the freedoms to which the United Nations is consecrated” (United Nations 1948:176). Though the Resolution did not specifically mention access to information, this was implicit in its reference to freedom of information which recognized the peoples’ right of access to public information held largely by governments.

In 1948, the United Nations General Assembly ratified the Universal Declaration on Human Rights (UDHR) treaty which states in article 19 as follows:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers (United Nations 1948:176).

Although article 19 did not declare access to information an independent right, it however made it clear that the right “to seek, receive, and impart information” (implying access to information) was antecedent to freedom of expression.

The UDHR was followed in 1966 by the International Covenant on Civil and Political Rights (ICCPR). Article 19 of this treaty likewise made reference to freedom of expression in somewhat similar terms. However, unlike the UDHR, the ICCPR through articles 2 and 3, created a legal obligation requiring signatories to enforce freedom of expression in their jurisdictions (United Nations n. d.). As implied in article 19 of the ICCPR treaty, freedom of expression also covers access to information without which freedom of expression would be meaningless. Accordingly, “access to information is a pre-condition for the possibility to form an opinion, which (in itself) is a pre-condition for the freedom of expression (Berg n. d.).

In 1993, the UN Commission on Human Rights set up the office of Special Rapporteur on Freedom of Opinion and Expression. Part of its mandate was to make clear what “freedom of expression” as an internationally recognized right entailed.

In 1995, it submitted a report in which was contained an interpretation of this right by declaring that:

the right of everyone to receive information and ideas... is simply not a converse of the right to impart information but a freedom in its own right.

The right to seek or have access to information is one of the most essential elements of freedom of speech and expression (Hussain 1998).

The report further noted that freedom of expression would be ineffective if the people did not have access to information. The report further went on to caution governments against withholding information from public purview and demanded that the transparency of governments with regard to information provision be placed under public scrutiny.

In 1998, Abid Hussain, the report’s author declared that freedom of expression “imposes a positive obligation on states to ensure access to information, particularly with regard to information held by governments in all types of storage and retrieval systems” (Hussain 1998).

From the foregoing, it is clear that freedom of expression is made possible by access to information. The two together are a gateway to knowing what government is doing. On the other hand, the purposes of access to information are realized when members of the public can freely express themselves. Governments are therefore obliged to provide access to information and to ensure that an environment conducive to free expression exists.

What access to information entails

Today, freedom of expression is universally recognized as a legal right that enables members of the public within a given jurisdiction to express their opinions and ideas freely. Thus governments are required not only to protect freedom of expression but also to encourage the public to express their opinions freely. In this regard, access to information is considered an enabler of freedom of expression. However, it is also true that access to information can be an independent right separate from freedom of expression.

Access to information serves a range of expectations besides the ability to express oneself. Firstly, it assumes that members of the public have a need for information. In this context, it gives members of the public the right to gain access to information held by government. This creates an obligation on the part of government not only to maintain complete and accurate information but also to allow the public access to it.

Secondly, it facilitates the execution of all other rights that are reserved for the enjoyment of citizens or individuals. Thirdly, it provides an understanding of the extent to which this right can be exercised and defines the boundaries beyond which it can be considered an infringement. Similarly, it outlines remedial measures for resolving cases of infringement or misuse.

As far as governments are concerned, rights of access to information are indicative of the level of openness and accountability and the level of trust that people have in their government. It is a way of knowing what government is doing, what its plans are, and what policies it espouses. Furthermore, it is a way of knowing what programmes and services it has set aside for improving the welfare of the people and how these are to be implemented.

On the other hand, reluctance to permit access to information is an indication of the level of government secrecy, mistrust and even corruption. Therefore, access to information not only acts as a deterrent to corruption but also as a means of making government more open, transparent, accountable and democratic.

More importantly, access to information confers upon citizens the right to participate in the formulation of policies used to govern them. According to the Commonwealth Human Rights Initiative (CHRI), “the information kept by government holds the memory of the nation and provides a full portrait of its activities, performance and future plans.” (International Advisory Commission of the Commonwealth Human Rights Initiative 2003: 10).

