

The Entitlement to Obtain Accessible data



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Abstract

The right to access public information is a relatively modern human right and is considered the cornerstone and key factor in determining the level of democracy in countries. It plays a significant role in achieving transparency and reducing corruption. However, the effective realization of this right cannot be achieved merely by its inclusion in international charters and domestic laws. States must adopt a set of principles to enable individuals to fully enjoy this right. Since this right intersects with the confidentiality of the administration, it was necessary to establish procedural, administrative, and judicial safeguards to balance the enjoyment of this right by individuals with the protection of the public interest. Additionally, these safeguards aim to protect this right from administrative abuse.

Keywords

Public information;
Right;
Access;
Administration;
Individuals.

الكلمات المفتاحية

المعلومات العامة؛
الحق؛
وصول؛
الإدارة؛
الأفراد.

الحق في الوصول إلى المعلومات العامة

ملخص

إن الحق في الوصول إلى المعلومات من حقوق الإنسان الحديثة نسبياً ويعتبر حجر الزاوية والمفتاح الرئيسي لتحديد مدى ديمقراطية الدول ويلعب دور كبير في تحقيق الشفافية والحد من الفساد. ولا يكتمل التكريس الفعلي لهذا الحق بمجرد النص عليه في المواثيق الدولية والقوانين الداخلية، بل يجب على الدول أن تتبنى جملة من المبادئ ليتمكن الأفراد من التمتع به. وبما أن هذا الحق يمس بسرية الإدارة، كان لا بد من وضع ضمانات إجرائية وإدارية وقضائية لتحقيق التوازن بين تمتع الأفراد بهذا الحق من جهة والمصلحة العامة من جهة أخرى، إضافة إلى كون هذه الضمانات تعمل على حمايته من تعسف الإدارة.

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I- Introduction:

Historically, nations used secrecy to handle state matters, believing it a means of preserving power. The state was a coercive power under this lack of openness and lack of public involvement in government since it was not required to explain its deeds to its people. But as time went on, countries came to understand that a democratic government respecting human rights was the only way to attain progress and the fulfillment of economic and social prosperity. This can only be done by giving people the right to access public knowledge.

The significance of this topic is in the fact that the right to access information is not only a need for people but also a fundamental need for governments and their institutions to create their openness and integrity and to separate themselves from corruption. This guarantees the effective operation of state institutions and administrations. Moreover, it seeks to investigate the balance between people's right to access information and the confidentiality of administration to safeguard the public interest.

Achieving transparency and openness in governments and administrations depends on the actual application of the entitlement to obtain accessible data.. On the other hand, we discover that for public interest reasons administrations continue to be secretive. The question then becomes how to balance the efficient execution of the right to access information, public interest, and the concept of administrative confidentiality.

Analytical thinking was our main tool to solve this problem; descriptive thinking was our secondary tool. These methods are the most appropriate for this research, in which we examined the data pertaining to the right to access information in the model law on the right to access information and connected it to reality.

Consistent with the goal of the study, we split this work into two primary parts: the first addresses the character of the entitlement to obtain accessible data.; the second is focused on the guarantees for exercising the entitlement to obtain accessible data..

I.1. The Concept of the entitlement to obtain accessible data:

Over 200 years ago, Sweden became the first nation to officially acknowledge the entitlement to obtain accessible data. ([Mendel, 2003](#)); this happened in 1766 with the passage of the Swedish Press and Pen Law. Though early acknowledgment, the importance of this right stayed modest until World War II's conclusion. Only then did nations understand the need of this right and start to include it in several international charters and declarations. Later, attempts were undertaken to confirm this right locally. Over the last thirty years, this right has been enshrined in national constitutions and followed by the implementation of particular internal laws, therefore gaining great awareness among nations. We will investigate the idea of the entitlement to obtain accessible data. and the values on which it is founded to better grasp its character.

I.1.1. The Concept of the entitlement to obtain accessible data:

The idea that public authorities act as agents for people in managing public affairs underpins the right to access information. In this role, these authorities have knowledge. Being just agents, they lack the authority to deny people access to information as people are the rightful owners of such knowledge considering their central involvement in and partnership with development ([Al-Enezi, 2021, p. 50](#)). Studying the idea of the right to access information requires first defining it and then investigating its relevance.

