



THE ROLE OF THE INFORMATION EXCHANGE LAW AS A MECHANISM TO ACTIVATE AND ENHANCE PARTICIPATORY DEMOCRACY: "PRINCIPLES AND DIMENSIONS".

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Abstract:

The right to access information is both a civil and political right, as it finds its legal basis in international agreements and some constitutions. It is essential for establishing democracy in societies and cannot be achieved solely by expanding political participation. This right is crucial for enabling oversight, accountability, combating corruption on one hand, and enhancing participation in the decision-making process on the other.

The world is witnessing a broad trend, particularly in countries aiming for greater democratic integration and transparency, by recognizing the right to access information. Therefore, the exercise of this right has become a necessity in modern states. In the era of information revolution, openness, and technology, establishing a legal framework that defines the means of obtaining information and ensures its free exchange is essential.

Keywords: *Information Exchange Law, democracy, activating political participation.*

INTRODUCTION:

The right to access information is considered a fundamental right that underpins the enjoyment of a range of other rights, particularly freedom of expression and the right to participate in public life. The significance of this principle lies in its ability to bind the legitimacy of governance to its commitment to respecting the law and individual freedoms. It also contributes to the democratization of society and ensures equality of citizens before the law. Moreover, it elevates citizenship to the globally recognized modern concept. Furthermore, it serves as an indicator of the political maturity of any state in the civilized world.


The right to access information also fosters the establishment of a new culture based on transparency, clarity, and accountability. In light of all this, governments aspiring to achieve levels of democratic and socio-economic progress must ensure the principle of transparency and link responsibility to accountability. This can be achieved by empowering all citizens through providing them with information for monitoring and participating in the management of public affairs¹.

The right to access information, also known as the right to knowledge, entails that individuals living in a society have the right to obtain sufficient information from the governing authorities. This right is often marginalized in many countries, where governments tend to conduct their affairs in secrecy, considering their actions as private and not subject to citizen scrutiny. This, in turn, leads to a decline in effective political participation.

However, disclosing information is not just a necessary process for the benefit of ordinary citizens. Governments themselves require such a process to demonstrate their competence, efficiency, and transparency.

Because political and public participation rights play a crucial role in promoting democratic governance, the rule of law, social and economic development, as well as advancing all human

¹ Abdelaziz Dahmani, the right to access information and civil society, what is the relationship? Faculty of Legal, Economic, and Social Sciences, Mohammed V University, Morocco. Article available on the website: Date of access: 30/02/2023 at 22:00." //search.emarefa.net/ar/detail/BIM-709006



rights, Article 19 of the Universal Declaration of Human Rights² has been described as the oxygen of democracy. This is because information is essential for achieving democracy on many levels. Accordingly, the right to access information has its legal basis in international agreements³, some constitutions, and, therefore, the legal landscape has witnessed a widespread global trend, especially in countries aspiring to further establish and consolidate democracy, by acknowledging this right as a just demand. This is due to the information revolution, openness, and technology, which facilitate the easy transmission and access to information⁴.

In order to ensure an open and transparent government, the creation of a law regulating this right has become an urgent necessity. This is to provide a conducive environment that respects the exercise of the right to exchange information democratically, based on transparency and good governance standards. It aims to foster trust between the governing and the governed within a framework that meets the people's desire for straightforward access to information without barriers and empowers them to exert their political will. Information should be available to everyone unless there is a vital state interest that requires its confidentiality.

The flow and provision of information, in the absence of vital state interests demanding secrecy, form the foundation for sound policies, informed decision-making, and the expansion of participation, oversight, accountability, and the fight against corruption on one side, and aiding in making sound public policy decisions on the other.

Given the close connection between the establishment of the right to knowledge, the exchange of information, and the state of democracy and good governance in countries, the level of respect, implementation, and protection of this right to knowledge becomes an important indicator of the state of civil and political rights in general in society. It is also an indicator of the extent to which a state adheres to good governance standards, transparency, and the fight against corruption.

Certainly, the availability and exchange of information enable comprehensive and objective knowledge about the status of other rights and the ability to assess the extent to which the state fulfills the standards and goals it has declared in its budgets and general plans. Failure to ensure freedom of information exchange ultimately signifies a failure to fulfill and protect all the rights the state has committed to⁵.

From this standpoint, in this research paper, we will attempt to answer the following question in general:

What is the relationship that connects the necessity of legally establishing the right to exchange and obtain information and its impact on activating participatory democracy and enhancing political participation?