Information held and used by government is harnessed through taxes or grants and loans taken on behalf of the public. Given that it is the public who pay for the assemblage of the information, it follows logically that it is them who own it and government is merely the custodian of the information on their behalf. Information

is therefore a public good which members of the public should be allowed to consume and enjoy without much restriction.

Information access and democracy

Democracy is a fuzzy concept that lends itself to a variety of definitions. This notwithstanding, it is generally accepted that the minimum standards which characterize a democratic state include but are not limited to: effective participation by citizens in the governance process; full and equal suffrage and the existence and respect of individual rights and freedoms such as freedom for members of the public to express themselves freely. Others are elected representation in government through free and fair elections held periodically and access to government information (Dahl 1998; Held 1996). It is therefore apparent that access to information underpins the principles of a democratic state and the realization of its tenets.

Information access and accountability

The concept of accountability is very broad. However, its meaning is threefold. Firstly, it means the obligation to provide an answer for actions one is responsible for. Secondly, it denotes the capacity to impose and enforce sanctions for inappropriate conduct resulting from actions relating to the execution of specified functions. Thirdly, it also means the capacity to acknowledge or give credit for positive actions resulting from designated responsibilities (Schedler 1999:14).

In James Madison's view, accountability is an important aspect of government. It enables government to account to itself and to the public concerning its actions. However, this cannot be achieved without access to information (Madison 1788). Accountability is thus largely dependent on access to information. Information access facilitates internal accountability of government besides enabling various sectors and sub-sectors of government to account to one another for the functions they are charged with. Access further facilitates external accountability of government to the public. Last but not least, access to information is a reminder to government that it has to account to the people and for it to do so it has to account to itself first.

It is a further reminder that government is obliged to provide answers on its actions to the public and that the citizens too can demand answers where government fails to provide them. This places a burden upon government to create and maintain adequate information as well as records for the purpose of meeting this objective.

Information as an arsenal of trust

Access to information is meaningless if there is no guarantee that the information maintained and provided by government is trustworthy (O'Neill 2002). Information

held by government is intended to create an element of trust between itself and the general public. Information resulting from the execution of responsibilities by public officials should be seen to shed light on what government does. Such information must depict the working of government as it responds to the needs of the people and thus building trust that it has the people at heart in whatever it does.

Facilitating and promoting access to information

Ways of providing and promoting access to information vary from country to country. In some provision of access to information is facilitated and promoted through Freedom of Information legislation (FOI) while in others this is achieved through constitutional guarantees. These two strategies are briefly discussed below.

Freedom of information legislation

FOI refers to the right bestowed upon the public to access government information to enable them to better understand and meaningfully participate in the governance process. This right given to the public to access government or public information is often proclaimed under statutes or legislations bearing different names in different countries. In some, it is referred to as Freedom of Information whereas in others such as South Africa it goes by the name Promotion of Access to Information (PAIA). The name notwithstanding, the principles and objectives of the legislation are simply to acknowledge the fact that information access is a free standing right bestowed on every human being. It is also an acknowledgement that information access as a constitutional right is difficult to implement or regulate. It is in this regard that various FOI legislations provide a framework within which to implement information access rights by creating rules and regulations as well as providing an oversight duty holder. FOI is premised on the following principles (African Union 2004; Special Rapporteur 2000):

Maximum disclosure

The principle of maximum disclosure is based on a strong presumption that access to government information is a right rather than a privilege. Therefore, all government information is considered accessible except where justifiable exemptions exist.

Limited scope of exemptions

All FOI legislation should ensure that restrictions on disclosure of information are based on harm tests which prove that access to information in question militates against the public interest. As mentioned above, FOI legislation assumes that all government information is open for public inspection. In denying access to such information, government is obliged to state reasons for denial based on an interpretation of the FOI legislation. Hence, the legislation must clearly state what the exemptions are with proper justification of how they were arrived at.