I.1.1.1. Definition of the entitlement to obtain accessible data:

One of the more recent rights is the entitlement to obtain accessible data., thus it has not yet completely evolved in all its facets. For this reason, academics have been unable to offer a clear and thorough definition of this right. Examining this right reveals two main components: one unfavorable and the other favorable.

I.A. The Negative Definition of the entitlement to obtain accessible data:

From a negative angle, the right to access information is the liberty to pursue knowledge. This is called "negative information," which characterizes a public administration attitude that only reacts to external requests for information. Therefore, every natural or legal entity has the right to ask information from the appropriate public authorities; these authorities are required to answer the request unless explicit legal provisions exempt the information ([Parisi, 2004, pp. 09-10](#)).

I.B. The Positive Definition of the entitlement to obtain accessible data:

In its positive sense, the right to access information is the right to get information straight from public organizations without having to file a request. In this respect, the government actively notifies the public and every person has the right to access information without first asking or performing actions (Parisi, 2004, p. 10).

I.1.1.2. The Importance of the entitlement to obtain accessible data:

The transparent management of public administrations and state institutions has become an urgent need for nations seeking justice, development, and democratic governance, thus the entitlement to obtain accessible data. is of great relevance. The following points make clear the significance of the entitlement to obtain accessible data.:

- Allowing people access to and knowledge of accessible data builds a trust relationship between the public and the administration. Involving people in decision-making and giving them access to information helps to promote the administration's openness to citizens as well. Exercising the right to access information helps to political and administrative openness (Ben Moussa, 2020, pp. 57–63). While political openness increases citizen political involvement, administrative openness turns people into active participants in governments.
- The realization of democracy is made possible by citizens' right to information access. Enabling people to get and be aware of information helps to achieve this as does the government's policy of informing the public.
- Fighting administrative corruption: The lack of information among citizens fosters administrative and financial corruption by secrecy, which harms development and progress. Conversely, giving people access to information helps them to monitor institutions and administrative bodies, therefore supporting the battle against corruption.

Emphasizing the need of this right in fighting corruption (United Nations, 2003), the United Nations Convention against Corruption views it as one of the efficient strategies in this respect. Article 5 of the Convention states that every member country shall, in line with its domestic legal system, create and carry out efficient and coordinated anti-corruption policies that foster community involvement and reflect the rule of law, good public asset management, integrity, openness, and responsibility.

Citing Article 10, it outlines the required actions governments must take to fight corruption. These policies call for using procedures, laws, and actions that let people get information about the organization and operation of public administrations as well as the decision-making processes inside them, therefore giving them access to knowledge. Furthermore, reducing administrative processes tries to help people reach the qualified authorities in charge of making decisions. At last, stressing also is the distribution of knowledge, which might cover regular reports on corruption threats in public administration.

Information is basic for industry and commerce; anyone trying to make a deal without access to pertinent information is sure to suffer losses (Hill, 2004, p. 270). Access to information by citizens helps to promote economic competition, improve work efficiency, and remove monopolies, therefore attaining economic balance.

Realizing social justice is made possible by access to information. Making information accessible helps one to know the living conditions of people, therefore enabling them to evaluate and track the economic policies of the government. Thus, giving people information helps to supervise government policy by encouraging more work to guarantee the equity of its policies, which then raises living standards and lowers poverty.

I.1.2. Principles of the entitlement to obtain accessible data:

Knowing the entitlement to obtain accessible data. by itself is inadequate; its application is essential. Thus, it is crucial to embrace ideas that let the people completely use this right. The organization Article 19⁽¹⁾ has developed a set of ideas on this right and advised countries to follow them. In his yearly report for 2000⁽²⁾ (Hussain, 2000), the United Nations Special Rapporteur on Freedom of Opinion and Expression supported these ideas. Among the ideas are the need to encourage open government and the public's entitlement to information access.

