

“NAURU FREEDOM OF INFORMATION WORKSHOP”

16-19 February 2009

Outcomes Statement

The Parliament of Nauru and the Nauru Government Information Office, with support from the Pacific Islands Forum Secretariat (PIFS), UNDP Pacific Centre, Commonwealth Human Rights Initiative and Fiji Archives Department, hosted a national workshop on freedom of information (FOI) from 16-19 February 2009. The timing of the Workshop coincided with the deliberations of the Nauru Parliamentary Select Committee on Constitutional Amendment Bills on, amongst others, a proposed new Article on the right to information.

The workshop was attended by more than 30 people each day. Participants included the Speaker of Parliament, Cabinet Ministers, Members of Parliament, senior government officials, civil society and media representatives.

The Workshop was opened by the President of the Republic of Nauru, His Excellency Hon Marcus Stephen. He emphasised that: *“Whilst Nauru does not yet have constitutional or legislative provision for freedom of information, we are currently considering introducing such provisions. And it is important to note that the purpose behind FOI is consistent with a number of the goals that Nauru has set itself in the National Sustainable Development Strategy... because the right to information is principally about greater transparency and accountability in government, and giving the community a greater role in governance.”*

The Workshop discussed the value of FOI, good practice standards on FOI law-making and practical issues on implementing FOI. This national workshop followed up the regional “Workshop on Freedom of Information for Pacific Policy-Makers”, held in July 2008 in Honiara, Solomon Islands by PIFS and the UNDP Pacific Centre. FOI is a milestone identified for implementation in the Pacific Plan.

Participants recognised the value of the right to information in enhancing good governance and participatory development, promoting human rights and tackling corruption. During discussions on the appropriateness of implementing the right to information in Nauru, participants noted that:

1. It is encouraging that the Constitutional Review Commission, Constitutional Convention and Nauru Parliamentary Select Committee on Constitutional Amendment Bills have recommended the inclusion of the right to information in the proposed amended Constitution. Participants recognised the importance of both the Government and civil society undertaking effective public education campaigns to ensure wider public understanding of the new and amended rights being proposed in the amended Part II of the Constitution – including the right to information – as they will need to be endorsed by two-thirds of the voting public at a referendum if they are to come into effect.

2. It is encouraging that a government directive was issued in 2004 calling upon government bodies to be more open and to disclose more information. This directive should be published, widely disseminated and actively implemented as a priority.

3. It is encouraging that the Cabinet recently endorsed a new policy designed to ensure more proactive disclosure of parliamentary information, including timely disclosure of Bills and more public consultation on Bills. It is important that the public can meaningfully engage in the law-making process. The new policy should be published, widely disseminated and actively implemented as a priority.

4. It is encouraging that the proposed constitutional right to information specifically states that: *“As soon as practicable after the commencement of this Article, Parliament must enact legislation to give effect to this right, including provision for the retention and secure storage of information”*. Participants discussed the principles that should underpin an effective FOI law, including the need to promote maximum disclosure and minimum

exemptions, and recognised the need to develop a law appropriate to Nauru's local context, drawing on FOI good practice from around the world. Specific issues raised for future consideration included the need to:

- Clarify that any FOI law will cover state owned enterprises;
- Recognise the importance of harm-based, rather than blanket, exemptions, which take into account national sensitivities and protect the public interest, including the need to:
 - Balance Cabinet accountability and responsibility with Cabinet freedom to discuss issues frankly and openly;
 - Balance the protection of sensitive commercial information against the promotion of corporate accountability and clean public procurement processes;
- Recognise that high fees for information may restrict people's ability to access information and should be avoided;
- Recognise that in the early stages of implementation, it may be more difficult for government bodies to meet deadlines for the provision of information because of records management challenges. However, high priority should be given to improving records management systems to ensure timely response to information requests;
- Identify a body with strong investigation and decision-making powers to act as an independent oversight body to handle appeals and monitor any FOI law. It was recognised that the Ombudsman proposed under the proposed amended Constitution could fill this role. However, establishment of an Ombudsman should not slow down enactment of FOI legislation. Consideration could be given to sharing oversight resources at a regional level, for example, bilateral arrangements with other Pacific Islands Countries.

