

Kenyan Constitution enabling fundamental freedoms

By [Carole Kimutai](#)

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John Sergon, ICT director at the Directorate of e-Government Kenya in the Office of the President, has lauded Kenya for making efforts towards becoming an open country through promoting citizens' rights to access information provided for in Kenya's new Constitution that came to effect on 27 August 2010.



The new Constitution has 18 Chapters, 264 Articles, and Six Schedules talking about access to information.

Vision 2030 in sight

"This is part of the fundamental freedoms that are included in Kenya's Vision 2030," said Sergon while addressing delegates during the AITEC East Africa ICT Summit held in Nairobi, Kenya, 7-8 September 2010, at the Kenyatta International Conference Centre.

Article 35 in the Bill of Rights says every citizen has the right to access to information held by the state or any information that is held by another person and that is required for the exercise or protection of any right or fundamental freedom.

"In the freedom of information laws, governments are typically bound by duty to publish and promote openness," he added.

Challenges

ICT has provided a platform for people to access and distribute information. However, despite this positive move, there are challenges posed for the State.

"There are certain limitation of rights and fundamental freedoms," said Sergon. For example, the Kenyan Parliament can enact laws that curtail certain freedoms. There is also the issue of personal privacy and a thin line defining national and personal interest.

The government came up with the Freedom of Information Policy that is supposed to ensure public access to information

held by the government and its agencies. However, this does not give absolute access rights to the public. The media in Kenya often faces hurdles when seeking information on the government and its agencies.

Obstacles to freedoms

Obstacles lie in other laws like the Official Secrets Act that binds civil servants from giving away government information, the Public Archives and Documentation Service Act, Statistics Act and the Records Disposal Act.

The Kenyan Constitution is above all other laws and therein lies the question of why freedoms should be given with one hand and taken away with the other.

ABOUT CAROLE KIMUTAI

Carole Kimutai is a writer and editor based in Nairobi, Kenya. She is currently an MA student in New Media at the University of Leicester, UK. Follow her on Twitter at @CaroleKimutai.

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