I.1.2.1 Principle of Maximum Disclosure of Accessible data:

All information should be revealed, per the principle of maximum disclosure, unless legally exempting it. This implies that, in writing laws on the right to access information, governments should restrict the exceptions to this right. Public authorities have to show that information within the range of exceptions is private (Hussain, 2000, p. 53). Examining the several legal systems of other nations shows that this idea is generally used. Its application is clear in giving this right to

legal entities as well as people, public or private. Public bodies, whether central or local, legislative, executive, or judicial, whether in the public or private sector, are obligated to disclose information ([Article 19 of Organization, pp. 1-2](#)).

I.1.2.2 Principle of Mandatory Publication:

Apart from allowing the public to get information, the right of people to access information also implies the administration's duty to widely disseminate information even in the absence of a request, only legal standards limiting disclosure ([Laajal, 2011, p. 13](#)). Publishing information proactively by the administration before the public requests it helps to build public confidence in the administration and guarantees openness.

I.1.2.3 Principle of Promoting Open Government:

One of the basic cornerstones of good governance is government transparency. The government has to take several actions—including ([Boserup, 2009, pp. 15-17](#)):

- Proactively providing information it holds without waiting for a request.
- Supplying information it holds upon request.
- Engaging the public through public campaigns.
- Including the public in the formulation and implementation of policies by means of committee and council participation.

The government has to first be ready to act in order to reach these goals; on the other hand, it should encourage an open-government culture by informing the people about their right to access information.

I.1.2.4 Principle of Limited Scope of Exceptions:

Unless they decide the information qualifies under exceptions, public agencies have to answer every personal inquiry for information. Refusal to reveal information is only justified if the public body can show that three particular criteria apply to the information:

Information release has to be connected to a legal goal as specified in the statute.

- The disclosure of information must threaten to cause significant harm to this purpose.
- The harm to the purpose must outweigh the public interest in accessing the information ([Article 19 of Organization, pp. 04-05](#)).

Thus, information falling under exceptions is regarded as private and should not be revealed. These instances can be summed up as follows ([Al-Enezi, 2021, pp. 85-81](#)):

- Matters of national security and defense demand great confidentiality. The administration has great latitude in judging the kind of papers and records sought for disclosure. But the phrase "military secrets" can sometimes be unclear since some issues are too sensitive for state authorities but cannot be labeled military secrets. The French Council of State decided on 12/07/2020 that a researcher might access President François Mitterrand's archive on the 1994 Rwandan genocide. The ruling said the appellant had a valid need to access the archives as the scholar had a valid need to use the papers for his historical study. This was consistent with the right to obtain and spread knowledge and ideas to promote debate and research on the subject ([State Council, 2020](#)).

The Council of State in this instance looked at the data from a scientific research viewpoint, emphasizing a historical period that had finished instead of from a security one.

- Private Secrets: Information that falls within the scope of private secrets includes:
 - Individual Secrets: Personal information is protected and access to it is forbidden in order to preserve personal privacy. Revealing such personal information is deemed a crime punishable under legislation.
 - Industrial and Commercial Secrets: A fundamental component of business operations, confidentiality is vital in industrial and commercial activities. Among the most vital business data to safeguard are banking details.

I.1.2.5 The Principle of Facilitating Access to Accessible data:

Exercising the right to access information consists of either requesting information from the relevant authority following the procedures laid out by law or acquiring the information published by organizations subject to the legal requirements in fulfillment of their duty to publish fundamental information ([Baril, 2012, p. 251](#)).

I.1.2.6 The Principle of Reducing the Cost of Access to Accessible data:

The price of obtaining information kept by public organizations should not be prohibitively high for people to access knowledge and for this right to be triggered. High expenses could discourage the average person from filing requests to obtain knowledge. High costs turn people off from using their right to obtain accessible data.

I.1.2.7 The Principle of Open Meetings to the Public:

The concept of open meetings to the public helps to realize people's right to access information completely. Public authorities have to inform the public about such meetings; of course, if there is good cause for doing so, meetings may be closed.

