

International Right to Know Day 2005

Freedom of Information Makes News Around the World

INFORMATION REQUESTS REVEAL DESTRUCTION OF RECORDS BY JAPANESE ADMINISTRATIVE AGENCIES

Information Clearinghouse Japan, a non-profit organization, used Japan's public information disclosure law to investigate the destruction of official records by administrative agencies before that law came into effect in March 2001. The records showed that at least ten agencies significantly increased their disposal of documents during fiscal year 2000, some by as much as 20 percent. The Ministry of Agriculture, Forestry and Fisheries (MAFF) increased its disposal volume during that period by more than twenty times: in fiscal 1999, MAFF destroyed only 11 tons of documents, compared to 233 tons in fiscal 2000. Government officials claimed that the widespread disposal occurred in expectation of the consolidation of some government ministries and the changes in records management rules.

K. Tsuruoka, "Leap in records scrapped prior to FOI," *Yomiuri Shinbun*, Dec. 9, 2004.

UNDER DURESS, CANADIAN OFFICIALS SPEED VISAS FOR STRIPPERS LIKELY FORCED INTO PROSTITUTION

Government memos and other documents obtained under the Access to Information Act revealed that Human Resources Development Canada (HRDC) had reacted to intimidation by organized crime and transnational traffickers to establish a special fast-track immigration program for foreign exotic dancers. Fearing retaliation against government officials, HRDC established a special exemption category to grant work permits to foreign exotic dancers so that the department would not have to deal with bookers or club owners on a case-by-case basis in the immigration process. The majority of the exotic dancers are young women from Romania, many of whom are known to be trafficked by criminal syndicates and forced into prostitution at clubs and illegal brothels in Canada.

Robert Fife, "Thugs bullied HRDC: Stripper visas were created to protect federal staff from 'bad guys,'" *National Post* (Ottawa), Dec. 18, 2004.

IN LONDON, HEALTH HAZARD AT HARRODS REVEALED

Pamela McLay used the new British Freedom of Information Act to make public a report condemning food safety practices at the posh London department store Harrods. Ms. McLay suffered salmonella poisoning after eating at Harrods and, although she received compensation but no admission of liability, she had not been able to view confidential inspection reports until recently.

Krissy Storrar, "Horrid Harrods: Food poison pensioner proves posh shop got hygiene warning," *The Mirror* (Scotland), Jan. 3, 2005, at 15.

RELEASED DOCUMENTS SHOW POSSIBLE ILLEGAL DEALINGS IN SOUTH AFRICAN ARMS PROCUREMENT

Defense contractor Richard Young won a long court battle against Auditor-General Shauket Fakie to gain the release of confidential documents related to South Africa's multi-million dollar arms deal under the Promotion of Access to Information Act. The documents, early drafts of a final report that was published in November 2001, show that a number of significant findings had been omitted or watered down in the public version of the report, suggesting "serious irregularities" in the procurement process. Omitted from the final report were findings that there had been "fundamental flaws" and improper bias in the selection of British-Swedish bidders BAE/Saab to supply training and fighter aircraft; that defense minister Joe Modise personally caused the selection of the British Hawk jet, double the cost of one from an Italian maker that was favored by the South African Air Force; and that the evaluation process for submarines was "materially flawed" and resulted in "potential prejudice to unsuccessful bidders." The draft reports also evidence, among other serious anomalies, the omission of a second set of minutes from a ministerial briefing—where the decision was made to recommend purchase of the Hawk—that differ significantly from the published account of the meeting. Fakie, who was questioned by members of Parliament in 2003, denied making any material edits in the final report but provided to committee members only one chapter of the draft report for comparison.

Sam Sole, "Arms report sanitised," *Mail & Guardian*, Jan. 7, 2005; "Young wins right to see arms report," *Africa News*, Oct. 18, 2004.



SWEDISH GOVERNMENT COMPELLED TO RELEASE NAMES OF MISSING TSUNAMI VICTIMS

Swedish news agency TT won a case using freedom of information laws to overturn a police ban on issuing names and details of more than 500 Swedes missing nearly 50 confirmed dead in the Asian tsunami. Citing the experience in Norway—where publication of victims' names led to the identification of a substantial number of missing individuals—TT and other media stressed the importance of public transparency in such a national tragedy: "We believe it is important to bring clarity about the list which has raised so many questions and cause so much worry."