With the aim of uncovering the dimensions and challenges of this establishment in reality, adopting an appropriate descriptive approach to delineate some of the concepts subsumed under the study, and the analytical approach that appears in analyzing the details and particulars of the subject. To do so, we will resort to a dual methodology that comprises two fundamental elements:

First, the necessity of having a law that regulates the right to access and freely exchange information can be distinguished. Second, the legal codification of the right to exchange

²- Article 19 of the Universal Declaration of Human Rights states: '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.' Similar provisions are found in Article 19 of the International Covenant on Civil and Political Rights, where it states that every person has the right to freedom of expression, and this right includes freedom to seek, receive, and impart all kinds of information and ideas without borders".

³- The International Covenant on Civil and Political Rights, the Arab Charter on Human Rights, and the African Charter on Human and Peoples' Rights.

⁴- Mazouzi, Nawal. 'The Right to Access Information as a Tool for Promoting Participatory Democracy and Combating Corruption.' *Annals of the University of Algeria 1, University of Guelma, Khemis Miliana (Algeria), Volume 34, Issue 03, 2020, p. 261.*

⁵- Ahmed Azzat. 'Freedom of Information Exchange (A Legal Study).' *Freedom of Thought and Expression Foundation, Cairo (Egypt), Second Edition, 2013, p. 6"*.

information plays a role in enhancing participatory democracy.

The first axis: The necessity of having a law that regulates the right to access and freely exchange information.

Within the framework of the freedom to exchange information, two concepts can be distinguished. The first is extensive exchange within the scope of freedom of expression, the free flow of information and ideas, and the right to access available information. The second is regulated exchange, which focuses on the right to access official information in its various forms, regardless of the means used. This requires legislation that regulates the method of obtaining information and rules that protect principles of privacy and national security. The importance of the second concept has become evident with the broad application of democracy and the significant advancements in information technology and international experiences in facilitating information access. The general rule of the legal framework for information exchange is based on absolute accessibility. This entails a clear definition of the areas in which information exchange may be prohibited, either entirely or partially. These areas must have a limited scope and be based on legal and regulatory rules characterized by clarity and transparency. Information exchange greatly contributes to supporting democratic systems in governance by promoting participation, establishing accountability rules, and ensuring public access to authorities and public services.

There is a consensus in legislation to accept specific exceptions that affect the public interest of the community. For example, allowing access to documents classified as national security, defense, or foreign policy, as well as documents related to individuals' internal systems or revealing the sources of confidential information and documents related to vital state institutions and more. The freedom to exchange information has a significant positive impact on enhancing transparency in decision-making by informing citizens about government information. It can help build a framework for national integrity and combat corruption, thus enhancing citizens' trust in government actions. Practical experiences have confirmed that legislating laws on freedom of information benefits both citizens and governments and leads to the activation of anti-corruption measures and the consolidation of parliamentary legitimacy⁶.

Therefore, information has become a fundamental and essential issue, crucial for both advanced and developing societies alike. When the rules of the political and economic game followed in managing state affairs are clear and visible to everyone, this will help all citizens in monitoring the methods employed in state affairs management. All of this represents a strengthening of effective democracy, which necessitates the establishment of a transparent and impartial regulatory framework⁷.


Hence, the importance of citizens themselves being the foremost supporters and advocates for good and effective laws regulating the access to information becomes evident. It seems that the right to access information poses more challenges in countries undergoing transitional phases, considering the state of instability and legislative and structural changes, which may provide an opportunity to activate this right or, conversely, limit its scope. In this context, we will explore in this axis the manifestations of this right in popular demands, while defining its public policy. We will attempt to highlight the fundamental principles of the freedom to exchange information agreed upon by international charters and agreements to ensure effective access to information.

First: The crystallization of the right to access information

The process of crystallizing any right involves several aspects, either sequential or simultaneous, which can be divided into three facets: demanding the right, creating the legal framework for it,

⁶ "Freedom of Information Exchange" is an article available on the scientific page of Dr. Hossam Mohamed Nabil El-Shenraqi (published on December 31, 2013). <https://ar-ar.facebook.com/hossamnabi/posts/601364409930340> It was accessed on February 4, 2023, at 20:00.

⁷ Abdul Fattah Al-Jabalī, "Freedom of Information and Transparency in Egypt (Policy Papers Series Promoting Transparency and Combating Corruption)," Center for Political and Strategic Studies CIPE, Cairo (Egypt), p. 9 and onwards.



and resorting to mechanisms for the right to information. These are aspects, not necessarily steps, as there is no specific order for them, and they may occur in parallel. Crafting the legal framework for information may precede popular demands for the right. A good diagnosis of the crystallization of the right helps in understanding its reality between citizens and the state, by categorizing the groups that demand it, the channels they use, and understanding the frameworks that regulate it. Demanding the right to information often takes the form of popular protests, such as demonstrations or advocacy campaigns, or opinion articles criticizing the absence of information or the lack of transparency in the decision-making process. The demand for the right can also manifest as protests against specific information gaps, like protesting the absence of specific vital information or the non-disclosure of a government decision. In general, demanding the right to information, in its absolute sense, is an expression of the crystallization of the right by the requesting party, typically the citizen in all their organizational forms.