Proactive disclosure

FOI makes it mandatory for agencies coming under its purview to release certain types of information proactively without waiting for access requests to be made. Such types of information may include but is not limited to:

- Information concerning the functioning of government institutions;
- Information enabling members of the public to make an input into government policy formulation;
- Information on the types of information held by government institutions;
- Any background material that may contribute to citizens' understanding of the government decision making processes.

Implementation and monitoring

The success of any FOI legislation is dependent upon the existence of effective enforcement and monitoring mechanisms. FOI laws need to specify how requests for access to information are to be handled and the remedial measures to be taken in case of failure to abide by these provisions. The law also needs to state clearly who should exercise what responsibility in the implementation of information access rights. The law should, among other things, specify the government department with responsibility for implementing the Act, and also name the agency(s) charged with monitoring.

Access fees

FOI recognizes that satisfying requests for access to information might overstretch the already constrained resources at the disposal of government agencies. As a result, it provides that governments may levy fees to cater for such requests and to meet costs for photocopying, reprints of photo images, as well as staff time spent on searching and retrieval of information. However, care should be taken to ensure that the fees levied are not prohibitive since this could be used to defeat the intended purposes of the law. Theoretically, providing access to information is also possible without the element of fees.

Disclosure should take precedence

The principle of disclosure stipulates that all countries need to review their various laws to ensure that these are consistent with the provisions of FOI legislation. Those that are not should be repealed or amended to be in line with the requirements of FOI.

Whistleblower protection

FOI legislation should be seen to encourage whistle-blowing by protecting all persons disclosing information that exposes wrongdoing in the public service as this enhances the tenets of FOI.

Maintenance and dissemination

FOI also recognizes that besides implementation and monitoring, its success is further bolstered by the ability of government and its agencies to maintain, preserve, and make available information relating to its daily operations and transactions. It is this information that goes towards satisfying individual requests for public information. The principle of disclosure therefore dictates that the management of government-held information regardless of the format is accorded the importance it deserves not just for meeting daily operational needs of business processes but also for purposes of FOI.

Constitutional guarantees and access to information

Constitutional guarantees on access to information result from the recognition by governments of the value that information has to the public and the need for members of the public to have access to it. A review of various international covenants on access to information indicates that the right of access to information provides the foundations for many other rights and freedoms including the right of free expression. The covenants encourage governments to safeguard and protect freedom of expression. Initiatives made by governments worldwide in this endeavour differ from country to country. For example, Section 12(1) of the Constitution of Botswana states as follows:

Except with his consent, no person shall be hindered in the enjoyment of the freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence (Botswana government 1966).

Just like the covenants referred to above, this Section of the Botswana Constitution does not single out access to information as an independent right but is seen as part of the right to free expression. Section 16 of the South African Constitution expresses similar views by declaring that “everyone has the right to freedom of expression” which includes:

- freedom of the press and other media;
- freedom to receive and impart information and ideas;
- freedom of artistic creativity; and
- academic freedom and freedom of scientific research

Not only does the South African Constitution recognize freedom of expression as a right and access to information as an enabler, it further singles out access to information as an independent right. Section 32(1) state as follows:

Everyone has the right of access to information held by the state... and any information that is held by another person and that is required for the exercise or protection of any rights (South Africa 1996).

This is an indication that access to information is not just about enabling freedom of expression. It is also about knowing and protecting individual rights to information and knowing what government is doing.

The recognition of the need to protect and guarantee access to information rights through constitutional provisions is also an indication on the part of those governments of the value that this right entails for both the government and citizens. Constitutions are supreme laws of any country from which other laws are enacted. Subsequent laws enacted should not contravene constitutional provisions but should use constitutional prescriptions as the minimum standard.