5. The Government should proactively disclose more information. The Government already disseminates information through the Government Gazette and Government Bulletin. In addition, the Government set up the Government Information Office (GIO) in May 2008, and mandated the GIO to proactively and regularly disclose government information. However:

- Many people are still not aware of the role of the GIO. More work needs to be done to ensure that members of the public know what the GIO does and how to engage with the GIO.
- Currently, the GIO mainly disseminates information through email, the radio and Nauru TV. The Government website is also being developed, with the assistance of ROC, to include webpages for each Ministry. New and innovative mechanisms need to be developed to ensure better dissemination of information. Strategies need to be cost effective. Consideration could be given to setting up "information kiosks" which could be used by members of the public.
- The Government needs to explore options for disclosing more information in the Nauruan language. Challenges of standardising the Nauruan language and resource constraints will need to be taken into account.
- The GIO, District Community Committees and civil society organisations should work more closely together to ensure information is disseminated effectively to ordinary members of the public. This may require training of community officials. This also recognises that many Nauruans prefer to request and receive information orally; District Community Committees and civil society organisations may be able to facilitate such information disclosure.
- Recognising the need to ensure information disclosure is given more priority within Government, consideration may need to be given to providing the GIO with more resources.

6. The Government needs to work towards developing a comprehensive records management, storage and archiving system. This work could draw on the previous good practice of the Nauru Records Registry, and the records management surveys done by

PARBICA and UNESCO. The challenge of managing electronic records is particularly important, because Nauru's government bodies primarily use electronic records. PARBICA and Nauru should hold discussions and examine what avenues to pursue in order to improve the state of recordkeeping in Nauru.

7. More training of officials needs to be undertaken to familiarise them with the laws that apply to information disclosure and government policies on open government, transparency and public accountability.

8. Many members of the public are not fully aware of the importance of the right to information to their daily lives, local development and national democracy. More work needs to be done by Government and civil society to raise public awareness of their democratic rights broadly, and their right to information specifically. It is encouraging in this context that the Government is currently developing civic education programmes.

9. More effort needs to be undertaken by Government, District Community Committees and civil society to help people to make sense of government information and its value to their daily lives, for example, budget information or proposed Bills. This recognises that one of the aims of information disclosure is to promote more effective participation by the public in governance and development activities.

10. It is important that the Government support the development of an independent media, which is necessary to more effectively promote public accountability. In this context:

- It is encouraging that the Nauru Media Bureau intends to provide CSOs with regular time slots on the radio and Nauru TV to discuss issues of importance to the community;
- Partnerships should be explored between the GIO, the Nauru Media Bureau and civil society to promote better information dissemination;
- A clear policy statement should be made that Government censorship of media programmes is not appropriate;
- The media should be supported with training to ensure that they operate professionally and effectively, in order to change the current self-censoring mindset of the media and clarify that the media is entitled to question the Government;
- People should be made more aware of radio and TV programming schedules, so they are aware of when key government programmes are being aired;
- Options should be explored for developing an independent public broadcaster and/or community radio programmes.

11. It is important that private companies and bilateral and multilateral development partners support Nauru's efforts to promote transparency and public accountability. In that context:

- More information should be disclosed about public procurement processes and government contracts, including contracts involving private companies and development partners;
- Development partners and donor agencies should be encouraged to be more transparent and disclose more information about budgets, contracts and activities relevant to Nauru.

12. At the request of the Government of Nauru, organisations with specialised expertise could be called on to provide technical, financial and advisory support to support a sustainable and locally appropriate process to implement the right to information.

Yaren, Nauru
19 February 2009