As for crafting the legal framework for the right to information, it usually comes after adopting it as a state policy, even if not necessarily due to popular pressure or demand. The application of the right to information by resorting to available mechanisms, which may not necessarily be regulated by the legal framework, is also an aspect of the crystallization of the right⁸. The absence of a legal text regulating the right to access information does not necessarily imply a lack of recognition of it as a right⁹. For example, in Algeria, there are numerous legal texts that refer to this right, despite the absence of a specific law regulating it, even though it is constitutionally recognized.

The spread of the role of the citizen as the holder of rights and the foundation of governance in democratic societies is intertwined with the right to access and obtain information. The performance of governance systems is not solely determined by economic and social growth and political participation. It encompasses several key dimensions, including the consolidation of the rule of law and the ability to govern with integrity and transparency through the dissemination of information and allowing citizens access to it¹⁰.

For citizens to access the information held by public bodies, there are two main methods. The first is when individuals submit a request for information, known as interactive disclosure. The second is when the government or public bodies proactively disclose information without a request, known as proactive disclosure, which can be done through various means such as printed materials, official newspapers, public billboards, radio, television, and the official websites of public bodies. Proactive disclosure plays a pivotal role in achieving greater transparency and government openness, as it ensures immediate access to public information and avoids the costs of making requests or engaging in administrative procedures¹¹.

Secondly: Public Policy Regarding the Right to Information

The presence or absence of a public policy specifically addressing the right to information is reflected in the legislative and executive frameworks that regulate it (such as constitutions, treaties, laws, executive orders, decisions, and notifications). These frameworks can either enable or hinder the right to information. Therefore, it is essential to study all the frameworks that impact the right to information in the legislation of a given country comprehensively. This allows for the evaluation of whether there is indeed a public policy for this right or not.

⁸- Mohamed Imran, "The Right to Access Information: Legislative Labor and Application Challenges," Center for Support of Democratic Transition and Human Rights in Egypt, Libya, Tunisia, Tunis, September 2019, pp. 13 and 14.

⁹- For example, Order 71/36 establishing the Algerian National Document Institute, Decree 88/131 regulating the administration's relationship with citizens (Algeria), Law 03/10 related to the environment and sustainable development (Algeria), Law 12/05 related to the media (Algeria). All of these legislations include the right to access information, each according to its content. For more details, see: Nawal Mezzouzi, the same reference, p. 264 and onwards.

¹⁰- Lajal Munira, "The Right to Access Information in Algerian Legislation," Master's Thesis, Ahmed Draya University, Department of Legal and Administrative Sciences, Adrar (Algeria), 2010/2011, page 4.

¹¹- Marina Adel, Mena Jamal, Radwa Ahmed, "Mechanisms for Accessing and Trading Information: A Comparative Study," Information Technology Support Center, Egypt, 2013, page 7.

Focusing on the guidelines of the public policy for this right is a crucial step in understanding its legal fabric and assessing it, whether it serves as a safety net or a constraint for this right. This study examines the right to information in its comprehensive sense, particularly concerning information from official sources. In other words, the right to information is the right to access information issued by the state in all its forms, whether through its automatic disclosure or through various attempts to request and obtain it¹².

This concept is expressed in various terms with slight differences that converge toward a similar meaning. For example, what is referred to as "access to information" in Egypt is discussed in Libya as "access to information and its dissemination," while in Tunisia, it is termed "access to information" or "entry into it." In Algeria, it is constitutionally recognized as the right "to access information, documents, statistics, and obtain and disseminate them," and it is a guaranteed right for citizens.

One could say that studying the actual implementation of the right to information in practice is essentially an exploration of the space between what is regulated by the legal framework, how it is implemented, and how this right is exercised by those entitled to it. Focusing on any of these points alone provides an incomplete picture that does not accurately describe the relationship between the state as the provider of information and the citizen as the beneficiary of it. In practice, studying this space—rather than isolating individual factors—provides a more precise portrayal of the reality of the right to information in each country. Thus, it emphasizes the practical opportunities available to ensure it, rather than merely theoretical considerations¹³.

And therefore, the formulation of a good law is not sufficient to ensure effective implementation. This will only come through studying the available practical capabilities to activate what the law enshrines regarding the right to exchange information.