Where access to government information is prescribed in the constitution as is the case in Botswana, it is further testimony that government is committed to these rights and freedoms and that these cannot be allowed to be amended willy-nilly at the discretion of those governing. It is also an indicator that conflicts arising out of the refusal to provide access to information can be resolved through courts of law.

Therefore, constitutional guarantees are prescriptions setting out rights and freedoms even though these cannot be considered rights in themselves. They provide a benchmark on which the laws specifying various rights and obligations are premised. This explains why a country has only one constitution and many laws that derive and subscribe to it. By extension, this explains why a constitution can be used to guarantee access to information, with a separate law such as FOI governing the implementation process.

Constitutional guarantees are further recognition that governance involves a two-way relationship between the governed and government. This relationship is further enhanced through access to information in that both parties have to communicate in order to understand one another. However, the guarantees have very little legal effect since their effect is heavily reliant on the will of government and political power to release information or on the ability of the governed to demand and compel government through various means to make information accessible.

Though constitutional guarantees on access to information are valuable, the fact is that they are difficult to translate into practicable rights and freedoms that members of the public can enjoy. For rights to be enjoyed there should be regulations governing implementation and the exercise of such rights including remedial measures in the event that infringements occur. Constitutional guarantees are however silent on this aspect because constitutions cannot be expected to be prescriptive besides setting out legal benchmarks and intentions of government.

Realizing the legal complexity of national constitutions for interpretation of societal rights and freedoms, the Constitution of South Africa (1996)

recommended that a law be enacted to interpret and enforce the implementation of information access rights, which resulted in the promulgation of the Promotion of Access to Information Act (2000). In the final analysis, both the constitutional guarantees on access to information and FOI legislation deal with the rights of citizens to access government information. While the guarantees prescribe principles establishing this right, FOI laws are meant to regulate implementation and to guarantee the enjoyment of the right.

Formulating information access laws where constitutional guarantees exist does not mean the latter are obsolete or irrelevant. In circumstances where access legislation is found to be limiting the guarantees can be invoked in a court of law forcing interpretation of the law, its amendment or repeal. The guarantees can also be resorted to where other legislations are found to impede access to information. Constitutional guarantees are the foundation upon which access to information is built. Without them, access laws risk being founded on shaky ground.

Access to information: implications for records and archives management

Access to information raises a lot of issues relating to both records and archives management. As pointed out earlier in this article, the Special Rapporteur on Freedom of Opinion and Expression declared in 1988 that access to information imposed an obligation on governments to make information available to the public. The interpretation of this is that in order for information to be accessible, governments first need to create and maintain the information. Most government information is captured in the form of records which are either maintained as current records or archives under the care of records managers or archivists.

Although records and archives management programmes are not necessarily designed for the purpose of serving the interests of constitutional guarantees or FOI their role in safeguarding both records and archives in support of current and future needs of society indirectly contributes to the availability of government information without which accessibility would be impossible. Both records and archives management therefore give practical meaning to the rights of citizens to access government information.

Though records and archives management cater for the business and historical needs of institutions as well as society, part of the mandate of records managers and archivists is to see to it that adequate records are created and maintained documenting all aspects of the business process. It is also to ensure that the information captured in records as well as archives is maintained and made available for as long as it is needed.

Let us face it, implementation of FOI or constitutional guarantees would be impractical without the availability of records which constitute the largest segment of government information. Governments too rely on records in order to transact

public affairs, whether in decision-making, provision of services, protection of rights or monitoring of projects and programmes. Even when denial of access to information is invoked in a court of law, governments still turn to records managers and archivists to provide answers as to their whereabouts. And when records have been destroyed, these professionals have to show proof that the records were justifiably destroyed not to save the face of government but following legally accepted standards. Anything short of this would be construed to suggest that government is secretive and not accountable to those it governs.