I.1.2.8 The Principle of Prior Disclosure and the Principle of Whistleblower Protection:

Laws that contradict the concept of absolute disclosure have to be changed or repealed to implement the principle of people's right to access information. Furthermore, people should be shielded from any legal or administrative sanctions as well as employment-related ones for revealing information about infractions ([Article 19 of Organization, pp. 09-08](#)) exposing corruption if they acted in good faith.

II- Guarantees for Exercising the entitlement to obtain accessible data:

The administration is constantly in a position of superiority over people and its actions are usually marked by secrecy. Thus, people cannot really enjoy accessible data just by declaring their entitlement to it and specifying ideas to implement this right. Promises have to be made to guarantee this right. These guarantees aim to balance the administration and the needs of people on one hand with their right to access information on the other. These promises differ and consist of judicial, administrative, and procedural protections.

II.1. Procedural Safeguards for the entitlement to obtain accessible data:

Safeguards must be set up to balance the public's and the administration's interests so that people can use their right to access information and so stop the administration from drifting away from its fundamental duties and becoming only reactive to particular requests. These procedural safeguards consist of the need that requests be in a particular format, that the requested information be clearly defined and correctly described, and that administrative duties to answer requests are properly carried out.

II.1.1. The Request Must Be in a Legally Defined Format:

Most laws regarding the right to access information say that requests for information have to be in a certain format, either as a written document or using a specified form created especially for this goal. Some laws, meanwhile, permit verbal requests for those who are illiterate; in such cases, the appropriate staff member must help by composing the request on their behalf and give them a copy ([Ben Moussa, 2020, pp. 215-216](#)). Whether on paper or using the appropriate form, the submission of a written request guarantees the requester and provides proof in interactions with the administration.

II.1.2. The Information Must Be Clearly Defined and Accurately Described:

The requester must clearly and precisely indicate the information they want to get when asking for it. Laws relating to this right require the designation of a specialized staff member in charge of information access and archiving since many information seekers are ignorant of the precise character of the information held by the administration or its possible location. This person's job is to process requests and help people find the information they want ([Al-Jumaili, 2007, p. 134](#)). The Model Law on the Right to Access Information in Article 8 ([Article 19 of Organization](#)) further states that should the requester fail to satisfy the formal criteria for filing a request, the pertinent staff member has to offer straightforward, free help to enable them meet the requirements.

II.1.3. Implementation of Administrative Obligations Regarding Response to Requests

The administration has to take all required actions to look for the requested information and reply within the time frame set by the laws governing the right of access to information when a request for information is filed. Should the administration lack the information but another entity does, the responsible employee must, if they know the identity of the information-holding body, forward the request to that body as soon as feasible following the principle of information access facilitation (Karimov, 2013, p. 269).

II.2. Administrative Guarantees for the entitlement to obtain accessible data:

Procedural guarantees by themselves are insufficient to guarantee people's right to access information. The law thus provides several administrative guarantees to implement this entitlement. Among these guarantees are the creation of an administrative body to safeguard this right and the right to submit an administrative complaint.

II.2.1. Administrative Grievance as a Guarantee for Individuals' Right to Access Accessible data:

A administrative complaint is when the relevant party petitions the administration to review its decision, which has harmed their legal standing, therefore affecting them. This petition is an individual presenting their case to the administration asking justice (Al-Wakeel, p. 16); it seeks to change or reverse the decision. Administrative complaints come up in relation to people's right to information access. Though it is regarded as a recent idea in conflicts concerning the right to access information, its compulsory character means that the person whose request was denied has to follow legal requirements and processes to file a complaint with the appropriate administration before considering court action. It is also defined by its relative impact; that is, the complaint only helps the person who filed it and who stands to gain from the knowledge acquisition (Ben Moussa, 2020, pp. 319-318).

When the administration accepts the information complaint, its significance is emphasized since it allows the administration to show its good faith in following the law, therefore fostering confidence between the administration and the people. Furthermore, should the complaint be acknowledged, it lessens the amount of cases presented to the courts, so saving expenses for the requester and lightening the load on the court system.