Thirdly: General Principles of the Information Exchange Law

Article 19¹⁴ organization has established a set of standards and principles¹⁵ that laws governing the right to access information in any country aiming to enact the law should consider. These can be summarized as follows:

1- Maximum Disclosure of Information: The principle of absolute disclosure of information is based on the presumption that all information is subject to disclosure except in specific cases as defined by the law¹⁶. Given the utmost importance of this principle, international agreements have emphasized the need to incorporate this concept into a country's constitution to make it a fundamental right for citizens. Likewise, withholding information from citizens should be considered a punishable offense. This right applies to all information held by public and private institutions, as well as authorities and companies, including the publication of board meetings¹⁷ and general assembly summaries. This principle requires national legislations governing the right to access information to be guided by the maximum degree of disclosure, assuming that all official information available to public authorities and other entities should be accessible to everyone for

¹²- Mohamed Imran, the same reference, page 14 and beyond.

¹³- Mohamed Imran, the same reference, page 16.


¹⁴- Article 19 is an international non-governmental organization that works to promote freedom of opinion, expression, and access to information. It took its name based on Article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Its headquarters are in London, and its website is: www.gm.apc.org/article19.

- Mohamed Hussein Abu Arqoub, "The Readiness of Palestinian Media Institutions to Utilize the Right to Access Information," Research and Media Policy Series, Media Development Center, Birzeit University, First Edition, Ramallah (Palestine), 2016, p. 14.

¹⁵- These principles have been endorsed through a United Nations Special Rapporteur on Freedom of Opinion and Expression resolution in 2000. They have also been endorsed through a U.S. Special Rapporteur on Freedom of Opinion and Expression resolution in 1999.

¹⁶- Dr. Drouj Ahmad and Majid Othman, "Freedom to Exchange Information in Egypt," No Edition Number, Library of Alexandria, Egypt, 2009, p. 81.

¹⁷- Abdel Fattah Al-Jabali, previous reference, p. 15.



review. Exceptions should be minimal, and the government bears the responsibility for withholding information from citizens¹⁸ to ensure that the law guaranteeing this right is effective and has a real impact¹⁹.

***Automatic Publication of Information, or Mandatory Disclosure:** Building on the previous principle, the state must ensure the wide dissemination of information and make it accessible to everyone without discrimination, using all possible means (such as expanding electronic publishing or media dissemination or making it available in public libraries or other means), with accessibility as the default. Information should be presented in simplified formats that are easy for everyone to understand. This requires institutions and all relevant entities to publish all essential information related to their work, laws, regulations governing them, financial situations, services provided to the public, and the means of accessing them, along with their financial costs if applicable. This information should be updated at least annually²⁰.

***Facilitating Access to Information:** Effective access to information held by public authorities requires clear processes for making decisions on information requests, along with the establishment of an independent review system for these decisions²¹. When handling information requests, bureaucracies should avoid bureaucracy and respond promptly and transparently. Independent review should be available for any denial²². To facilitate this, the law should either establish an independent body responsible for this matter or provide legal procedures enabling individuals to access information and seek judicial recourse if denied, all within short time frames specified by the law. In other words, these procedures should be simple, fast, and either free or low-cost²³.

***Cost Limitation:** According to this principle, costs should not be a barrier to individuals accessing information. Therefore, the default should be the right to access information for free or at an extremely limited cost, such as document copying fees, provided that they do not exceed a specified amount of money²⁴. Public authorities may impose costs for accessing information they hold in various forms, including application fees, research and processing fees, copying and postage fees, as well as appeal fees. To ensure that such fees do not hinder individuals' right to access information, their value should be considered, so they are not prohibitively high and discourage people from making information requests²⁵.

***Limitation and Clarity of Exceptions:** This principle is one of the most debated and contentious principles, as some fear that it could provide states with a loophole to effectively undermine the law by placing many important issues under the exceptions framework. For this reason, various restrictions have been imposed on this principle to ensure it is used for its intended purposes, which are to protect legitimate secrecy interests in areas related to national security, public order, public morality, as well as the right to privacy, and the rights and reputation of others²⁶.

Exceptions should be applied in cases where disclosure would cause significant harm to national interests, lead to the commission of crimes, expose trade secrets, or jeopardize the lives or health of individuals, or harm the business interests of clients. It is crucial that these matters are explicitly and specifically stated in the law, rather than in a vague or general manner.

Therefore, exceptions mentioned in the law should possess the following characteristics:

¹⁸- Hussam Mohamed Nabil Al-Shanraqi, previous reference.

¹⁹- Mohamed Hussein Abu Arqoub, previous reference, p. 14.

²⁰- Abdel Fattah Al-Jabali, previous reference, p. 15, Mohamed Hussein Abu Arqoub, previous reference, p. 14. www.gm.apc.org

²¹- Monira Laajal, the aforementioned reference, page 14.

²²- Mohamed Hussein Abu Arkoub, the aforementioned reference, page 14.