"Sweden names tsunami missing after court fight," *Reuters News*, Feb. 9, 2005.

MEXICAN LAWYERS WIN RELEASE OF GENOCIDE INDICTMENT AGAINST FORMER PRESIDENT ECHEVERRIA

Former President Luis Echeverria was indicted for genocide in 2004, charged with the killings of at least 25 student protestors by government paramilitary troops in 1971. A group of lawyers at Freedom of Information - Mexico won a long legal battle; a law that previously allowed the government to keep all indictments sealed was amended in 2002 to exclude cases of crimes against humanity. A court ordered the attorney general to release the indictment, but the government ultimately turned over only 691 of 9,382 pages in the file. Nonetheless, the documents reveal important information about Echeverria and his organization of a secret government paramilitary unit that attacked students engaged in peaceful protest. The release represents the first time that an indictment of a high-level official has been made public in Mexico.

Ginger Thompson, "Mexico partly opens file on '71 killing of students Former president is focus of indictment," *International Herald Tribune*, Feb. 14, 2005.

SOUTH AFRICANS TO LEARN ABOUT GM CROP DANGERS

On February 24, 2005, the Pretoria High court ordered the South African government to release information about the country's production and importation of genetically modified crops. The group Biowatch sought to publicize the records, including a list of all GM crops, the areas where they are grown, the government's plan for securing the crops, and any environmental impact studies. Said one Biowatch official, "The ruling will help change the way the agriculture department relates to the public, because up to now its processes were shrouded in secrecy."

"Court orders South Africa to release GM crop data," *Greenwire*, Feb. 25, 2005.

CONFIDENTIAL CABINET DOCUMENTS EXPOSE NEW ZEALAND'S FLAWED TSUNAMI WARNING SYSTEM

Reviews obtained by media under New Zealand's Official Information Act express findings that the nation's new seismic warning system is incomplete, facing a more than \$18 million budget shortfall, and lacks a nationwide program to educate people about what they should do in the case of a tsunami threat. Officials called on the nation's Earthquake Commission and others to report by September on ways to improve the warning system.

"Report: New Zealand works to upgrade badly flawed tsunami warning system," *AP Asia*, Feb. 28, 2005.

COWS FROM NEW ZEALAND ALLEGEDLY ABUSED IN CHINA

Green Party MP Sue Kedgley acquired an Agriquality report under the Official Information Act, in which a stockman raised serious concerns over treatment of cows shipped from New Zealand to China. In particular, the report notes that pens were overcrowded and unventilated, and cows were forced to stand in knee-deep excrement and were fed hay contaminated with dead animals and wire. The Associate Minister of Agriculture Damien O'Connor told Parliament that his staff would be "investigating whether all the requirements of the animal welfare export certificate were met."

"Cows shipped to China forced to stand in excrement," *New Zealand Press Association*, Mar. 9, 2005.

MUMBAI PROPERTY RENTAL STATISTICS SHOW CITY TAXES SUBSIDIZE PRIVATE INTERESTS IN RICHER SUBURBS

Prompted by the World Bank's recent loan of Rs. 170 million [\$3.8m] in order to repair sidewalks in Mumbai, India, Shailesh Gandhi sought information under the Maharashtra Right To Information Act (MRTI) regarding property rental and sale rates as compared to the city's spending needs; what he discovered was alarming. In the suburban areas of Mumbai, the average land value is Rs. 22,000 [\$502] per square meter. The average lease price was Rs. 4.11 [\$.09] per sq. meter; of these leases, however, the price for new leases average Rs. 106 [\$2.40] per square meter compared to an estimated market price of Rs. 1700 [\$38] (8% of the current land value)—representing a loss to the citizens of Mumbai of approximately Rs. 487 million [\$11m] annually. Mr. Gandhi writes, "In Mumbai itself, three authorities, the Mumbai Collector, the municipal corporation (BMC) and the Bombay Port Trust have leased large tracts of our land in their charge. . . I am sure other citizens will also ask for information on how our lands are being given away by our 'public servants.'"

Shailesh Gandhi, "RTI findings: Cities subsidizing the rich," *India Together* (<http://www.indiatogether.org>), Mar. 17, 2005.