II.2.2. Establishment of an Administrative Body to Protect the Right to Access Administrative Documents:

Various laws on the right to access information call for the establishment of institutions whose purpose is to safeguard people's right to access information, therefore guaranteeing the administration does not act randomly. Those whose requests have been turned down by the administration can appeal to commissions, or these institutions. These bodies have operational and administrative autonomy under Articles 34 and 35 of the Model Law on Freedom of Access to Information; an appeal is filed before them.

These entities act as monitors of the activities of the administration, therefore safeguarding people's rights to access information by making sure it does not stray from its responsibilities.

II.2.3. Judicial Guarantees for the entitlement to obtain accessible data:

Judicial guarantees for people's right to access accessible data round out the legal protection they enjoy. These guarantees help to protect people's rights against administrative arbitrary acts and deviations. Transparency in litigation and appeal to the qualified court helps to protect people's rights.

II.2.3.1. Transparency in Litigation:

One of the basic tenets of legal process is openness in litigation, as described in several international treaties and domestic legislation. It means that every person, regardless of their status, has the right to attend trials and hearings in the court without any restrictions, and to listen to the discussions and procedures taking place, with the exception of cases where maintaining the order of the session or legal provisions mandate the session to be held in camera.

Transparency in litigation is therefore attained by letting the public attend hearings and, on the other hand, by releasing what happens during these sessions via media channels, including newspapers. This lets the people know what is going on in these trials. Media publication, in our opinion, provides more openness than just letting the public attend the sessions.

Public trials are very important since they help to build public confidence in the justice system. On the one hand, it comforts the public of the fairness of legal processes; on the other, it acts as a watchdog on the activities of judicial institutions guaranteeing their processes and decisions are fair, neutral, and open.

The public character of trials therefore enables the public to access judicial information, so strengthening the right of people to get information.

II.2.3.2. Resorting to the Judiciary:

Turning to the courts is a right for every person. Thus, in situations when the administration withholds information, the aggrieved party has the right, following lodging a complaint, to file a lawsuit before the appropriate court. Citing French law, it gives administrative judges authority to investigate conflicts about the right to information access. The French Council of State has confirmed this in numerous decisions, including one involving Agricultural Credit Fund employees contesting a fund decision denying the first petitioner's request for his service record and the second petitioner's request to view his personal report ([State Council, 2001](#)).

Administrative judges are seen as the judges of rights and freedoms, thus their authority to review cases involving breaches of the right to access information stems from this.

Oversight of the administrative judge covers lawsuits brought by people under administrative decision infringing their right to access information. Apart from confirming the material reality of the facts the administration asserts as justification for its decision, this also gives the power to review private papers. The judge is in charge of guaranteeing no power abuse and verifying the administration's decision to deny access conforms with the legal requirements on the right to access information ([Younes, 2002, p. 153](#)).

This right is qualified by particular criteria so that one may strike a balance between the right to access information and the administration's right to preserve confidentiality. Among these requirements are the need to submit the document to the court within a set time frame and the prohibition of allowing the plaintiff access to it as an exception, so long as it is under contention and the person is the one seeking access to the information that has been administratively denied ([Ben Moussa, 2020, p. 398](#)). Unlike the usual evidence rule, which assigns the plaintiff the burden of proof, in the case of the right to access information the administration—the defendant—must show the legality of its decision to withhold the information at the core of the conflict as specified by the Model Law on Freedom of Information.

Furthermore, it should be emphasized that when the court rules mandating the administration to let the plaintiff access the information, a coercive penalty provides further protection for the information requester. Unless non-execution is caused by force majeure or extraordinary circumstances, this penalty is applied to the administration should it fail to carry out the ruling.

III- Conclusion:

Access to accessible data has become a basic human right and a required element for creating a democratic society and fighting corruption. Information's strong and influential role makes this right a cornerstone and one of the main components in the development of the rule of law. Our research on this topic has led us to several findings and suggestions.