²³- Abdel Fattah Al-Jabal, the aforementioned reference, page 15.

²⁴- Refer to the academic page of Dr. Hussam Mohamed Nabil Al-Shanraqi, the aforementioned reference, Abdel Fattah Al-Jabal, the same reference, page 15.

²⁵- Monira Laajal, the aforementioned reference, page 20.

²⁶- Refer to: Abdel Fattah Al-Jabal, the aforementioned reference, page 16. Also, please review: Taha Abdel Alim, "Exceptions in the Exchange of Information," in the papers of the Conference on the Law of Freedom of Information, United Group, Cairo (Egypt), March 2008.



- They should be explicitly enumerated in the law, not by way of example.
- They should be related to ensuring national security objectives, preventing the spread of crime, apprehending and prosecuting criminals, or personal matters that expose individuals to specific risks.
- The public harm should outweigh private interests, such as cases where disclosure would pose a genuine threat to the state's economic interests or the commercial and financial interests of individuals²⁷.

***Protecting whistleblowers:** Individuals who provide information about corrupt practices must be protected by the law regulating the right to access information²⁸. Preserving freedom of information requires the development of new legal frameworks that ensure full protection for witnesses and whistleblowers who, in good faith, disclose information or data related to corruption or harmful practices that could harm an organization. The text should explicitly state that they will not be subject to any legal, administrative, or employment-related penalties, nor any personal harm, and the same level of protection should extend to their relatives and close associates. Various methods can be employed to protect them, such as changing their place of residence, concealing their information from others, or using modern technological means in this regard²⁹.

***Promoting Open Government and Opening Public Meetings to the Public:** Legislation regulating the right to access information should include effective measures to inform the public of their right to access information and promote a culture of openness and transparency within the government. The main goal of this principle is to raise public awareness of their human right to access information. Additionally, this principle aims to overcome the prevailing culture of secrecy within the government. This requires that the legislation include provisions for training public employees on freedom of information³⁰.

Supervision plays an effective role in solidifying the policy of openness by designating official bodies to monitor and oversee the extent to which public bodies comply with the public's right to access. These oversight bodies should submit annual or periodic reports to the parliament or even to the executive authority regarding the issues, achievements, and measures taken to improve public access to information. Any restrictions hindering the free flow of information and the right to access information should also be addressed.

The right to access information is not only about accessing documents held by the government, regardless of their form or format, but it also encompasses the ability to access the decision-making processes within public bodies. This allows the public to contribute to the decision-making process before decisions are made. This is achieved by opening official meetings of public bodies to the public. However, the principle of open meetings does not prohibit some meetings from being closed, but this can only happen under established procedures and with sufficient and compelling reasons, such as issues related to public health and safety or national security³¹.

The second axis: The Role of Legal Enshrinement of the Right to Access Information in Promoting Participatory Democracy

Governments ensure transparency in their actions by allowing citizens to regularly access administrative and financial information held by them. This is achieved through the enactment of laws granting the right to access information and by continuously consulting with citizens before making pivotal decisions that impact their daily lives. These consultations take place through regular meetings, the timing and location of which are determined through agreement with citizens. In return, citizens fulfill their duties by participating in these meetings and paying the taxes that are due from them.

Furthermore, the right to participate in public and political life on an equal footing for all is a


²⁷- Refer to: Abdel Fattah Al-Jabal, the same reference, page 16.

²⁸- Mohammed Hussein Abu Arqoub, the previous reference, page 15.

²⁹- Abdel Fattah El-Gebali, the same reference, page 16.

³⁰- Refer to the academic page of Dr. Hussam Mohamed Nabil El-Shenraqi, the previous reference.

³¹- Munira Laajal, the previous reference, page 17.



fundamental characteristic of the concept of inclusive democracy. The active participation of all individuals and groups in political and public affairs is a cornerstone in the strategies based on human rights, aiming to eliminate discrimination and various forms of inequality³².

In this context, we will first try to highlight the advantages, dimensions, and goals that the legal recognition of the right to access information aims to achieve in promoting participation in political and public affairs. We will also uncover the challenges that hinder the optimal implementation of this law. To do so, we must first understand the areas where the effective exercise of the right to access information contributes to participation in political affairs. We will address these elements as follows:

First: Areas of exercising the right to access information effectively in participating in political and public affairs.

Information is the foundation of political decision-making, constituting a fundamental human right. The United Nations General Assembly emphasized in its first session that "the right to access information is a fundamental human right, a cornerstone of all the freedoms advocated by the United Nations." There has been a significant global trend towards legally recognizing this right. Countries striving for democracy have adopted information freedom laws or are in the process of developing them³³, with the aim of building societies where every individual has the freedom to obtain, access, benefit from, share, and disseminate information and knowledge³⁴.

The right to access information is enshrined in the International Covenant on Civil and Political Rights. This right, which cannot be precisely separated, appears to have originated and developed as a political freedom. It is now expanding to encompass civil and economic dimensions, considering the nature of this transformation. We can observe that there is a distinction between the right to information and freedom of the press and media (opinion and expression) as professional services. The latter has a professional character, while the former is guaranteed to citizens in general. However, both aim to serve the public interest, and this is a matter of constitutional philosophy in the service of the public opinion³⁵.

Furthermore, civil society and the media play an active role in raising awareness and advocating for access to information that enables them to act as partners in accountability and anti-corruption efforts.

In the same context, the exercise of the right to access information has a significant impact on vital processes, such as elections, which are one of the most important means of political participation and the backbone of democracy. Based on what we have mentioned, we will attempt to summarize these areas as follows:

*** The Right to Access Information in the Field of Elections:**


Article 25 of the International Covenant on Civil and Political Rights, along with the General Comment and interpretations adopted by the Human Rights Committee, defines the obligations of States parties regarding an individual's right to participate in the conduct of public affairs, to vote,

³²- Human Rights Council, United Nations General Assembly, Factors Hindering Equal Political Participation for All and Steps Needed to Overcome These Challenges, 27th session, Agenda Items 2 and 3, Annual Report of the United Nations High Commissioner for Human Rights, June 30, 2014, page 4.

³³- Algeria is among the countries that have embraced these principles. The constitutional amendment of 2016 enshrined the right to access information in Article 51, which states: "To obtain information, documents, statistics, and convey them to citizens cannot affect the private lives and rights of others, the legitimate interests of companies, or the requirements of national security. The law defines the methods of exercising this right".

³⁴- Mohamed Ahmed Awwad Barbari conducted a field study on the freedom to access information and its role in achieving administrative transparency in the centers and specialized units of Zagazig University. This study was published in the Journal of the Faculty of Education at Al-Azhar University, Issue 168, Part Four, in April 2016, on page 139.

³⁵- Dennis Abdelkader conducted research on the freedom to access administrative information and its impact on the principle of electoral transparency. This research was published in the Journal of Law at the University Center Ahmed Zabana in Guelma, Volume 7, Issue 1, in December 2018, on page 147.



and to be elected in periodic, fair elections, with equal opportunities for public office without discrimination. International human rights law does not allow imposing conditions or restrictions on direct or indirect political and public participation unless such conditions or restrictions are objective, reasonable, and nondiscriminatory. The electoral rights guaranteed in Article 25 encompass various forms of direct and indirect political participation at all levels of government. Direct participation includes voting in referendums or in authorized public gatherings to make decisions or participating in public affairs as elected representatives. Indirect participation involves the election of representatives chosen freely in fair, periodic elections by secret ballot and influencing decision-making through public debates within civil society organizations or dialogue with elected representatives³⁶.

Transparency, or disclosure, between the people and the government is the optimal means of combating political corruption. It represents the embodiment of the right to access and share information. Therefore, we can say that the essence of transparency relies on the free flow of information. The principle of transparency in elections is a fundamental determinant of the extent of democracy within them. Accordingly, elections are considered transparent when every step of the electoral process is subject to scrutiny, allowing citizens, including voters and candidates, to request and receive information regarding the conduct of the electoral process.

Furthermore, it is essential to engage observers and monitors to oversee the electoral process. They should be granted the right to administrative appeals and access to judicial remedies in case of disputes or issues³⁷.

***The role that civil society institutions should play to become a pressure tool to push governments to enact or implement such laws:**

No government can enact such laws or implement them effectively without genuine partnership with civil society organizations. In countries without these laws, civil society institutions or organizations engage in advocacy and networking to exert pressure on governments and legislative bodies to pass such laws that allow citizens to access and share information. For countries that have enacted such laws, civil society organizations partner with the government's information office in raising awareness about the importance of information possession and how to access it. More important than legislation or laws is their application and the responsible authority for their implementation.

The role of civil society institutions is focused on studying the law and assessing its real-world applications. They also educate citizens about their right to access information and gain their support through collaborative efforts with various civil society entities, including political parties, unions, and parliaments. Unfortunately, sometimes funded projects scatter efforts and create competition rather than cooperation. On the other hand, it's possible to form coalitions to exert pressure on decision-makers to activate the law.

The importance of civil society institutions increases during crises and challenges faced by countries. Through organized popular movements, these institutions help mitigate the negative consequences of such crises, assisting nations in overcoming them. These institutions provide a window for all segments of society to participate in building the community, enhancing individuals' sense of value and citizenship³⁸. Studies have shown that the right to access information is a fundamental demand for civil society organizations in the Arab world, serving as a cornerstone for accountability³⁹.

³⁶- The 27th session - Annual Report of the United Nations High Commissioner for Human Rights, as mentioned in the previous reference, page 4.

³⁷- Dennis Abdelkader, as mentioned in the previous reference, page 151.

³⁸- "New Tactics in Human Rights," articles available on the internet at: <https://www.newtactics.org/ar/node/1358>.

³⁹- "Media Center Studies, The Underprivileged Roles: The Right to Access Information to Combat Corruption in the Arab World," an article published on October 25, 2015, on the website <https://www.aman-palestine.org/media-center/3005.html>. Accessed on February 8, 2023, at 23:30.



The international mechanisms for human rights have drawn attention to the crucial role of human rights defenders and civil society organizations in promoting and respecting all human rights, including the right to political and public participation. However, in many contexts, human rights defenders and civil society organizations are subjected to various forms of discrimination, such as burdensome administrative requirements, criminalization of their activities, stigmatization, harassment, and other forms of violent retaliation that prevent them from exercising their right freely to participate in discussions on matters of concern.

Discrimination, unequal treatment, harassment, and restrictions imposed on the right to participate in public and political life are often practiced against human rights defenders and civil society organizations advocating for the rights of marginalized groups. Many of these international mechanisms have examined the right of civil society organizations and human rights defenders to participate without discrimination in the management of public and political affairs. Effective participation includes the right of actors from civil society to have their opinions included in legislative processes and policy-making, as well as the freedom to criticize the functioning of public authorities or to make suggestions for improvement⁴⁰.

***Freedom of opinion and expression is the other side of the coin of freedom to exchange information and is the axis of participatory democracy.**

Freedom of opinion and expression consists of presenting ideas and opinions through various means, whether in writing, speaking, or artistic work, without governmental restrictions as long as the style and content of presenting these ideas and opinions do not violate the law and customs of the state. However, it is necessary to mention the other accompanying rights to freedom of opinion and expression, which include freedom of worship, press freedom, peaceful assembly, and access to information.

Freedom of opinion and expression is the other side of the freedom to access and exchange information, and the cornerstone of democratic and participatory state establishment. The connection between freedom of opinion and expression and the right to access and exchange information is one of the most important aspects emphasized in international and regional human rights instruments. A state based on citizenship is one that relies on the concept of genuine partnership. In such a state, citizens bear full responsibility and act as the driving force behind their decisions. Therefore, they can formulate decisions concerning their country, its policies, and its governance. It is essential to note that this does not infringe upon the national security of the state. This expression is included in the majority of international and regional conventions, resolutions, and agreements related to freedom of opinion and expression. Some countries exploit vague administrative conditions to restrict the fundamental human right. Thus, it is essential to have clear and specific regulations that define the concept of national security. These regulations should not allow for changes in standards and concepts according to the circumstances. Essentially, laws regulating access to information must exist. They determine the type and timing of information dissemination. Such laws protect those working in various fields, especially journalism and media. The absence of laws regulating access to information allows governments to control and manipulate sources of information and to punish the public for not presenting information to them. Consequently, they are constantly under the threat of legal accountability. Since 1994, the United Nations Human Rights Committee, responsible for monitoring the implementation of the International Covenant on Civil and Political Rights, has made recommendations that countries begin to enact laws regulating access to information. Since 1995, statements from the UN Special Rapporteur on Freedom of Opinion and Expression have increased in terms of access to information. These statements emphasize that the right to research, access, and obtain information is one of the most critical elements of freedom of expression⁴¹. States are obligated to provide information they

⁴⁰- "Human Rights Council, United Nations General Assembly, Twenty-Seventh Session, June 30, 2014," the previous reference, pages 22 and 23.

⁴¹- For more details on this matter, refer to: Saleh Jabir, "Freedom to Exchange Information in Algerian Legislation Between Protection and Restriction," *Journal of Jurisprudential and Judicial Studies*, University of

possess to their people through preservation and retrieval methods. Additionally, the importance of this right in the democratic process, participation, and development has been stressed. Furthermore, a set of general principles on the freedom to access information has been established, recommending that governments incorporate these principles when issuing new legislation or amendments to existing legislation regarding access to information⁴².

Secondly: Dimensions and Objectives of Legal Consolidation of the Right to Access Information and Freedom to Share It

Facilitating the exchange of information is driven by several dimensions aimed at establishing respect for the right to knowledge and access to information as a fundamental human right. It seeks to reinforce the concept of citizenship, empower individuals to access information concerning them from the government, and clarify the actions of the state and government to achieve effective participation. This contributes to enhancing transparency, providing mechanisms for accountability and responsibility in line with political reform, and responding to the trend towards a knowledge society. This, in turn, results in the development of social and economic activities, as well as facilitating the monitoring of various state decisions and policies.

Establishing a legal system that protects the right to access and obtain information and specifying the duties and responsibilities for implementing this right is a key aspect of this legal consolidation. It also involves developing the dissemination of information within state structures by enshrining this principle in the relevant legal frameworks.

Promoting civil society through coordination among its members to create a nurturing and protective environment for the right to access and obtain information involves providing legal and rights-based support to citizens seeking information. This is achieved by building the capacities of political parties, civil society organizations, and the media in relation to the right to access information⁴³.

Additionally, enabling the exchange of information also leads to the dissemination of data and knowledge, enhancing capabilities and potential, and ultimately improving the quality of life. This contributes to development, promotes the practice of human rights and freedoms, notably the freedom of opinion and expression, the free flow of information⁴⁴, and freedom of the press and media.

Furthermore, achieving freedom of information also elevates citizens' awareness levels.

_ freedom of information helps restore trust between people and their governments. Many countries have implemented these laws to uncover and eliminate corrupt practices.

_The right to access information empowers ordinary citizens in exercising their right to vote, enabling them to participate effectively in public affairs. This is achieved by enhancing their understanding of the electoral process at all its stages and providing them with the information necessary for active engagement in political life.

_The establishment of a legal framework that protects the right to exchange and obtain information is crucial for promoting good governance. It clarifies the structure of the government system and its evolution, serving as a mechanism for democratic participation by monitoring general measures to enhance transparency and ensure the disclosure of important information⁴⁵.

- The right to access information and the freedom to exchange it are the foremost means of achieving transparency in the governing authority. Ensuring these rights through legal means is the most effective way to counter the abuse of power. When the exercise of this right is protected by

Ouadi (Algeria), Issue 2, June 2016, page 166, and the following.

⁴²- Mohammed Imran, as mentioned earlier, pages 6 and 7.

⁴³- Mohamed Imran, the previous reference, page 167 and beyond.

⁴⁴- For more information, refer to the academic page of Dr. Hossam Mohamed Nabil El-Shennarqi, the previous reference.

⁴⁵- Abdelli Hamza, "The Principle of Transparency in Administrative Affairs and the Right of Individuals to Access Information at the National Level and International Charters," *Journal of Studies and Research in the Arab Journal of Humanities and Social Sciences*, Faculty of Law, University of Algeria, Volume 11, Issue 2, June 2019, page 60 and beyond.



the law, it enables individuals to move forward in advancing the development of society and purging it of all illegitimate practices of authority, whether political, economic, or social.

Conclusion:

From the above, we have reached several conclusions, with an attempt to present some recommendations for activating the Information Disclosure Law. This can be summarized as follows:

Results:

Democratic development is greatly affected due to the lack of commitment to the right to access information and the freedom to exchange it. The exchange of information plays a fundamental role in combating corruption and supporting the economies of countries. Everyone has the right to knowledge, enhancing the principles of transparency and democratic participation.

The general principle of the legal framework for the freedom to exchange information is based on absolute disclosure, adopting the highest levels of disclosure. This is linked to the clear definition of the areas where information exchange is allowed, either wholly or partially. Such restrictions should be limited and exceptional, based on clear and transparent legal and regulatory rules. The principle of disclosure is the basis, and withholding information is only an exception. The freedom to exchange information significantly contributes to providing support to democratic systems in governance through political participation, setting accountability rules, transparency, and enabling access to authority to participate in public affairs.

Recommendations:

Civil society institutions should intensify their efforts and unite to pressure decision-makers to issue a law in countries that have not yet done so or demand the enforcement of the law in countries where it has been enacted but lacks effective implementation. This law plays a significant role in combating corruption and enhancing transparency and good governance.

Ensuring the commitment to the right to access information requires the adoption of practical mechanisms for its effective implementation, such as the right to appeal, whether administratively or judicially. This appeal should be made to the competent authorities specified in the law that regulates this right.

Authorities must consider the general principles of freedom to exchange information and make it equally available to everyone. Legislation should be established to regulate the right to exchange information and ensure freedom of access to it without any financial cost because it is a right.

The right to exchange information should not be limited to specific categories such as journalists and media personnel but should be extended to everyone within a regulated framework for requesting this information.

Precise determination of exceptions and restrictions imposed on the right to information eliminates all attempts by political authorities to withhold information from the public.

Promoting information awareness that allows everyone to access information quickly and easily by making it available to the public on the internet without any encryption or complications that hinder access. This aims to eliminate technological illiteracy.

In the absence of information awareness, this can be compensated for by specialized independent bodies whose role is to ensure the implementation of what is stipulated by information exchange laws and all related procedures that guarantee the right to access information within the legal framework.

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