BULGARIAN SUPREME ADMINISTRATIVE COURT AFFIRMS FUNDAMENTAL CIVIL RIGHT TO INFORMATION

On April 13, 2005, the Bulgarian Supreme Administrative Court (SAC) decided a case brought by an NGO that was denied access to mayoral records related to public registers in the town of Razgrad. By requiring the NGO to produce a document showing its court registration, thus imposing an additional hurdle to access, the SAC ruled that the mayor had violated the fundamental right of all citizens to access information from public institutions. In its decision, the SAC said:

The access to public information is a phenomenon belonging (immanently) to the very essence of civil society. That is why Article 41 of the Constitution of Bulgaria, which is consecrated to the right of information, states that: "Everyone has the right." This means that even civic organizations without any legal status are entitled to seek and have the right to obtain any public information they want. That is the reason why the Access to Public Information Act (APIA) lacks any requirement that an organization, seeking access to public information, needs to prove its legal status. Such a requirement could be senseless since everyone is entitled to seek and receive information. Every organization is constituted of members by definition and each member as a natural person has the right to access public information.

The case was sent back to the District Court for a new consideration in the lights of SAC findings.

Supreme Administrative Court of Bulgaria, Decision No. 3335 (April 13, 2004); Access to Information Program - Bulgaria, Access to Information Litigation, Selected cases Vol. 3 (English version, forthcoming Nov. 2005), http://www.aip-bg.org/index_eng.htm.

INSPECTIONS REVEAL SUBSTANDARD CONDITIONS IN IRISH NURSING HOMES

Inspectors' reports released under Ireland's Freedom of Information Act show unclean practices and health violations at many private nursing homes across Ireland. At some facilities, inspectors found that patients were being given baths or showers every 10 days and that food was cleaned off dinner plates to be reused the following day. In one case, staff had been instructed by managers to cover up practices and even lie to inspectors.

Eithne Donnellan, "Reports show poor practices in nursing homes," *Irish Times*, June 1, 2005, at 8.

DOCUMENTS RELEASED UNDER JAPANESE PUBLIC INFORMATION DISCLOSURE LAW SHOW GOVERNMENT DESIGNATED TOMBS OF ANCIENT EMPERORS BASED ON QUESTIONABLE EVIDENCE

Noboru Toike, a professor and expert on Imperial tombs, used Japan's public information disclosure law to obtain academic studies conducted by the Imperial Household Agency regarding the discovery of at least ten ancient tombs that the government has claimed hold the remains of emperors from the 5th through 13th centuries. The documents support the belief by many historians and archaeologists, including Toike, that the government designated dozens of tombs as those of some of the 124 past emperors without adequate scientific proof or academic research; instead, the designation of the ancient tombs, made in the late 19th century, were largely based on references in ancient documents and folklore. Japanese historians have been prohibited from conducting their own excavations and scientific probes into the supposed imperial tombs to gain additional knowledge about Japanese history.

Yoshida Reiji, "New Weapon Wielded in Old Tomb Debate," *Japan Times*, June 23, 2005.

LABOR DEPARTMENT SECRET DOCUMENTS OPPOSED CAFTA, BUSH ADMINISTRATION POSITION

Studies funded by the Department of Labor concluded that several of the countries slated for free trade status under the new Central American Free Trade Agreement (CAFTA) regularly violate workers' rights. The International Labor Rights Fund, a government contractor, concluded: "In practice, labor laws on the books in Central America are not sufficient to deter employers from violations, as actual sanctions for violations of the law are weak or nonexistent." These findings are contrary to the public position of the administration, which strongly supported CAFTA because of its benefits to U.S. farmers and manufacturers, and argued that Central American countries did sufficiently guarantee workers' rights. The Labor Department worked to keep the documents out of public view, ordered contractors not to discuss the reports, to remove them from websites and to retrieve any paper copies. Officials claimed that the reports were "rife with unsubstantiated and unverifiable claims, questionable statistical data, and biased statements of findings and conclusions." Rep. Sander Levin (D-MI) fought for nearly a year to have the studies released under the Freedom of Information Act.

Juan Forero, "Report criticizes labor standards in Central America," *NY Times*, July 1, 2005, at C2.

SENIOR OFFICIALS FEARED TERRORIST ATTACK ON CANADIAN SUBWAYS

According to internal memos obtained by the Canadian Press under the Access to Information Act, senior officials feared a possible attack by Islamic extremists on Canadian mass-transit networks in 2004. Prime Minister Paul Martin was briefed twice about suspicious incidents on the Toronto subway. Toronto's transit commission sent an urgent message to its employees, warning them to watch for suspicious packages and people; however, the public was never notified of the threat.

"Prime Minister given two briefings on suspected threats to T.O. subway," *The Brockville Recorder and Times (Ontario)*, July 13, 2005, at A2.

INTER-AMERICAN COMMISSION FINDS CHILE VIOLATED RIGHT TO INFORMATION IN HUMAN RIGHTS CHARTER

The Inter-American Commission for Human Rights reviewed the case of *Claude v. Chile*, brought in 1998 by Terram, a Chilean environmental group that was denied information from the government regarding a major logging project and the record of the company managing the project. After Terram's appeals were dismissed, the Commission heard the case and determined in a preliminary report that Chile was in violation of Article 13 of the American Convention on Human Rights, which guarantees the right to access public information. The case was referred to the Court when Chile did not comply with the ruling within 60 days. It will be the first access to information case ever adjudicated by the Inter-American Court.

"First freedom of information case reaches Americas' Court," Open Society Justice Initiative (<http://www.justiceinitiative.org>), July 14, 2005.

IN AUSTRALIA, LAX SHIPPING PERMIT INVESTIGATIONS HEIGHTEN RISK OF MARITIME TERRORIST ATTACK

A review of the Australian Transport Department's ship permitting process in October of 2004, recently obtained by The Australian using the country's Freedom of Information law, show poor and ineffective administration whereby "the department risks granting a permit based on a bogus or unauthorised application." Few if any checks are made into the authenticity of documents or other information provided by applicants, and in a significant number of cases, permits were issued although the application form was missing the required signatures. Australia issues about 1000 coastal permits each year for ships carrying cargo that includes fuel, chemicals, and fertilizer.

Michael McKinnon, "Lax ship checks expose ports to terror threat," *The Australian*, July 18, 2005, at 4.

QUEENS, NEW YORK COUNCIL CANDIDATE MISUSED FUNDS FOR DRUG TREATMENT PROGRAMS

Documents obtained through the Freedom of Information Act (FOIA) by Newsday reveal rampant misappropriation of funds by the J-CAP Foundation that were intended to provide money for drug treatment programs, including the Queens Village Committee for Mental Health for Jamaica Community Adolescent Program. Investigative reports show that benefits from the Foundation, run by current City Council candidate Thomas White during the 1990s, went primarily to J-CAP executives and employees; White and other employees used SUVs leased by the foundation and funds were used to make personal loans to employees and to pay \$4,196 in New York City parking tickets.

William Murphy, "Records: Funds for a drug program run by council candidate Thomas White went to him and employees," *Newsday*, July 18, 2005.

DOCUMENTS SPUR PUBLIC DEBATE ABOUT WORLD BANK INFLUENCE IN CONTRACT FOR DELHI WATER DEAL

Documents released recently raised a major public controversy over World Bank involvement in contract bidding and fueled a public debate over possible privatization of the Delhi water system. On July 28, 2005, Indian anti-corruption group Parivartan, citing internal documents it obtained under Delhi's freedom of information law, charged that World Bank officials had repeatedly overruled Indian civil servants in the selection of a contractor to plan a reform of Delhi's water system, and caused the multi-million dollar contract to be awarded to a Calcutta subsidiary of PricewaterhouseCoopers despite the objections of the local governing board. Under intense public criticism, the Delhi Jal Board has since decided not to go ahead with the recommendations in the World Bank report prepared by PricewaterhouseCoopers.

"DJB run by the World Bank," *The Hindu*, July 29, 2005; Randeep Ramesh, "World Bank rebuked over water deal," *The Guardian*, July 29, 2005.

DUTCH AGRICULTURE MINISTER FORCED TO DISCLOSE PERSONAL FARMING INTERESTS

Agriculture minister Cees Veerman received about 190,000 euros [\$233,000] in European farm subsidies last year for his farms in France and the Netherlands, according to records released to the Dutch Labor Party under freedom of information laws. Critics accused Veerman of improper conflicts of interest in decision-making regarding Dutch agriculture subsidies. The revelations came amid heated debate in Europe over the allocation of billions of euros in farm subsidies and the division of funding between agriculture and modern industries on the European continent.

Graham Bowley, "Dutch minister got farm subsidy," *International Herald Tribune*, Aug. 19, 2005, at 1.

AUSTRALIAN LABOUR OFFICIALS ADMIT IMMIGRATION MISTAKE ALLOWED ENTRY OF FORMER SADDAM ASSOCIATE

Documents obtained under the Official Information Act say that former Iraqi ambassador and close associate of Saddam Hussein, Zuhair Mohammed al Omar, was granted a visitor's permit despite his designation as a "sensitive risk." Although immigration officials have since said that al Omar was not "a suitable person . . . to remain in New Zealand" and that he should never have been let into the country in the first place, they may be unable to deport him under a UN refugee convention. While denying any security threat from al Omar's presence, officials admitted a "policy gap" and said that visa applications from Iraq and other high-risk countries were being checked more carefully.

Andrea Hotere, "Saddam's sidekick: Officials admit border bungle," *Sunday Star Times* (Auckland, NZ), Aug. 21, 2005, at 3.

RECORDS OF BRITISH UNIVERSITIES RAISE CONCERN OVER STUDENT VISA ABUSE

According to statistics reported to the Home Office by British Universities and released under the Freedom of Information Act, 17,000 foreign students did not show up for classes after accepting offers to attend schools in the UK. The Home Office has stated that approximately 5,000 people fraudulently obtain student visas to enter the country every year and it is now planning a crackdown on the abuse.

"Crackdown planned on student visa abuse," *Guardian Unlimited*, Sept. 5, 2005.

'SUPERBUG' INFECTING PATIENTS IN, AND OUT OF, HOSPITALS IN IRELAND

The prevalence of MRSA (methicillin-resistant *Staphylococcus aureus*) has been increasing steadily in recent years, with more than 500 cases of MRSA bloodstream infections reported in Irish hospitals in 2004. In one hospital in Dublin, officials have reported eight cases of a particularly dangerous strain of the infection which, according to documents released under the Freedom of Information Act, were contracted outside of the hospital and therefore present a threat of community-wide transmission of the drug-resistant infection that had in the past largely been confined within hospitals. The documents also indicate that approximately 7,000 patients in 36 hospitals in Ireland are carriers of the so-called MRSA 'superbug.'

Eithne Donnellan, "Virulent strain of MRSA is detected," *Irish Times*, Sept. 6, 2005, at 6.

PUBLIC READINGS OF EMPLOYMENT ROLLS IN MAHARASHTRA REVEAL FRAUD

Maharashtra District Collector Manisha Verma discovered a fraud of more than Rs 9 crores [\$2 million] in the use of money allocated to provide employment opportunities when Employment Guarantee Scheme (EGS) muster rolls were made accessible under the Maharashtra Right to Information Act in August 2005. The EGS scheme has been known to be rife with corruption. Subsequently, the Chief Minister issued new instructions to halt the public readings until further notice.

Shailesh Gandhi, "Public audit unearths fraud, stayed," *India Together* (<http://www.indiatogther.org>), Sept. 6, 2005.

'THINKERS IN RESIDENCE' PAID A\$1375 A DAY BY AUSTRALIAN PREMIER

According to documents released to *The Australian* under freedom of information laws, Premier Mike Rann hired so-called "Thinkers in Residence," including one New York-based homelessness scholar, to visit Australia for weeks at a time and research and write a paper on homelessness in Australia. Payment of approximately A\$1375 (US\$1050) per day included a stipend for daily work as well as a travel allowance, and was paid at least in part by Australian taxpayer money. In an effort to attract more world-class thinkers to Adelaide, Mr. Rann has already engaged seven consultants from around the world for various projects.

Michelle Wiese Bockmann, "\$1375 a day for thinking," *The Australian*, Sept. 14, 2005, at 7.

International Right to Know Day began on September 28, 2002, when freedom of information organizations from around the world came together in Sofia, Bulgaria and created the FOI Advocates Network, a global coalition working together to promote the right of access to information for all people and the benefits of open, transparent, and accountable governments. The members of the Network decided to commemorate this day as a way to share ideas, strategies, and success stories about the development of freedom of information laws and genuinely transparent governance in their own nations. Freedominfo.org and its host, the National Security Archive, were among the founding members of the FOI Advocates Network.



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.

Universal Declaration of Human Rights
(December 10, 1948), Article 19.