Impact of FOI and constitutional guarantees on other societal values

The democracy value

The democratic process can only work successfully if members of the general public are informed. It is in this regard that constitutional guarantees play a significant role by requiring that governments inform citizens of their workings. FOI on the other hand makes it mandatory for citizens to be informed. Conversely, both FOI and constitutional guarantees empower citizens by giving them the right to demand to be informed. Both FOI and guarantees are premised on the notion that in democracies, governments are for the people and should invariably respond to their needs.

Records management facilitates the realization of the tenets of both FOI and the guarantees by ensuring that each and every business process of government is adequately documented. FOI as well as the guarantees facilitate access to government information and thereby rely on records management to deliver the information. Constitutional democracy and the right of access to information both rely on proper management of public records.

The accountability value

Proof of accountability largely depends on the availability of reliable, accurate, trustworthy and complete information. When a transaction takes place information is generated which ought to be maintained and safeguarded as proof of the action. It is through evaluation of the information that appropriate sanctions or rewards can be effected. Records, if well maintained, can be used to provide proof of the credibility or lack of it of the actions and transactions which may have taken place.

The trust value

It is necessary that trust prevails across government and between government and the public. Without it, government efforts in responding to the needs of the public will be frustrated causing further distrust of the government by the public. Records management not only enhances trust but also the confidence of government to deal with issues in an open and transparent manner. Both FOI and constitutional guarantees with the support of a good and sustainable records management programme are the foundations upon which trust in government radiates.

Challenge for records managers and archivists

The first challenge records managers and archivists have to contend with is the realization that neither records nor archives management exist solely to satisfy the demands of FOI or constitutional guarantees. However, they are crucial to the successful implementation of both. This realization should be exploited to demand from government greater recognition of the critical importance of the value of the records and archives management professions. It should further accord these professionals the opportunity to better market these professions in the public service.

The second challenge is the need to realize that the right of access to information gives members of the public the legal right to demand the release of public records through the courts in the event that the information government releases to them fails to satisfy their needs or to meet their expectations. This may mean that not only is the trustworthiness of government challenged but also that of records managers and archivists. It also invariably shifts the burden of proof from the government to the records manager and archivist. If this were to occur, records managers and archivists would find themselves having to provide access to the required records to avoid being in contempt of court. This is causing records managers and archivists to re-think and re-evaluate their roles and responsibilities and how to deliver them.

The third challenge for these professionals has to do with the fact that the goal of both FOI and constitutional guarantees is the provision of government information in its entirety and not just records which happen to be the express mandate of records managers and archivists. Consequently, these professionals while fulfilling their mandate may also be required to broaden their scope to include other forms of information touching on government business processes.

As a way of addressing these challenges, records managers and archivists need to re-evaluate the manner in which they conduct records audits and surveys. Critical to this is an understanding of all public sector business processes to determine what these are; what their information needs are; the records and information generated as a result of their business transactions; etc. These should be complimented with the conduct of risk assessment, meaning that the management of records should be undertaken bearing in mind the risks that are likely to be faced in the event that the records are non-existent, incomplete or untrustworthy.

Various studies show that records managers and archivists tend to wait until promulgation of FOI legislation before making any meaningful improvements in the way that public sector records are managed. This should not be the case especially where constitutional guarantees exist providing support to information access. They should seize the opportunity to remind government that the

purpose of the guarantees is to make government more democratic, open, accountable and trustworthy.

Role of National Archives

Most national archival institutions have as part of their mandate oversight of the management of records in government from creation to disposition. However, with implementation of both FOI and the constitutional guarantees, these institutions need to re-invent themselves from their traditional custodial roles to meet the new demands and challenges engendered by access to information laws. The custodial role presumes that national archival institutions are only interested in the historical value of records. Access to information laws prescribes a new role for the national archives. As argued by Terry Eastwood in 1989, archives are arsenals of history, administration and law (Eastwood 1993:36). Archival agencies as seen from the perspective of access to information are today proactive players in the entire business of government. These agencies are now expected to set standards to guide the management of records. Above all, national archival agencies need to perceive of themselves as the pillars of government accountability, first to itself, to parliament and other watchdogs, and finally to the public.