Study Findings:

- The entitlement to obtain accessible data. plays a crucial role in consolidating democracy, ensuring transparency, and combating corruption.
- Enshrining the right to access information in several international treaties and national legal texts is insufficient; individuals must also know its essence, the value of government information, and the role of transparency in fostering the public good and building democracy. People have to know and grasp the core of this right, the need of government information, and the value of openness in fostering the public good and strengthening democracy.
- Ensuring openness depends on the right to access information; yet, it can occasionally clash with the confidentiality tenet. Establishing protections that preserve this right without compromising the administration's functioning helps to strike a balance between these two.
- The right to access information serves as a form of oversight over the administration, encouraging officials to perform their duties to the best of their abilities.
- Due to the ambiguity surrounding the concepts of military secrecy and commercial and industrial secrets, this issue opens the door for the administration to refuse to provide information.

- Among the most important protections set up to preserve the entitlement to obtain accessible data. are judicial guarantees, since judicial decisions are binding and force the government to carry out them, else they run a risk of coercive penalty.

Study Recommendations:

- National laws should define the entitlement to obtain accessible data. so that it balances the needs of people and the government.
- Creation of agencies in charge of monitoring the application of people's right to access accessible data.
- Raising awareness among people about the need of the entitlement to obtain accessible data. as a tool for developing a democratic society and attaining social justice is therefore crucial.

Referrals and References:

- Al-Enezi, S. (2021). The Legal Regulation of the Right to Access Administrative Information and Documents in French and Kuwaiti Law. *Kuwait International Law School Journal*.
- Al-Jumaili, M. A. (2007). *From Secrecy to Administrative Transparency* (2nd ed.). Cairo: Dar Al-Nahda Al-Arabia.
- Al-Wakeel, M. A.-R. (n.d.). *Administrative Grievance in Light of Doctrinal Opinions and Judicial Rulings*. Cairo: Dar Al-Nahda Al-Arabia.
- Article 19 of Organization. (n.d.). The Public's Right to Access Information, Principles in Legislation Relating to Freedom of Information.
- Baril, J. (2012). Right of Access to Environmental Information A Cornerstone of Sustainable Development. *Thesis Faculty of Law Laval University*. Québec, Quebec, Canada: Laval University.
- Ben Moussa, M. (2020). *The entitlement to obtain accessible data. A Study on the Requirements of Transparency and the Constraints of Secrecy* (1st ed.). Irbid: Modern Book World.
- Boserup, L. K. (2009). *Introduction to Openness and the Right of Access to Information*. Copenhagen: Danish Institute for Human Rights.
- Hill, M. (2004). *The Impact of Information on Society* (1st ed.). Abu Dhabi: Emirates Center for Strategic Studies and Research.
- Hussain, A. (2000). *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression Submitted in Accordance with Commission Resolution 1999/36*. Geneva: United Nations Commission on Human Rights.
- Karimov, I. (2013). The Role of Transparency in Combating Corruption Through the Experience of the Council of Europe. *Doctoral Thesis International and European Law Doctoral School University Paris 1 Panthéon-Sorbonne*. Paris, France: University Paris 1 Panthéon-Sorbonne.
- Laajal, M. (2011). The Right to Access Information in Algerian Law. *Faculty of Arts and Humanities African University Colonel Ahmed Draia*. Adrar: African University Colonel Ahmed Draia.
- Mendel, T. (2003). *Freedom of Information: A Comparative Legal Survey*. Paris: United Nations Educational, Scientific and Cultural Organization (UNESCO), Regional Office for Communication and Information.
- Parisi, C. (2004). Access to Information in the European Union. *Doctoral Thesis in Public Law*. Lyon, France: Jean Moulin University – Lyon 3.
- State Council. (2001, November 23). Decision of 23 November 1990 Bertin Lebon 782 AJD 1991 442 Commentary by Pretot and Decision of 27 April 2001. *Case Law of the State Council*. France: State Council.
- State Council. (2020, 06 12). *Decision No 422327*. Retrieved from State Council Official Website: <https://www.conseil-etat.fr/arianeweb/#!/view-document/?storage=true>
- United Nations. (2003). *United Nations Convention against Corruption General Assembly Resolution 58/4*. New York: United Nations.
- Younes, M. B. (2002). *The Legal Regulation of the Right to Access Administrative Documents*. Alexandria: New University House.

Note:

- [1]. ARTICLE 19 is an organization established in 1987
- [2]. Civil and Political Rights, Including the Issue of: Freedom of Expression. Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression.