

# All the information we're not allowed to access

CAPE TIMES FRIDAY, DECEMBER 18, 2009

## PAPER WARS: ACCESS TO INFORMATION IN SOUTH AFRICA

Edited by Kate Allan  
*Wits University Press*

REVIEW:  
COLIN DARCH

FREEDOM of information is a specific concept. It is usually taken to mean that a citizen, or anyone resident in a particular country, has a right to access recorded information held by the state.

This right may be constitutionally defined or simply legislated, and is always subject to exemptions.

Some activists go further, claiming that it is a basic human right whether legislated or not, and that it applies even to information held by private bodies.

Others argue, from the other end of the citizen-state nexus, that it is the state which has a clear duty to make information available. Either way, it's hard to see how transparent governance is possible without it.

*Paper Wars* tells an impor-

tant part of the story of the implementation of this idea in South Africa since 2000. It analyses the experiences of the South African History Archive in attempting to use the Promotion of Access to Information Act of 2000 (PAIA) to pry loose information about abuses during the apartheid years.

As editor Kate Allan dryly remarks, such issues "tend towards sensitive, contested and controversial territory", and are therefore perhaps a real test of our commitment to transparency.

If so, this collection of narratives might be seen as discouraging. Any expectation that the new government would completely jettison its predecessor's guarded ways is pretty much dashed.

But as Richard Calland argues in his introduction, whatever the outcome of any specific case, what matters is that "the rule of law bites" and a new, judicial context is created.

Each author focuses on a particular issue. Pierre Pigou's chapter recounts the saga of conflict and litigation around

responsibility for Truth and Reconciliation Commission documents. Especially disturbing is the government's apparently careful avoidance of potentially precedent-setting judgments, with case after case settled out of court.

David Fig tells the story of frustrating attempts to access records from the Nuclear Energy Commission, with its dispersed archive and secretive and defensive institutional culture.

Chandré Gould writes about the probability that many of the records of South Africa's nuclear weapons programme were deliberately destroyed, making a comprehensive post-apartheid accounting impossible.

Laura Pollecut chronicles how she was inundated with mountains of paper from military archives while trying to piece together the story of the abuse of homosexuals and conscientious objectors.

In the penultimate section, Kate Allen discusses in general terms the unresolved technical issues that have emerged from

PAIA, including overly-broad interpretations of exemptions, and the nature of the boundary between public and private bodies.

The last chapter is a tantalisingly brief theoretical reflection by Verne Harris in which, *inter alia*, he points forward to possible non-adversarial models, discusses the legitimacy and illegitimacy of secrets, and emphasises that information needs context to be useful.

*Paper Wars* is illustrated with quality facsimiles of documents and news clippings. It is an important contribution to a rapidly developing field, not least because it marries case studies to theory.

It should be read not just by specialists, journalists, and members of civil society organisations but most of all perhaps by politicians and bureaucrats themselves.

● *Colin Darch's new book, Freedom of Information and the Developing World, co-authored with Peter G. Underwood, will be published by Chandos Publishing this month.*