Access to information rights demand of government to legislate and promulgate effective records and archives laws which not only establish the national archives as the pillar of history but also of accountability. The laws should lead to an environment that propagates effective management of records in the entire public service. They should recognize that records are of value not only for historical purposes but also for administrative and other purposes such as the fulfillment of democratic values.

Conclusion

Access to information is an essential undertaking which has compelled governments to protect the right through a free standing legislation or state their intentions for allowing the access through constitutional guarantees. The laws and the guarantees are beneficial both to government and the citizens. In government they are a reminder that government has an obligation to inform its citizens. For citizens, it is a reminder that they can ask government questions and seek for answers to be provided for them.

Access to information facilitated by the guarantees or a law in the scope of FOI is an attempt to open governance processes to public scrutiny thereby generating informed participation and consent of citizens in government processes. This leads to citizens developing improved trust in government programmes and services including the decisions government makes on their behalf.

Being under obligation to provide access to information and being afforded with the right to access government information presents records managers and archivists with challenges and opportunities. These when harnessed can lead to effective access to information.

References

- African Union. 2004. Declaration of principles on freedom of expression in Africa. Available http://www.achpr.org/english/doc_target/documentation.html? Accessed 02/03/05.
- Berg, A. n. d. Improved rules on public access to documents? The discussion on a regulation under Art 255 ECT', Masters Thesis: Stockholm University. Available http://www.rz.uni-frankfurt.de/%7Eesobotta/FOI_WP.htm. Accessed 14/03/04.
- Botswana Government. 1966. *Constitution of Botswana*. Gaborone: Government Printer.
- Dahl, R. A. 1998. *On democracy*. New Haven: Yale University Press.
- Eastwood. T. M. 1993. Reflections on the development of archives in Canada and Australia. In: S McKemmish and F Upward (eds). *Archival documents: providing accountability through recordkeeping*. Melbourne: Ancora Press.
- Held, D. 1996. *Models of democracy*. 2nd edn. Stanford, California: Stanford University Press.
- Hussain, A. 1998. United Nations Commission on Human Rights. Available <http://daccessdds.un.org/doc/UNDOC/GEN/G98/103/12/PDF/G9810312.pdf?OpenElement>. Accessed 02/03/05.
- International Advisory Commission of the Commonwealth Human Rights Initiative. 2003. *Open sesame – looking for the right to information in the Commonwealth*. CHRI Report 2003. New Delhi: CHRI.
- Madison, J. 1788. *The Federalist Articles*, no. 51: The structure of government must furnish the proper checks and balances between different departments. Available <http://www.federalistarticles.com/federalist51.html>. Accessed 14/03/05.
- O'Neill, O. 2002. A question of trust: BBC Radio 4 – Reith Lectures 2002. Available at <http://www.bbc.co.uk/radio4/reith2002/>. Accessed 17/03/05.
- Special Rapporteur. 2000. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, E/CN.4/2000/63. Available <http://www.hri.ca/fortherecord2000/documentation/commission/e-cn4-2000-63.htm>. Accessed 02/03/05.
- Schedler, A. 1999. Conceptualising accountability. In: A Schedler, L Diamond and M F Plattner. (eds.) *The self restraining state: power and accountability in new democracies*. Boulder, Colorado: Lynne Rienner Publishers.
- Schellenberg, T. R. 1956. *Modern archives: principles and techniques*. Melbourne: F W Cheshire.
- South Africa. 1996. The constitution of the Republic of South Africa, 1996. Act No. 108 of 1996. Republic of South Africa Government Gazette, Volume 378, No.17677.
- United Nations. 1948. *Yearbook of the UN 1946-1947*. Geneva: United Nations.

United Nations. n. d. Article 2-3. *International covenant on civil and political rights*. Available <<http://www.hrcr.org/docs/Civil&Political/intlcivpol4.html>>. Accessed 20/10/04.