

# FREEDOM OF INFORMATION BILL ISSUES AND CONCERNS

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# Is an FOI act necessary?

- **In 2001, the Philippines led other Southeast Asian countries in media accessibility to government-held information**
- **The Supreme Court has ruled that freedom of information is the right of every citizen**



# The Constitution already recognizes the right to information

- **RA 6713—the Code of Behavior for government officials—compels government agencies to release information on request**
- **Executive Order 89 requires national government agencies to draft and implement procedures to follow when there are requests for government information.**

# Is it even wise to campaign for an FOI Act?

- **Earlier drafts of an FOI bill were focused on restrictions**
- **Skeptics fear that even a well-crafted bill could be mangled in Congress. (e.g., one House bill has an ROR rider; another would make only information after the passage of an FOI available for disclosure)**



## Is an FOI Act necessary anyway?

- **Access to information became problematic during the nine years of the Arroyo regime**

**A sustained attack on the news media in the form of libel suits and threats of sedition and other charges, and indifference to the killing of journalists made media access to information difficult and even dangerous**



## Also during the Arroyo regime

- **The ombudsman made access to the SALNs of government officials subject to various restrictions**
- **Executive privilege was used to conceal information on matters of public interest**



# Basic principles

- **Citizens in a supposed democracy require information on government matters—**

**As a human right**

**As participants in the decision- and policy-making process**

**In exacting accountability of the officials to whom they have delegated their sovereign powers**

# **The culture of secrecy has undermined this right**

- **Concealment rather than openness has helped spread corruption**
- **Citizen inability to monitor government transactions, policies and acts has helped make bad and abusive governance common and “normal”**





# **Dismantling the culture of secrecy**

- **At least three principles must guide an authentic Freedom of Information regime (Toby Mendel for UNESCO):**

**Maximum disclosure of government-held information**

**Pro-active dissemination of information**

**Limited and strictly defined exceptions**



# Issues re Aquino admin FOI bills

- **Version presented to media organizations and NGOs on May 3, 2011 and July 27, 2011**
  - Focused on secrecy and restrictions**
  - Contained a national security clause**
  - Would have formalized executive privilege through law**



# Issues re Aquino FOI bills

**Exclusion from disclosure of  
information inputs in policy making**

**Creation of Information Commission**

**Qualifications of Commissioners**

**Imposition of fees**



## Third and Senate (SB3183) versions

- Deleted information commission
- Removed fee requirements
- Makes preferential option for freedom of information as policy
- Retains provisions on national security, executive privilege, exemption from disclosure of policy-making inputs
- Conflicts with Data Privacy Act
- Possible conflict with Writ of Habeas Data