



RIGHT OF ACCESS TO INFORMATION

Stage of legislation and obstacles to implementation

Egypt, Libya, Tunisia



مركز دعم التحول الديمقراطي وحقوق الانسان
Democratic Transition and Human Rights Support Center



Democratic transition & human rights support center
(DAAM)

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Introduction

Winds of change have howled across Egypt, Libya and Tunisia since 2011, leaving behind different results from one country to another, those results are similar in one fact: the change in each country has to be studied, documented and scrutinized. Perhaps who ever research the matter thoroughly finds accessible open doors, or dangerous gaps that must be obliterated, to support hope for a better reality for all. This study is part of a constant search for right's reality in these three countries, and focuses on the right to information as a basic mechanism not only to understand the reality, but to improve it.

It seems that the right to access information is more problematic in countries that are witnessing a transition process in one direction or another as instability, and legislative and structural change may present an opportunity to give effect to this right, or, on the contrary, a scope to narrow it.

The question of right to information becomes more problematic if it is raised in relation to fight against corruption, especially as a practical and procedural tool for transparency, which enables all citizens to be aware of public affairs and decision-making's hidden issues, and gives them the power and authority to participate in and contribute to the processes of making those decisions. The right to information can also be an opportunity to assess the development of other rights and freedoms that are closely related to it, such as freedom of press, expression, participatory democracy, etc.

This study raises detailed questions, with ramifications to help the reader to answer them, as follows:

- How did the right to information develop?
- What form does this right take today?

The main purpose of this study: to draw the line for a right's evolvment, and examine the form that contains it at a specific point in time, so as to try to estimate the impact it can have on the war on corruption, for example. Although this study focuses on the right to information, its methodology can be applied to other rights: freedom

of expression and its role in the struggle against tyranny, the right to demonstrate as a mechanism to influence public policies, and others.

This study does not aspire to an approach or comparison between the three countries, but focuses on each country separately, and then compare essential points that are common in importance and different in each country's context. The first two questions mentioned above are answered in each country by addressing the right to information's historical development through different political and social phases and researching this right's development manifestation in popular demands, if any exists.

This historical development paves the way to describing the current form of right to information as a policy, by looking at legal frameworks, starting with the Constitution, international treaties, laws, orders and ordinal decisions.

It is followed by scrutinizing these legal frameworks by looking for contradictions that may exist, creating loopholes that may then represent an opportunity to secure this right, and sometimes pose a threat to guaranteeing it.

This is followed by examining effects that may change this right's form and impact, some of which are internal effects , such as civil society components or the street or state structures impact, while other are external effects, such as financial partners or international institutions, whether governmental and non-governmental.

This takes us to the practical reality of this right, which the study features by examining possibilities provided by the state to ensure the right to information, and various attempts to enjoy it made by citizens.

This study was based on gathering information from various sources to find the best answers to the asked questions. An initial research was made in media's coverage was received, and describing the historical development for this right in each country. Several right to information studies have also been used and we also resorted

to collecting the available legal texts to describe the legal frame for information public policy in each country. The most important primary source was interviews with those are involved in developing or implementing this right, these interviews were held between Egypt and Tunisia, and because mobility in Libya is difficult we overcame that by making interviews with Libyans those who are involved in the filed in Tunisia.

The first step on which this study is based is to unify concepts that may take different forms in the three countries, the most important of which is the right to information. This study examines the right to information in its broadest sense, but always with regard to information from its official sources, this means that the right to information is the right to access information issued by the state in all its forms, whether at the automatic publication of it, or when various attempts to claim it and get it are made. This concept comes in slightly different terms In Egypt and Tunisia, the so-called “access to information” and in Libya, it was referred to as “access to and circulation of information”.

External and internal effects are any factor outside the relationship between who produces the information (The State) and its receiver, and affects him/her in a regulated or spontaneous manner.

The right to information development means the clarity of the language used to describe or demand it, the clarity of mechanisms that activate it, and the expansion of its popular base.

Other close rights to the right to information include freedom of expression and the press. The right to information cannot be studied in isolation from these freedoms; as the freedom of expression is what guarantees demanding information at the first place, and then gives a space for an interaction between both of them freedom of the press ensure that information is contextualized and made available to the public. Freedom of expression and press represent the safety valve for freedom of information and the power that keeps it alive.

Theoretically

The study highlights the right to information from different perspectives, each of which is an outlet for influencing this right's reality in all three countries, if the reader wants to imagine a role for him/herself in that, the right's development angle proposes three aspects of its manifestation: (claiming it, making the legal framework governing it, and resorting to the right to information mechanisms).

The information public policy angle is a phase that should be studied to understand the state's political obligations to ensure this right, which can be discerned through the legislative and executive product, which the state uses through its various structures to declare its political orientation for the purpose of ensuring the right to information, if it has any. The study also examines the angle of effects on the right to information's development, which might be internal and external, governmental and non-governmental.

The most diverging angle is the extent to which the right to information is applied, a point of convergence between public policy, the exercise of the right to information, and the application of the law.

Certainly, it is evident that the right to claim is becoming popular and absolute and not specified for certain issues or crises, and that the legal framework is becoming more immune from external or internal negative influences, and that recourse to mechanisms for applying the right to information is becoming automatic and sustainable.

Resorting to
the right to
information's

Creating its own
legal framework

Claiming the right

The right's development

The process of developing any right takes several aspects, either sequential or concurrent, which can be divided into three aspects: (claiming the right, making its own legal framework, and resorting to the right to information's mechanisms). These are manifestations not steps because they have no particular order, and they may be parallel. The legal framework for information may be preceded by a popular claim to the right, and the legal frame may be preceded by resorting to mechanisms. The right to information might be claimed by one category in concurrence with another. A good analysis of the right's development helps in understanding its reality between the citizen and the state, and the good division of the groups that claim it, and resort to it, and understand the frameworks it is organized by helps in understanding it too.

The demand for the right to information through public protest is reflected by demonstrations, advocacy campaigns or opinion critical articles that criticize the lack of information or transparency in the decision-making process. Claiming the right may take the form of protesting against the absence of specific information, such as the absence of information about a vital facility, or the non-publication of a government decision, or a general form, i.e. claiming the right in its absolute sense.

The claim to the right to information is a manifestation of the right of the information's development from the claimant's side usually, i.e. the citizen in all the forms that organize or do not organize his/her activity

As for creating the right to information's legal framework, it is a stage that comes after adopting it as a public policy by the State, which should not be necessarily as a result of public pressure or demand. The legal framework is formulated at several levels that do not necessarily follow the legislation's hierarchy. The Tunisian example witnessed a decree guaranteeing the right of access to administrative documents before being included as a

right in the Constitution.

The absence of the right at all legislation levels may be an opportunity to guarantee the right, such as the Egyptian example, that witness an absence of a law regulating the right, and there is also the Libyan example, which witness an absence of a ratified constitution.

Creating the legal framework for the right to information is also a manifestation of this right's development, but it is usually specific to the entity that is required to provide the information, i.e. the State at all levels and forms of authority.

As for applying the right to information through the use of existing mechanisms - which may not necessarily be regulated by a legal framework - is also a manifestation of this right's development, but it combines the information claimant (citizen) and the information provider (State), as it reflects the extent to which the right has been resorted to and the extent to which it has been responded to, or in another cases, the State's inability to withhold information, such as leaking situations.

Public policy on the right to information

The existence of a public policy regarding the right to information is represented in the legislative and executive frameworks that regulate it (constitution, treaties, law, executive orders, decisions, circulars). There are frameworks that activate the right to information, and others that impedes it. All frameworks affecting the right to information should be examined in a comprehensive manner to assess whether or not a public policy exists.

Due to changes that emerged in the three countries at different legislative and executive levels, the legal fabric is in conflict between supporting and obstructing the right to information, either for lack of harmony, or for historical or political reasons. The focus on public policy regulations is an important point in

understanding the legal fabric and assessing whether it is a safety net or a prison for this right.

Effects

Like any right, the process of developing the right to information is influenced by various internal and external factors, which affect the right to information's elaboration, the state's public policy, and its implementation. The effects are either internal, national, governmental or non-governmental, and external, whether as a result of international cooperation, or non-governmental. The impact on the right to information is not always positive, and does not necessarily improve its reality, even if it changes the phases of its paths mentioned above.

Rights are lost and diminish if positive influences are not stronger and more effective than the negative ones.

The division of effects into internal or external helps to try to predict their impact and presence, which is important at two levels: first to measure the most important effect and resort to the desired impact in the future, and second to document the various effects to try to understand the right to information stability extent, especially if the factors that have real impact in its support or at times reduce it have been studied.

For example, when external funding refrains from supporting awareness-raising campaigns on the right to information made by civil society, or when it remains confined to a small scale, where it does not affect one aspect of the right to information, which is claiming it, or when an international financial partner establishes a legal framework in support of the right to information as a condition for government funding, as it affects the legal framework's effectiveness when a clear claim to the right is absent, or when civil society and the state work to create a «good» legal framework, in an absent public demand for the right to information, or a technical capacity to provide it in management, this may have the opposite effect on the right's development, etc.



Applying the right to information



It can be said that studying the extent to which the right to information is applied in practice is in fact a study of the space between what is regulated by legal framework, the extent of its application, and the extent to which this right is exercised by those who have the right to use it and benefit from it.

The study of one of these points without the other gives a missing picture that does not accurately describe the relationship between the state as a provider of information and the citizen as a claimant. It is worth mentioning that Tunisia is the only country where this relationship can be studied in a traditional way, as its legal framework on the right to information is developed, and as it specified a law to regulate it. However, this does not preclude the possibility of studying this application in Egypt in light of the constitutional provision on the right, and Libya in the context of this right's emergence in the draft constitution.

In practice, studying that area rather than focusing on each factor separately, represents a more accurate picture of the right to information's reality in each country. In fact, it focuses on practical opportunities available to ensure it, rather than theoretical opportunities. This area reflects the strategic opportunities to ensure the right, not just to formulate a good law, apply it to a limited level, or practice it ineffectively.



Egypt





History of access to information

The right may not seem clearly developed in the Egyptian people's demands, as some links it to freedom of opinion and expression and others links it to fight corruption, but the right to know was not directly among the Egyptian street man priorities, although it was always somehow hidden behind his daily questions about his life requirements.



● Khedive Ismail

It is possible to measure the beginning of an entity existing to work on access to information by establishing the Khedive the General Authority of the National Library and Documents, which was mentioned on the Egyptian Ministry of Culture website in its definition and under the title (Egyptian National Library.. The largest national library in the world) as it says: In 1870, Khedive



● the Egyptian Library

Ismail issued a high order to establish a national library in Cairo, the Egyptian Khedivial Kutub Khana, to collect precious manuscripts and books that were stopped to be issued by sultans, princes, and scholars on mosques, shrines and schools, in the same working patterns of national libraries in Europe.

In 1904, the Library was moved to a building established in Bab El-Khalq Square, in 1966, the Egyptian Library was merged with the Egyptian Archives in one body, and in 1971, the Library moved to the present building on the Nile Corniche in Ramlet Boulak, which was designed to be suitable for carrying out modern offices services and to be able to provide large stores suitable for preserving manuscripts , papyri, publications, periodicals and microfilms, and halls to receive the large number of visitors to the library, in addition to places for specialized centers and administrative offices to perform its function as a national library that provides services to researchers and readers in various fields.

- The Ministry of Culture’s message and objectives

«Egypt inherited a cultural accumulation through different periods of history that represents successive civilizations the country went

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through, which made Egypt one of the first countries to have a ministry of culture whose mission is to give the Egyptian personality a definition for its history and to preserve the country's capabilities which include its heritage and nurturing its creative gains that resulted from its members participation."

Cultural policies will not bear fruit unless all intellectuals and cultural bodies participate - in affirming belonging to this homeland and in advancing inclusive development, especially since any plan for economic and social development remains fragile unless it is based on radical cultural development.

Although many Egyptian intellectuals believe that the Ministry of Culture's actual role was part of restricting the public domain and bringing intellectuals into the state's side, as it was always described, especially during Mr. Farouk Hosni's era, the Minister of Culture in Mubarak's regime, who was close to Mrs. Suzanne Mubarak, the President's wife. He was working to neutralize cultural work and to make sure that no political activity will be done as subsequent for cultural activities.

The most important political and social phases

23 July 1952

23 July revolution

Overthrowing King Farouk by the Free Officers Movement on 23 July 1952, Major General Mohamed Naguib led the Free Officers' Movement to carry out a military coup to overthrow King Farouk and force him to abdicate the throne

June 1953

Declaration of the Republic

In 1953, the Republic was declared and Major General Mohamed Naguib was chosen as the first President of the Republic and head of the Revolutionary Command Council, he was then followed by Gamal Abdel Nasser

19 October 1954

Anglo-Egyptian Agreement

The agreement, its annexes, the mutual letters attached thereto and the official transcript agreed upon was implemented as of 19 October 1954, between the Government of the Republic of Egypt and the Government of Great Britain and Northern Ireland until the last British soldier left Egypt on 18 June 1956 from the British base at the Suez Canal in accordance with the Agreement

July 1956

Nationalization of the Suez Canal
"The Suez Crisis"

Gamal Abdel Nasser from Al-Mansheya Square in Alexandria announced his decision to nationalize the Suez Canal Company, after the United States withdrew its offer to finance the High Dam in an insulting manner to Egypt, followed by Britain and the World Bank. After this decision, Britain lodged a protest that was rejected by Gamal Abdel Nasser on the grounds that nationalization was an act of Egyptian sovereignty

14 October 1981

Mohamed Hosni Mubarak as President of the Republic

He assumed the presidency of the republic after a referendum on 14 October 1981 after a nomination made by the People's Assembly when Sufi Abu Taleb, the speaker of the People's Assembly, was the interim president of Egypt after the assassination of Sadat. On February 2011 he stepped down under popular pressure and handed over power to the Supreme Council of the Armed Forces.

17 September 1978

Assassination of Anwar Sadat

"The stage's incident" or "major jihad operation" was during a military parade held in Nasr City in Cairo on 6 October 1981 to celebrate the victory achieved during the October 1973 war. After the incident, Sufi Abu Talib assumed temporarily presidency of the Republic for eight days, from 6 to 14 October 1981 until the election of Mohamed Hosni Mubarak as President

17 September 1978

Camp David Accords

It is an agreement signed between Egyptian President Mohamed Anwar Sadat and Israeli Prime Minister Menachem Begin after negotiations at the Camp David presidential resort in Maryland. The negotiations and the signing of the agreement were under the supervision of former US President Jimmy Carter. Egypt's membership in the Arab League was suspended from 1979 to 1989 as a result of signing this agreement. On the other hand, the two leaders were awarded the Nobel Peace Prize in 1978 after the agreement. There are demands to disclose details that remain confidential to this day about this agreement, as it was not presented to the Egyptian parliament for discussion

22 February 1958

Unification of Egypt and Syria
“United Arab Republic”

The United Arab Republic is the official name of the unity between Egypt and Syria. It was announced on 22 February 1958 by the signing of the United Republic charter by the Syrian President Shukri al-Quwatli and the Egyptian President Gamal Abdel Nasser. Nasser was chosen as president and Cairo as the capital of the new republic. In 1960 the parliaments of the two countries were united in the National Assembly in Cairo and the regional ministries were abolished in favor of a unified ministry in Cairo as well

28 September 1961

United Arab Republic's collapse

The unity was terminated by a military coup in Damascus on 28 September 1961. Syria declared the establishment of the Syrian Arab Republic, while Egypt retained the name of the United Arab Republic until 1971 when it was renamed by the Arab Republic of Egypt.

5 June 1967

Israel's attack on Egypt, Syria and Jordan
«The Setback»

The 1967 war, also known in Syria and Jordan as “The setback of June”, led to Israel's occupation of Sinai, Gaza Strip and the West Bank it resulted in, issuing UN Security Council Resolution 242, the displacement of most of the Suez Canal cities inhabitants and most of the Quneitra governorate inhabitants in Syria, and the displacement of tens of thousands of Palestinians from The West Bank, including the erasure of entire villages, and it opened the door to building settlements in East Jerusalem and the West Bank

1971

Completion of constructing the High Dam

The Aswan High Dam, or High Dam, is a water dam on the Nile in southern Egypt, it was built during the reign of Gamal Abdel Nasser, which the Soviets helped in building. The dam has greatly helped to control water flow and mitigate the effects of the Nile flood. It is used to generate electricity in Egypt. Construction of the dam began in 1960. The dam was officially opened in 1971

18, 19 January 1977

Egyptian bread riots

The bread uprising is a popular demonstration against rising prices, in several Egyptian cities, it was rejecting a draft budget that raised prices for many basic items, and announced austerity measures to reduce the deficit. People went to the streets until the government responded and retreated from increasing prices. Many leftist political activists were arrested and acquitted before the court

11 September 1971

A new constitution promulgated in Egypt

It was in effect until it was suspended by the Supreme Council of the Armed Forces on 13 February 2011 after the 25th of January revolution when President Hosni Mubarak stepped down on 11 February 2011

25 February 1986

**Egyptian conscripts riot
« Central Forces riot »**

Tens of thousands of Central Security Forces personnels demonstrated in Giza camp on the Alexandria desert road to protest against their poor conditions and against rumors of a secret decision to extend years of service from three to five years. The state of lawlessness lasted for a week in which a curfew was announced, several soldiers of the Central Security Forces were arrested. Later after claiming security and rule of law, the curfew was cancelled and various decisions to lessen the forces numbers, improve their conditions, transferring their camp locations to places outside highly population areas and determining the type of soldiers who would join the Central Security in the future were issued.

December 2000

**Agreement for financing an
Egyptian gas pipeline between
Egypt, Lebanon and Syria**

The gas pipeline projects between Egypt, Jordan, Syria and Lebanon started with signing a Memorandum of Understanding (MOU) by the Ministers of Energy of Egypt and Lebanon in Beirut to supply Lebanon with Egyptian gas. This was followed by an agreement in January 2001 between the prime ministers of Egypt, Jordan and Syria to transfer and export Egyptian gas annually to Jordan, Syria and Lebanon.

February 2002

**Upper Egypt train fire accident
« El Ayyat railway accident »**

One of the 832 train cars from Cairo to Aswan caught fire at 2 am on February 20, after leaving El-Ayyat and the ride was packed with passengers traveling for Eid al-Adha holidays in their villages in Upper Egypt. The Upper Egypt train accident, killed 361 passengers, eleven railway officials were tried in Egypt for negligence. The disaster led to the Egyptian Minister of Transport resignation

November 2009

**Violence in the football
match between Egypt
and Algeria**

There were unrest before and after Egypt and Algeria in November 2009, leading to diplomatic tension between Egypt, Algeria and Sudan in Group C matches of the third round of the African qualifiers to qualify for the 2010 World Cup. The governments of both countries contributed to fueling the situation in order to keep citizens away from political problems and the media in both countries have been used to increase excitement with late political support

November 2008

**The ruling National Democratic
Party promises to privatize some
government companies and
distribute bonus shares to citizens**

The ruling National Democratic Party (NDP) said it would introduce a partial privatization program for some public sector companies by distributing free shares to citizens that people in need can sell. The project applies to 155 companies, but some companies would be excluded because they are losing companies or because the government wants to keep all its shares in them

6 April 2008

6 April strike

The 6 April strike was called for in Egypt in 2008 in protest against high prices and corruption and in solidarity with Mahalla Company workers strike, that day witnessed several strikes and sit-ins in Egypt. It went from an invitation for Mahalla workers strike to a general strike in Egypt, after some Egyptian bloggers and youths adopted the idea, which was later known as the 6th April Youth Movement, the Kifaya Movement and some opposition parties in Egypt. One of the most striking features of the 6th April strike is the lack of organization by any famous party

April 2005

Anti - government demonstrations

Judges for Egypt movement and Kefaya movement demonstrated on 27 April 2005 in 15 governorates

September 2005

Mubarak re-elected for a fifth term

He was elected to a new term in 2005 in Egypt's first multi-candidate presidential election following a constitutional amendment in an election that witnessed violence and arrests for opposition candidates

3 February 2006

MS al-Salam Boccaccio 98

It is an Egyptian ferry belonging to Al Salam Maritime Transport Company, which sank in the Red Sea. While it was travelling from Dibba and Tabuk, Saudi Arabia to Safaga. The ship was carrying 1312 passengers and 98 crew members. Most of the passengers were Egyptian nationals who were working in Saudi Arabia and some of the pilgrims returning from Hajj. The ship was also carrying 220 cars

October 2007

Seven journalists and an editor were jailed for publishing news about Mubarak's health and protests by independent and opposition newspapers

Egypt's Bulaq Misdemeanor Court has sentenced journalist Ibrahim Issa, head of the independent newspaper Al-Dustour, to six months in jail for his writing of rumors about President Hosni Mubarak's health as the court stated. Issa was due to be tried by a state security court where he has no right of appeal, but angry reactions to the trial forced the government to back down and try him before an ordinary court. Seven journalists were sentenced in September 2007 for spreading rumors about 79-year-old President Hosni Mubarak. The crackdown on journalists led to a one day ban protest in October 2007 by 23 newspapers

26 March 2007

Referendum on constitutional amendments

In December 2006, former President Hosni Mubarak sent a letter to the Egyptian parliament requesting amending 34 articles of the constitution, which is close to one-sixth of the constitutional texts in the 1971 Constitution. The Shoura Council agreed in 13 March 2007, and the People's Assembly agreed by majority on the proposed constitutional amendments. Government critics accused President Hosni Mubarak of accelerating the timetable (the referendum was originally expected on April 4, 2007) in order to make it impossible for them to organize a strong «no» rejecting campaign. According to official results, 75.9% of voters supported the amendments, with an official turnout of 27.1%. Critics of the government claimed that the turnout was actually around 5%

6 June 2010

Murder of Khaled Mohamed Saeed

An Egyptian young man from Alexandria was beaten by members of Egyptian police informants. The killing of Khaled Said sparked popular outrage in Egypt and reactions from international human rights organizations, followed by a series of peaceful street protests in the cities of Alexandria and Cairo organized by human rights activists who accused the Egyptian police of continuing to torture under the state of emergency

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26 March 2007

Referendum on constitutional amendments

In December 2006, former President Hosni Mubarak sent a letter to the Egyptian parliament requesting amending 34 articles of the constitution, which is close to one-sixth of the constitutional texts in the 1971 Constitution. The Shoura Council agreed in 13 March 2007, and the People's Assembly agreed by majority on the proposed constitutional amendments. Government critics accused President Hosni Mubarak of accelerating the timetable (the referendum was originally expected on April 4, 2007) in order to make it impossible for them to organize a strong «no» rejecting campaign. According to official results, 75.9% of voters supported the amendments, with an official turnout of 27.1%. Critics of the government claimed that the turnout was actually around 5%

November and December 2010

Full rigging of parliamentary elections

After the Muslim Brotherhood won 88 seats in the 2005 parliament, the NDP declared it went violent in the 2010 elections and used all methods of fraud and violence to sweep the results. It won 420 seats out of 508 contested seats, while opposition parties got 14 seats and independents 66 Seats

1 January 2011

2011 Alexandria bombing the saints Coptic Orthodox church

At the beginning of 2011, a terrorist bombing took place at the Church of Saints in Alexandria, killing 21 people, while the number of injured was 79. It was another episode terrorist incidents targeting Christians in Egypt series

14 January 2011

The Tunisian revolution success

The ousted President Zine El Abidine Ben Ali escape and the Tunisian revolution success had a great impact on the Egyptian political movement, which gave the Egyptians real hope for change

25 January 2011

The Egyptian revolution

The ousted President Zine El Abidine Ben Ali escape and the Tunisian revolution success had a great impact on the Egyptian political movement, which gave the Egyptians real hope for change

November 2009

Violence in the football match between Egypt and Algeria

There were unrest before and after Egypt and Algeria in November 2009, leading to diplomatic tension between Egypt, Algeria and Sudan in Group C matches of the third round of the African qualifiers to qualify for the 2010 World Cup. The governments of both countries contributed to fueling the situation in order to keep citizens away from political problems and the media in both countries have been used to increase excitement with late political support

November 2008

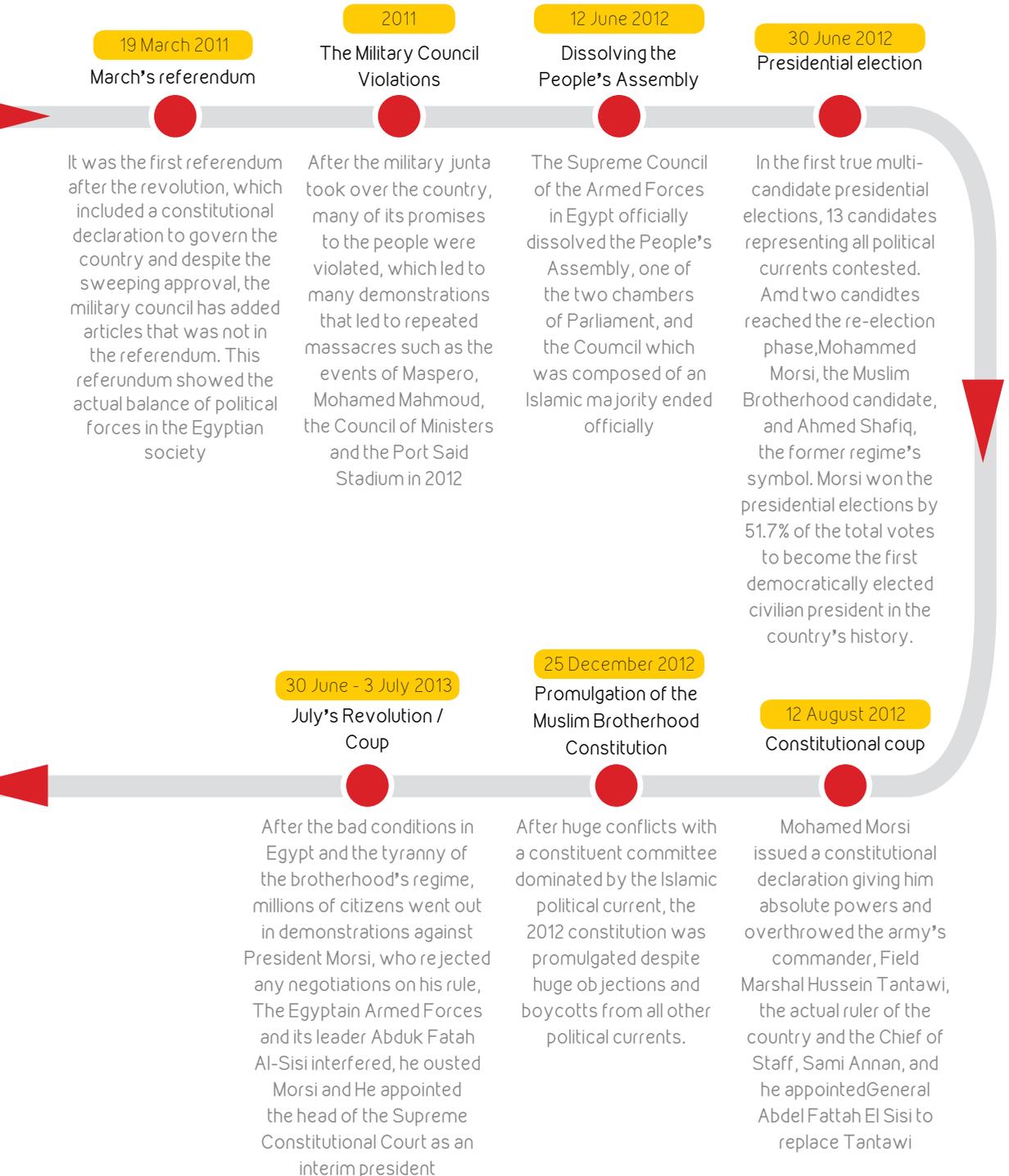
The ruling National Democratic Party promises to privatize some government companies and distribute bonus shares to citizens

The ruling National Democratic Party (NDP) said it would introduce a partial privatization program for some public sector companies by distributing free shares to citizens that people in need can sell. The project applies to 155 companies, but some companies would be excluded because they are losing companies or because the government wants to keep all its shares in them

6 April 2008

6 April strike

The 6 April strike was called for in Egypt in 2008 in protest against high prices and corruption and in solidarity with Mahalla Company workers strike, that day witnessed several strikes and sit-ins in Egypt. It went from an invitation for Mahalla workers strike to a general strike in Egypt, after some Egyptian bloggers and youths adopted the idea, which was later known as the 6th April Youth Movement, the Kifaya Movement and some opposition parties in Egypt. One of the most striking features of the 6th April strike is the lack of organization by any famous party



The right to information's development in Egypt

The right may not seem clearly developed in the Egyptian people's demands, as some links it to freedom of opinion and expression, despite that, there has been a limited debate over issuing a law for freedom of information, after this right has been stipulated into the Egyptian constitution, and the right to information cannot be resorted to yet as a legal mechanism, despite stating it in a judicial precedent in the 1990s that does not appear to have been replicated sustainably.

the right to know was not directly among the Egyptian street man priorities, although it was always somehow hidden behind his daily questions about his life requirements. Citizens in Egypt do not treat the right to information as a right that is supposed to be claimed and acted upon.

If someone moves to a popular or poor area, people will not realize that information can help them in their daily lives, such as localities, education and newspapers. If citizens treated the right to information as one of their civil rights, they would have had to resort to courts more to demand it, and access to information would be faster (Emad Mubarak 2018)

Thus, it is an unclear demand on the streets. It is a demand that exists for certain groups whose work is linked to information such as journalists and human rights activists to monitor and surveillance purposes, and perhaps also some writers, but it is not a popular or public demand (Gamal Eid 2018) The demand for information clearly under the principle of information circulation freedom does not exist, although there is a permanent question and demand from citizens, this in itself can be considered as a request for information circulation (Negad El-Borai 2018)

The constant lack of information has made Egyptians people who tend to believe in rumors., Information demanders, such as media professionals and the political and human rights elite, do so because information is essential to their work, and they are

forced to work to access or classify information (Ahmad Fawzi 2018).



Minister of Industry, Mounir Fakhri Abdel Nour

The historical lack of clarity for the right to information is also reflected in the absence of a clear constitutional provision in the 1971 Constitution, as the legal framework was ambiguous, and given the issues initiated by civil society, there were no repercussions for this right, but the right to information has changed its place in the Egyptian constitutions, by that we mean the 2012 and 2014 constitutions, and this has led to several attempts to prepare a legal text regulating this right. The draft law bill, announced by Makram Mohamed Ahmed, The Chairman of the Supreme Council for Media Regulation, on regulating access to, availability, confidentiality, and its preserving and filing rules, is the seventh attempt to introduce a law since the 2012 constitutional text.

The Ministry of Communications announced in January 2012, the first draft law bill on the circulation of information, and it won the government's approval and it was referred to the People's Assembly. In conjunction with presenting this draft to the parliament, a number of civil society organizations, submitted another project on «freedom of information circulation» in February 2012 to the People's Assembly, and the Human Rights

Committee of the Assembly examined the articles of the laws and announced that it has reached a law combining the advantages of the two projects. After the People's Assembly dissolution in June 2012, former Justice Minister, Counselor Ahmed Mekki announced in May 2013 a fourth draft for the law.

In November 2013, the Ministry of Communications unveiled a fifth draft for the law, and sent it to the State Council for review in preparation for submitting it to the government as a step before submitting to the interim President Adly Mansour for approval. However, the procedure for issuing the law stopped until the 2014 constitution was promulgated.

After constitution of 2014 entered into force, former Minister of Industry, Mounir Fakhri Abdel Nour, announced his ministry's preparation for a law on transparency and freedom of information for all new companies and factories, whether in public or private sectors, but Abdel Nour's announcement was not turned into a real draft law.

However, failing to prepare a legal framework did not prevent litigation or claiming the constitutional right. In 2015, the Administrative Judicial Court ruled in a lawsuit filed by the Association for Freedom of Thought and Expression and the Egyptian Initiative for Personal Rights, that Council of Ministers should regulate the citizens' rights to access information and data. The ruling which was issued by the First Chamber of the Administrative Judicial Court, in case No. 59439 of the year 67 of the Judiciary, obliged the Council of Ministers to regulate the citizens' right to access information and data relating to settlements made by the State with investors in Disputes of privatization, and state contracts relating to public finance, the court ordered to disclose such settlements; and to be circulated in such a way as to achieve knowledge of the criteria, reasons and grounds on which each settlement is made. This case will be discussed in detail in the section of Applying the right to information (Amr Abdel Rahman 2018).

On the other hand, there are those who believe that the right to information has been clear since the late 1990s. An example of this is an incident involving a newspaper that was published by the journalist Hisham Kassem in English by the name of Cairo Times, a decision was issued to prevent the newspaper circulation, and as result, a group resorted to Hisham Mubarak Law Center, to file a lawsuit as readers whose constitutional right to know had been compromised and argued that the law was unconstitutional. This group was authorized to file a lawsuit to challenge the unconstitutionality. This was the start of human rights organizations work on this type of issues and the first attempt to activate the right to know for citizens (Khaled Ali 2018).

The citizens desire to access information is due to various reasons in their daily lives, to be able to exercise it naturally, not in the sense of a constitutional right as much as a to live

The citizens desire to access information is due to various reasons in their daily lives, to be able to exercise it naturally, not in the sense of a constitutional right as much as a to live. Before the revolution, The National Party demanded the issuance of a law to regulate information circulation, in 2008, in order to improve Egypt's global human rights index, but no real steps was taken to ratify it. In the same year, Negad Al-Borai participated in a draft law, and it was redrafted in 2010, and there was a dispute over whether the right to information, freedom or banning is to be supreme (Ahmad Khair 2018)

The majority of citizens are not accustomed to having or demanding information, which is restricted to adults, whether they are seniors to family, community or state. The system allows very little information, which increases as the information

recipient moves up in positions and the decision-making ladder (Iman Izzedine 2018)

After the constitution of 2014 entered into force, former Minister of Industry, Mounir Fakhri Abdel Nour, announced his ministry's preparation of a law on «transparency and freedom of information for all new companies and factories, whether public or private sector, but this was not actually turned into a reality.

Pursuant to these principles, the Court stated in its ruling that “the right to know is a human right that is of paramount importance, and regulating the citizens’ rights to access information and public funds settlements data would promote the principle of transparency, it shall ensure better ways of completing these settlements in the best possible known method, it shall eliminate corruption, lead to informed decisions by those who are responsible for making these settlements, and makes citizens involved participants in them, as these settlements have a direct impact on their lives and economic conditions, and make their leaders held accountable, and so, the state must establish strong legal frameworks that protect individuals' right to access this information - ensuring its confidentiality - and thus create an active civil society capable of real, effective public oversight of government actions in handling state funds.»

The background of this lawsuit - which was prepared by Ahmed Hossam, a lawyer- goes back to the issuance of Decree Law No. 4 of 2012 by the government which was represented in the Military Council to amend some provisions of the Investment Guarantees and Incentives Law, to authorize reconciliation in crimes related to public finance, and settle violations in which State contracts were marred by.

After issuing this decree, the media circulated reports about the Government's conduct of several settlements in crimes and offenses that represent corruption in public finance, without publicizing knowledge of the criteria, reasons and basis on which these settlements and reconciliations were made. Then,

during the case's hearing, decree-law No. 32 of 2014 was issued which is known as immunization / restriction of appeal on state contracts, which gave the government to make settlements in contracts that involve corruption cases related to public finance, far away from citizens and public opinion's oversight. This decree also take away from them the right to challenge or appeal on these contracts to defend and preserve public finance, the fact that formed an urgent necessity about binding the government to disclose public finance settlements.

The lawsuit stipulated that enforcing disclosure rules, activating the right to know, accessing information and disclosing the content of such settlements made for crimes, offenses, or incidents of corruption on public finance, would allow public control over actions related to public finance that belongs to the people in the first place. In addition to that, the public would be allowed and empowered to impose substantive judgments on the extent to which the State is fulfilling its duties to protect public finance. And undoubtedly , informing the public, whether experts, economists or citizens, about the details of reconciliation decisions is a duty in light of the lack of the minimum transparency degree on those decisions' contents to adopt such settlements.

Legally, the lawsuit was based primarily on the right to know, including a core principle related to it, which is the freedom to circulate, disclose, and access information as a constitutional right for citizens, and as stipulated in both Constitutions of 2012 and 2014. This right was also stipulated in international conventions which were signed by Egypt, approved by Parliament and published in the Official Gazette and should be legally implemented as domestic laws, as stipulated in the Constitution 2, such as the Convention against Corruption, the International Convention on Civil and Political Rights, the African Charter on Human and Peoples' Rights. This right also was also stated in the Press Regulation Act No. 96 of 1996, and Consumer Protection Act No. 67 of 2006

Public policy

It is not possible to say that the right to information is a public policy for the Egyptian state, even if the right is found in the 2012 and 2014 constitutions. Freedom of information was not explicitly mentioned in any of the constitutions prior to the 2012 constitution, but its claimants resorted to its close relation and association with freedom of opinion, expression, creativity, and scientific research, becoming a constitutional principle, even if it was not explicitly mentioned.

In this section, we will analyze public policies through:

- ◉ The Constitution
- ◉ Treaties
- ◉ Laws and / or decrees
- ◉ Orders and administrative decisions

First: The Constitution

The Egyptian Constitution of 1923:

Article 14

“Freedom of opinion shall be ensured. Every person may express their thoughts in saying, writing, depiction, or otherwise in consistency with the law.”

The Egyptian Constitution of 1971:

Article 49

“The State shall guarantee the freedom of scientific research and literary, artistic and cultural innovation and provide the necessary means for its realization.”

Constitutional Declaration of 2011:

Article 12:

“The state guarantees the freedom of creed, and the freedom to practice religious rites. Freedom of opinion is also guaranteed, and every person has the right to express his opinion and publish it in spoken, written, photographed, or other form within the confines of the law. Personal criticism and constructive criticism are a guarantee for the safety of national development.”

The right to information was explicitly stipulated as a constitutional right in 2012.

It is clear in the successive constitutional texts, that the concept of free circulation of information as a separate right is a new concept for the Egyptian constitutional legislator, and much of stipulating it in the constitution of 2012, in fact, is due to the tense conditions in which it was established, which made the Constituent Assembly, that was dominated by Islamic politicians

The Egyptian Constitution of 2012

Article 47: Access to information

“Access to information, data, statistics and documents, its disclosure and circulation, is a right guaranteed by the state to all citizens, on the condition that this does not violate the sanctity of

private life or the rights of others, and that it does not conflict with national security. The law organizes the rules for filing and archiving public documents, the means to access information, appeals against a refusal to disclose information, and the consequent accountability for refusing to disclose information.”

Article 45: Freedom of thought and opinion

“The freedom of thought and opinion is guaranteed. Every individual has the right to express an opinion and to disseminate it verbally, in writing or illustration, or by any other means of publication and expression.”

Article 46: Freedom of creativity

“Freedom of creativity in its various forms is the right of every citizen. The state advances science, the arts and literature. The state sponsors creators and inventors, protects their creations and innovations, and works to apply them for the benefit of society. The state takes the necessary measures to preserve the nation’s cultural heritage. The state works to promote cultural services.”

Article 59: Freedom of scientific research

“Freedom of scientific research is guaranteed. Universities, scientific and linguistic academies, and research centers are independent. The state provides them with a sufficient percentage of the national revenue.”

The Constitutional Declaration of July 8, 2013:

Article 7 Freedom of opinion, belief

“Freedom of opinion is guaranteed. Everyone has the right to express and publicize their opinion verbally, in writing, by illustration, or by any other means of expression within the law. The State guarantees freedom of belief and of practicing religious rites for anyone believing in the divine religions.”

The right to information was stipulated in a very clear text in 2014.

The amended constitution of 2014

Article 68: Access to information and official documents

“Information, data, statistics and official documents are owned by the people. Disclosure thereof from various sources is a right guaranteed by the state to all citizens. The state shall provide and make them available to citizens with transparency. The law shall organize rules for obtaining such, rules of availability and confidentiality, rules for depositing and preserving such, and lodging complaints against refusals to grant access thereto. The law shall specify penalties for withholding information or deliberately providing false information. State institutions shall deposit official documents with the National Library and Archives once they are no longer in use. They shall also protect them, secure them from loss or damage, and restore and digitize them using all modern means and instruments, as per the law.”

Article 23: Scientific research

“The state grants the freedom of scientific research and encourages its institutions as a means to achieving national sovereignty, and building a knowledge economy. The state sponsors researchers and inventors, and allocates a percentage of government expenditures that is no less than 1% of Gross National Product to scientific research. It will gradually increase until it reaches global rates. The state commits to provide effective means of contribution for the private and public sectors and the contribution of expatriate Egyptians to the development of scientific research.”

Article 48: Right to culture

“Culture is a right of every citizen that is guaranteed by the state. The state is committed to support it and provide all types of cultural materials to the different groups of people without discrimination based on financial capacity, geographical location, or anything else.

The state gives special attention to remote areas and the groups most in need. The state encourages translation from and to Arabic.”

Article 65: Freedom of thought

“Freedom of thought and opinion is guaranteed. All individuals have the right to express their opinion through speech, writing, imagery, or any other means of expression and publication.”

Article 66: Freedom of research

“Freedom of scientific research is guaranteed. The state shall sponsor researchers and inventors and protect and work to apply their innovations.”

The Constitution protected these rights by stipulating in two different articles:

Article 92: Limitations clause

“Rights and freedoms of individual citizens may not be suspended or reduced. No law that regulates the exercise of rights and freedoms may restrict them in such a way as infringes upon their essence and foundation.”

Article 99: Violation of personal freedom

“Any assault on the personal freedoms or sanctity of the life of citizens, along with other general rights and freedoms guaranteed by the Constitution and the law, is a crime with no statute of limitations for both civil and criminal proceedings. The injured party may file a criminal suit directly. The state guarantees just compensation for those who have been assaulted. The National Council for Human Rights shall inform the prosecutor’s office of any violation of these rights, and also possesses the right to enter into an ancillary civil lawsuit on the side of the injured party at its request. This is as specified within the law.”

It is clear in the successive constitutional texts, that the concept of free circulation of information as a separate right is a new concept for the Egyptian constitutional legislator, and much of stipulating it in the constitution of 2012, in fact, is due to the tense conditions in which it was established, which made the Constituent Assembly, that was dominated by Islamic politicians, take steps to reassure the Democratic political currents. Although after 30 June, it was not mentioned in the 2013 Constitutional Declaration, but the right to information was restored in the Constitution of 2014 by being stipulated in a clear text, in addition to Article 99, which gave legal protection to citizens' rights and freedoms, despite this is due to the 2014 constitution's nature, which listed all possible rights of citizens as part of the democratic consensus process at that time, but it also reflects the constitutional legislator view regarding prohibiting the derogation of any right Including the right to know and disseminate information as a crime.

Second: Laws:

No law on access to information has been ratified up till now, although this is a constitutional right since the promulgation of the 2012 Constitution, but there are multiple legal frameworks that affect this right that can be found in a number of laws and decisions, either to guarantee it indirectly, or to limit it.

Publications Law No.20 of 1936

Article 2:

“In the provisions relating to printing presses and publications in general, each character must, before opening a printing press, submit a written notification to the governorate or the department in which the printing press is located. The notification shall include the name, surname, nationality, place of residence and name and place of the printing press. A new notification must be submitted within eight days for each change in the presented data.”

Article 11:

“ Each newspaper must have an editor-in-chief who effectively supervises all its contents or a group of responsible editors, each of which effectively supervises a particular section.”

Article 26:

“ In penalties: Any violation of provisions of Articles 11, 12, 13, 14 and 17 shall be punishable by imprisonment for a term not exceeding six months and a fine of 20 pounds to 200 pounds or one of these penalties. The entry, circulation or publishing publications and newspapers in violation of provisions of Articles 9, 10 and 21 shall be punished with the same penalties. The sentence may also be suspended for 15 days if it is three or more times a week publication or for a month if it is a weekly publication or for a year in other cases.

This law is now marred by unconstitutionality, as the 2014 constitution prohibits incarceration in publishing cases in Article 67, which stipulates that “No punishments of custodial sanction may be imposed for crimes committed because of the public nature of the artistic, literal or intellectual product”.

Law No. 356 of 1954 establishing the National Historical Archives on 24-6-1954**Article 1:**

“A National Historical Archives shall be established – affiliated to the Ministry of National Guidance.”

Article 2:

“The Archive shall collect, preserve and facilitate the study and publication of documents that are considered Egypt’s historical material and all related matters in all ages, without prejudice to the provisions of Law No. 215 of 1951 referred to.”

Article 3:

“The Archive shall have a Higher Council to deal with all matters on which the Archive is responsible for- in particular the following:

- ◉ Determine which documents are of historical value.
- ◉ Report transferring documents to the Archive.
- ◉ Setting rules for preserving documents.
- ◉ Identify the documents to be published and the method of publication.
- ◉ Setting conditions of access to documents and taking copies thereof, provided that a decision shall be issued by the Minister of National Guidance in that regard.
- ◉ To give an opinion on executing papers per ministry.
- ◉ Setting internal regulations for the Archive’s workflow, provided that a decision shall be issued by the Minister of National Guidance in that regard.

The Minister of National Guidance shall issue a decision indicating the formation of this Council, the dates of its convening, the validity of its sessions, the manner in which its decisions are issued and implemented, the system of work thereof, the competencies of its chairman, secretary and the remuneration of its members.”

Article 9:

“ It is permissible to take photocopies or written copies of documents deposited in the Archives, in accordance with the rules determined by the Supreme Council and issued by a decision of the Minister of National Guidance.

Normal decided fees shall be paid for issuing copies of official

documents unless special fees are prescribed in accordance with laws in force in the bodies from which the document was transferred.

Fees may be increased to no more than two times - and fees may be reduced and exempted in accordance with rules prescribed by a decision issued by the Minister of National Guidance by a proposal made by the Supreme Council of the Archive.”

As stated in the text’s explanatory memorandum:

“It is noted that Egypt’s national documents are scattered in several places. The original documents of laws and decrees was never sent to the National Archives in the Citadel province, it remains at Council of Ministers, and the original documents of international agreements and negotiation documents some of them remain at the Ministry of Foreign Affairs while others remain at the Council of Ministers, and Egypt’s historical documents since Muhammad Ali’s reign some of them were handed to the history department at the presidential palace while others are still scattered over many places and they were not accessible during the reign of the monarchy except through very difficult procedures.

The time has come to collect all these documents in one place, to arrange a scientific arrangement, to facilitate research and review of these documents, and to publish what is decided to be published and to disseminate facts that the people demands, and that’s why the law stipulated on establishing an archive and made it affiliated to the Ministry of Guidance in its first article as the Archive’s task is closely related to that of the ministry, as it is concerned with disseminating facts to the public opinion, and the Archive is the historical fact’s repository and so this is its natural place where this law.

The law stipulates that photocopies or written copies of documents may be taken for necessity for scientists and researchers on one hand and to protect individuals rights, on the other hand, in accordance with rules issued by the Minister of National Guidance’s decision after a proposal made by of the Supreme Council for a fee estimated in accordance with Laws no. 90 and 91 of the year 1944 and

Law no. 324 of the year 1951, and other laws which determines fees for issuing documents' copies from governmental bodies, and this is the normal solution dictated by the nature of things, as these rules are applicable if these documents had remained in their original place, however, the Archive's documents, are not only of interest to individuals but they are of interest to scientists, researchers and scientific and historical institutes in Egypt and elsewhere, the special nature of this documents should be taken into account, and therefore the law stipulated that fees may be reduced and even exempted in accordance with rules set by a ministerial decision issued after a proposal made by the Supreme Council to facilitate scientific research and facts dissemination, which are, political objectives of the Archive, the law also stipulated the possibility of increasing fees as a precaution for the future, as copies may incur expenses not covered by the normal fee, and it is unacceptable for the state to bear these financial burdens, the applicant must bear these costs, and the law then stipulated that the fees may be doubled , and since taking copies from these documents may be made for scientific purposes – the state should encourage- therefore the law stipulated that these fees may be reduced and or exempted from.”

Law texts governing the Archive, may seem to be allowing applicants to review documents that belong to the Egyptian people in the first place -the state's role is supposedly to protect those documents- and so the administration was given the right to decide whether to publish these documents or not, as well as setting conditions for accessing them, as it became exclusive to academic researchers, in fact, no one is allowed access to documents, as it is conditioned with getting security approvals which deprives anyone from accessing them.

The archive's abstain to publish or provide access to documents and making it exclusive for researchers from specific parties, who are subject to security approval, is a serious violation for the principle of equality and a violation for the right to know and freedom of scientific research which is unrelated to official qualities of any kind (Egyptian Center for Economic and Social Rights 2013).

Presidential Decree-Law No. 313 of 1956 prohibiting publication of any news about the armed forces

Article 1:

“It is prohibited to publish or broadcast any information or news regarding the armed forces, its formations, movements, artillery, or members and generally anything that is related to military or strategic affairs in any way through publishing or broadcasting except after obtaining a written permission by the director of military intelligence, or his deputy in case of the latter’s absence, whether by the publisher of the published or broadcasted material or the person responsible for its publishing or broadcast.”

Article 2:

Any person who violates the provisions of this law shall be punished by imprisonment from six months to five years and a fine of 100 pounds to 500 pounds or one of these penalties if the crime is committed in peacetime and imprisonment if it is committed in time of war.”

The Explanatory Memorandum of Law No. 313 of 1956 states:

Army formations its equipment and materiel is of great importance in terms of state security and safety at home and abroad. It is important to keep it all as secret and not allow any leakage to parties that aim to harm the nation’s interest, that importance of keeping it as a secret increased when the armed forces were assigned to participate in defending the Arab countries as well as defending Egypt against their common enemy, it is necessary to make publishing or broadcasting any news about the army and its formations, movements and equipment and everything related to the military and strategic aspects in general a secret, it is mandated to obtain the General Command of the Armed Forces approval as the competent authority that can assess what to be published or broadcast what is not, what would harm or not harm the military purposes interests.

The Explanatory Memorandum of the Draft Law No. 14 of 1967 amending Article 1 of the Law states:

The President of the United Arab Republic issued a decree- law no. 313 of 1956, and it stipulated in its first article on prohibition publishing or broadcasting any news related to the military, whereas liability under this provision deals with the news publisher or the broadcaster and does not include within its scope the author of the published or broadcasted material, if any other person has published or broadcasted it, given that the provision in this situation does not achieve sufficient deterrence, despite the damage that may result from publishing to the armed forces, especially at the moment as these forces need to be taken care of and to protect their secrets and news, as the responsibility of the published or broadcasted material 's author is not less than the responsibility of the publisher or broadcaster if it does not exceed it due to his activity in collecting information and news, therefore, it was envisaged to amend the text of the first article of the law to ensure the news author's accountability or the information giver as an offender along with the publisher or broadcaster's responsibility and by that the protection that must be available for everything related to military or strategic can be doubled.

Law No. 162 of 1958 on the state of emergency

Article 3:

“When the state of emergency is declared, the President of the Republic may take appropriate measures to maintain security and public order.

In particular:

Ordering monitoring of messages of any kind and monitoring of newspapers, bulletins, publications, editors, drawings, and all means of expression, propaganda and advertising before publishing, seizing, confiscating, disabling and closing places of printing, provided that censorship of newspapers, publications and media shall be restricted to matters related to public safety or national security purposes.”

The Emergency Law represents the greatest violation of citizens' rights and freedoms at all times, although it argues that it is a temporary state of emergency. However, the historical situation in Egypt has proved that the Emergency Law is imposed all the time with successive constitutional violations.”

Any person who violates the confidentiality of statistical data or discloses a statement of individual data or a secret of industry, trade or other methods of work that he has seen during the course of his work in statistics or census.

Law No. 35 of 1960 on statistics and censuses

Article 1:

“The statistics and censuses required by the State shall be conducted on the basis of a decision delivered by a technical body formed by presidential decree, which shall determine what shall be carried out thereof, determine the dates and methods of conducting them, publish the results thereof, and designate the bodies or agencies that make such statistics and censuses in such a way as to achieve full coordination between operations and statistical agencies and leads to a higher level of accuracy and adequacy in these processes and devices.”

Article 2:

“The technical body may perform its task in cooperation with ministries, departments and public bodies. It may also seek the assistance of statistical agencies and bodies that have special

departments, and the authorities and public security authorities to cooperate with those who are charged with conducting statistics or census in order to ensure the full performance of their task. Individuals and agencies shall submit all the requested data to the body responsible for statistics or census in conformity with the truth, and in the manner and at the dates specified by the technical body.

The establishments owners or their representatives shall allow the persons in charge of conducting statistics and censuses to enter their premises at normal working hours and review all documents to verify the validity of the data submitted. Those responsible for conducting the general census may place the numbers, letters, signs or publications necessary for the census on buildings and institutions.”

Article 3:

“Individuals data relating to any statistics or census (confidential) and may not be shared with or reported to any individual or public or private body, and may not be used for purposes other than the statistical purposes or publication of data related to individuals, except by written permission of those who are concerned. No statistical statement may be used as a basis for tax assessment or other financial burden, nor as evidence of an offense or as a basis for any legal action.”

Article 4:

“ Any person found guilty committing the following shall be punished by Imprisonment for a period not exceeding six months and a fine not exceeding one hundred pounds or either penalty :

Any person who violates the confidentiality of statistical data or discloses a statement of individual data or a secret of industry, trade or other methods of work that he has seen during the course of his work in statistics or census.

Any person who has obtained or attempted to cheat, threaten,

mislead or otherwise in order to obtain confidential data or information regarding statistics or censuses.

Any person who disrupts or causes an act of statistics or census which is determined by the Technical Commission.

Any person who publishes incorrect statistics, censuses or survey results.

Any person who deliberately refrains from giving the required data or making incorrect statements.

Any person who fails to submit the statement within one week of the deadline shall be deemed to have abstained unless it is proved that the delay in submitting the data was due to an acceptable excuse.”

This legal provision not only provides for information availability but expressly provides for its confidentiality.

Presidential Decree-Law No. 2915 of 1964 establishing and organizing the Central Agency for Public Mobilization and Statistics, 20 September 1964

Article 9:

“ The Central Agency for Public Mobilization and Statistics shall establish an annual program of publications, bulletins, indicators and statistical data necessary for different sectors of the State in coordination with the various agencies concerned. The Authority shall have the right to issue all publications, bulletins, indicators and statistical data issued by the various organs of the State or part thereof.”

Article 10:

“ No ministry, authority, entity or any individual or persons in the government, the public sector or the private sector may publish, by

any means of publication or media any publications, results, data or statistical information except from the statistics of the Central Agency for Public Mobilization and Statistics. Statistics that are not scheduled within the programs of the Central Agency for Public Mobilization and Statistics may not be published without the approval of the Authority.”

It is noteworthy that this text was limited conducting any statistical research to the Agency, and gave it alone the right to publish as well as the right to prevent any other person from any statistical attempt, which can be considered preventing information from its source.

Law No. 121 of 1975 on the preservation of the State ‘s official documents and the organization of publication method on 25-9-1975

Article 1:

“ The President of the Republic shall, by a decision, establish a system for preserving official state’s documents. This system shall specify the publication method and use of official documents related to the State’s supreme policies or national security, which the Constitution or the law upon their promulgation stipulated their approval to be published. Such a system may include provisions to prohibit the publication of some of these documents for a period not exceeding fifty years if the public interest so requires.”

This law is considered one of the completely abandoned texts in Egyptian law. Although it refers to official secret documents of the state, it sets a maximum period for which it is forbidden to be published to the public, which is a period not exceeding fifty years before being transferred to the National Archives and allowed to be read by the public. In special circumstances, that period may be extended to 30 or 50 years, after which it may not be prohibited in any way, but in reality, there are no documents to be accessed either after the 50-year period or beyond that period.

Law No. 94 of 2015 on the promulgation of Anti-Terrorism Law

Article 28:

“ Any person who promotes or prepares to promote, directly or indirectly, the perpetration of any terrorist crime, whether verbally, in writing, or by any other means, shall be punished by imprisonment for no less than five years. Indirect promotion shall include the promotion of ideas and beliefs inciting the use of violence by any of the means set forth in the preceding paragraph of this Article.

Any person violates this prohibition shall be punished by a fine of no less than 20,000 Egyptian pounds and no more than 100,000 Egyptian pounds.”

The penalty shall be imprisonment for no less than seven years if the promotion occurs inside places of worship, among members of the armed or police forces, or in locations belonging to such forces. Whoever possesses or acquires any public means of printing or recording used or intended for use, even if temporarily, for the purpose of printing, recording, or broadcasting the aforementioned shall be punished by the same penalty set forth in the first paragraph of this Article.”

Article 35:

“ Any Person deliberately, by any means, publishes, broadcasts, displays, or promotes false news or statements on terrorist acts inside the country or anti-terrorism operations contrary to the official statements released by the Ministry of Defense shall be punished by a fine of no less than 200,000 Egyptian pounds and no more than 500,000 Egyptian pounds, without prejudice to the disciplinary penalties prescribed.

In cases where the crime is committed through a juridical person, the person in charge of the actual management of such juridical person shall be punished by the same penalty set forth in the first paragraph of this Article, provided that the crime is committed to his own account or benefit. The juridical person shall be jointly liable for the fines and compensation sentenced.

In all cases, the court shall prohibit the convicted party from practicing the profession for a period not exceeding one year if the crime is a breach to the ethics of the profession.”

Article 36:

“ Filming, recording, broadcasting, or displaying any proceedings of terrorist crimes trials shall be prohibited, except with the permission of the Chief Judge of the relevant court.

Any person violates this prohibition shall be punished by a fine of no less than 20,000 Egyptian pounds and no more than 100,000 Egyptian pounds.”

This legal text is derived from the Egyptian situation after 30 June, and refers to any violation to war against terrorism. The law violates all constitutional prohibitions and imposes a negative penalty on freedom to publish in contravention of Article 67 of the Constitution, which stipulates “No lawsuits may be initiated or filed to suspend or confiscate any artistic, literary, or intellectual work, or against their creators”, It also punishes the transmission of any news contrary to the statements of the military council, whether the news is true or not, it monopolizes the information in all its forms to a particular entity, and punishes those who try to search for the truth.

Law No. 180 of 2018 on regulating the Press, Media, and the Supreme Council for Media Regulation

Article 3:

“ It is prohibited, in any way, to censor Egyptian newspapers and

media, and their confiscation is prohibited , so as their suspension or closure. Specific censorship may be excluded and applied during wartime or public mobilization. In this case, the Supreme Council may issue a decision to seize copies of the paper, or delete or withhold material in violation of the censorship instructions in the event that it is published in an electronic newspaper or a website, or to stop its re-broadcasting in the media.”

Article 4:

“ It is prohibited for the press corporation, the media and the websites to publish or broadcast any material or advertisement that contradicts with provisions of the Constitution, calls for violating the law, violates the obligations contained in the code of professional honor, violates public order and public morals, or incites discrimination, violence, racism, hatred or intolerance. The Supreme Council, for reasons of national security, may prohibit publications, newspapers, information or advertising materials issued or broadcast from abroad, from entering Egypt, circulating or displaying. The Council shall prohibit the circulation of publications or pornographic materials or material related to Religions and religious sects that disturb public peace, or incite discrimination, violence, racism, hatred or intolerance.

Any interested party may appeal this decision before the Administrative Judicial Court.”

Article 5:

“ It is not permissible under any circumstances to authorize establishing any newspaper, media or website, or to allow it to continue its activities when it is based on religious or sectarian discrimination, discrimination based on sex or origin, or on sectarianism, ethnicity, regional intolerance, anti-democratic activity, clandestine activity, incitement to pornography, hatred or violence, or advocating for any of these.”

Article 6:

“ It is not permissible to establish websites in the Arab Republic of Egypt, or to manage them, or to run offices or branches of websites operating outside the Republic, except after obtaining a license from the Supreme Council in accordance with the rules and conditions set by it in this regard. Without prejudice to the criminal penalties prescribed, the Supreme Council in case of violation of any of the above shall take the necessary measures, including the revocation of the license or the suspension of the activity of the site or withholding it in the absence of a valid license.”

Article 7:

“Journalists shall be independent in performing their work.”

Article 8:

“ The opinion issued by a journalist or a media professional or the correct information issued by a journalist or a media person shall not be a reason for his questioning, nor shall he/her be compelled to disclose his sources of information.”

Article 9:

“ A journalist or a media prerson shall have the right to publish information, data and news that are not disclosed by law.

Government agencies and public bodies are obliged to establish a department, office or website to communicate with the press and media in order to enable the journalist or media person to obtain data, information and news.”

Article 10:

It is prohibited to impose any restrictions that impede availability of information, or prevent equal opportunities between the various printed and electronic newspapers, the media and audio-visual media, or the right to obtain information, all without prejudice to the requirements of national security, and the defense of the homeland.”

Article 11:

“Taking into account the provisions of Articles (8) and (9) of this Law, a journalist or media person shall have the right to receive an answer to any information, data and news inquired by him, unless such information, data or news is confidential in nature or in accordance with the law.”

Article 12:

In order to perform his work, a journalist or a media person shall have the right to attend conferences, meetings and public meetings, to hold meetings with citizens, and to take photograph in places that are allowed to be photographed, all after obtaining the necessary permits in the circumstances that require them.”

Article 19:

“ It is forbidden for the newspaper, media or website to publish or broadcast false news or calls for or incites the violating laws, violence or hatred, or discriminates between citizens, calls for racism or intolerance, or includes shaming of individuals, Insulting, slandering, or insulting heavenly religions or religious beliefs.

Each personal website, personal blog or personal account of five thousand or more followers shall be bound by the previous provision of this Article, without prejudice to the legal liability arising from violating the provisions of this Article, the Supreme Council shall take the appropriate action in respect of the violation and may, for this purpose, suspend or withhold the website, blog or account referred to by a decision.”

Article 20:

“ It is prohibited in any means of publishing or broadcasting, exposing the private life of citizens or those who work in public work, or public representatives, or those who are in charge of public service, except in relation to their work and for public interest.”

Article 21:

“Taking into account the decisions issued in accordance with the law prohibiting publication in cases, a journalist or media officer is prohibited from dealing with the material related to investigation or trial authorities in a manner that affects the position of those who are investigated or tried, and newspapers and media are prohibited from publishing or broadcasting it. Newspapers, media and websites are obliged to publish and transmit the prosecution’s decisions, the verdicts handed down in the cases they published and dealt with during the investigation or trial, and a full summary of their reasons“

Article 94:

“The Supreme Council shall draw up a list of the administrative and financial sanctions and measures that may be imposed on press institutions, national press institutions, media institutions and public media institutions in case of violating the provisions of this law, and the grievance procedures thereof. These regulations are an integral part of licenses or approvals issued or other procedures and actions between the Supreme Council and those entities.

These Regulations may include the following:

- ◉ Obligating the institution or the media mean to remove the causes of the violation within a specified period or at its own expense.
- ◉ Imposing financial penalties provided for in case of non-compliance with the license conditions
- ◉ Preventing the publication or broadcasting of information material for a specified period or permanently.

In any case, any of these sanctions or measures may not be imposed except in the case of any press or media institution violating professional rules or standards or written customs (codes) and after the necessary examination by the Supreme Council and the

imposition of the penalty by reasoned decision.

The competent union shall be notified to take the necessary actions in the violations committed by one of its members on the occasion of the Council's imposition of a penalty on one of the entities subject to the Supreme Council. The concerned union shall take disciplinary measures against the person responsible for the violation according to its law.

The concerned parties may appeal against these sanctions or measures before the Administrative Court of Justice.”

Article 95:

The Supreme Council shall have the right to revoke the license to practice media broadcasting or websites in the following cases:

1. If the licensee does not commence the media work within one year from the date of granting the license, unless the Council agrees to grant it for another year.

2. If the licensee loses any of the license conditions specified in this law, or violates a substantial provision of its provisions, provided that the Board notifies the violating authority of the violation and gives it an appropriate period of not less than one week and not more than one month to correct the violation.”

Article 96:

“ Without prejudice to the competence of the Public Prosecution, the Supreme Council on its own initiative or on the basis of a complaint submitted to it, may institute lawsuits for any violation of this Law provisions.”

This text is a disastrous law, which Egyptian journalists call the «nationalization of press law», which effectively prohibits everything, and gives the Supreme Council that authority to ban, disbar and confiscate any information, source or individual they want, it also

gives them the power to refer them to criminal investigation if they witnessed any violation without reference or approach to assess the nature of those violations.

Third: Resolutions:

Presidential Decree No. 472 of 1979 on the preservation of the State's official documents system and the organization of publication usage and method, on 29-11-1979

Article 1:

“ Documents and correspondence relating to the State's supreme policies or national security shall be considered confidential issuance may not be published or broadcast in whole or in part, and may be circulated or accessed only to those whose nature of work requires it, unless the Constitution or the law provides for publication immediately.”

Article 4:

“ The documents referred to in their bodies shall be kept for a period not exceeding fifteen years, after which they shall be transferred to the National Archives to be kept in places prepared for this purpose, and shall remain confidential for a further fifteen years.”

Article 5:

A committee shall be established at the National Archives from a director and two members of its technical staff., and the referring body of documents shall be represented in it by a representative, to view documents of thirty years age or more to decide whether to allow access to it, or to continue making it confidential and prohibited from circulation for another twenty years, provided that prohibition of viewing or publishing shall not exceeds fifty years, starting from the document's date of issuance “

Article 6:

“ Documents shall be kept for viewing or research after passing the period that prohibits their read or publication, and it is permissible by a decision of the Council of Ministers upon the submission of the competent minister, and after the approval of body document’s author body to be published before the date stipulated in the previous article.”

Presidential Decree No. 627 of 1981 on the establishing information and documentation centers in administrative organs and public bodies of the State and the determination of their competencies on 4-11-1981

Article 3:

“The Information and Documentation Center aims at collecting data and information that serve the entity’s objective, whether inside or outside it, and recording, analyzing, organizing and indexing this information and data, updating and amending it in a timely manner so that it can assist in making good decisions in a timely manner.”

Article 4:

Without prejudice to provisions of the Presidential Decree No. 2915 of 1964 referred to, the Center shall, in conjunction with all bodies concerned, have the following competences:

First: In the field of documentation:

1. Compile the office, references, documents, magazines, data and information that serve the objectives of the entity from different sources, whether from inside or outside the entity, sorting and recording it.

2. Materially and objectively characterize the documents in a manner that indicates their elements , contents and make thematic indexes for them.

3. Scientific analysis of the documents contents in all its forms and making extracts for them.

4. Compile, organize and classify laws, regulations and instructions related to the entity.

5. Provide researchers and visitors with means to review the required materials and guide them in accordance with regulations set for internal or external borrowing.

Effects

First: Internal Effects

Security institutions have red lines that should not be crossed in circulation of information even among themselves, because they are bodies that are established on monopoly of information. (Khalid Ali 2018) State institutions and the military have created a state of fear to access information, the biggest example of which is President Sisi's outrage at the announcement of the 2014 electoral program. It's a fear of a dual nature from the State and the armed forces, and the people, as the people became afraid to demand access to information so as not to be held accountable by the penal law and be imprisoned under state of emergency and terrorism laws. (Imad Mubarak 2018)

However, citizens' participation in the public domain is in itself an access to information because it would -in any case- lead to leaks that would force institutions to release information in response to these leaks. It is a popular and effective internal effect. Discretion of official institutions on information, especially military information, makes sense for its clandestine mentality (Khaled al-Balshi 2018) and the most important variable factor is the one who can be influenced, such as the legislator and judges (Amr Abdel Rahman 2018). as the Egyptian state is a bureaucratic self-governing body that is stronger than the political system and has remained the same and preserved it's style in all different regimes, and the main battle is not creating the law itself, but changing the state's administrative staff way of thinking .

It should not be overlooked that despite the existence of this

bureaucratic system, institutions are not the real decision makers, but the state is administered individually by the president and those who are close to him, and that information is part of freedom of expression, and that right is hated by them (Gamal Eid 2018).

One of the internal effects is the revolution's momentum from 2011 to 30 June, when Egypt witnessed improvements in access to information under popular pressure, but all that ended when the current regime took over, and demonstrations left no visible impact at any stage.

Second: External Effects

The most important external factors are the relationship with international financial institutions (the World Bank, the IMF, and lenders in general). They obviously want to disseminate information to assess the borrower's position, as happened when the Central Bank took the decision to officially issue a monthly bulletin on inflation since 2009, this bulletin became available to all on the Internet, after being a quarterly unavailable bulletin for a long time, which led to a significant development in Egyptian policies, including monetary and taxation, and also affected the judiciary's independence .

Unfortunately, there is a negative impact from Gulf funds, which has been pushing back transparency that threatens their economic and investment interests (Amr Abdel Rahman 2018) International organizations are dealing with Egypt and the countries of the region in a way that puts economic measures as a top priority, without paying attention to the democratic transformation in Egypt, so that the democratic form becomes important regardless of reality (Ahmed Fawzi 2018) External effects are very weak on Egypt's reality, and any true change shall come from within, although there are marginal attempts by Article 19 and the Special Rapporteur on circulation of information with little real impact.

Applying the right to information

Despite the clear constitutional provision on freedom of information

and the criminal protection imposed on victims, Egypt is a state that clearly prevents flow of information, as we mentioned, most laws are restrictive to that right, it even some cases criminalize who circulates information as terrorism law as an example, and on the other hand the administrative body of the executive authority refuses to circulate any information of any kind.

One of the most famous occasions in which they information was not circulated is when the Egyptian National Library and Archives refused to release documents that prove that Tiran and Sanafir islands are Egyptian islands, during the appeal against the decision to sell them to Saudi Arabia before the Supreme Administrative Court. Despite the court gave an order to release these documents, They refused to hand it over, to the extent that the appellants were able to access those documents from the British and German Library instead of the Egyptian Archives.

The State's obligation to guarantee the right to information

Official Gazette

The main official source of publication in Egypt is the Egyptian Official Gazette newspaper “Al-Waqa’i al-Misriyya”, the first Egyptian, Arabic and Islamic newspaper to be published in Arabic and it also was published in Turkish. Muhammad Ali established this newspaper in 1828 and its first edition was issued on 3 December 1828 and it used to be distributed on government officers, military officers and educational missions students and in 1842, Rifa’ al-Tahtawi developed the paper’s form, content and style, to the extent that aroused the statesmen indignation and fear, which was the reason behind exile Rifa’ al-Tahtawi’s exile to Sudan. Rifa’ made the Egyptian news the main articles instead of the Turkish, and he was the first to revive the political article through his editorial in the Al-Waqa’i al-Misriyya newspaper, and in his reign the newspaper had many editors from intellectuals and writers.

During the reign of Khedive Said Pasha, the newspaper was

interrupted between 1854 and 1863. When Egypt was occupied by the British in 1882, Al-Waqa'i' al-Misriyya was transformed from a governmental newspaper to a popular daily newspaper by Sheikh Muhammad Abdu, as Riyad Pasha entrusted him with reforming the newspaper and he stayed in that line of work for about eighteen months, during which he succeeded in making the newspaper a platform to call for reform and caring for education.

The Authority is the publisher of the Official Gazette and Al-Waqa'i' al-Misriyya. It is the oldest Egyptian newspaper and the oldest newspaper in the Middle East as its age is over 179 years.

The Official Gazette is published on Thursday of each week, and in some urgent situations special editions, and the materials published are:

- ◉ Laws.
- ◉ Decree-laws.
- ◉ The President's Decisions.
- ◉ The Prime Minister's decisions which are he is authorized to issue by the President of the Republic.
- ◉ Political Parties Affairs Committee's decisions.
- ◉ Supreme Constitutional Court rulings.
- ◉ Data for granting honors and medals.

Al-Waqa'i' al-Misriyya is considered as an annex to the Official Gazette and is published daily except on Fridays and official holidays and the materials published therein:

- ◉ The Prime Minister's decisions.
- ◉ Ministerial decisions.

- ◉ Governors' decisions.
- ◉ Clubs' registry decisions and the formation of their boards.
- ◉ Establishing all kinds of associations summaries.
- ◉ Bookings, tenders, auctions, government departments announcements and loss of checks.
- ◉ Other issues The laws and decrees require publication.

Information and Decision Support Center

It is an Egyptian governmental body affiliated to the Prime Minister and headquartered in Cairo, Egypt. The center was established in 1985 by Dr. Atef Ebeid, and It developed during the Dr. Ahmed Nazif's government era and the e-government project.

The Information and Decision Support Center Library was established in the Ministers Council in 1987 as one of the main pillars of the Decision Support Center. The library provides information sources in various forms and types in areas of decision support, economic and social development, management, and information technology.

The library gives access to center members and external researchers to selected databases locally and globally, and it is possible through surfing the website to identify the various types of databases which the library build, develop and participate in. However, the role of these centers began to decline significantly five years ago, especially in governorates, so that access to information in itself, became an impossible task.

One of the local development information center leaders in Dakahlia Governorate told Al-Watan newspaper about the deteriorating situation the center reached, saying: «When we started working in information centers, we were the pillar of development in Egypt, but it seems that officials were afraid of us, so they distributed us and dispersed our strength,» the problem currently lies in the value of

information, and that some resort to misusing it, in order to achieve goals that this information was not collected for, and as a result we are currently suffering from access to information, many government agencies refuse to deal with us, and so we cannot get any important statistics or information from them, and they only provide us with little information.

We were strong administrations when information centers were affiliated to the Ministry of Local Development, until 2013, after that, we were distributed to centers and cities, and a number of information centers were liquidated in some cities completely, as in the city of Sinbillawain. Some have also been merged to the Information and Decision Support Center affiliated to Presidency of the Council of Ministers, as in the cities of Al-Matareya and Aga. The Internet, having been quarterly and unavailable, has led to a noticeable development in Egyptian policies.

Manifestations of exercising the right to information

While there is no clear law regulating circulation of information in Egypt, whether before or after stipulating it as a right in constitutions of 2012 and 2014, claimants of this right sought refuge in the judiciary to access it.

The cases filed to guarantee that right, whether since the 1990s (as mentioned earlier), or the cases that would be mentioned in this section are part of the efforts made by Egyptian human rights institutions to develop strategic litigation to access rights that are either not regulated by law or violated by the executive branch of authority. One of these important legal battles is the case of Tiran and Sanafir islands, which were transferred by the Egyptian government to the Kingdom of Saudi Arabia, the Egyptian society fought a long battle before the administrative judiciary in all its degrees until a ruling was issued that they are Egyptian Islands. (Egyptian Center for Economic and Social Rights 2016)

Resorting to strategic litigation in Egypt in the absence of law or while it is obstructed by the executive authorities has always



Tiran and Sanafir islands

been an alternative method to access rights, especially under the Constitutional Court Act, which provides for the court's right to subsequent control over the constitutionality of laws and regulations, and interpreting laws texts issued by the legislative authority and decree-laws Issued by the President.

Any one has the right to resort to the Constitutional Court to determine the constitutionality of a legal text by one of two mechanisms defined by Article 29:

“ (a) If a court or a jurisdiction body has considered during a case proceedings an article in a law or regulation is unconstitutional, and that article is necessary to adjudicate the dispute, the case shall be discontinued and its papers shall be forwarded without charge to the court or the higher body for adjudicating the constitutional issue.

(B) If one of the litigants, during the hearing of a case before a

court or tribunal that is within its jurisdiction, challenges the unconstitutionality of a provision in a law or regulation, and the court or tribunal considers that the challenge is serious the case shall be postponed, and it shall determine a period not later than three months for the challenger to bring the issue before the Constitutional Court. If the lawsuit is not filed on time, the challenge and motion will be considered as if it was never filed.”

Therefore, in order for a dispute to be raised before the Constitutional Court, there must be a case brought before an ordinary court and it raised question of unconstitutionality suspicion about a certain provision within it, and whether it was a suspicion raised by the court, so it automatically suspends that case and transfer it to the Constitutional Court or made by one of the litigants through a motion and the court gives him the permission and a time limit to raise the matter before the Constitutional Court to adjudicate the subject matter.

The second method is the one that is used more most commonly in reality, especially by human rights organizations in which they file cases before the State Council Court to arouse controversy over a law and get permission to challenge it before the Constitutional Court.

And in the light of this situation, where there is no law to regulate circulation of information after adopting the matter as a right through the constitution texts, the old laws that restrict circulation of information are suspected to be unconstitutional and claims may be before the Supreme Constitutional Court to cancel them.

Thus, a question arises in light of suspecting the unconstitutionality of current texts as they restrict them to that right, as well as the fact that the constitutional text is subsequent to them, what law should be applied in this situation?

A good example of that is the judgment issued by the Supreme Emergency State Security Court in Cairo in case No. 4190 of 1986 (121 premilitary North) which acquitted all the defendants in the strike of railway workers of 1986, as the court’s judgment was based on the

fact that the legal prohibition of strikes for governmental workers by Article 124 of the Penal Code (which criminalized strikes)

has ceased to exist, as Egypt's ratification of the International Covenant on Economic Rights which authorizes strikes has repealed this provision (*Lex posterior derogat priori*), The People's Assembly's approval of the Covenant, the ratification made by the President and its publication in the Official Gazette at a later date to issuing Article 124 of the Penal Code, have repealed the article as if it never existed according to the court, and so an acquitting judgement was issued on 16/4/1986, and so, Strikes were authorized for private, public and governmental sectors alike.

This was followed by another judgement issued by the Disciplinary Court in Tanta, which acquitted workers of the Cooperative Association of Household Industries Carpet Factory from the charge of committing a strike, based on the fact that:

“To refrain from working [strike] has become, since the International Convention on Economic, Social and Cultural Rights signed by the Arab Republic of Egypt entered into force, as mentioned above, as of 8/4/1982, a right guaranteed to workers in the State [civil servants and public sector workers] and thus, this behavior is not a violation, from their part, to their job duty, especially since it has not been proved from the papers presented that they didn't deliver any act that violate or contradict with preserving the company's property and funds while exercising this right with in their company, and the fact that the legislator did not issue a legislation to regulate exercising the right to strike does not diminish what have been mentioned, as this negative attitude of the legislator, cannot be turned into a justification that justifies violating rights and breaching one of the important obligations which was accepted by the international community, especially that this right is one of the most important manifestations of practicing democracy, that has been confirmed and embraced by most legislation in the world. ◊ (Judgment No. 120 for the judicial year 17, Disciplinary Court of Tanta, 10/3/1991) (The Egyptian Center for Economic and Social Rights, 2011)

The Administrative Court also issued a number of historical judgments that confirm the right to freedom of information as expressed by the Supreme Constitutional Court Judgment that was issued in (15/4/1995) in appeal No. 6 for the judicial year 15:

“ What the Constitution envisages by guaranteeing freedom of expression is that giving and receiving opinions and ideas shall not be limited by different regional boundaries, and shall not be confined to any confiscation through its own normal channels, but on the contrary, it intended to extend its advantages, multiply its resources and management, and to over flow its well-springs, so as to be an open (Marketplace of ideas) or a (Free trade in ideas) without any restriction that would constraint it or block its paths, because freedom of expression has its own targeted goals that it should hit, goals that it cannot be conceivable not to achieve, which include making the light of truth clear as dawn, with no falsehood mixed in its elements or slander that may discharge its contents, and that, is cannot be imagined to be achieved except through communication of views and opinions, and their interaction with each other, to stand clearly on what shall be considered truly false or right, and what shall be deemed risky or achieving benefits.

As the Constitution does not aim from ensuring freedom of expression, To be a gateway to a general consensus, but it aimed through guaranteeing that right to be a mean of opinions plurality based on neutrality of information, to be as a beacon to light of truth that shall guide every action and each direction.

The freedom of expression which is guaranteed by Article 47 of the Constitution is the most effective tool when applied in matters related with public affairs while presenting actual situations to clarify any deficiencies and correct any inconvenience, and the individual's right to address or express his/her opinions does not depend on its validity or conformity with the general trend in a certain environment or its practical benefit, the Constitution, by guaranteeing freedom of expression, intended for its concepts to dominate the deep roots of life manifestations, thus, preventing the executive authority from imposing its guardianship on the public mind or putting any obstacle

without to prevent thoughts from flowing.

Freedom of expression - which is guaranteed by the Constitution- represents a necessary rule in every democratic organization, that cannot exist without, and any violation to it is in fact a denial to a simple truth that freedom of expression cannot be separated from its tools, and that its managing means should be linked to its intended ends, in a way that no one can disrupt its content or contradict with its intended ends which it was established for in the first place” (University of Minnesota Human Rights Library 2000)

The Administrative Judicial Court (Department of Economic Disputes and Investment) also ruled in case no 1430 for the judicial year 65 in (27/11/2017):

“ Since the right to know is not a luxury right established only to seek knowledge without the adoption of a positive attitude that expresses the purpose of determining that right, but rather the right to know is closely related to another right which is the (Right to information flow and circulation) and both rights are related to a more broad right which is the (Right to development) which was stipulated in Article 1 of the International Covenant on Civil and Political Rights and Article 1 of the Declaration on the Right to Development of UN General Assembly Resolution 41/128, on 4 December 1986, which in turn is closely related to the (Right to life) and also the right to build an economic base with the needed sufficient grounds, moreover, the close connection between telecommunication services, including bulk text messaging, and the right to flow and circulation of information, entails the following:

Freedom of information is linked to two fundamental human rights, the first is the right of expression and the second is the right to know. And the right to information circulation represents an essential pillar of freedom of opinion in its different forms, As the individual’s freedom of opinion and expression includes his/her right to receive and transfer information without boundaries, through various expression means and media channels or any other tool as without being able to obtain information and having the right to circulate

and communicate it to the public, freedom of opinion will have no real meaning within society.

Freedom of expression and information circulation is restricted by only some legitimate legislative restrictions, such as propaganda for war, hatred, racism, nationalism or religion in accordance with article 20 of the International Covenant on Civil and Political Rights and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination; Wars and armed conflicts, declaring a state of public emergency, requirements of national security and public order, and respect for the rights and freedoms of others.

The right to information flow and circulation is of a dual nature. In its first aspect, it imposes an obligation (negative) on the administrative authority to refrain from taking any legislative or administrative measures that would lead to preventing the free flow of news and information, both at home and abroad, thus, the State shall refrain from imposing barriers against the flow of information or permitting monopoly of information and preventing the dissemination of information except within the limits of maintaining public order. In its second aspect, it imposes an obligation (positively) on the obligation on the State to disseminate broadly information relevant to public interest in order to ensure transparency and oversight on public authorities performance.

The right to information flow and circulation requires creating a culture and knowledge environment (culture media) through which information and knowledge in all its forms and types are exchanged through scientific and cultural discourse in its many places, which must be provided without interfering with obstacles that would limit paving the way for such an environment”

On the other hand, most public domain’s practitioners believe that demanding a law that would regulation circulation of information under the current legislative authority would be a huge step backwards, as all supplementary laws that was passed by the parliament were restrictive or fully abrogative to rights, and issuing the law right now would be worse than having no law that regulates the matter, In

particular, when given the experience of the right to strike, in which the Court invoked the international convention rather than laws text, and the possibility of challenging the unconstitutionality of existing laws related to rights.

The current situation allows claimants to engage in legal battles for circulation of information, either on the basis of constitutional texts directly or to challenge the constitutionality of laws, but if the law was passed there would be no guaranteed way to access information under it.

The right to information flow and circulation requires creating a culture and knowledge environment (culture media) through which information and knowledge in all its forms and types are exchanged through scientific and cultural discourse in its many places, which must be provided without interfering with obstacles that would limit paving the way for such an environment

Pursuant to these principles, the Court stated in its ruling that “the right to know is a human right that is of paramount importance, and regulating the citizens’ rights to access information and public funds settlements data would promote the principle of transparency, it shall ensure better ways of completing these settlements in the best possible known method, it shall eliminate corruption, lead to informed decisions by those who are responsible for making these settlements, and makes citizens involved participants in them, as these settlements have a direct impact on their lives and economic

conditions, and make their leaders held accountable, and so, the state must establish strong legal frameworks that protect individuals' right to access this information - ensuring its confidentiality - and thus create an active civil society capable of real, effective public oversight of government actions in handling state funds.»

The background of this lawsuit - which was prepared by Ahmed Hossam, a lawyer- goes back to the issuance of Decree Law No. 4 of 2012 by the government which was represented in the Military Council to amend some provisions of the Investment Guarantees and Incentives Law, to authorize reconciliation in crimes related to public finance, and settle violations in which State contracts were marred by.

After issuing this decree, the media circulated reports about the Government's conduct of several settlements in crimes and offenses that represent corruption in public finance, without publicizing knowledge of the criteria, reasons and basis on which these settlements and reconciliations were made. Then, during the case's hearing, decree-law No. 32 of 2014 was issued which is known as immunization / restriction of appeal on state contracts, which gave the government to make settlements in contracts that involve corruption cases related to public finance, far away from citizens and public opinion's oversight. This decree also take away from them the right to challenge or appeal on these contracts to defend and preserve public finance, the fact that formed an urgent necessity about binding the government to disclose public finance settlements.

The lawsuit stipulated that enforcing disclosure rules, activating the right to know, accessing information and disclosing the content of such settlements made for crimes, offenses, or incidents of corruption on public finance, would allow public control over actions related to public finance that belongs to the people in the first place. In addition to that, the public would be allowed and empowered to impose substantive judgments on the extent to which the State is fulfilling its duties to protect public finance. And undoubtedly , informing the public, whether experts, economists or citizens, about the details of reconciliation decisions is a duty in light of the lack of

the minimum transparency degree on those decisions' contents to adopt such settlements.

Legally, the lawsuit was based primarily on the right to know, including a core principle related to it, which is the freedom to circulate, disclose, and access information as a constitutional right for citizens, and as stipulated in both Constitutions of 2012 and 2014. This right was also stipulated in international conventions which were signed by Egypt, approved by Parliament and published in the Official Gazette and should be legally implemented as domestic laws, as stipulated in the Constitution 2, such as the Convention against Corruption, the International Convention on Civil and Political Rights, the African Charter on Human and Peoples' Rights. This right also was also stated in the Press Regulation Act No. 96 of 1996, and Consumer Protection Act No. 67 of 2006.(Rana Mamdouh 2017)

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Libya

The political and social situation in Libya makes access to information different from its eastern and western neighbors, in its historical development, in its present form, and in its future.

Perhaps what is seen as a danger to the guarantee of this right, the fragmentation of state structures and the multiplicity of the legitimacy of each of them. If any, may in fact be an opportunity to control the way this right develops, if it is done in a way that exploits opportunities and avoid risks.

The historical sequence of the most important events affecting access to information in Libya begins several years before the 2011 revolution, when there were clear changes in the state's handling of information, and later, after the revolution, when clear changes were recorded in the citizen's handling of this right.

The emergency change in 2003, which, for example, known in the status of "Chokri ghanem" as chairman of the General People's Committee (head of government), had implications for the state's handling of information, not necessarily in faith, but for "the growing Anglo Saxon influence" and the new economic trends that contributed to the development of the company, British consultant with a professor at Harvard University.

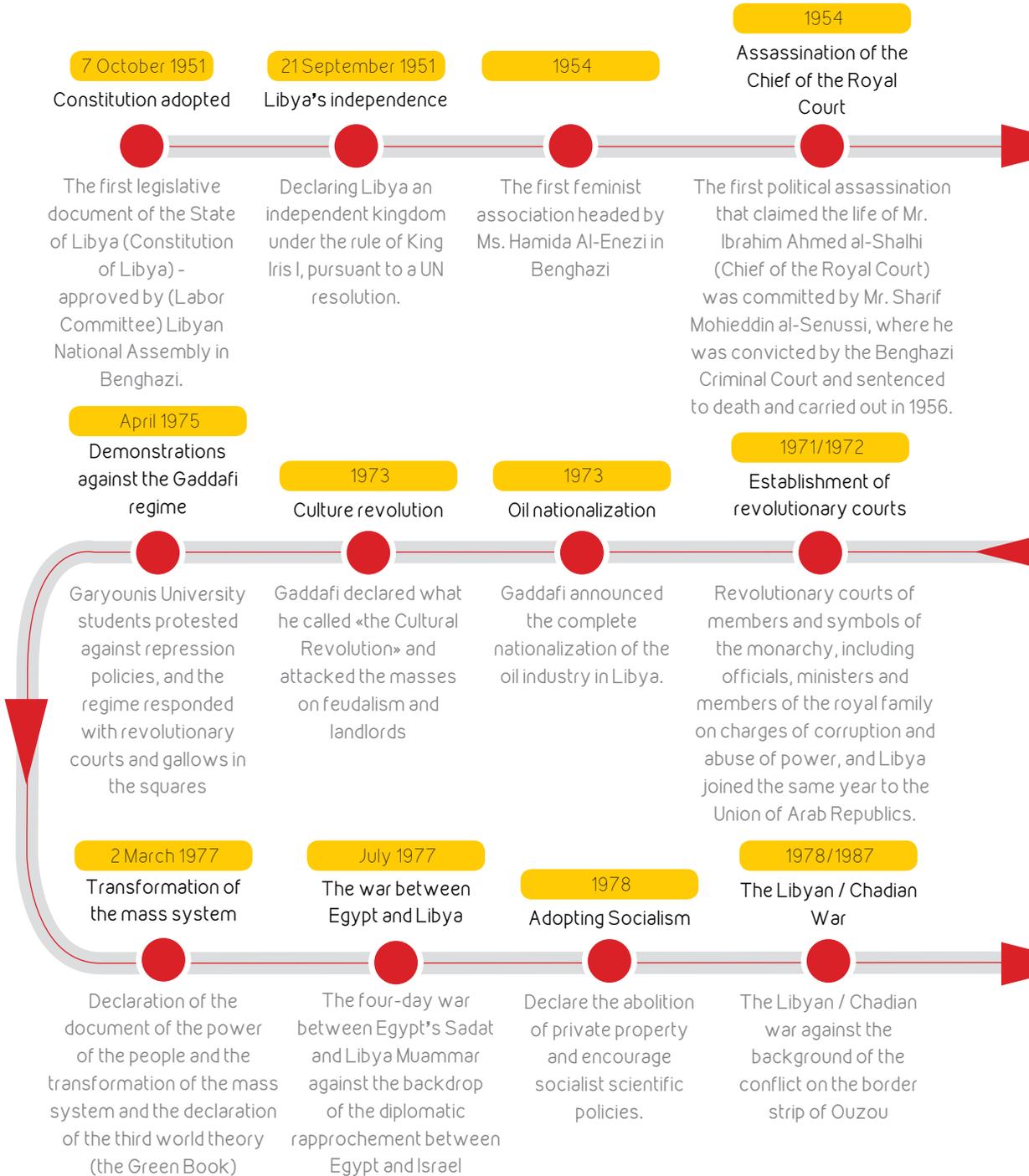
While this General People's Committee has seen opposition to the economic policy, which has been largely based on privatization, attracting foreign investment and liberalizing the currency, which led to the status of "AlBaghdadi alMahmoudi" as the new head of government, the wave of reform has continued to increase the interest of Saif al-Islam Gaddafi in public affairs.

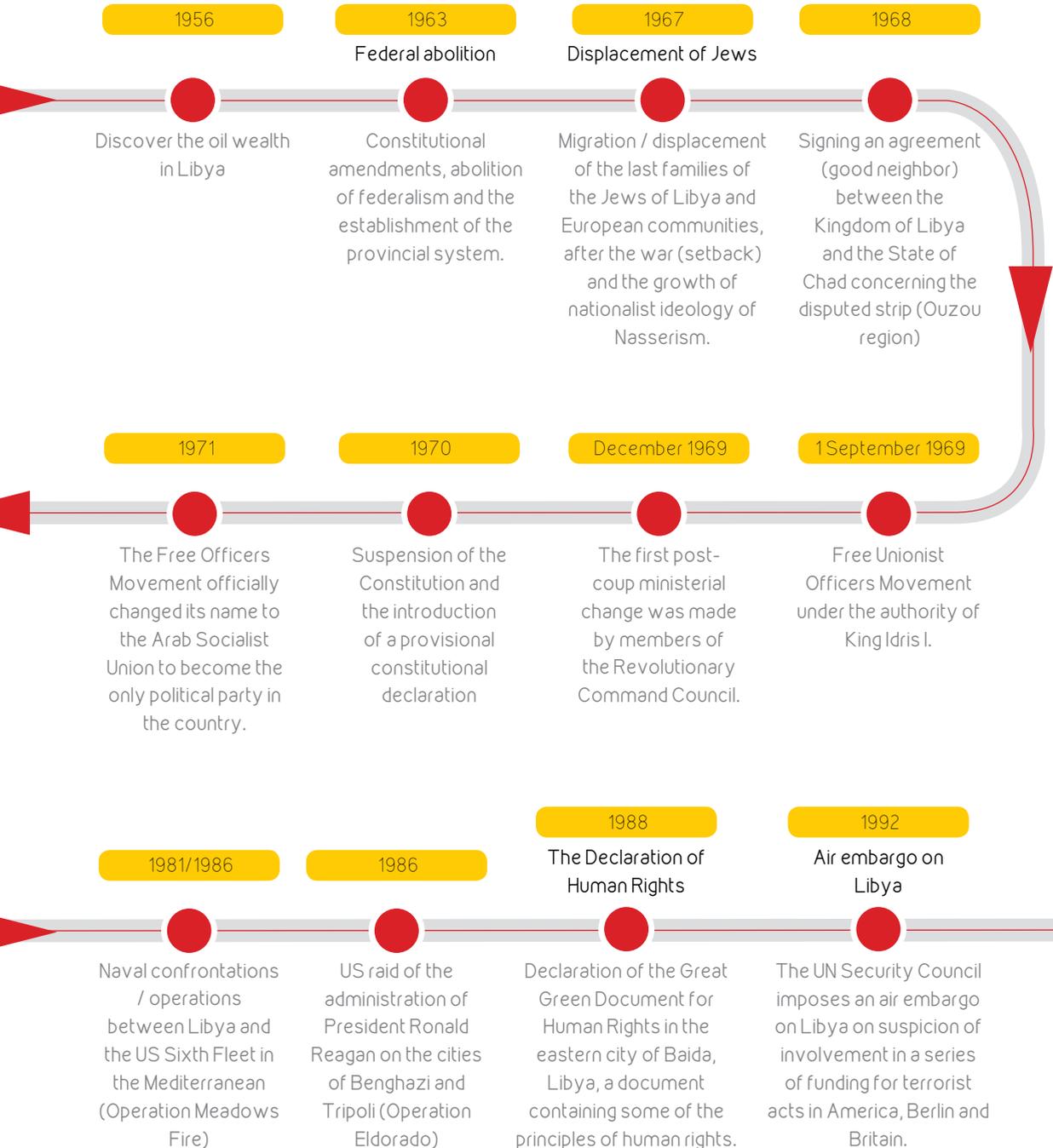
In 2007, Gaddafi's son had spoken about a new draft constitution for Libya, as part of a «contract that governs the lives of Libyans.» The information had a space of reform space with the latter talking about the independence of certain community institutions, namely, the Central Bank, the Supreme Court, the media and civil society. In his speech, he focused on the need for an independent media body that sheds light on corruption, fraud and fraud.»

However, the alleged wave of reform has been accompanied by sharp criticism on the economic and political side in general, and at times, the regime's attempts to disseminate information aimed at "arguing that it is taking a transparent approach to public information.»

Research in Libya, although it has resulted in little description of the legal pot of this right for objective reason such as the fact that the Constitution remains in draft form until the line of these words, proposes rich details in the influences, internal and external, on this right, and proposes clear opportunities for further development in the future.

The most important political and social phases





1994

A failed assassination attempt against Gaddafi suspected of the Libyan Fighting Group on the road between Sirte and Misrata.

2003

Lift the air embargo

The UN Security Council lifts the air embargo on Libya, and Libya gives up its nuclear weapons development program

2004/2007

Restoring relations between Libya and the United States and Britain

2008

British Prime Minister Tony Blair visits Gaddafi's tent

12 July 2014

Attack on Tripoli Airport

It began an offensive in order to seize Tripoli's international airport and a number of camps in its vicinity, which have been managed and secured by Libyan army forces (mostly from the Zintan area) since the 2011 liberation of Tripoli.

2014

Culture revolution

Operation "fajr Libya" is an alliance of Islamic militia groups in Libya, including militias including the Central Shield of Libya, the Libyan Revolutionary Chamber in Tripoli, and militias mainly from Misrata areas as well as those from Gharyan, Zawiyah and Sabratha. Many see their association with the Muslim Brotherhood in Libya

May/ July 2014

Operation «alkarama»

military operations were Launched against the Islamic group in the city of Benghazi under the name «Operation Dignity» led by retired Colonel «Khalifa Hafter»

2014

Coup of «fajr lybia»

In July and after the parliamentary elections, "fajr lybia" Coalition staged a coup in Tripoli on behalf of the losing parties. The Muslim Brotherhood was the dominant party in this coalition. After violence against Libya's dawn opponents, the Tripoli High Court annulled the constitutional amendment that resulted in the election law. Only the Fajr Libya group recognized the court's ruling, which was not recognized by the Libyan House of Representatives.

2015

Skhirat Agreement

The Skhirat Agreement or the Libyan Political Agreement is an agreement involving the parties to the conflict in Libya and was signed under the United Nations in Skhirat, Morocco, on 17 December 2015 under the supervision of UN envoy

February 2016

creation of the Government of National Accord

The creation of the Government of National Accord, formed under the agreement of the city of Skhirat in Morocco, which was signed on 17 December 2015 under the auspices of Britain and European countries



The evolution of the right to information in Libya

Talking about the right to information in Libya may seem absurd before the 2011 revolution, under popular rule that does not codify many rights, neither in a constitution nor in laws governing access and exercise. However, an important aspect of the evolution or obstruction of the right to information is not understood without highlighting the three stages of the development of the right, since the beginning of the third millennium: demanding information, making the legal framework and resorting to the right by citizens. The right to information before the revolution is closely linked to the economic reform process, whose outlines have been emerging since 2004 for example economic measures, the privatization of public companies, a number of shares of companies have been put up for sale, such as cement, Sahara Bank and General Mills Company, within the privatization program of 360 companies.

Talking about the right to information in Libya may seem absurd before the 2011 revolution, under popular rule that does not codify many rights, neither in a constitution nor in laws governing access and exercise. However, an important aspect of the development or obstruction of the right to information is not understood without highlighting the three stages of the development of the right, since the beginning of the third millennium: demanding information, making the legal framework, and resorting to the right by citizens.

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For example, a number of corporate shares have been put up for sale, such as cement, Sahara Bank and The General Mills Company, as part of a privatization program for 360 companies to compensate the Libyan state's main role in the private sector.

The reluctance of Libyans to buy shares raised many questions, and Dr.Mahmoud alFuttisi, secretary of the General Authority for The Ownership of Economic Units in Libya at the time, contributed

to trying to answer them. Dr. AlFuttisi spoke about the need and quality of «a package of legislation containing laws, regulations and resolutions that form a legal framework that ensures transparency, clarity, social justice and scientific economic foundations for all aspects of the implementation of the program.» Dr. AlFafatsisi singled out the privatization programme for public companies, which has provided for the legalization of transparency since 2005.



chokri ghanem

This reflects, albeit indirectly, a negative claim for information, which is linked to the impact of the citizen's behavior depending on the availability of information, although it is difficult to withdraw this conclusion beyond the limits of financial investment.

The right to information is highlighted in the 2006 Human Rights Watch report, which stated that a measure of transparency should be provided with regard to the People's Court. One of the organization's recommendations is its call for the Libyan government to «provide all safeguards to ensure transparency and due process», and stipulates that the General People's Committees for Future Justice should follow a «transparent» approach and declare the standards it applies and its findings.

There are no signs of a popular claim to information, but the

interaction with it and the criticism of the state's small amount of it appear among the intellectual elite, as Salem Mohammed, a Libyan poet, explains in an article entitled «Shukri Ghanem will not be able to save «Love Pomegranate»!

The right to information was never known before the revolution. The changes and reforms that began before 2006 are, from the standby state's point of view, the beginning of the collapse of the state, but in a revolutionary way, it is the beginning of change, because there is a breach of the security arsenal

In 2006 Mohammed criticizes statistics published by the General People's Committee on the population of administrative areas, the number of health centers, education, and other administrative services. Mohammed explains that the «popular authority» is not accustomed to publishing statistics on the services it provides to citizens, explaining that «the ruling regime in Libya may be afraid to expose its crimes of the failure of its administration of the state and expose its horrors of rampant nepotism and corruption.» Mohammed refers to 2002 statistics on health facilities, questioning their health, and says they are undoubtedly fabricated and forged, intended to provide false statistical proof to the World Bank's pressurized capital institutions.»

Mohammed's suspicions not to be confirmed or denied without confirming other sources of information confirmed or denied without confirming other sources of information, but its suggestion to influence of international financial institutions is not far from health, and will be addressed in the external effects section, later

in the study.

Tenders for the awarding of Libyan oil concession contracts, in an article published in October 2005, and their transparency, and media coverage, entitled «Alert to disaster. May Chokri Ghanem beware» The article explains that the government media focused on «the large number of companies submitting for the tender, their nationalities and the large amount of space to be exploited», and that the National Petroleum Corporation merely «published the list of winning companies and the sites of the concessions granted to them.» The author explains that this government coverage is «an attempt to inspire transparency that has been followed,» as announcing tenders and is opening conditions at a meeting «attended by representatives of competing companies and announcing results in front of them does not in itself mean impartiality, integrity and transparency.»

However, the author of the article explicitly explains that the interest in pursuing Libyan oil affairs, or access to its information, is limited to «interested» as he considers that “not all Libyans, including the educated elite and even the majority of the able bodied national opposition, are interested in what is going on for this nerve of their lives”, and linked the lack of an extended interest in this information by making the fate of oil «forgotten» and opening the door to waste and corruption.

The right to information was never known before the revolution. The changes and reforms that began before 2006 are, from the standby state's point of view, the beginning of the collapse of the state, but in a revolutionary way, it is the beginning of change, because there is a breach of the security arsenal. From these changes are the ideas of «Saif al-Islam Gaddafi», which was reflected in the creation of a human rights association, to conducting reviews with Islamists, the release of many of the Brotherhood , and leniency with newspapers(they can criticize ministers and below).

Dr. Mohammed raised recalls the idea of writing the constitution and formulating a vision for Libya that extends back to 2025, which was the product of a foreign consulting firm, which seemed to be

renewing itself.

Shukri alGhanem's statement when he was inaugurated as head of government was the result of revolutionary ideas in the economic field, or the transition from socialism to capitalism, which opened up what the state, including information, had, and led to a breakthrough in economic information.

Our interviews with a group of Libyan experts have concluded that Libyan society is not aware that access to information is right, and that it has the right to know, even from the elite, that it has not yet understood that society has the right to know. The state's officials still deal with the old mentality, which is that information is the most precious thing to it, and it is still handled from the point of view of national security, even if the information is related to health or education, «any information is the property of the state and cannot be given.»

The readings differed on the extent to which the state adhered to the right to information before the revolution, although all agreed on the lack of information provided. It also differed in dividing the Libyan street into groups according to its relation to the right to information, otherwise it agreed that the right still did not take its clear form, which is based on a clear claim for information, and the creation of its own legal framework, and provided by the state based on this legal framework.

There is a section of Libyan society into three types after the revolution, concerning the demand for the right to information: activists, jurists, intellectuals, enemies of the administration, and those who do not care about the right at all. The first group, the elite, feels that the right to information is an inherent right, and longs to obtain it through legal and constitutional means, and demands it to apply accountability, accountability and transparency. The second group, which believes that truth is really important, wants to undermine the state's contours and seeks information to create chaos. The third group is a group that is not interested in the information or access to it.

Despite some breakthroughs in the right to information, this trend was the result of the rule of Saif Gaddafi, where he was pursuing him to gain popularity, his background and experience outside Libya, where he studied abroad and lived in a state of disorientation, unlike his father. In Libya, it comes within a package of rights such as the right to expression and creativity, since each of these rights is monopolized by the state, which in turn has not given way to the right to information.

Opposition positions were the only area of such discussions, which were run from outside Libya and were discussed through pseudonyms. Until the Saif Islam Gaddafi reform project, which began to be talked about in 2004, came the latest minor and relative breakthrough in the aforementioned rights package.

Two new newspapers have been issued, and a channel that does not follow the Great Jamahiriya channel or the Libyan Ministry of Information has been managed. If these are cosmetic attempts, but they have created even a small space that has made the situation better than before, a critical article can be written, or the government should demand something, as long as the pen does not touch Muammar Gaddafi and his sons.

The issue of oil was closed a secret of the war state, and no information was available on the amount of production and sale, etc., with minor changes when Chokri Ghanem was inaugurated at the head of the National Oil Corporation after the change of government in 2006. By trying to dismantle state control, transparency has begun to affect tenders and affect competition between the public and private sectors.

The right to information began to emerge after the revolution, not as a clear right, but in a general framework of freedoms, not known concept. Citizens have begun to talk about political performance and its evaluation, such as evaluating the Government and Parliament, demanding public meetings and participating in the development of basic laws. The right to information is discussed without allocating it, because there is no community awareness about this right, although

there have been signs of this during the past period.

However, there are those who believe that the nature of the Arab peoples is a desire for knowledge and information, and that those who say that the culture of desire for information does not exist is completely wrong. There must be a distinction between the desire of citizens for information and the lack of an explanation and meaning of the right and its mechanisms.

Therefore, the government's position on the issue of the right to information is not limited to the current situation.

Policy

It is difficult to talk about a policy planned by the Libyan state regarding the right to information, given the divisions that have affected the state structures and the multiplicity of legitimacy of the authorities, especially the executive and legislative. This reading is limited to previous texts of constitutional value, to the draft constitution, to reflect the possible walk of the rights that may guarantee them in the future, and to some laws that are still in force.

First- Constitution:

1. Constitution of the United Kingdom of Libya of 1951

The 1951 Constitution did not provide for the right to information explicitly, although it provided for other related freedoms, including thought, expression, journalism, and printing. These freedoms have been restricted by their control in a manner that does not violate public order and morals, but they were not affected in their 1963 amendment, but were reinforced by the provision that laws should be published in the Official Gazette on time.

Article 22:

Freedom of thought is guaranteed and everyone expresses his opinion and broadcasts it by all means, but it is not permissible to

abuse it in violation of public order or immorality.»

Article 23:

«Freedom of the press and printing is guaranteed within the limits of the law.»

Article 137:

«The laws passed by the King become effective in the Kingdom of Libya 30 days after they are published in the official newspaper. This date may be deficient or provided by a special provision in these laws. Laws must be published in the Official Gazette within 15 days of their release.»

2. Constitutional Declaration of December 11, 1969

The 1969 Constitutional Declaration did not explicitly address the right to information, nor did it provide for the accompanying rights, including those mentioned in the 1951 Constitution. But he touched on the fight against corruption in his titration, and merely stipulated freedom of opinion, while adjusting it in line with the interests of the people and the revolution.

The declaration also provided for the publication of laws in the Official Gazette.

Part of the preface:

«He understands that the alliance of reactionary and colonizers is responsible for the backwardness it suffers despite its abundant natural wealth and the corruption that has spread to the government.»

Article 13:

«Freedom of opinion is guaranteed within the interests of the people and the principles of the revolution.»

Article 36: »Laws shall be published in the Official Gazette and shall be enforced from the date of publication, unless otherwise stated.«

3. The Great Green Document on Human Rights in the Age of the Masses in 1988:

The green document came after the announcement of the people's power for 11 years to provide for human rights in the age of Jamahiriya. The document did not explicitly state the right to information, but it addressed other rights adjacent to it, including knowledge and thinking, and we find this through the following claims:

Education and knowledge are a natural right for every human being, and every human being has the right to choose the education that suits him and the knowledge that appeals to him without guidance or coercion.«

The mass society is a society of brilliance, creativity and everyone has the freedom to think, innovate and innovate, and the mass community has always sought to flourish science, and to promote the arts and literature to ensure that they spread to the public in order to prevent their monopoly.

4. Constitutional Declaration dated August 3, 2011

The Provisional National Transitional Council issued a constitutional declaration specifying a provisional regulation and providing for several rights and freedoms related to the right to information, directly or otherwise.

Article 7:

«The state safeguards human rights and fundamental freedoms, is committed to joining international and regional declarations and conventions that protect these rights and freedoms, and works to issue new charters that honor man as God's successor on earth.»

This article does not explicitly state the right to information, but it

recognizes fundamental Human Rights and freedoms, and refers to charters and declarations that guarantee the right to information as a fundamental right.

Article 14:

«The state guarantees freedom of opinion, freedom of individual and collective expression, freedom of scientific research, freedom of communication, freedom of the press, media, printing and publication, freedom of movement, freedom of assembly, demonstration and peaceful sit-in, and in a manner that is not contrary to the law.»

This article also does not explicitly state the right to information, but it guarantees a package of rights that automatically applies to the right to information, namely expression, communication, the press, and the media. It is also possible to conclude that the right to information is not explicitly stated, that it was not really a clear right when the Constitutional Declaration was drafted and ratified.

Article 28:

«The Interim National Transitional Council establishes an accounting office, which will control all revenues and expenses and all state-owned movable and fixed funds, ensure that these funds are used and maintained, and periodically report to the Board.

The Transitional National Transitional Office and the Executive Office - or the Interim Government.

This article did not provide for the publication of the periodic report of the SAI, i.e. it did not «constitutionally» guarantee the right to access the information mentioned in it, except that it provided for the drafting of a periodic report that prepared the subsequent publication of the Court of Auditors, which provided information and analysis to the public.

5. Draft Constitution dated July 29, 2017

Libya's draft constitution is still going through a difficult struggle as a result of the difficult political balances between the east and west of the country, which have been translated into differences between the Libyan People's Assembly and the Supreme Council of State on the draft constitution and the way it is voted on. The process was blocked by questioning the method of the referendum, which necessitated a change in the constitutional framework (the 2011 Constitutional Declaration) to make the Supreme Council of the State part of the decision-making process.

The draft constitution was drafted until the last draft was reached on July 29, 2017, in which the right to information and related rights were clearly included in several articles.

Article 8:

«The political system is based on the principles of political pluralism, peaceful transfer of power, separation of powers, balance, and control between them on the basis of good governance based on transparency, control, and accountability.»

This article contained the first provision for transparency as one of the lists of good governance, which is what is desired in the political system.

Article 15:

«The State works to create a diversified economy that achieves wellbeing, prosperity, raising the standard of living, ensuring the right to initiative, based on the diversity of its sources and on the criteria of transparency, quality, accountability, balance between economic efficiency, social justice, competitiveness and the protection of rights The consumer, the producer, and the state encourage private, public and joint investment to meet the needs of society and achieve overall development.»

This article once again provides for transparency standards, in a narrower area, which relates to the sources of the economy.

Article 20: »Public money is protected, the State must protect, develop and maintain, prohibit attacks or act against it, contrary to the provisions of the Constitution, the law, and ensure that the state recovers it, requires compensation for its destruction, damages, and the crimes relating to it are not statutes, and cannot be pardoned.»

This article does not explicitly state the right to information, but it clarifies the state's duty to public finances, an important principle that is closely related to good governance.

Article 21:

«Public facilities are established and administered in accordance with the standards of good governance, respect for human rights, and guarantee the right of users to receive their services regularly, steadily and equally, to deal with their affairs fairly and to submit their petitions and complaints, to respond to them, to abide by their decisions, and to simplify their decisions, and to simplify its procedures, and the periodic evaluation of its performance as determined by law.»

In addition to this article, the standards of good governance, one of which is transparency and the right to information, expressly state that decisions on public utilities and their management must be explained and simplified, and that procedures should be simplified, in which it provides a clear type of information that the State must provide.

Article 23:

«The State takes the necessary measures to combat administrative and financial corruption, to detect its cases, to address its effects, and prohibits a person convicted of a misdemeanor, or a felony of corruption in the conduct of office in cases defined by law.»

This article provides not only for the fight against corruption, but also for the disclosure of its cases, which is a guarantee of the right to information related to it.

Article 35: «Private life is inviolable, and it is not permissible to enter private places, except for necessity, not to search it, except in the case of undress, or by a court order. Personal data, communications and correspondence may not be compromised except with the permission of the competent non-fuddi.»

This article protects personal data as part of the privacy of private life.

Article 37:

«Freedom of speech, honesty, expression and publication are safeguarded rights, and the State takes the necessary measures to protect private life, and to prohibit incitement to hatred, violence and racism on the basis of race, colour, language, sex, or Birth, political opinion, disability, origin, geographical affiliation, or other reasons. It also prohibits atonement and the imposition of ideas by force.»

This article clarifies the limits of the right to expression and publication, and re-stipulates the protection of private life, including personal data.

Article 38:

«The state guarantees freedom, pluralism and independence of the press, the media, and the right of citizens to own them. It is prohibited to stop them, except by judicial order, and to resolve them, except by a judicial decision, and press cases may not be pre-trial detention.»

This article explicitly states on the press and the media, which is one of the most important means of activating the right to information and informing public opinion.

Article 46:

«The State establishes measures for transparency, guarantees the freedom to receive, transfer and exchange information, access it, and the multiplicity of its sources, so as not to affect military secrets,»

public security secrets, the provision of justice and the sanctity of private life, and what it has agreed with another state to be classified, while keeping it secret Confidential source.»

This article codifies the right to information explicitly, and the multiplicity of exceptions to this right, related to security and defence, private life and the administration of justice, and for diplomatic reasons. This article reserves the right to keep the source confidential.

Article 51:

«The state protects and supports the material and moral rights of intellectual property in all its forms, in various fields, and supports it, as defined by law.»

This article can affect the right to information if intellectual property rights are provided to the right to information.

Article 65:

«Any restriction on the exercise of rights and freedoms must be necessary, clear, specific, and proportionate to the interest in protection. It is forbidden to refer to legally prescribed guarantees, all in a manner that does not conflict with the provisions of this Constitution.»

This article clarifies the limits of restricting rights and freedoms that it is done by law.

Article 66:

«All legislative and executive policies and development programmes are based on the protection and advancement of human rights, and the state is subject to its legislation and policies in this area for periodic evaluation, with the basis and results of the evaluation to be published in the Official Gazette.»

This article expressly provides for the right to information on legislation and executive policies, as it must be published in the Official Gazette periodically, although the evaluation and publication journal has not been specified and these details appear to have been left to the legislator.

Article 73 (first paragraph):

«If the House of Representatives approves a bill, or the proposal of the law shall be referred within a maximum of seven days to the President of the Republic, for publication and the order to be published in the Official Gazette within a period of not more than fifteen days from the date of its approval. If the President of the Republic does not do so, the Speaker of the People's Assembly must issue it and publish it with his signature.»

This article stipulates that laws must be published in the Official Gazette, a continuation of what has been in force since the 1969 Constitutional Declaration.

Article 87:

«Both houses shall issue a regulation of its rules of procedure within a period of not more than thirty days from the date of its first meeting, and it shall be published in the Official Gazette, and each of the two councils, when establishing their rules of procedure, must observe consistency, integration with the other council, and show the rules of procedure of each sanctions council necessary to ensure regular members' presence.»

Article 93: «The meetings of the two chambers shall be public, their deliberations are documented in minutes, in accordance with their rules of procedure, and published, as defined by law, and either of them may be held in a private meeting with the consent of the majority of the attendees, based on the request of twelve members, or at the request of the President of the Republic, or the Prime Minister.»

The importance of these articles lies in strengthening the right

to information first to stipulate that there is an internal system of the House of Representatives and the Senate, and that it should be published in the Official Gazette. Second, to provide public and documentation of the hearings and to the way they are held in secret.

The transparency of the work of the two chambers, and the identification of information to be published about their work, is provided by the rules of procedure in the future.

Article 122:

«Except for offences, and cases of low importance as defined by law, trials are regulated on two levels, and the law determines the jurisdictions of the courts, and the procedures before them.»

This article may affect the guarantee of the right to information, in the case of litigation for lack of availability. If the legislation defines it as a case of little importance, the right to litigate will not be guaranteed on two levels, which may not guarantee the right of the claimant to the information.

Article 139 (para. 1, 2, 3, 6 and 8):

«The Constitutional Court is solely responsible for the following:

- ◉ Judicial oversight of the constitutionality of laws, the lists of the House of Representatives, and the Senate.
- ◉ Consider the constitutionality of the procedures of constitutional amendments.
- ◉ Claims concerning the failure of the legislature to meet its constitutional obligations.
- ◉ Review international treaties and agreements before ratification.
- ◉ Review laws that have been ruled unconstitutional before they are reissued.»

The provision of this article to the jurisdictions of the Constitutional Court highlights the clear impact on the guarantee of the right to information, since it is a clear constitutional right.

The Court's oversight of the House and Senate lists may ensure that they respect the public of the hearings, transparency and the right to information, and consider the procedures of constitutional amendments that also ensure the harmonization of amendments and the rest of the principles of the Constitution (unless the amendment includes Article 46!). The commitment to the legislative authority's claims and its constitutional obligations includes a commitment to respect its rules of procedure, and to publicly hear its sessions. A review of international treaties and conventions also ensures that treaties and conventions do not affect the rights and freedoms enshrined in the Constitution. Reviewing laws because of their unconstitutionality also ensures that all laws respect all the principles of the Constitution, including the right to information.

Article 152:

«Local government units adopt the necessary measures to ensure that citizens and civil society organizations contribute to the preparation and implementation of local development programmes, in accordance with the regulations established by law.»

This article stipulates the contribution of citizens and civil society to the development of development programmes locally and to follow up on their implementation, which cannot be achieved without access to the information necessary for the existence of a real contribution, which is one of the affirmations of the right to information at a local level.

Article 156:

«Constitutional bodies are subject to the control of the House of Representatives, and report on their actions, as regulated by law, as well as to the Council of Ministers, and to the House of Representatives to publish them after discussion.»

This article places the right to access information concerning the functioning of constitutional bodies, in the hands of the House of Representatives, which decides whether or not to publish the reports submitted to it.

Article 157 (first paragraph):

«Only the National Electoral Commission administers and organizes general referendums, general elections, and local elections at all stages with transparency and credibility, including the announcement of final results.»

This paragraph requires that the National High Electoral Commission in turn be transparent at all stages, without clarifying transparency mechanisms. However, this is a constitutional provision for the right to information on the organization of elections.

Article 159 (para. 1, 2,4):

«The National Council for Human Rights (CNDH) consolidates the values of human rights, public freedoms enshrined in Islamic law, international conventions, and promotes their culture. It also deals with the following:

- ◉ Monitoring the human rights situation, monitoring violations, reporting and monitoring the relevant national authorities.
- ◉ Support citizens in obtaining their constitutionally and legally established rights.
- ◉ Recommend ratification, or adhere to international human rights covenants, in a manner that does not conflict with the provisions of the Constitution.»

This article provides for a human rights structure, which monitors its situation, monitors violations, supports citizens in its investigation, recommends its own international treaties, and the right to information is included in these rights.

Article 163:

«Regulated by the Law of the Administrative Oversight Authority, a transparency and anticorruption body, a statistics authority, a higher council for information and journalism, a council for science, technology and innovation, and the law determines its composition, its competences, its system of work, the guarantees of independence, and the neutrality of its members, as stipulated «In this door.

The provision of this article to other bodies dealing with information, such as transparency, oversight, statistics, media and the press, is evidence of the features of a policy dealing with the right to information structurally. However, the fact that these structures support the right to information will be determined by the law on each structure.

Article 164:

«The public finances of the state are subject to the principles of transparency, accountability, [...]»

In this article, it explicitly states on the principle of transparency, and it is linked to accountability, in relation to public finances.

Article 168:

«The Central Bank of Libya has the legal personality, administrative, financial and technical independence, and exercises its functions transparently within the framework of the state's policy, [...]»

This article explicitly states on the principle of transparency, and is linked to accountability, in relation to the activity of the Central Bank of Libya.

Article 170:

«Contracts and agreements relating to natural resources are submitted to the Senate for approval within specified periods, and

in cases specified by law. This ensures the preservation of natural resources, environmental balance, transparency requirements, [...]»

This article explicitly states on the principle of transparency, and is linked to accountability, in relation to contracts and agreements relating to natural resources. The provision to submit it to the Senate and its ratification guarantees the right to certain information, especially if it is debated in public, and voted as well.

Article 181 (para. 1):

«1. The state is committed to implementing transitional justice measures; a law governing the disclosure of the truth is passed, [...]»

In this paragraph, it provides for the disclosure of the truth as part of the transitional justice process, and this is a guarantee of the right to information.

Article 189 (para. 1 and 2):

1. The law sets out the reasons for declaring a state of emergency, or martial law, the scope of each, duration, rights that can be restricted, procedures, and measures that may be taken.

2. Taking into account articles (31, 32, 34), the President of the Republic may not impose restrictions on fundamental rights and freedoms during a state of emergency, or martial law, except to the extent necessary to maintain public security and the public safety of the country.»

In the first paragraph of this article, the right to information relating to a state of emergency or martial law is provided for, thereby reducing the arbitrariness that may accompany such exceptional cases. However, in the second paragraph, although it was presented for the need not to restrict rights and freedoms during these cases, it makes it permissible to maintain public security and safety, which are difficult to control.

Article 163:

«Regulated by the Law of the Administrative Oversight Authority, a transparency and anticorruption body, a statistics authority, a higher council for information and journalism, a council for science, technology and innovation, and the law determines its composition, its competences, its system of work, the guarantees of independence, and the neutrality of its members, as stipulated «In this door.

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Article 195 (para. 2):

«2. The government's policy of promoting the rights of the people of The Sa'ad is a fundamental right of the people of The United States of The People of The United States.

This article, which relates to the amendment of the Constitution and its procedures, is a clear obligation of the rights and freedoms

enshrined in the Constitution, and to protect them if amended.

Article 196:

«The legislation in force is amended in accordance with the provisions of this Constitution [...]»

This article has a clear obligation to revise laws that are contrary to those of the Constitution, such as those in force that affect the right to information.

Although the right to information, and the rights associated with it, is clear in the recent draft constitution, it seems that the appearance of the right in several corners of the constitution was not necessarily the result of the development of the right, or the existence of an urgent need for it or civil or political pressure to include it.

The inclusion of the right in the draft constitution was not the result of the movement of a civil or party society, but was the result of relative maturity of the members of the drafting committee, without an awareness of the right or a struggle for it. The greatest proof of this is that the mention of truth was very ordinary, and who wrote and drafted this article, meaning article 46, simply put it, was not a priority, but a common matter. The right came in the constitution is not detailed, and it has not been compromised despite the multiplicity of drafts, and even in the many discussions about the draft, there was no one to touch on this article.

With the exception of the points of contention, there was no disagreement about the constitution, but there was copying and pasting of the material from copy to copy, without a real disagreement with the Constituent Assembly. The right to information was not disputed, discussed or discussed, but borrowed, »unfortunately«. If that right had been debated, it would have become easier to market and explain to the public. As for the result, it was different, and what came out is an elitist text, no one stood on it, and if it had been erased from the draft, no one would have noticed his absence, and this is not an achievement.

The founding body for drafting the constitution, which contains 60 members, contains masters with enlightened legal thought, such as Hadi bou Hmra , an apprentice in France, who tried to inculcate the Constitution, and the United Nations was used to write the constitution in accordance with international standards, making it a right such as access to the information.

The presence of some human rights activists within the commission has added many rights, as well as making them flexible in listening to civil society organizations. It is possible to say that the door to rights and freedoms in the Libyan draft constitution is fairly acceptable, as is the judiciary, and that the right to information was derived from other constitutions after many meetings. An example is the University of Benghazi, which has studied 182 constitutions from around the world, and members of the commission met with members of tunisia's National Constituent Assembly to share experiences. The mention of the right to information in the draft constitution was not a response to a popular demand, but rather to try to develop the human rights system.

Laws and/or decrees:

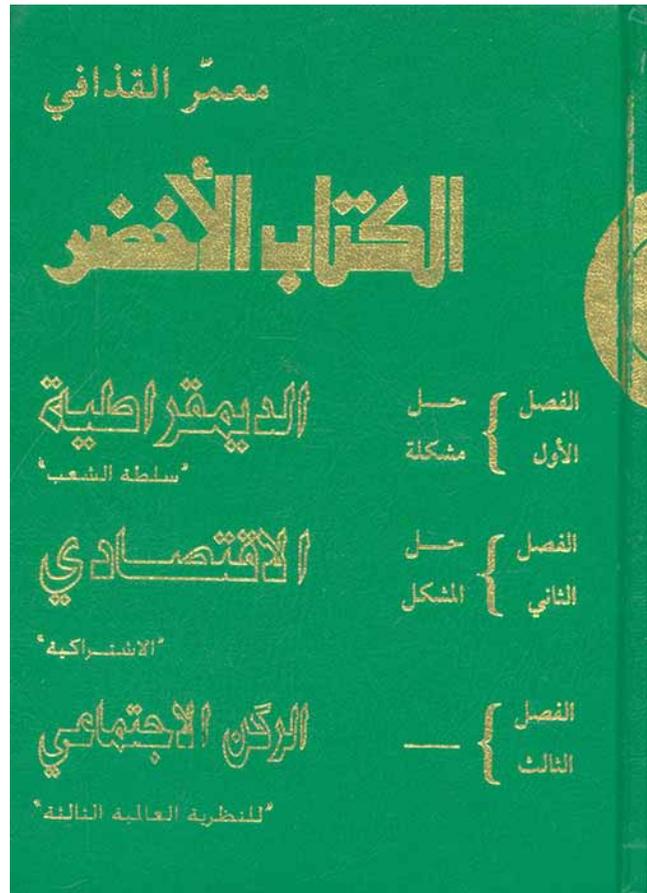
1. Penal code:

The law was passed in 1954 and has been revised more than 20 times, most recently in 2014, to prevent harm from the February 17, 2011 revolution. This law robs the right to information, enabling access to information to be confronted with the issue of professional confidentiality, state security or publication related offences. This law is still in effect.

Article 64:

«Taking into account the author's responsibility, except in cases of participation, if a crime is committed through the periodic press, it shall be punished according to the following:

Provisions: The responsible director or editor who does not prevent



the green book

publication when there are no contraindications resulting from force majeure, emergency accident or material or moral coercion that cannot be paid.

If the act is a felony or misdemeanor with criminal intent, the prescribed punishment for the offence committed with its opponent shall be applied up to half, and if the act is a misdemeanor or offence, the penalty is applied to the offence.

In the case of nonperiodic publication, if the author is anonymous, untreatable or does not exist within the territory of the State, the previous provisions apply to the publisher, if this is unknown or punishable or does not exist within the territory of the State, the

character shall be punished.»

Article 65:

«The provisions of the previous article also apply even if the provisions of the laws on publications and the publication of periodicals and non-periodicals are not taken into account. If the persons described in the previous article are unknown, not punished or not in the territory of the state, anyone who distributes the publications in any way is responsible for the crimes mentioned.»

These articles can explicitly harm the freedom of printing and information and, consequently, the right to information from media sources.

Article 171:

«Anyone who provides a foreign government, one of its agents or any other person acting in any way and by any means shall be sentenced to death with a secret relating to the defence of the country or any similar secret. The same penalty shall be imposed on anyone who obtains such a secret in any way with the intention of disclosing it head or by means to a foreign government, executing it for the benefit of a foreign state or making it totally or partially incapable of benefit way access to disclosure.»

Such in any way with the intention of disclosing it head or medium to a foreign government or executing that secret for the benefit of a foreign state or making it not fit for use in whole or in part. «

Article 236:

«Any public official who violates or misuses his duties shall be sentenced to at least six months' imprisonment by disclosing official information that must remain confidential, or facilitating in any way access to disclosure.»

Article 237:

«A maximum of one year in prison or a fine of not more than 200 Libyan dinars shall be punishable by imprisonment, neglect or suspended by a public official. If a public official is a judge or a member of the Public Prosecutor's Office, he or she shall be deemed to be incapacitated, negligent or disabled if the necessary legal requirements are met for his or her litigation, and the penalty is doubled.»

These articles concern the general staff and affect the right to information and their possible relationship to the provision of it. Although the first provides penalties for disclosing or facilitating official information, it provides penalties for those who fail to perform their work, which may be the provision of information, if this is regulated and provided by a law on information.

Restrict article 236 to provide information, and give an example, such as finding a secretary who blinks at the door of her office - a lower-level employee - and requests a meeting minutes, the duration of which may be accused of divulging a professional secret, and become scarier in every paper she provides.

Article 284:

«A maximum of one year in prison and a fine of between 20 and 100 dinars or one of these penalties shall be punished by anyone who broadcasts in a press manner or in any other public manner in a statement of a criminal case that has been secretly examined or broadcast the contents of documents or papers relating to the investigation of a case that must be kept confidential by law. . This provision does not apply to the documents and grounds of the investigation that he subsequently made in a public debate and generally does not apply to other judicial criminal proceedings after 30 years of adjudication or earlier if the Minister of Justice has openly authorized publication. In the circumstances set out in the first paragraph of this article, it is not punishable merely by the publicity of the case or only for the publication of the judgment.»

Article 285:

«In other cases where the previous article's provision applies, the courts may, in the view of the type of facts of the case, prohibit, in order to maintain public order or morals, to publish all or all or some of the sentences in public and anyone who otherwise shall be punishable by imprisonment for up to one year. A fine of not less than 20 dinars and not more than 100 dinars or one of these penalties.»

Article 286:

«Anyone who publishes in any way publicly or unfaithfully publishes secret court proceedings or is misquoted shall be punished by the penalties mentioned in the previous article.»

While the three articles in question relate to information on the conduct of trials, they restrict the right to information in confidential criminal cases, or in cases that are not confidential, requiring the preservation of «public order or morals» to prohibit the publication of information of their own. Article 285 limits the restriction of the right, by 30 years of adjudication of the case, or if authorized by the Minister of Justice. Article 286 punishes the inaccurate publication of public hearings in court.

2. Law No. 76 of 1972 on publications

This law regulates the press and printing sector, and controls their borders, and has been criticized for limiting the right to information and expression, and indirectly, the right to information.

Article 7:

«In addition to the conditions contained in the advanced materials that must be met by the owners of periodical and semi-periodical publications, presidents and members of its boards of directors, and the editors and editors of the press, publications and media, they must all be faithful to the message of the press, publications and the media. For its work ethic, working to achieve its goals in the service

of the public is committed to the following:

- a) Work to verify the authenticity of the information before it is published and to correct what is found to be the error in its publication.
- b) Ensure that information is obtained in legitimate ways.
- c) The public should not be preoccupied with what is not useful or what is commonly vulgar arouses instincts or makes individuals and families famous for moral scandals.

Article 29:

«It may not be published in any publication:

- ◉ The deliberations and decisions of the Revolutionary Command Council and the Council of Ministers without the permission of the competent authorities.
- ◉ Movements of the armed forces and related to their organization, mobilization, formation, number, weaponization, signals, positions, training or the names of their associates in relation to their positions, except with the permission of the Commander in-Chief of the Armed Forces.
- ◉ Secret trial and the texts of its lecturers.
- ◉ Cases that the courts issue a decision prohibiting their publication.
- ◉ Questioning the objectives and principles of the revolution.
- ◉ Calling for class or individual rule.
- ◉ Denigration of recognized religions and religious doctrines.
- ◉ Violation of the sanctity of morality or defamation of people's reputations.

- ◉ Photographs of the executed without permission from the competent authority.
- ◉ Tariffs or the decisions of the supply committees concerning pricing, import fees or currency decisions before authorizing their publication.
- ◉ The negative side of any topic or issue and ignoring the positive side with the intention of misleading the public.
- ◉ What provokes the sedition of doctrines, revenge or the call of ignorance. News that would devalue the national currency or government loan bonds or undermine confidence at home or abroad.

Any violation of the provisions of this article shall be punishable by imprisonment and a fine of not more than 1,000 dinars, with no more severe penalty stipulated in the Penal Code or any other law. The publication of the publication may also be suspended by the decision of the competent minister and in this case shall follow the procedures provided for in article 33 of this Act.»

3. Law No. 20 of 1991

This law came after the drafting of the Great Green Document on Human Rights in the era of the above mentioned Jamahiriya and provides for a package of freedoms similar to the 1969 Constitutional Declaration, without explicitly stating the right to information, but to certain rights adjacent to it. This is a repealed law.

Article 8:

«Every citizen has the right to express and speak out about his opinions and ideas at popular conventions and in the mass media, and the citizen is not asked to exercise this right unless he is used to undermine the authority of the people for personal purposes. It prohibits the secret advocacy of ideas and opinions, the attempt to disseminate them or impose them on others by inducement, force, terrorism or falsification.»

This article provides for freedom of expression, but it limits it inaccurately, or when it undermines the authority of the people, a vague concept.

4. Banking Act 2005

This law regulates the conduct of banks and banks and provides for several rights and duties, including which may affect the right to information. This law is still in effect.

Article 116:

«Taking into account the provisions of article 50 of this Act, the employees of the Central Bank of Libya, who are determined by a decision of the Governor, shall be competent to enforce the law in accordance with the provisions of this law, the regulations and decisions of the court, and they have the right to do so. »Records, accounts, and other documents, systems and electronic systems, and they have to keep the secret of what they are informed of, or to be aware of information or statements related to the performance of their jobs.»

This article gives the right to information to a particular group, i.e. employees of the Central Bank of Libya, and states that they must maintain confidentiality.

Article 118:

«Financial rewards may be granted to those who have guided, facilitated or assisted in the detection or seizure of a crime under this Act, within the limits and in accordance with the conditions under which a decision of the Central Bank of Libya's Board of Directors shall be issued.»

This article provides for the equivalent of those who provide information about crimes related to corruption or in violation of the Banking Act, in this way to encourage the circulation of information and its provision to the State.

5. Law No. 19 of 2013

This law regulates the work of the SAI, which specializes in the control of public funds. This law provides for the right of the SAI to obtain information to carry out its work.

Article 14 (para. 2 and 3):

«The Diwan may examine, except the documents provided in the laws or regulations, any document, record or paper that it deems necessary for the audit work, including confidentiality, and may hold what it sees as such documents, documents, records or other papers, or obtain photographs of them and their a We require any person entrusted with or responsible for such documents, records or papers to provide a signed certificate of authenticity of these documents, records or papers.

Those whose accounts are audited by the Diwan must submit their accounts on the dates prescribed by law and the Diwan has the right to direct contact with account managers, supervisors, superiors and those who take their place in the said entities of the competent officials and the right to write to them and request the data that it deems necessary Of them.»

Article 53:

«The Diwan submits an annual report on its activity, observations and recommendations to the state legislature and reports to the relevant authorities on the issues and topics disclosed by the examination and review work, which it considers to be so important and dangerous that it is necessary to consider them quickly.»

The law does not provide for the publication of this annual report, but it does not prevent it.

6. Law No. 29 of 2013 on Transitional Justice

This law regulates the course of transitional justice and the work

of the fact finding body. This law has the right to information, giving the Authority the right to access certain information and seeking to preserve memory.

Article 16 (para. 1, 3, and 4):

«The Authority has the power to order persons, search places, seize documents and evidence, and visit places relevant to the subjects they are investigating, and persons who are determined by the Chairman of the Truth and Reconciliation Commission have the power of judicial control in That's it.

The Commission and its committees must request any person to disclose any information, document or material that he or she has relevant to the subject of the Commission's research and to require any witness to take the prescribed oath of office.

The Authority is working to receive information in another country and the Ministry of Foreign Affairs is working to obtain approval from the destination country.

Article 17:

«The Commission shall submit at the completion of each file:

- ◉ A total report with overall recommendations.
- ◉ A detailed report for each file separately attached to the overall report, with the detailed report including the following:
 - ◉ I'm not going to do that A full-statement of facts supported by evidence.
 - ◉ The findings of the study and investigation include an accurate definition of the extent of the damage, the liability and the persons involved.
- ◉ What the Commission has done in order to try to reconcile the

parties.

- ◉ Make recommendations on ways to deal with violations or resolve disputes, including taking action, measures, or referring persons or facts to the appropriate authority.»

Article 31:

«Anyone who fails to enable the competent authorities to enforce this law to have access to any evidence or documents in his possession or refuses to appear before the Commission of Inquiry and Reconciliation or its committees shall be punished with a term of imprisonment of not more than six months or a fine of up to 1,000 dinars.

These articles concern the Commission's access to information and how it is documented, but it does not expressly state in article 17 the publication of its reports or its participation with the public.

Effects

The consensus that the right to information in Libya has not known, and the evolution of the existence of this right in the constitutional legal framework, is evidence of the precise effects that have accelerated its presence in the legal framework.

1. Internal effects:

The absence of some traditional internal influences, such as civil society and the competent press, makes them a real influence, as their absence affects the failure to develop the right sufficiently to preserve it.

Although there are several articles and comments, they are not based on specific information, such as bakery's share of flour, which is unknown, or whether or not there is a conflict of interest on a subject. Social media sites have also moved the desire for information, but they are unframed questions, and yet they are impressive: «The

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محتويات العدد	
الصفحة	قوانين صادرة عن المؤتمر الوطني العام - ليبيا
613	• قانون رقم (11) لسنة 2014 م بإنشاء الهيئة الوطنية لمكافحة الفساد .
622	• قانون رقم (12) لسنة 2014 م بتعديل القانون رقم (10) لسنة 2014 م بشأن مجلس النواب في المرحلة الانتقالية . .
624	• قرار رقم (1) لسنة 2014 م في شأن تشكيل لجنة لتقصي الحقائق وتحديد مهمتها .
626	• قرار رقم (2) لسنة 2014 م في شأن اعتماد انتخاب مقرر المؤتمر الوطني العام .
627	• قرار رقم (3) لسنة 2014 م في شأن قبول استقالة .
628	• قرار رقم (4) لسنة 2014 م بشأن إعلان حالة التمسير والتعبئة العامة .
630	• قرار رقم (5) لسنة 2014 م بشأن وقف ومنع وصول بث بعض القنوات الفضائية .
632	• قرار رقم (6) لسنة 2014 م بشأن تفويض رئيس المؤتمر ونائبه في معالجة الأوضاع الأمنية الطارئة .
الهيئة على ظهر الصفحة ← نشرات بأمر وزير العدل	

Libyan official has become afraid of Facebook and social networking sites a lot.»

An important element and influence is a complete miss: interest and personal initiative. No one cares about looking for information, although it does not reject it. There are even those who avoid knowledge of information so as not to get into trouble for security reasons. The culture of fear has become more than Kadhafi's time.

This was instructed to the militias. By virtue of its strength on the ground, it benefits from commercial credits and funds itself, which is the same situation in eastern Libya under Haftar's leadership as well. The SAI was prevented from accessing the expenses of the military institution and its leaders in eastern Libya, and that institution

remained unknown in the sources of funding, as was the military investment authority, a black fund for which nothing is known or how to dispose of it and its resources and profits, as well as control the institution.

Military with foreign labor that passes in its path and pays fees, despite these resources, its budget is unknown.

There is also the absence of an internal influence of the state, which is very important and even stands in the way of any serious demands for information, namely the absence of archives of documents and information within Libyan national and official institutions. Also, after the revolution, internal welcome and division, some parties deliberately destroyed the remaining documents and documents to conceal their excesses, and some also kept a collection of those documents or documents held by the official national institutions in order to threaten other parties to the conflict.

2. External influences:

Contrary to internal influences, the external ones are clear and clear, and its features have been evident since the beginning of the talk of transparency and information in 2004, and it seems that it is the one that manages the trend towards the right to information, or not.

Since 2003, the imf's first report on Libya stated that «a comprehensive strategy needs to be developed to strengthen the management of oil revenues. Address governance, transparency and accountability issues in relation to the management of the Libyan Investment Authority.» After Libya joined the IMF countries in 2005, in its first assessment, it was stipulated that the transparency of government transactions would be increased, that there was a lack of transparency in the budgeting process, that economic workers should be improved, and that transparency and accountability should be provided in the Oil Revenue Fund.

International pressure for economic reforms and the fight against

corruption has been present, directly and clearly present in Libya, but it does not touch on the right to information in particular. International attention is based on resistance to corruption, which undermines the building of a Libyan State. Public policy was previously with the blackout to give a greater chance of manipulation, but the difference was made with Ghassan Salameh heading the UN mission, when the fight against corruption became a priority, civil society organizations have changed their activities by building on new funding priorities, as financiers support the activities of Anticorruption, having previously been a financial lyceter, has something to do with elections, democratic transition and women's empowerment.

The UN resolution on intervention in Libya also gave the mission the right to monitor public spending, and it did not do so and did not respect the decision to the extent of the last mission headed by Salameh, which was concerned with the corruption case and issued a report on corruption suspicions at the Central Bank of Libya in Benghazi. It is under the control of General KhalifaHaftar. The responsibility for monitoring government spending assigned to the Mission, which consisted of periodic reports on the status of spending and corruption issues, was significantly shortened. The recent interest in good governance by the UN mission has also had an impact on the priorities of international financiers. Whose role before was marginal.

It seems that the interest of the funders for transparency will finally come to light, the partnership agreement that was passed by the World Bank on February 19, 2019, which is one of the scarce documents available on Libya, which defines the Bank's strategy in the country, and explicitly provides for the support of transparency, accountability and participation in Decision-making and provision of services.

However, the interest of the right to information organizations was present at specific stages, such as the drafting of the constitution. Article 19, published on July 1, 2013, before the constitution began to be drafted, is a policy summary entitled, »Libya: Protecting Freedom of Expression and Freedom of Information in the New Constitution. One

of its recommendations is that «the Constitution should define the freedom of expression as broad as the right to request, receive and disseminate information and ideas to cover all types of expression and means of communication and to grant this right to all persons. The new Constitution should provide that access to information should be guaranteed unless: (a) disclosure of information would cause serious harm to a legitimate protected interest. (b) That harm would outweigh the public interest in disclosing information.»

Transparency International has also devoted a clear scope to the right to information in its report on the Libya Integrity Index, published in 2014. It stipulated that «the law on the right to access information must be developed, adopted, and enforced, as well as guarantee Easy access to laws, rules, and regulations by grouping all basic documents in one central location, for example, in an electronic database or website. «

The external impact is also the pressure of foreign companies, those companies interested in accessing information in order to support and develop their activities as well as there are companies that adopt lawsuits against Libya interested in obtaining the parameters to support their file and issues.

Applying the right to information

It is difficult to track the application of the right to information in Libya because of the absence of clear and reliable mechanisms, and the fragility of the legal framework, the political context and the government. Nevertheless, there can be no sign of this right being killed by citizens, or provided by the state.

State obligation to guarantee the right to information:

The disintegration of Libya's state structures remains the main obstacle to its accountability for the provision of rights, including the right to information. It is one of the obligations previously provided by the state, which it is now unable to provide. The challenge lies in the clarity of sources, such as Libya's oil production. This information

is supposed to be available on the National Oil Company's website, but the sites are either not erased or non-existent, and there is no guaranteed route for information.

An example of the impact of the state's failure to guarantee the right to information to close the oil meters in the oil crescent area in 2013, which made it a matter of public opinion, and the citizen felt that the information was missing from it. The impact of this blackout was a major eastwest war, with the military leadership in

From the sources of information provided by the state officially also the official newspaper, but it is only a source of jurists, and although it is important, such as its publication of the state budget, which is done by the revolution, there are no real demands to make it electronic, so that it becomes available to all.

eastern Libya accusing the National Foundation of selling oil without meters, and this talk was confirmed by the group of parliamentarians of the Tobruk parliament of the interim government led by Abdullah al-Thani. Oil pipelines were closed for a year and a half, causing the economic crisis in Libya. The biggest problem is that the National Oil Corporation does not have information to provide it to the citizens and fix the fallacies that are traded.

From the sources of information provided by the state officially also the official newspaper, but it is only a source of jurists, and although it is important, such as its publication of the state budget, which is done by the revolution, there are no real demands to make it electronic, so that it becomes available to all.

However, there are structures that respect the right to information, for example, the Supreme Court, which has been publishing its rulings electronically for more than two years. This is due to the individual initiative of the Technical Office of the Supreme Court, not a state-approved application of the right to information.

The publication of the REPORT of the SAI by the Chief of The Court is also a commitment of the state to the right to information. Although the legal framework does not state that it should be published explicitly, public participation in the report's findings in May 2018 set a precedent that made the debate on corruption based on precise facts and figures, although the state institutions concerned objected to this report.

The state's commitment to providing information at the local level is also reflected in a manual by several ministries, including the Ministry of Local Government, on social peace and local development in Libya. This guide shows that access to information is a component of social peace, dispelling rumours, and contributing citizens to decision making.

It is difficult to assess the actual impact of this evidence on the ground, but it is evidence of a growing awareness of the right to information at the management level and its orientation.

Manifestations of the exercise of the right to information just like the state's intermittent commitment to providing information, the practice of the right to information seems sporadic and unsystematic by the Libyan street.

The exercise of this right is not a priority for the Libyan citizen, who has been economically exhausted, and has focused most of his focus on not losing his salary, electricity and crowds in front of banks in order to obtain financial liquidity. However, these basic concerns were sometimes the spark of popular campaigns, including the «Nabi We Know» campaign, which focused on collecting signatures from citizens to sue the Central Bank of Libya in order to oblige banks to declare their liquidity, how many effective bank accounts they

have, and whether the distribution of liquidity is fair. Despite the importance of this campaign, there was no public mobilization around it, and those interested acknowledged that there was only a liquidity problem. There is also an economic risk due to judicial proceedings for such a campaign, because it may lead to the bankruptcy of banks, because the problem is not a failure of the banks, but a problem in the central bank, and this is a general political problem.

There is another more spontaneous aspect of the citizen's claim to information such as accountability, recalling an argument between Marwan AlTashani and the Minister of Sports, when the second asked about the criteria for dividing the budget on sports clubs. Through his Facebook account, the minister replied, asking him to leave sedition. This reluctance to provide information by the minister has led to widespread criticism on social media, underscoring the desire to exercise the right and the need to frame this popular demand.

In other cases, the demand for information is also made, such as the demand for information, such as the need to know what happened about human rights violations, those responsible for them, who bomb civilian sites, prisons, those who run them, and those who prevent detainees from leaving. The lack of information in these violations led to chaos that made the archive scattered among citizens, a spontaneous result of the claim of those who were missing, who were focusing specifically on security documents.

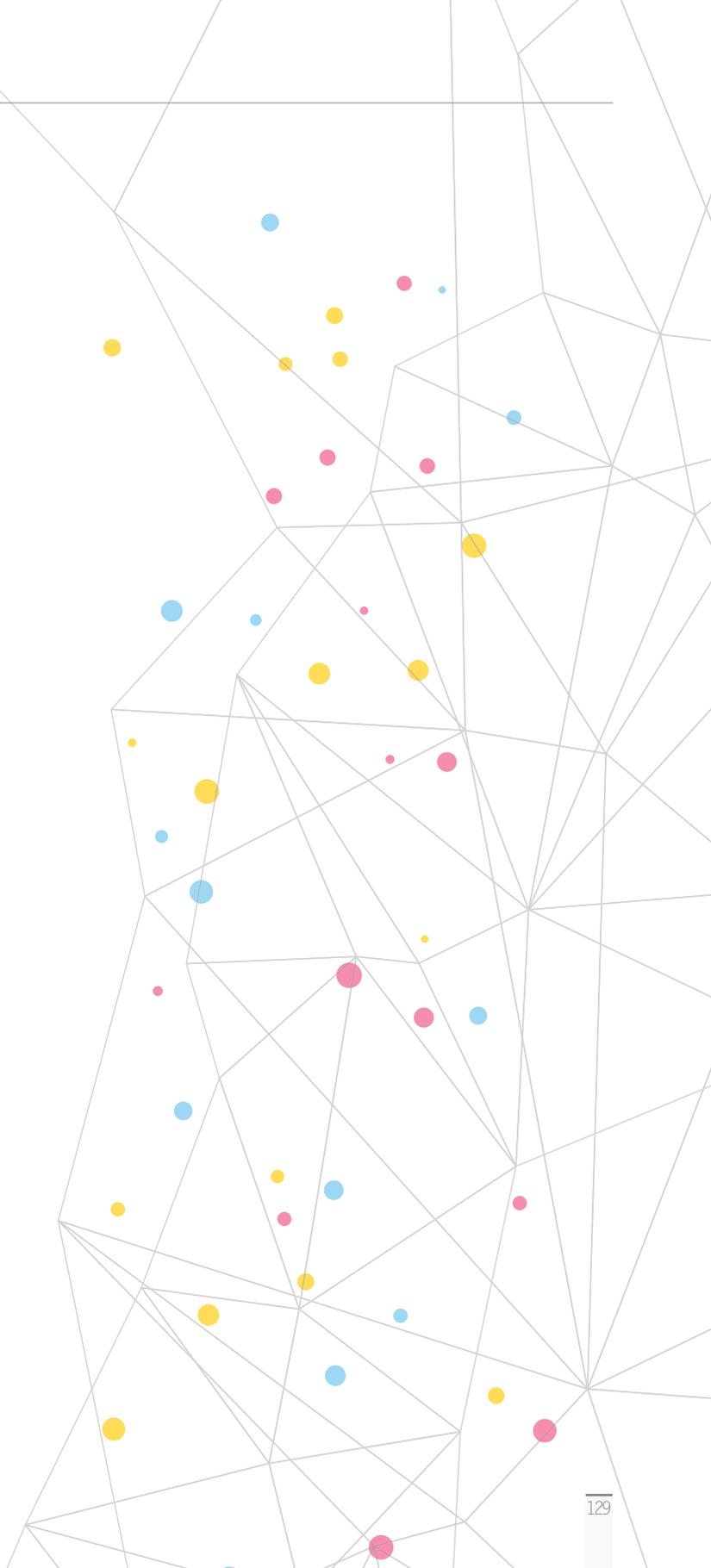
There are also associations that have called for the continuation of the work of parliament and its sessions, and some complained on social networks about the closure of parliament and the passage of laws without sufficient information about them. These associations demanded the transparency of parliament, although it is difficult to talk about legislative performance after 2014 and the war, and the legitimacy of the structures in Libya makes the exercise of the right to information unclear.

Akram alNajjar shared his personal experience in obtaining information during a campaign in October 2016 on article 424 of the Penal Code, which relates to the marriage of the rapist.

AlNajjar explains that he searched for information and statistics in Tripoli, his city, and that he had turned to the official channels, the criminal investigation system. He was suspended for six hours for investigation, although he sent an official letter to the Department explaining his demand and purpose. He was also asked who told him that the phenomenon he wished to study existed, and that he eventually sought personal relationships to obtain information. According to Akram, the official's mind is trained that the information is the preserve of the state.

There is another local experience with H2O, which has tried to work on transparency and establish these principles in Libya. Through the establishment of a website for the municipality of Souk AlJuma to publish its programs, agreements and contracts for the establishment of projects, to be available to all, an agreement has been reached with the municipality in this regard.

However, the project was stopped despite its start since 2013, and the residents of The Municipality of Souk Friday searched for the reasons for stopping the project, to discover that it belongs to parties of the municipality pushed against it, fearing that the information may cause problems for the municipality, and that it may open the door of several discussions, which will make the progress of the municipal work.





Tunisia

Despite the fact that the right to information is guaranteed in Tunisia at all legal levels: from the Constitution to the treaties that have been ratified, to the laws that have expressly guarantee it. And although this right has reached an advanced stage in terms of legislation, it has not yet become a mature popular demand, in the effectiveness of its application or in the expansion of its popularity. This historical development of this right, from the revolution of 17 December to 14 January 2011 and beyond, Explains it quite well, and illustrates the close connection between all freedoms and the right to information.

The multiplicity of actors involved in public affairs after the revolution was one of the most important factors for pushing toward access to information, including civil society components, the state legislative, regulatory and judicial structures, independent bodies, and journalists. Each of them has a different angle to resort to the right to information, its importance, and the extent of its development.

However, the legal text's clarity was a result of external effects that contributed to putting the cornerstone for the right's development, from holding the second stage of the World Summit on the Information Society in Tunisia, from 16 to 18 November 2005, to mentioning "the right to access administrative documents" in a legal frame in 2011, despite the huge difference between the repressive context in 2005 and the revolutionary one in 2011.

The right to information must be placed in its historical context in pre-revolutionary Tunisia, to make it clear that right 's development cannot be limited to the state's commitment to it in its general policies speeches, but that there is a popular demand to turn this commitment into a reality in which whenever a citizen demands information, the state provides it.

The question of the right to information effectiveness as an anti-corruption mechanism in Tunisia is legitimate in an evolving context, both legislatively and politically, and the chances of good governance and anti-corruption can be assessed accordingly.

The most important political and social phases

9 September 1857

Mohammed Bey announcing the Fundamental Pact

This document represents the first constitutional text providing the fundamental rights for the Tunisian population.

26 April 1861

The first constitution approved parliamentary representation

The Great Council was able to enjoy the functions of enacting, revising and interpreting laws, setting the annual budget and taxing fundamentals, and holding ministers accountable.

23 July 1860

Issuance of the First Edition of the Official Gazette

The official gazette "Arra'id Attunisi" is considered one of the very manifestations of periodical automatic access to information, it was a newspaper for all subjects before, but it only publishes official updates now.

April 1864

Bey's decision to double the subsidy (tax)

Doubling the tax was a result of misusing the state's resources and its fiscal deficit, The uprising that started from Kasserine and spread to all sides was stopped and so was the doubling taxes decision

March 1920

Creating the Tunisian Free Constitutional Party

The party's program was based on nine points, including a government accountable to a parliament, the separation of powers, public freedoms, and others

January 1920

Publishing a book entitled «The Martyr Tunisia» in Paris

This book describes the reality under the French protection, as land confiscations and individual freedom violations

1919

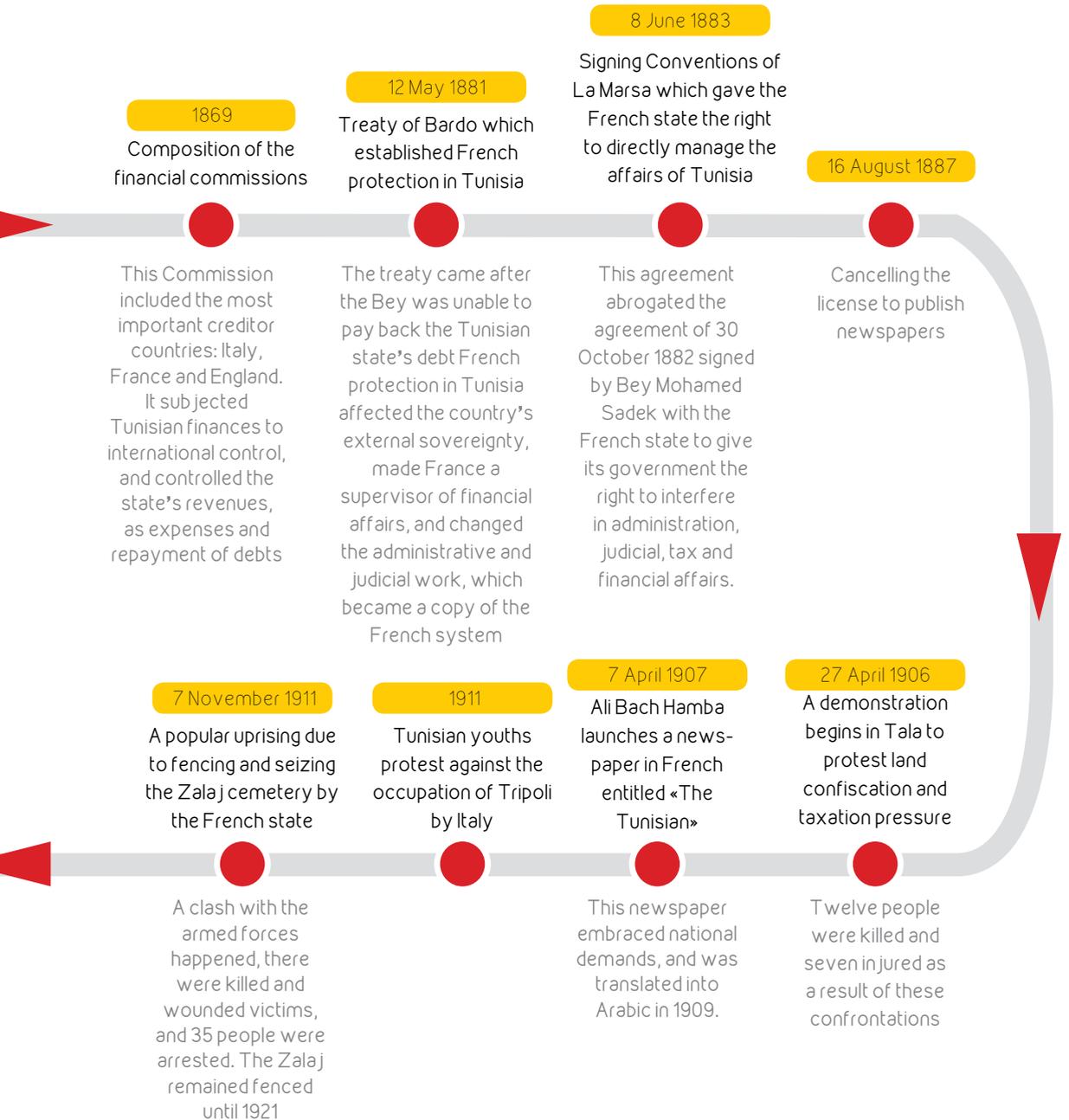
Creating the Tunisian party in the capital

This party demanded the drafting of a constitution, and fought against the false propaganda published by the French state to beautify the Tunisian protection's image and make it civilized.

February 1912

An Italian tram driver run over a man in the Bab Souika popular area

Tramway was boycotted by Tunisians and a campaign was launched for rights by its employees to improve financial compensation and working conditions the Tunisian Youth Association was suspended.



5 August 1920

A demonstration in Tunisia against the increase of French influence in Tunisia economically

The colonialist's economic power in Tunisia increased after France's economy was damaged during wars agricultural colonization policies was applied which increased the prices of basic materials

December 1924

Forming the General Confederation of Tunisian Workers by some Tunisian trade unionists

This Confederation held meetings to look into the Tunisian worker's problem and support strikes

November 1925

Trial of two Tunisian trade unions accused of conspiring against state security

This happened after the Tunisian Free Constitutional Party abandoned supporting the Confederation and its call for workers to quit it in February of the same year.

29 January 1926

The first Tunisian union was dissolved and its leader, Mohamed Ali El Hami, was banished.

This dissolution happened after a series of so-called «unfair decisions», including the banning of several newspapers

October 1944

The National Movement endorsed a list calling for internal independence

This happened after various national orientations compilation and submitting the list in an expanded committee on 14 November 1944.

9 April 1943

Habib Bourguiba returned to Tunisia

3 June 1943

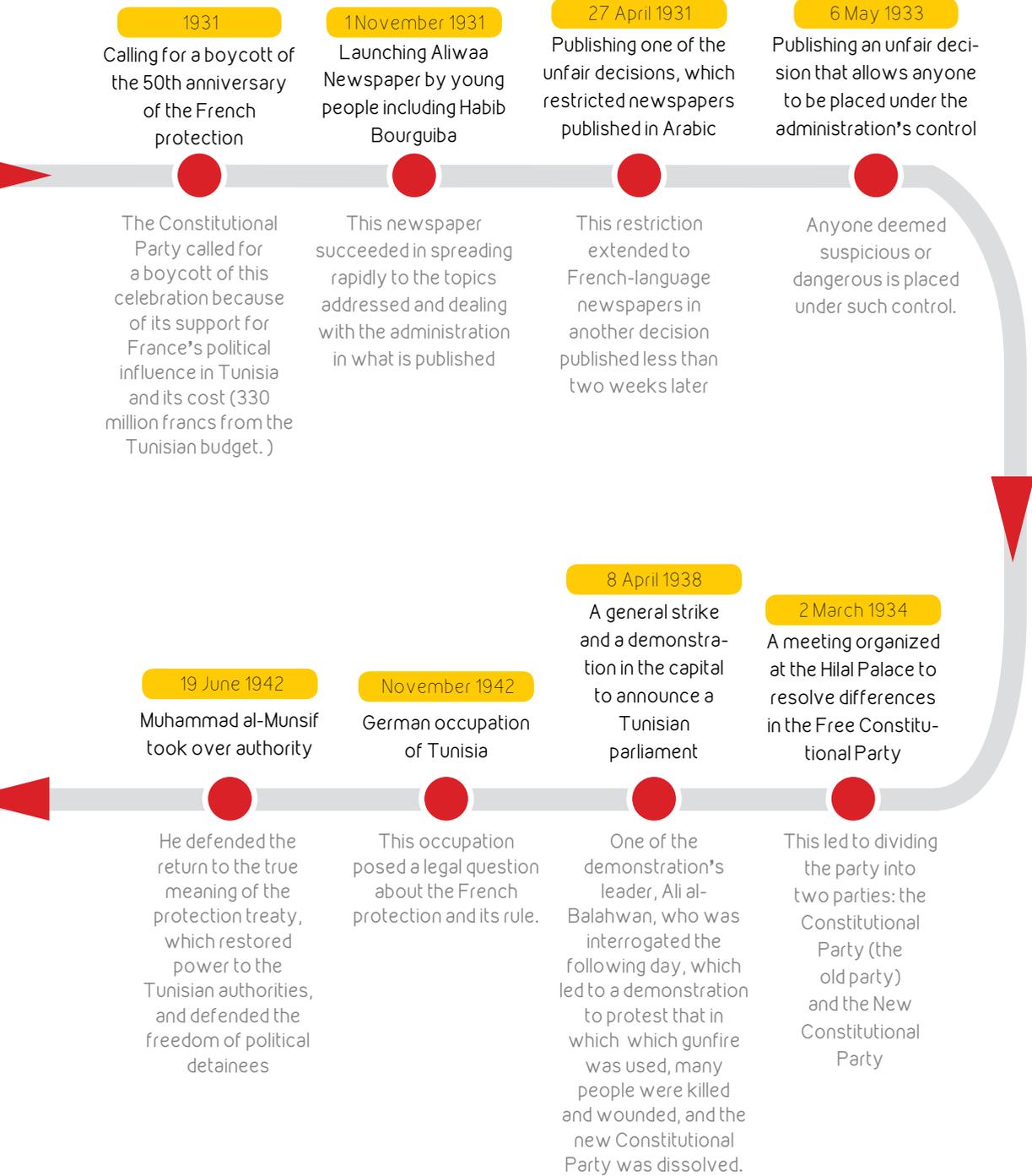
Confiscation of all Tunisian sovereignty

This decision was followed by another decision on 27 March 1944

May 1943

Moncef Bey deposed by the French colonial authority

This happened after the Allies' victory in Tunisia, which helped the French leadership to attack those who supported the axis, who are the national movement's popular base, despite the German side leaders caution



20 January 1945

Creating the Tunisian General Labor Union

This came at a time when statistics showed that 36% of Tunisians are malnourished and school enrollment reaches 12% among children, Peasants General Union was established in June 1946, that was followed by establishing the Union of Industrialists and Small Traders, in January 1947

December 1946

Bourguiba's visit to New York to attend the UN session

This came in the framework of searching for external support for demands of Tunisian internal independence

5 August 1947

General strike in Sfax

General forces opened fire on the strikers, killing 29 people and injuring 57, and a series of arrests took place

1948

Major strikes Year

A strike began in the southwestern and northeastern mines in February, extending for 45 days, and 110 days of strike at the Bousalem farms in the northwest.

September 1958

Creating the Central Bank of Tunisia

A new national currency, the Tunisian Dinar, was issued, and this was the beginning of Tunisia's banking sector

8 February 1958

French aerial bombardment of Sakiet Sidi Youssef

This happened after the Tunisian support for the Algerian revolution, and receiving the wounded in that village, and the French forces had issued a decision authorizing the pursuit of Algerians inside the Tunisian territory, on 1 September 1957.

25 July 1957

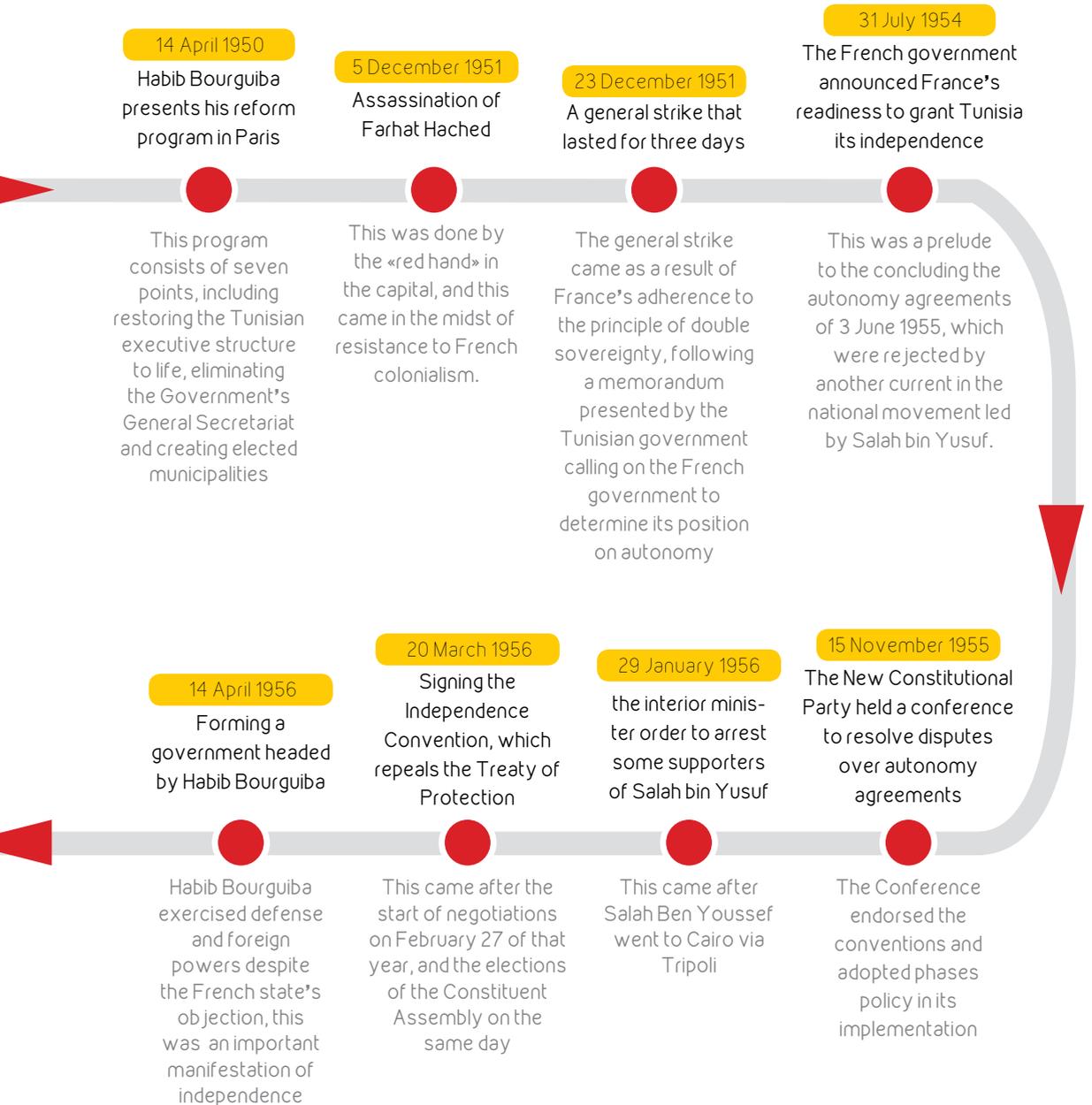
Declaration of the Republic and abolition of the monarchy

Habib Bourguiba assumed the President's duties, which was practiced by the Bey

13 August 1956

Approval of the Personal Status Code

This law brought about radical social change, especially for women



1 June 1959
Ratifying the second constitution of Tunisia

November 1959
Electing Habib Bourguiba as president through the first direct presidential elections

19 July 1961
The Evacuation Battle

11 August 1961
Assassination of Salah ben Youssef

This came in the framework of searching for external support for demands of Tunisian internal independence

This battle began in Bizerte and extended to 23 July, it was an armed confrontation between the Tunisian army and the French forces. This battle was an inevitable consequence of France's strengthening of its civilian presence despite the Protocol of Independence

This came after a series of threats made by his supporters to Bourguiba, including several attempts of assassination and the Tunisian government's responded by arresting some of the supporters, and torturing others, which led to the death of some of them.

1 October 1985
Operation Wooden Leg in Hammam Chott

January 1984
Tunisian bread riots, that happened as a result for increasing the prices of bread and some other items

1 November 1981
holding of a legislative elections that many considered to be fraudulent

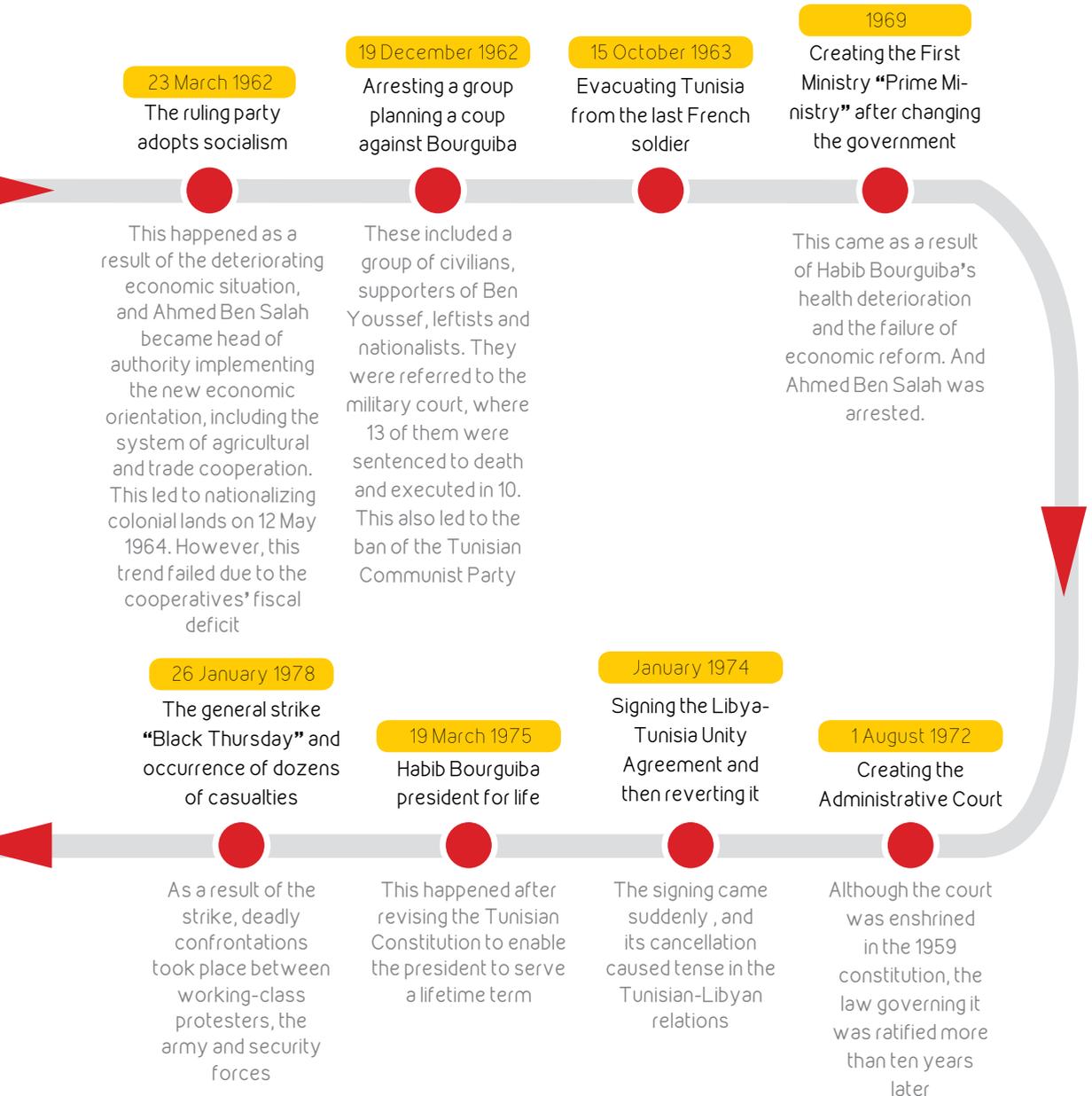
July 1981
Mass arrests for the Movement of Islamic Tendency supporters

Israeli air strike on The Palestinian Liberation Organization "PLO" headquarters in Tunis, Dozens of Tunisians and Palestinians were killed. Bombs were dropped by eight Israeli aircraft

The unrest began from Douz on 29 December 1983 as the city witnessed demonstrations on 1 January and the army intervened resulting in casualties. Students also participated in the protests. A state of emergency was declared and many were arrested, and then a retreat from the announced procedures was announced

The Socialist Constitutional Party and the Tunisian General Labor Union in one national front participated in this elections, and also three other parties including the Tunisian Communist Party and independents. The National Front won all the seats

This was the result of the movement's supporters attempt to organize popular meeting in Sousse. The defendants were tried for forming an unauthorized association and spreading false news and undermining the president's dignity and the sentences were from 6 months to 10 years



7 November 1987

Ben Ali, the prime minister and interior minister, coup on Bourguiba

Ben Ali acted upon receiving a report from the Health Committee which examined Habib Bourguiba's ability to perform his duties

16 December 1987

Creating the Constitutional Council

This took place in the context of reassuring public opinion, it came along with decisions to abolish life term presidency by amending the Constitution, and abolishing State Security Court on December 29 of the same year.

April 1989

Organizing presidential and legislative elections

These elections took place after amending the Constitution in July 1988 in order to increase the president's powers, Several opposition figures supported Ben Ali's participation in these elections. However, the results of the legislative elections were disappointing as the opposition won no seats

7 January 1991

Creating the High Commission for Human Rights and Fundamental Freedoms

This body included representatives from several Non-Governmental Organizations and national figures

27 January 2011

Kasbah Sit-in 1

Israeli air strike on The Palestinian Liberation Organization "PLO" "headquarters in Tunis, Dozens of Tunisians and Palestinians were killed. Bombs were dropped by eight Israeli aircraft

14 January 2011

Ben Ali fled

Ben Ali fled the Tunisian state with his family and headed to Jeddah, after spreading protests since 17 December 2010. More than 200 people have been killed and 510 injured, and the official list of casualties has not been published yet

17 December 2010

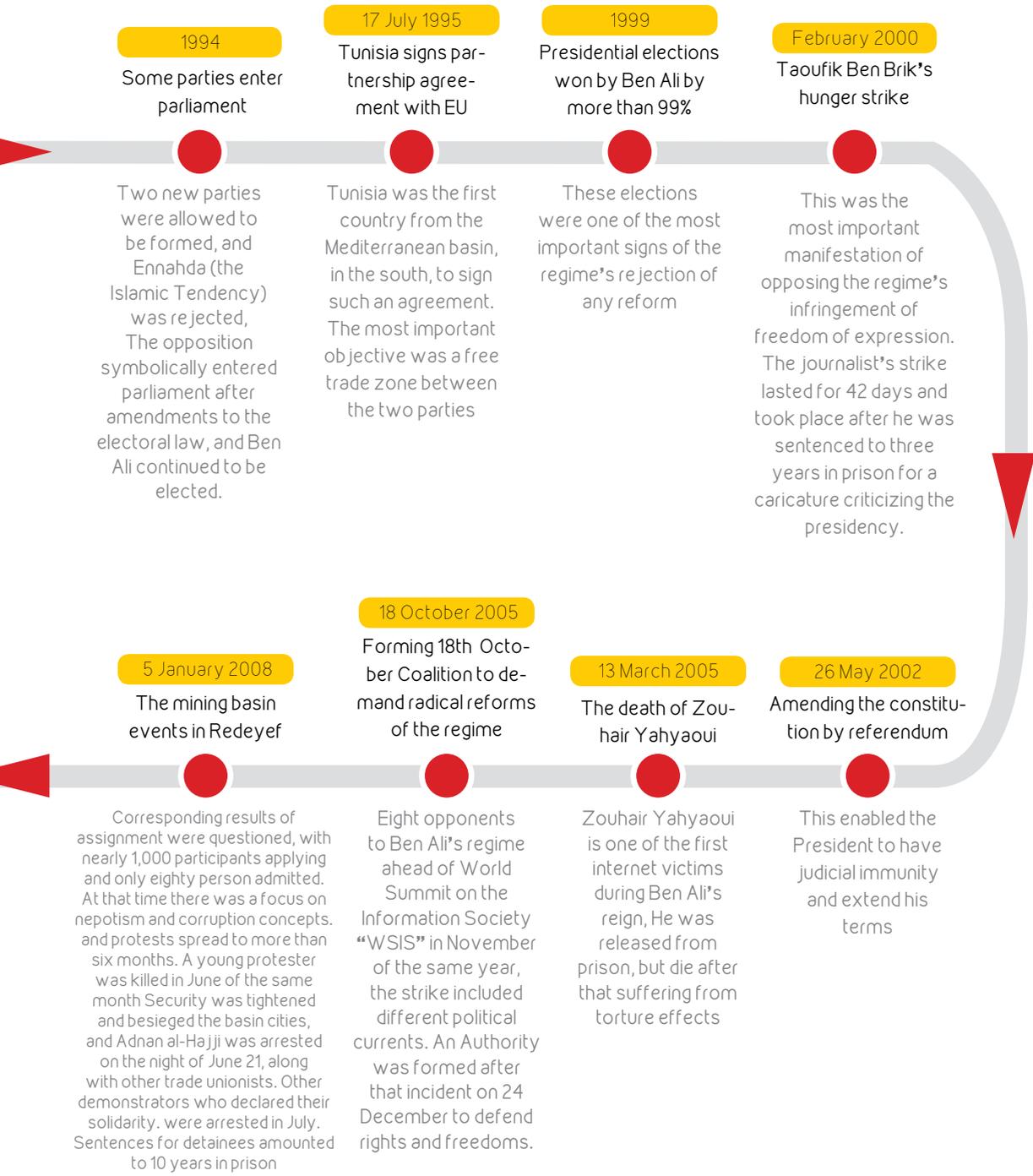
Bou-Azizi sets himself on fire

Protests spread in Sidi Bouzid and then the rest of the republic. The circulation of information on social media contributed to this

2010

A campaign calling Ben Ali to run in the 2014 elections

This campaign took place came less than a year after the elections preceding it, as a series of strikes human rights and social demands, and the fight against corruption emerged, and an opposing campaign for extending his term also took place.



3 March 2011

Kasbah Sit-in 2

This sit-in was behind the dismissal of Mohamed Ghannouchi and replacing him by Béji Caid Essebsi as head of the transitional government that was responsible for organizing the elections.

9 March 2011

Dissolution of the Democratic Constitutional Rally (DRC)

This was based on a decision delivered by the Court of First Instance, and was accompanied by a change to all nomenclatures related to the party or Ben Ali

15 March 2011

Establishing the High Commission to achieve the revolution's goals, political reform and democratic transition

established after merging the Revolutionary Protection Committee and the Supreme Committee for Political Reform as a way of reconciling revolutionary legitimacy with the formal structures of government. The goal was to secure a democratic transition in Tunisia. This body was responsible for approving important laws before they were issued as decrees, such as the electoral law and the law on associations and parties.

23 October 2011

Constituent Assembly elections

These elections produced a Constituent Assembly to draft a new constitution, and grant confidence to a government, Moncef Marzouki was elected as president.

26 June 2015

Sousse terroristic attacks

An armed attack occurred on a tourist hotel, leaving 40 dead and 38 wounded. The Islamic State (IS) claimed responsibility for the attack.

18 March 2015

Bardo National Museum terroristic attack

A terrorist attack took place in the Bardo Museum which adjacent to the Assembly of the Representatives of the People, in which people were held hostages, 22 people were killed and 45 wounded

26 October 2014

Organizing the first legislative and presidential elections

Elections for the Assembly of the Representatives of the People were held and Nidaa Tounes won the highest number of votes, where Ennahda came second, The presidential elections were then held on two rounds, in which Beji Caid Essebsi won.

28 January 2014

Giving confidence to Mehdi Jomaa's government or the technocrat government

This government continued after organizing elections of the Assembly of the Representatives of the People which then gave confidence to the government of Habib Essid, on 6 February 2015.

10 December 2011

Ratifying the Law on the Provisional Organization of Public Authorities

This law replaced the Law on executing the Decree Regulating Authorities, It was promulgated on March 23 of that year, and also replaced the 1959 Constitution.

This law, was called the Small Constitution, it regulated institutions and their powers until the 2014 Constitution was ratified and parts of were enacted

24 December 2011

Giving confidence to Hammadi Jebali's government, the first government after the constituent elections

This government 's term extended until 13 march 2013, it was called the «Troika» coalition where it represented three parties: Ennahda Movement, the Congress for the Republic (CPR), and the Democratic Forum for Labor and Liberties (Ettakatol)

27 November 2012

Shooting events in Siliana

These events were the result of protests calling for development, in which protesters demanded the dismissal of the governor, and the security force confronted the protesters with shot guns and fire arms leaving many permanent injuries

6 February 2013

Assassination of Chokri Belaid

The leftist leader was assassinated in front of his house with gunshot wounds, he was a staunch critic of the government's performance. The assassination caused a political uproar in the country, after which a general strike and a historic funeral took place. The resignation of Prime Minister Hamadi Jebali came days after the assassination

26 January 2014

Ratifying Tunisian Constitution

The post-revolution constitution of the republic was ratified by the National Constituent Assembly with 200 votes in favor, 12 objectors, and 4 reservations. The place of Mohammed Brahmi remained vacant after his assassination.

5 October 2013

Initiating the national dialogue under the auspices of the «Quartet»

National Dialogue Quartet, which are Tunisian General Labor Union, The Tunisian Confederation of Industry, Trade and Handicrafts The Tunisian Human Rights League, The Tunisian Order of Lawyers made a framework for Tunisian political initiative involving several political parties, that put a commitment on the president, the government and the National Constituent Assembly, The roadmap included goals to get out of the country's crisis: to quickly ratify the constitution, forming a technocrat government after the resignation of Ali Laarayedh's government

25 July 2013

Assassination of Mohamed Brahmi

A Assembly of the Representatives of the People's member and prominent opposer for the government was assassinated fatally shot outside his home. The head of the Assembly of the Representatives of the People, Mustapha Ben Jafar, declared a national mourning that witnessed protests that was called " The departure sit in" in front of the Assembly's headquarters to demand the Assembly's dissolution and the government's removal

9 October 2015

Tunisian National Dialogue Quartet win Nobel Peace Prize

This tribute came for the dialogue's contribution in the democratic transition in Tunisia

20 August 2016

Yusuf al-Shahed's government gets the confidence of the Assembly of the Representatives of the People

This government replaced its previous one, which was headed by Habib Essid. This government came after President Beji Caid Essebsi expressed the need to form a government of national unity.

6 May 2018

Organizing the first municipal elections after the revolution and ratifying the constitution

These elections were held in all 350 municipalities of the Republic/ The surprise was in the sudden appearance of independent lists and winning seats that exceed the total seats of party lists. The elections were organized after being postponed for two times

25 July 2019

Beji Caid Essebsi's death

Beji Caid Essebsi died in the midst of a constitutional vacuum due to the absence of the Constitutional Court. His death led to organizing an early presidential elections, and Muhammad Al-Nasser, the Assembly of the Representatives of the People of Tunisia's speaker took over until its organization. A national funeral was organized for the President of the Republic.



The right to information's development in Tunisia

Access to information was not a well-developed right in the demands of various political, partisan, and civic parties, not in its current form. The most common civil rights were those relating to freedom of expression and media, it is an inverse relationship with access to information - the right to disseminate personal information from opinions, comments and criticism, but there was no clear claim to information from the opposite side, the state. However, oppressed opinions and criticism have often revolved around opacity and non-dissemination of truth, and this is one good aspect and reason for the claim for information.

Oppressing Tunisians before the revolution was not limited to official information stated by state structures, but also to information circulated electronically and outside editorial policies and state control. Many websites were blocked, especially those that were critical of the system, or those whose content could not be controlled, such as YouTube.

Adel Latifi criticized the World Summit on the Information Society (WSIS) held in Tunis in 2005, stressing that the summit «only concerns the Tunisian authorities and the organizing Authority, and that the average Tunisian citizen was not aware of this event, even with the flood of articles and long hours of radio and television broadcasts that have made the summit of information and the information society a daily news and a vocabulary that is almost taking place in the Tunisian's dialect dictionary” (Latifi 2005)

This pointed out to us that this summit was not the result of a real commitment by the state, or a clear development of the right, and The Right to information as an expression was brought about to the Tunisian reality before by a repressive police state without areal exercising of this right whether by the state or the citizens in a single paradox, The article also explains that political and civil action began in the mid-1990s, in multiple forms one such method was the proliferation and multiplicity of opposition websites on the Internet.



Tunisia was internationally renowned as “one of the most frequent and systematic Internet censors and seizers” as blocking took place on the World Summit of Information website itself, and Amnesty International website. (Center For Defending Freedom of Journalism 2010)

There are a variety of censors and multiple censored content sources ranging from «human rights and information sites to opposition party websites» to «machine translation sites and some encyclopedia sites». Also, «the lack of transparency in spending public finances did not allow for measuring the real amount of budget allocated in Tunisia and abroad by the public authorities to monitor the Internet.

With the continued censorship and ban policies on the Internet and restricting human rights organizations and civil society’s work in Tunisia, the Tunisian League for the Defense of Human Rights, the Tunisian Association of Democratic Women and the Tunisian Women’s Association for Research and Development launched in

September 2008 a “panic cry” for obstructing their work, access to their e-mail, and the disappearance of messages received by them . (Center For Defending Freedom of Journalism 2010)

This has resonated internationally and International reports focused on Internet freedom in Tunisia, including a March 2006 report by Human Rights Watch (Human Rights Watch 2006), The report mentions several names that have been imprisoned for circulating «false information», or for published articles, that criticizes the state and its policies That included Zouhair Yahyaoui, who was imprisoned for a site he had set up, with Mohamed Abbou, who was imprisoned for an article he published, and Abdallah Zouari, who was a political prisoner and a former journalist, who was prevented from broadcasting his hunger strike.

The mining basin events in 2008, which is considered «the longest social protest witnessed by Tunisia in the modern era (SWI 2008) represented a milestone in the social movement, and pillar also in the level of demand for the right to information, and the state’s resisting attempts to apply it. These protests erupted as a result of measures taken in connection with the phosphate mine in Gafsa in which its assignments integrity were questioned by the people of the region, who organized an open sit-in and cut off access to the phosphate company, and the railway that transports it. The protest lasted for nearly three months, However, the violence used by the Authorities was also met by a parallel media blackout, where «the official media kept silent,» and «journalists wishing to report the news were banned.» It can be aid that The right of citizens to access information in these events was violated.

« A hole in the blackout wall,» was made by “El Hiwar El Tounsi” channel’s coverage which took secret pictures and broadcasted it through the Italian channel «Arquares», and through the French channel «France 3 «.

Although the channel’s journalists provided little information about what was happening in that area, al-Fahem Boukadous, one of its journalists, faced charges of forming gang because he «covered

the protests in the mining basin of Gafsa governorate» and was imprisoned as a result.

« Ammar 404» is a name coined by Tunisian bloggers for the government's censorship of opposition news and political websites and dozens of blogs.

This clear naming led to a protest call by activists and bloggers in May 2010, which hundreds of young Tunisians responded to. However, the official request filed by Salim Amamou and Yassine Ayari at the Ministry of Interior to organize this demonstration in front of the Ministry of Communication at the time led to their arrest (Kelma 2010), which led to organizing a protest in Paris to support them, and to denounce withholding of information in Tunisia, on 22 May 2010. (manif22mai 2010) All of these events have accelerated the protest pattern associated with social mobility, highlighting the real threat to freedom of expression directly and the right to information as a result in Tunisia.

« Ammar 404» is a name coined by Tunisian bloggers for the government's censorship of opposition news and political websites and dozens of blogs.

The publication of leaked documents through WikiLeaks was the last nail in the coffin of the Tunisian state's attempt to control information circulated by citizens, As WikiLeaks provided a huge amount of information that shed a bright light on the reality of corruption in Tunisia, and Ben Ali's brother-in-law misuse of power, and other decisions that were not known by public opinion. (ElHiwar 2010) Nawaat contributed to disseminating this information to the public on November 28, 2010 (Nawaat 2010), a few days before the outbreak of the symbolic spark of the Tunisian revolution in Sidi Bouzid.

The revolution itself came about as a result of access to information about the protests that erupted in Sidi Bouzid in which Nawaat published a video footage documenting demonstrations and clashes with security forces on 18 December 2010. (Nawaat 2010). The circulation of information has contributed to the transmission of protests to many others, as citizens contributed by documenting events to ensure international coverage of confrontations and casualties.



Lyadh ben
Achour

The ousted Tunisian president Ben Ali's escape had a symbolic value in declaring the revolution's success, but this declaration was not accompanied by a clear and direct demand to guarantee the right to information as a revolutionary demand. But it was to create the supreme commission to achieve the revolution's goals, political reform and democratic transition which included 155 members from parties, unions, organizations, associations, and national representatives and figures, which played an early important role to institutionalize the revolutionary demands, (Official Gazette 2011 It has proposed several decrees related to the press, namely the decree on freedom of the press, printing and publishing, and another on freedom of audio-visual communication. Although these latter two are related to the right to information, the Commission did not propose a legal framework explicitly stipulating the right of everyone to information. The Commission itself has been criticized for its lack of transparency,

as its decree stipulates the confidentiality of its deliberations. (La Louve 2011)

Although the Supreme Commission did not present a proposition to achieve the revolution's goals, political reform and democratic transition to guarantee the right to information, and despite the absence of the right to information in the arena of popular revolutionary demands, it quickly emerged among the first decrees issued a few months after the revolution, ie, Decree 41 of 2011 Concerning access to administrative documents.

Access to information remains one of the symbols of failing to achieve some of the revolution's goals, The existence of snipers during the days of the revolution was not revealed and signs of silencing after a few months of the revolution emerged (Al-Ebidi 2010) Despite the promulgation of Decree n ° 8 of the year 2011 on 18 February 2011 on establishing the National Fact-Finding Commission on recorded abuses during the period from 17 December 2010 until the end of its obligation, the list of revolution's martyrs and wounded has not yet been published until the very moments of writing these words. Although this Commission had «access to all administrative or special documents», Under the updated Decree on“ Access to Information ”, which is the first post-revolution legal framework that developed the right until now, but in a narrow context,“ the work and deliberations of the Commission [...] are confidential ”, But the Decree authorized the Chairman's submission of information to the public personally if the Commission's work witnessed a significant progress.

The arrival of some youth to power, such as Salim Amamou had an impact on the right to information and its popularity. Despite the short period of his existence in the governmental team, he had been famous for his «tweets» from the ministerial councils,(AL-Hasnawi 2011) which broke the secrecy barrier which the state organs and its ways of taking decisions are known for.

Issuing the associations decree and the decree on accessing administrative documents was a huge push towards implementing the right to information, despite being spontaneous attempts. The

huge increase in varied associations number made a variety among civil actors, especially the decree on associations, which served as an important incubator for forming Tunisian associations that led at the national and local levels the process of developing the right to information, directly or indirectly.



One of the most prominent campaigns that led to developing the right to information was the “Hal” campaign, which means “open” in Tunisian dialect, which was launched on 5 January 2012 to lobby for a transparent National Constituent Assembly based on the principles of open governance. (MK 2012) a number of Tunisian associations, participated in it and it was adopted by a number of founding members at the heart of the Legislative Council, to form an open governance movement in Tunisia. The demands of this campaign have evolved from the direct broadcasting of the Commission’s work on national television, to the demand for the inclusion of transparency principles in the rules of procedure governing the Commission’s work, and the Commission’s committees publicness, and has succeeded in doing so. A second campaign was held in October of the same year, it was called «Open Your Eyes» to ask the National Constituent Assembly to implement its internal procedures obligating transparency principles and the Decree on Access to Administrative Documents principles. (Mk 2012)

Specialized Tunisian associations in transparency and access to information was formed, whether generally or in specific State's structures, using for that purpose the Internet, social networking websites and modern methods and applications in the field of electronic publishing, one of these association is Al-Bawsla Association which was established in early 2012, and focused at the beginning of its activity on the National Constituent Assembly's transparency. Compass, in cooperation with Nawaat Association and other citizens, also filed a case at the National Constituent Assembly, based on the decree on accessing to Administrative documents of 29 August 2012. This is because the council did not publish the voting details on laws, lists of attendance and absence, and the committees reports since establishing the Commission on 23 October 2011. The administrative court issued its verdict on 10 June 2015, with accepting the case on the form and merits, and canceling the National Constituent Assembly's decision to refuse publishing what was requested by claiming parties (Ben Ragab 2015)

The " Tunisians " Association also launched a website in July 2013, called " Marsoom 41" , relating to receiving requests for access to administrative documents, which contributed to the evaluating the Tunisian administrative response to Decree 41 on access to administrative documents (Al Sabah 2013).

On the level of local mobility in order to obtain and provide information, Sayada municipality, Monastir governorate, has laid the cornerstone for transparency in municipalities, it launched a publicly available website on 15 March 2012, which provides information about the municipality's budget, projects, costs and more (Barraud 2012) Other associations launched a campaign initiatives that support access to information locally, and Al-Bawsla Association launched the "Municipal Observatory Project" in 2014, It requests specific information from all municipalities of the Republic and publishes it on its website (baladia.marsad.tn)

The right to information was stipulated in the Tunisian Constitution which was ratified on 6 January 2014, and thus this right was constituted, The law on the right to information was then ratified in March 2016.

Public Policy

The right to information public policy regulates various legal frameworks, ranging from the Tunisian Constitution to various treaties that have been signed, organic and ordinary laws, decrees and administrative decisions.

One of the most important observations describing the legal basis of the right to information in Tunisia is the existence of laws that indirectly affect this right and its application, most of which precede the 2014 Constitution.

First: the Constitution

Constitution of 1861

The Constitution of 1861 represents the first constitution of the Tunisian state, and despite it does not explicitly state the right to information or accessing it, but there can be signs of guaranteeing the right to access certain information.

Chapter 2 of Section 12:

«All our subjects of different religions have the right to go over the continuity of law procedures of the Kingdom and all other laws and rulings issued by the King according to law. They have the right to knowledge without any ban or prevention, and the right to complain to the Great Council if not conducted, and that is the right of the complainant»

This chapter may come as a natural extension of the Official Gazette or “ Al Ra’ed Al Tunisi” of the Tunisian country, in which the official texts are published, legislative or ordinal, the first of which was published on 22 July 1860.

Constitution of 1959

The 1959 Constitution did not explicitly stipulate the right to

information or access to it, but did provide for rights that paved the road for it.

Chapter 8:

« Freedom of opinion, expression, the press, publication, assembly and association are guaranteed and exercised according to the terms defined by the law.»

This chapter provides for expression, journalism and publishing, which are sources of information that do not necessarily restrict or force the state to provide information on its part, although this provision can preserve some sources of information from press sources, for example.

Chapter 9:

« The inviolability of the home, the confidentiality of correspondence and the protection of personal data shall be guaranteed, save in exceptional cases prescribed by law.»

This chapter was included in the 2001 revision of the Constitution, which limits access to personal information, and that was regulated by law. For example, the law that activates the protection of personal data remains in force

Chapter 52:

« The President of the Republic promulgates constitutional, organic, and ordinary laws and makes sure they are published in the Official Gazette of the Republic of Tunisia no later than two weeks after he has received them from the President of the Chamber of Deputies or the President of the Chamber of Advisors, as the case may be.»

This chapter provides for publishing laws in the Official Gazette, and set them on time limits, in order to guarantee the right to access these laws, because the official gazette is a publicly available document. This text should be compared to its absence for everything

concerning the regulatory authority, there is no provision that provides for publishing orders, decisions or circulars.

Constitution of 2014

The Tunisian Constitution was ratified on 26 January 2014, after a period of constituent elections on 23 October 2011, during which the country witnessed events that will not be erased from the popular memory, and is still marred by many questions. It provides for a number of rights and principles that protect the right to information.

Chapter 32:

“The state guarantees the right to information and the right of access to information and communication networks.”

The Tunisian Constitution explicitly guarantees the right to information by the state, and incorporates it into the right to information, and the right of access to communication networks. This means that the right to information cannot be isolated from the media and from technology, and that they are interdependent and complementary.

Several changes to this chapter were proposed during voting on the Constitution, such as setting limits on the right to information, «for the purpose of not compromising national security and the rights enshrined in the Constitution.»

The amendment was accepted at an initial stage, but was later abandoned, for the comprehensiveness of Chapter 49. The state's guarantee of Internet neutrality was also proposed in the same chapter, but this chapter was not accepted.

The final version of this chapter was voted for on 21 January 2014, with 172 votes in favor, 10 Members of Parliament retained and 5 against.

The inclusion of the right to information explicitly in the Constitution

enabled it to be invoked during the discussion of the law on access to information later by civil society, and to demand that this right be protected in other laws, such as the Journal of Local Communities, among others., etc.

Chapter 10, paragraph 3:

« The state shall ensure the proper use of public funds and take the necessary measures to spend it according to the priorities of the national economy, and prevents corruption and all that can threaten national resources and sovereignty.»

The Tunisian Constitution explicitly prohibits corruption in the same context of tax performance and proper use of public property. This has been stipulated since the first version of the ratified constitution, but the formulation has been amended several times and then finally they chose this one, and the voting on it was on 20 January 2014, it has received 120 votes in favor, 42 against and 11 retained

Chapter 15:

“Public administration is at the service of the citizens and the common good. It is organized and operates in accordance with the principles of impartiality, equality and the continuity of public services, and in conformity with the rules of transparency, integrity, efficiency and accountability.”

This chapter clearly challenges the Tunisian administration and its rules of action, which was known for the confidentiality of its dealings and the difficulty of accessing the information it possesses. This chapter also put transparency as a situation described by the administration, along with accountability, which is what citizens do about access to information.

There were many changes to this chapter’s formulation, which was voted for on 4 January 2014, with 175 votes in favor, 6 against, and 3 retained.

Chapter 31:

Freedom of opinion, thought, expression, information and publication shall be guaranteed. These freedoms shall not be subject to prior censorship. «

This chapter provides for a number of freedoms relating to practices that affect the right to information in general, not only those provided by the state, or necessarily required by the citizen, whether to provide such as publishing and information, or production, such as opinion, thought and expression. It is worth mentioning that the reference to media is given as freedom in this chapter, and as a right in chapter 32. This text was attempted to be amended by adding the prohibition of prejudice to the sanctities of the Divine, the Holy Quran and the Holy Prophet, but this amendment was abandoned. This chapter was voted for on 6 January 2014. It received 173 votes in favor and 9 retained

First paragraph of chapter 24:

«The state protects the right to privacy and the inviolability of the home, and the confidentiality of correspondence, communications, and personal information.»

Stipulating the confidentiality of correspondence, communications and personal information protects citizens from penetrating the details of their personal lives. However, interpreting this provision independently far from the rest of the rights set by the Constitution may render the system of rights and freedoms dysfunctional, especially when it comes to access to information about decision-makers or those exercising authority in the state and affects the right to ensure the management's transparency, for example, if the information is related to an employee's life details, the setting of the limits of private life may affect the limits of transparency.

This chapter was voted for on 6 January 2014 with almost unanimous attendance, with 157 members voting in favor of this chapter, and one member had a reservation.

Chapter 49:

“The limitations that can be imposed on the exercise of the rights and freedoms guaranteed in this Constitution will be established by law, without compromising their essence. Any such limitations can only be put in place for reasons necessary to a civil and democratic state and with the aim of protecting the rights of others, or based on the requirements of public order, national defense, public health or public morals, and provided there is proportionality between these restrictions and the objective sought. Judicial authorities ensure that rights and freedoms are protected from all violations. No amendment may undermine the human rights and freedoms guaranteed in this Constitution. «

This chapter protects the rights and freedoms stipulated in the Constitution. Where each limitation is specified by law and is not absolute but made for specific purposes and in a proportionate manner, This chapter has been invoked to challenge the constitutionality of draft laws that have compromised the essence of freedoms and rights, which also guarantees the right to information. The formulation of this chapter was not changed during the constitutional debate; it was voted for once on 9 January 2014, 164 MPs voted in favor, 5 against it, and 6 MPs retained

Chapter 81:

«The President of the Republic shall sign laws and ensures their publication in the Official Gazette of the Tunisian Republic within a period of no more than four days [...].»

This chapter ensures that laws are published in the Official Gazette and are accessed by the public. This chapter was amended several times before the final vote. The changes included a revising the time limit for the President to seal laws. The final version was voted for on 23 January 2014, where 163 deputies voted in favor of the chapter, 3 against, and 11 deputies retained their vote.

The traditional importance of enshrining rights in the Constitution

lies in its supremacy, but the possibility of guaranteeing these rights is directly limited to the existence of guarantor structures, the most important of which is the Constitutional Court. In the light of the fact that this court has not been able to establish such a line, these rights can only be technically guaranteed in the bills that were voted upon after ratifying the Constitution where the interim authority to monitor draft laws constitutionality consider the extent to which the draft laws respond to the Constitution's provisions, in the event of an appeal, before the President of the Republic signs it and it becomes enforced.

The establishment of the Constitutional Court will allow guaranteeing these rights in the applicable laws by arguing that the provisions of a law are unconstitutional by litigation, and also when the Assembly of the representative of people are obliged to consider its internal rules of procedure, which must guarantee the right to information, free media and expression, and other provisions of the Constitution. Article 120 of the Constitution defines most of the functions of the Constitutional Court.

Decrees and laws

It is advisable to divide laws and decrees into an arsenal that explicitly provides for the right to information, and others that directly or indirectly affect it. This division makes it easier to highlight opportunities and risks that will shape the right to information when implemented.

Laws with explicit stipulation

Decree n ° 2011-41 dated 26 May 2011, relating to the access to the administrative documents of public bodies.

This decree was issued during the reign of Beji Caid Essebsi's government, by the interim Minister Fouad Mebazaa's signature, prior to organizing the Constituent Elections in October 2011. The decree provided for access to administrative documents, not information in general, through automated publication by public structures,

or by anyone's request whether it is natural or legal person. The decree clarified the information that each public structure should automatically publish in Chapters 4 and 5, and outlined the way in which information should be requested from Chapter 7 to Chapter 19.

This Decree was revised less than two weeks after its promulgation, by Decree No. 54 of 11 June 2011. The revision included two important changes: the addition of a two-year period for public structures to be in conformity with the Decree's provisions, and stipulating that reports on the adopted procedures for the proper application of the Decree progress extent should be published on the progress of the procedures adopted on its website

The text of this decree was the result of external influence, especially from the World Bank, and was drafted within a committee in the Prime Ministry.

This decree was the basic rule for legally guaranteeing the right to information before it was enshrined in the Tunisian Constitution. Many of the campaigns mentioned above, and civil society demands for access to information on relevant national public affairs were based on this Decree, such as the National Constituent Assembly's work, and locally, the municipalities.

One of the most important shortcomings of this decree is that it specified access to documents and not information in general, which assumes that the applicant knows the name of the document that contains the information. And on the Decree's implementation is the administrative court's slow functioning, which, if not a direct shortcoming, but it affected guaranteeing this right.

Organic law n ° 2016-22 dated 24 March 2016, related to the right of access to information

The law on the right of access to information was passed at a plenary session of the People Representative's Assembly in a plenary session on 11 March 2016, where 121 members voted in favor of the law, and one deputy retained. The legislative initiative was made

by Mehdi Jomaa’s government on 18 August 2014, and the draft law was referred to the Committee on Rights, Freedoms and Foreign Relations, and the General Legislation Committee which prepared a written report. The law passed several pitfalls, the most important of which was withdrawing the initiative by the initiator and then re-inserting it.

The law’s opening is a provision that aims to “ensure the right of every natural or legal person to have access to information”, primarily for “access to information”, then for transparency and accountability, improving the public service’s quality, supporting public participation at all stages of public policies, and supporting scientific research. Providing for all the above purposes in the law ensures access to information just for the sake of information, i.e. without justification for obtaining it, but puts the information in a broader context encompassing several constitutional principles, including participatory, scientific research and the public facility’s quality.

The law defines the concepts of information and access to information in Chapter III.

- **Information:** Any information recorded whatever it’s date, form or shape which is produced and obtained by structures subject to provisions of this law in exercising its activity.
- **Access to information:** disseminating information on the initiative by the relevant structure and the right to obtain it at the request.

These definitions set broad limits on information – it is enough to be written down, and to put the two means of access - publication and demand - on the same responsibility limits. The law also regulates the structures to which it applies on it its provisions, not only to the State’s structures, but also to “persons of private law running a public utility” and “organizations, associations and all structures that benefit publicly.”

First, the law referred to the “duty to disseminate information by

an initiative of the relevant structure”, where it suggested listing an information list that should be published, updated and publicly available, a list that fluctuates between what is general, “policies and programs of public interest”, for example, and what is clear and precise, as «public transactions programmed and approved budget, which the structure intends to conclude and the results of implementing it”.

The law explicitly states that such information must be published in a «usable format», a qualitative leap compared to the aforementioned Decree 41. However, in Chapter 7 of the Act, this right has been undermined, where the legislator stipulates that” the structure’s capabilities should be taken into account” before stipulating the obligation of “publishing information on a website and updating it at least once every three months and when any change occurs.”

The law provided an important precedent in Chapter 8, which provided for publishing of information requested at least twice, on its own initiative by the structures subject to its provisions.

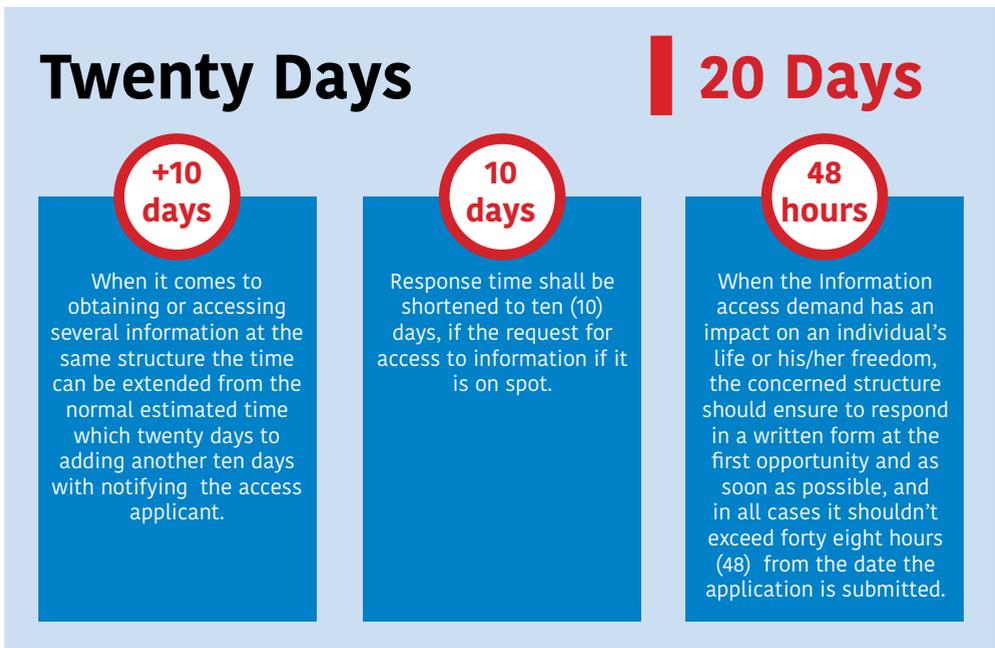
The law’s deficiencies on the right to access information may appear to be technical, not related to the clear orientation and intention to protect this right. Hajar Al-Trabelsi says that the deadlines available to the commission to decide on appeals are very short, and put considerable pressure on the commission, which all its members are not devoted to work at the body (Trabelsi 2018). She also says that the board’s composition is overshadowed by the administration’s representatives, which is the opponent for which citizens resort to the authority to face.

In “access to information by request”, this mechanism has been carefully explained, starting with procedures, response, the required parameters, exceptions, and appealing decisions of the structure from which the information was requested. The application may be submitted on the form *, or in writing in a text containing the information provided by law. The law stipulates that the applicant should be assisted “in the event of a disability or inability to read and write” or in the event of hearing loss. There are also several

possible submission methods by law, either directly in the structure, or by mail, fax or e-mail.

The law affirms that the person who requests the information is not obliged to state the reason behind his request or the desired interest in obtaining the information. There are several aspects of obtaining information, depending on the legal text to: access to the spot, or obtain a paper or electronic copy, or extracts from them.

The law stipulated the time limits details for responding to information access requirements as per the graph in the information access manual



The law shall shorten the time limits of response that should be respected by the structure if the request has an “impact on a person’s life or liberty”, as the structure should immediately respond in a time limit that doesn’t exceed 48 hours and to provide reasons if the application was rejected, the law also enables the structure to extend the deadlines by ten days, provided that the applicant is

informed with that.

The law provides that everyone has the right to information free of charge, but the applicant may be required to pay a sum of money that does not exceed the real expenses for providing the information.

The law enumerates several exceptions to the right to information that may explain the denial of access to information, it is the information that if provided may “harm public security, national defense or international relations related to it, or the rights of others to protect their private life, personal information and intellectual property.”

Despite the existence of these exceptions, the right to information remains the supreme principle because exceptions are not absolute, and end when its causes diminish, and this ensures assessing damage and public interest, where «the proportionality between interests to be protected and the purpose of the access requirement» is taken into account, and perhaps this the only place where the purpose of information affect access to them.

While the law emphasizes the absolute protection of whistleblowers identities, it emphasizes that exceptions are not absolute in certain cases, such as access to information necessary to detect gross violations of human rights or war crimes, and when the public interest prevails for a threat to health, safety, or the environment or after a criminal act.

An information claimant may object to the decision taken regarding his claim, which is not only the rejection in itself, but not providing the information in full or in the manner prescribed, or failure to respond in a timely manner, which is implied rejection. An objection can be made through one of two methods: either in the structure body through a grievance sent to it, which is regulated by a time limit, or to challenge the decisions of the structure directly to a competent judicial body, called the Information Access Authority, which would be later mentioned in details. The structure’s failure to respond to a grievance is considered an implied rejection that can

be challenged by the claimant by an appeal, and in order to ensure two-level litigation, the decision of the Board may be appealed to the Administrative Court.

The Penal Code provides for penalties for intentionally banning access to information, for unlawfully damaging information, or the incitement for damaging information. These penalties are in addition to consequences of failure to respect public aid to other provisions of the law, according to the Civil Service Law, which would be mentioned later.

In order to implement information security procedures, whether for automatic dissemination or on-demand provision, the law regulating access to information proposes radical structural changes related to guaranteeing this right, namely the creation of an information access authority, and the possibility of creating a solid internal structure of the law structures to regulate activities related to access to information, headed by the one who is in charge of access to information.

Information Access Authority

The law provides for creating an independent public authority, with a legal personality, and powers to carry out its functions that are related to access to information.

The Authority is governed by a Commission , composed of nine members elected by the People Representative's Assembly, including an administrative judge, a judge, a lawyer, a statistician, a specialist in administrative documents and archives, an information technology specialist, a representative of the National Authority for the Protection of Information, a civil society representative , and a journalist.

One of the Authority's most important powers is to adjudicate lawsuits filed by applicants against the structures decisions from which the information was requested.

The law authorizes the Commission to investigate on-the-spot where needed, and to investigate those who may assist it in adjudicating the case at hand. The Commission shall inform the applicant and the structure concerned of its decisions, publish them on its own website, follow up their application and provide the requested information. With regard to the automatic dissemination of information, it is the Commission's task to follow up on the structures obligation governed by the law to provide the information provided for in the legislative text.

The Commission interferes with the right to information in general in all other legal frameworks by expressing its opinion on legislative initiatives related to this right, or by disseminating a right to information culture in cooperation with actors from structures governed by law and civil society.

The Commission has an evaluation periodical role stipulated by law, to highlight the extent to which the structures concerned are committed to its application. The Information Access Authority should prepare an annual report that provides information on the right to information, recommendations and suggestions for further devotion, submitted to the three presidencies and published.

The law regulates the Commission's work, and the first commission started work in late 2017, and its establishment and work are discussed in later parts of this study.

The person in charge of access to information

This law requires all structures subject to it to appoint a person responsible for the right to information, which is referred to as the «person in charge of access to information», and to appoint a deputy, and to inform the public of their identity on the website, and the information access authority. His/her mission is not only limited to responding to demands submitted to the Authority but also to be a link between the structure and the Access to Information Authority and to prepare a plan that improves the right to information in the structure he/she belongs to.

By accessing information, it is not only responsive to the demands on the structure, but also a link, and a plan in the structure to which it belongs. The person in charge of access to information is at the core of his structure, and in that regard F challenges implicit in the core administrative structures.

Law n ° 2018-29 dated 9 May 2018, relating to the local collective communities code

Although the Law on the local collective communities code is concerned with the applying Title 7 of the Tunisian Constitution, which deals with local authority provisions and decentralization principles, it addresses in several chapters the right to information. The provision of this law not only adheres to the commitment of the three local authority structures, municipalities, regions, or so-called local communities, to legislation but it created a space for open governance and participatory democracy.

This law's obligation to provide information not only by mentioning documenting the decision-making process in the elected councils means, i.e., which is transcripts, but also by opening the decision-making sessions for voting, and making it public, except for some exceptions, in that case a voting on confidentiality occurs in a public manner.

The law stipulates that local communities should publish draft resolutions they deliberate before sessions, «by all available means», including their websites. The law enables citizens to ask specific questions about certain resources and expenditures, which are directed to the head of the local community according to controlled procedures.

The Local Communities Code was voted on 26 April 2018, with 147 MPs voting for it, and 10 restrained . Many civil society organizations were involved in drafting this law, pushing for transparency and providing information on local communities functioning. The most prominent

associations that have pushed for transparency recommendations are Al-Bawsla Association, Kolna Tounes, Atide, and the Tunisian Association for Local Governance.

Relevant laws

The importance of these laws is that they indirectly affect access to information, but also because they may change during the transitional course, and their changes affect the reality of access to information in Tunisia. The laws are presented in chronological order.

Law n ° 1988-95 dated 2 August 1988, concerning archives

The law defines the archive as «the sum of documents created and obtained during the exercise of activity by any natural or legal person and every public facility or public or private body, whatever the date, form and shape of such documents.» This pertains to State documents and structures, or private bodies charged with operating a public utility, or public officials.

The law recognizes the responsibility to preserve all the documents used by each aid attributable to bodies to which the law is applicable. The law stipulates that each structure concerned shall have a program for its documents disposal in cooperation with the National Archives. The law divides the archive into two types: on-going and the intermediate: the current is what is used continuously by its creator, and the mediator is the documents that have been used completely.

There are specific measures for the classification and destruction of the ongoing archive, and other procedures for the processing and preservation of the intermediate archive in equipped places. Law structures shall establish schedules for documents retention periods, and each table shall determine the manner in which they are prepared by an order.

The final archive consists of documents that have been permanently archived after sorting, which is transferred to the National Archives Foundation. The exclusion of transferring certain documents may be

made by a governmental order, «for reasons of security or extreme necessity.» The National Archives Foundation is concerned with the classifying the final archive and developing search tools that enable easy access to the archive.

The law regulates access to archives in general, which can only be done in 30 years after its creation – since date where the document was created or obtained by a particular structure. There are, however, two exceptions to this period. This period shall be increased to sixty years if the documents are related to information affecting private life or the country’s safety, and an existing government order shall regulate these documents, or documents collected in the context of statistical investigations containing information on individuals, and documents relating to cases brought before the judiciary.

The term is increased to 100 years for assets of original judiciary, civil status and registration books, documents containing individual medical information and personnel files. The deadline for access to the archive may be may be excluded if expired in the case of scientific research and after consulting the administration that created the documents, without prejudice to personal life confidentiality or the country’s safety.

A government order shall set the conditions and arrangements for access to the National Archive by the public. Anyone who has been allowed access to the archive may obtain a copy or copies of it at his own expense.

The law also provides for a private archive that does not concern the State’s institutions to which the National Archive applies, but rather the sum of documents created by any other natural or legal person, and of public interest for historical reasons, and that happens by a governmental order. The private archive is publicly accessible only with the owner’s consent.

The law provides penal provisions for each destruction of archive contrary to law provisions.

The law also regulates important matters related to administrative documents, which are easily accessible when needed, by classifying them and providing for the right to access them, but it has several drawbacks that may affect this right. One of the main drawbacks of this law is the use of government orders in several details related to information, such as documents that are kept undamaged. The use of government orders rather than clarification in the legal text opens the possibility of changing the rules for preserving information by the executive authority, and it affects their application in the absence of a government order.

Organic Law n ° 2004-63 dated 27 July 2004, concerning the protection of personal data

This law defines personal information as «all information, whatever its origin or form, that makes a natural person identified or identifiable directly or indirectly, except for information relating to public life or considered as such legally ». This law regulates the use and processing of personal information collected, and updates the National Authority for the Protection of Personal information, which is responsible for granting licenses for processing personal information, as well as receiving complaints about them, among other tasks. The law also determines who has access to or change private personal data, This right is limited to the person concerned, the heirs and the guardian.

This law seeks to protect personal information, which is a right guaranteed by the Constitution as mentioned above. However, information on economic characteristics is an inaccessible, which may affect the ability to intervene in public affairs, especially on suspicions of conflict of interest and illicit enrichment. Although the law excludes information relating to public life, it does not specify what this means, leaving room for interpretation that affects the right to access information.

The People Representative>s Assembly is working on a bill that replaces this law and responds to the principles of the 2014 constitution.

• **Framework Decree No. 120 of 2011 of 14 November 2011 on combating corruption**

This decree represents the legal framework for the fight against corruption and the creation of the National Anti-Corruption Commission, before the Constitutional Commission on Good Governance and Anti-Corruption, mentioned in the Organic Law No. 59 of 2017. This decree defined corruption, integrity, transparency, and accountability. It also created the National Anti-Corruption Commission (NACA), an independent public body that proposes and monitors anti-corruption policies, exposes corruption in the public and private sectors, receives complaints, investigates and refers corruption cases to the judiciary. It also collects data related to corruption and prepares and publishes an annual report on its activity.

The National Anti-Corruption Commission shall carry out all other functions entrusted to it by laws approved by the Good Governance and Anti-Corruption Commission until they are updated as provided by the Constitution, including the protection of whistle-blowers, the receipt of permits and interests, and the investigation thereof.

• **Organic law n ° 2017-59 dated 24 August 2017, relating to the body of good governance and combating corruption**

This law created the legal framework for one of the five constitutional bodies, the Governance and Anti-Corruption Commission. The People Representative>s Assembly passed the law on 19 July 2017, with 119 deputies ratifying it, while 10 deputies voted against it, and five retained. However, it did not yet entered into force until the provisions of the above-mentioned Framework Decree No. 120 have been repealed, i.e. after the Good Governance and Anti-Corruption Commission, which is elected by the People Representative>s Assembly, became aware of, and commenced its functions, in

accordance with the transitional provisions of the law.

The law stipulates that the agency's mandate is the basic rule to enable fighting corruption, and is largely based on the right to information, both by the Commission and by who resorts to it. Access to information, through exercising the right to access it, or in any other way, such as accidental exposure or during the normal course of work, enables suspected corruption to be reported, where the Commission receives notification of suspicions or cases of corruption. (Chapter 18)

The law also stipulates the right of the Authority to information, or what it calls the «right of access», which stresses the obligation of public and private structures and bodies to «provide the Authority automatically or at its request with information and the law also protected the Commission from any exception to its access to the information, where any party is obliged to meet the requests of the Commission with professional, bank or tax secrecy and it enabled the Commission to resort to administrative jurisdiction in the event of exceptions to the right to information.

• Decree n ° 2011-115 dated 2 November 2011, concerning the freedom of the press, printing and publishing

Like Decree 41 which is mentioned above, Decree No. 115 paved the way for the constitutional right to freedom of the press, printing, publishing and expression, more than two years before the Tunisian Constitution was ratified.

Although it is a legal text framing the product issued outside the frameworks of state structures, it provides information that must be published by institutions that publish news periodicals on their columns: natural owners, organization, form, capital, headquarters, legal representative and partners, the name of the director in charge and the editing, director and the number of copies in each version. The decree specifies other information to be published in the electronic version.

This decree also provides for “prohibited publication” and penalties, the most important of which for the right to information and its role in the fight against corruption is the punishment for publishing documents investigating certain crimes before they are read out in a public session or the circumstances surrounding the trials for crimes and misdemeanors (provided for in Article 201 and 240 of the Criminal Code), the Decree also provides for banning dealing with media for any defamation cases related to private life of a person or a crime that has pardoned or terminated by time limitations, disownment, divorce and abortion issues . « this is a clear limit to the public access to this type of information, except in the provisions authorized to be published by the judiciary.

Decree n ° 2011-116 dated 2 November 2011, concerning freedom of audiovisual communication and creation of an independent high commission

This decree regulates the freedom of audio-visual communication and is closely linked to the right of every citizen to access information (Chapter 4), based on several principles, including objectivity and transparency (Chapter 5). The importance of this decree is that it regulates the legal and structural framework of the audiovisual media sector, including all parties involved in it, including, for example, audiovisual associations, which can play an important role in disseminating information and contributing to the dissemination of anti-corruption culture.

This decree also represents the legal framework of the Special Amendment Authority for the Audiovisual Media Sector, which the Constitution provides for a constitutional body to replace it, where the Assembly didn’t issue a law to regulate it.

• Decree n ° 1978-50 dated 26 January 1978, organizing the state of emergency

Chapter 8 stipulates that the governor and the Minister of Interior have the right to take «all measures to ensure monitoring the press and all types of publications, as well as radio broadcasts, film and theatrical performances.» This authorization directly affects some

access to published information

This poses a risk to circulation of information, even if in a state of emergency, which it cannot last without renewal, as it is inconsistent with the 2014 Tunisian Constitution the requirements to do so.

The state of emergency is not provided for in the Constitution, but in the exceptional state, which is regulated by Chapter 80.

These measures should aim at ensuring the return of normal functioning of the State's institutions as soon as possible. The People Representative's Congress is considered to be in permanent session throughout this period. In this case, the president of the republic may not dissolve the People Representative's Assembly, nor may a blame list be submitted against the government.

Thirty days after the entry into force of these measures, and at any time thereafter, the Constitutional Court shall be entrusted at the request of the Speaker of the People Representative's Assembly or thirty of its members to decide whether or not to continue the state of emergency. The court shall publicly declare its decision within a maximum period of fifteen days

Such measures shall be terminated by the end of their causes. The President of the Republic shall address this to the people. ”

In this exceptional case, rights and freedoms are restricted for a limited period, the Constitution makes clear in article 49 that the law shall govern this without undermining the essence of freedoms and rights of the 2014 Constitution.

In the absence of the Constitutional Court, and the continuation of application the order number 50, ban of information, its dissemination and access to it, continue as well which results in absence of rights guarantees, as stipulated in the Constitution. The Assembly is currently considering a draft law regulating the state of emergency in an effort to compensate for the negative order that deprive citizens from freedom by law, as stipulated in the Constitution.

• **Law n ° 2018-46 dated 1 August 2018, authorizing gains and interests and combating illicit enrichment and conflict of interest**

This Act shall enact what is provided for in Article 11 of the Constitution in declaring the gains to any person who holds the presidency or the prime ministry or its membership, membership of the People Representative's Assembly, independent constitutional bodies members or a high position. However, it was also amended by Law No. 17 of 1987 of April 10, 1987, on the Declaration of Honor for Gains of Members of Government and Certain Categories of Public Officials

The importance of this law is not only in activating the constitutional principle, but also as it states a definition for concepts associated with the fight against corruption in public affairs. It defines conflict of interest and illegal enrichment.

This law illustrates the importance of information to combat corruption, and information here is the declared gains and interests by the persons in which the law is concerned with, and to conclude any conflict of interest or illicit enrichment by processing this information.

Not only did the law impose a declaration on those mentioned by the Constitution in Chapter 11, but it provided for 37 different categories covered by the declaration, from the President of the Republic to the Secretaries-General of Professional Associations and National Organizations.

Not only do state officials and elected decision-makers are included in such declarations, but the scope of those who are included in it has been extended to those who have an impact on public affairs, such as owners of media institutions, journalists, media practitioners , or directors of political parties and associations.

The law states that electronic declaration is the rule, and manual declaration is the exception, This is an explicit commitment by the law to digitization, which not only facilitates the processing of

information, but also accesses it in specific cases.

The application of this law provides a significant amount of information, directly and indirectly, including what is available to the Governance and Anti-Corruption Commission only, and some of that is available to the public. Law enforcement provides the following information:

- The content of the deposited declarations, where the declarations are published on the Authority's website. This publication applies to the President of the Republic, the Director of his Office and his advisers, the Head of Government, its members, heads of their bureaus and advisers, the President of the People Representative's Assembly, its members, the head of his office and his advisers, the heads and members of the independent constitutional bodies, the heads of local communities, members of local councils and members of the Constitutional Court. Article 5, Chapter 8, states that publication shall take into account legislation relating to the protection of personal information. This is governed by a government order proposed by the Authority detailing the published declarations allowing the authority to carry out investigation and declarations validity which in some cases should be required.

- An electronic database of persons subject to the duty of declaration, in accordance with the third paragraph of Chapter 8. This rule contains not only the data of the persons obliged to make declarations, but also their career, where the declaration is renewed every three years in the case of continuing to carry out the job required for the declaration, or when the job changed or ended, according to Chapter 10

- The list of those who make declarations and the list of those who abstain from it. This information enables the public to know who has complied with the law, and who rejected to, which may contribute to enabling the public to hold the relevant structure or person elected accountable.

- The list of public structures that have not taken the necessary

measures to put an end to conflicts of interest, according to Chapter 26 of the law. Publicizing this list sheds light on structures that are not adequately committed to combating corruption of conflicts of interest.

Although the law stipulates the issuing declarations for gains and interests, which is a battle that has not been guaranteed since the bill entered the People Representative's Assembly for absence of publishing the bill filed by the government, but it expanded the rule to which the law applies makes it difficult to make a declaration, especially in light of the state's failure to provide The needed capabilities for the Authority, where about 400 thousand people must declare their gains.

Law No. 112 of 1983 on the regulation of the general statute of state agents, local groups and public institutions of an administrative nature

This law represents the legal framework governing the basis of work for all state agents in the state structures that are of an administrative nature, except those who work in the judiciary or the military, internal security forces, and agents of public institutions which are of an industrial and commercial nature.

Article 6 of the Act provides for professional secrecy notwithstanding the rules laid down in the Criminal Code concerning professional secrecy, article 56 also states that disclosure of professional secrecy is a grave error similar to bribery, embezzlement or forgery, and “the case must be brought immediately to the Public Prosecution Office” and referred to the Disciplinary Board.

The fear of revealing the professional secret prevents the Tunisian administration from dealing smoothly with the demand for information and transparency, an old legacy that must be addressed by clarifying the limits of the applying the general structure of state agents, and clarifying whether or not the decision to extend the information is taken.

Rules of procedure of the Assembly of the Representatives of the People of Tunisia

The rules of procedure of the People's Congress promote access to information by stating this right in several chapters.

Chapter 76:

This chapter allows the public to be informed of the Committee's work either by attending or following up the work of the Committee directly, or through media or association coverage. The Council has violated this principle in a large number of committee meetings, where it is held without public information or the presence of the media or civil society. This breach has led to a blackout in some committees work, especially when discussing sensitive topics and laws that are of public concern. Civil society has objected to this violation, especially Al-Bawsla Association.

Chapter 103:

This chapter expressly states that plenary meetings should be publicly available and should be followed by them in various ways either by attendance, live broadcast in a media or social media, or through the publication of plenary deliberations and devoting a national channel to broadcasting all plenary sessions, and this allowed for greater attention to legislative work.

Under Chapter 105, the Assembly can hold a closed meeting with the approval of three-fifths of its members. This is a commitment to transparency to clarify how deliberations are made confidential and to enable the recipient to know who has requested its confidentiality and who has agreed to it, this opened the door for the public to hold the Assembly accountable when it was closed for a session, making the members' recourse to this rare.

Chapter 26, paragraph 4:

Which stated that the public has the right to know the present

and absent members in plenary sessions, as a way to assess their performance, and to hold them accountable in the future. The Assembly did not abide by this chapter immediately after ratifying of the rules of procedure.

The first paragraph of chapter 83:

The importance of providing for publishing of committees meetings transcripts to document the discussions that take place on the draft laws or accountability of the government or discussion on other topics within the core competence of the Assembly, and make it available to the public. The People Representative's Assembly did not adhere to this chapter in all committee meetings, and many records remain incomplete, and information is not available.

Chapter 128, second paragraph:

The inclusion of this chapter was the result of pressure done by civil society, especially Al-Bawsla Association, after the only source of voting results was the core of the Tunisian Legislative Council, when the Assembly failed to publish the voting results according to a MP. Publicizing the details of the vote contributes to members accountability and in creating an understanding of their political positions. Although the Assembly generally adhered to this chapter, the publication of some voting details on bills that have aroused public opinion, such as the Finance Act of 2018, has been delayed and has opened the door to various interpretations and increased street congestion.

It should be recalled that the Constitutional Court must consider the rules of procedure of the People Representative's Assembly as soon as it is established, and therefore to ensure that it respects the principles of the Constitution and the rights and freedoms stipulated therein. The absence of the Constitutional Court has made the People Representative's Assembly work with an internal system that has not passed through the Constitutional Court.

Orders and ordinal decisions

Although the orders and decisions are lower than the legal frameworks mentioned above, the strength of the administrative fabric compared to the strength of the legal text makes the response to orders, decisions and regulatory circulars stronger than the response of the system as a whole to the Constitution or the law.

The application of the law is often limited to the issuing of an applied government order, or an interpretative publication. At other times, government orders and circulars have a negative impact on the right to information because of its contradictory content to the right.

Governmental decree n ° 2016-772 dated 30 June 2016, fixing the conditions and procedures for granting partnership contracts between the public and private sectors.

The law on access to information is mentioned in the legal basis supporting this government order, which regulates the details and procedures related to contracts concluded between the public and private sectors, and it implements the provisions of Law No. 49 of 2015 on public-private partnership contracts. One of the most important provisions of the government order is the procedures for publishing the summaries of contracts concluded, which are the responsibility of the public person concerned. The text of the Order mentions the elements to be included in the summary of the contract, grants the right not to publish certain information about the contract, and provides the same exceptions provided by the law on access to information, , i.e. those relating to public security, state relations, private life and intellectual property (Chapter 63). There is further restriction on information in Chapters 65 and 66, where it is stated that those who have seen contracts because of their function cannot disclose any information and data, and that no interested person has access to data that would prejudice the “integrity of their attribution procedures”. «, i.e. contracts.

The order stipulates that contracts of the Public Authority for Public-Private Partnership should be published on the website.

Governmental decree n ° 2016-1164 dated 10 August 2016, organizing the Ministry of Development, Investment and International Cooperation

The law on access to information is not mentioned in the legal basis supporting this government order, but it provides for a structural change in the Ministry of Development, Investment and International Cooperation. The Order provides for the functions of the General Department of Finance and Equipment and defines a “plan for access to administrative documents” and “accelerated access to updated information”.

These information-related functions are exercised by a newly created sub-department, responsible for documentation and access to information, which is part of documentation and archive management. This government order documents any change in executive structures after ratifying the Access to Information Act.

Governmental decree n ° 2016-1158 dated 12 August 2016, relating to the establishment of the governance cells and the control thereof

The law on access to information is mentioned in the legal basis supporting this government order, and the framework decree on combating corruption. This creates a cell or department in every ministry called the «central cell of governance», and in each state, a municipality at the state’s headquarters, public institutions enterprises, and majority public owned companies, which is called «governance cell.»

The mandate of these cells is to “ensure the proper application of governance principles and prevention of corruption”, disseminate this culture, “undertake and follow up on reporting cases, while maintaining professional secrecy” and “follow up on corruption files” and related statistics.

The government order stipulated that every structure concerned should be provided with «the necessary human and material means»

to accomplish the cell's tasks, and that they should be established within 3 months publishing the government order.

Governmental decree n ° 2018-156 dated 13 February 2018, amending and completing decree n ° 2007-1885 dated 23 July 2007, fixing the administrative and financial organization of the national school of administration.

“A government order that does not mention the law on access to information in the legal basis on which it relies upon, but revises the section on training in information management, and adds, among other proposals, to management and information safety,” contributing to creating better conditions and creating a regulatory and technical environment that enables the school to establish mechanisms for applying regulatory procedures for access to information. ”

Governmental decree n ° 2018-328 dated 29 March 2018, relating to the organization of public consultations

The law on access to information was mentioned in the legal basis in support of this government order, which framed public consultations for a number of explicitly stated reasons, including the “establishment of transparency and participation in decision-making principles”. This applies to central and regional structures and local communities. This order provides for the electronic availability of certain data related to consultation, in particular public policy documents that are under consideration.

This government order is not only an opportunity to involve citizens in the decision-making process, but also provides an opportunity to automatically provide data and highlight the decision-making process, whether drafting a government order or implementing a development project, which also highlights any conflicts of interest and common good.

Governmental decree n ° 2018-503 dated 31 May 2018, amending and completing decree n ° 2001-420 dated 13 February 2001, organizing the Ministry of Agriculture

The law on access to information was mentioned in the legal basis supporting this government order, which adds new structures for the administrative and structural organization of the Ministry of Agriculture, the most important of which is the «Good Governance Cell» which deals with corruption files, starting with investigation and follow-up before the disciplinary bodies and the judicial structure, and coordinating between them and the structures in charge of oversight, it also has strategic role.

The designation and role of the General Directorate of Organization, Media and Management of Documents and Archives was also revised as an emphasis was made on procedures based on modern information technologies .

It focuses on the disposal of documents in cooperation with the National Archives Institution through preparing a system for classifying the documents in use and the other documents collected by the Archive, and the acquisition and collection of documents related to the Ministry's area of competence, and «carrying out the necessary work to prepare them at the materialistic level, to preserve them and make them available to beneficiaries,» in a clear commitment to what the law provided on access to information.

Circular n ° 2018-19 dated 18 May 2018, relating to the right of access to information

An explanation of the law on access to information provisions was published by the prime minister to ministers, state secretaries, governors, mayors and heads of public institutions and enterprises, more than two years after voting on the law. The publication details the administration's response to the law, and contains a form of access to information and a grievance form to the head of the relevant structure.

It is noteworthy that the administration relies heavily on circulars in responding to laws, although laws are higher than legal circulars in rank.

Effects

There is almost unanimous consensus that the right to information development in Tunisia, whether in constituting and then implementing it, was the result of positive or negative pressure influences in this direction, although evaluating this differs according to the effective factor's size when compared to others. The assessment also varies based on the professional background questioned, the angle of their handling of this right, and the field of transparency.

Internal effects

Internal influences on the right to information in Tunisia can be divided into two main parts: governmental and non-governmental. This division allows for taking into account the political balances that exist between those active within the State structures and those outside the State.

State structures influenced the right to information's development both positively and negatively, depending on the stage and structure, at the local and national level. The judiciary had a key role to play in protecting the right to information, both in legislation and in practice, before and after ratifying the Constitution in 2014. The Administrative Court was the guarantor of implementing Decree 41 of 2011, although the long time taken for these cases affected the access to information speed. The possibility of litigation to ensure this right was a means of pressure on structures. (I Watch 2017)

The Provisional Authority to Monitor the Constitutionality of Bills existence has ensured the right to information application after ratifying the Constitution. The Authority has been resorted to so as to challenge various bills, but challenging the Finance Act of 2019, for example, gave an example of an interpretation that did not defend the right to information, and gave more importance to other rights, such as economic rights and the protection of personal data.

Some members challenged the unconstitutionality of the Finance Law for several reasons, including the lack of sufficient information

to discuss the law, such as the Dinar's exchange rate, and withholding ministries funds related to public leasing, and lifting Banks confidentiality was challenged . The Authority did not accept any of the appeals concerning the failure to provide full information, and accepted the appeal regarding the clarification of mechanisms for lifting Banks confidentiality for its lack of clarity. (Official Gazette 2018)

The judiciary had a key role to play in protecting the right to information, both in legislation and in practice, before and after ratifying the Constitution in 2014.

However, effects on the right to information by both authorities is not limited to the legal framework alone. The law determines the power to elect the National Information Access Authority members to the People's Representative's Assembly, and the choice of members has a significant impact on the right to Information's reality. Najib al-Mekni explains that the delay in electing the Authority's members by the parliament negatively affected the right to information. Hajar Trabelsi believes that Parliament Members can positively influence the right to information if they monitored the Authority's work after its election, and wonder about the parliament's role after the Authority's preparation and sending of its annual report. The government should also issue government orders that regulate a number of the Authority's work details, especially those related to administrating the authority. Trabelsi believes that the government role is to establish the authority first, and in giving technical support in formulating its frameworks, but warns of the increased influence of the government, to ensure the Authority's independence. The government also affects the Authority's budget, and the budget affects the Authority's possibilities to exercise its many functions.

Najib al-Mekni believes that the government played a negative

role that affected the right to information. He mentioned publishing publication No.4 of 2017, for example, which negatively affected the right to information, and sent a hardly reassuring message. He also finds that the interim budget that has been granted to the Authority for its first establishment has had a negative impact.

The National Anti-Corruption Authority finds the same effect from the executive branch, as the government is responsible for naming its members, and it also decides its annual budget.

Ashraf al-Awadi says that the old system was one of the most negative influences on the right to information, and that the regime had to be challenged to accept changing it (al-Awadi 2018). Ashraf argues that the administration may seemingly appear to support the right to information, especially those who are working with international partners, because it provides them with an opportunity to talk about something interesting, but in practice, it is only an extra effort. Ashraf says the administration has been an obstacle because of a misconception of sovereignty, the «stick.» However, management takes many forms and varies from structure to structure.

Municipalities have played an important role in making the right to information more popular, as municipalities have a direct and daily impact on citizens' lives. The municipalities' response to access to information demands made by Al-Bawsla Association in all municipalities of the Republic as part of the "Municipal Observatory" project, that response contributed to attracting public attention, especially when a measures of transparency were published, which ranked municipalities of the Republic according to rates of response to information supply and demand. Some municipalities have been proactive in building websites that respond to legislation requirements, perhaps due to the administrative autonomy of the Tunisian Constitution and the expectations that accompanied the municipal elections in 2018.

There are many internal non-government effects on the right to information, the most notable are civil society and the media. Ashraf Al-Awadi believes that Tunisia's openness after the revolution

created a favorable environment for civil society's activity. Al-Awadi believes that the positive effects of media on the developing the right to information was the result of the National Union of Tunisian Journalists influence, whose defense of this right has created a space in the media to talk about the right to information. Al-Awadi also believes that the people have become more educated on issues related to rights, although they have not exercised them directly and sufficiently, this had an effect for example on the right to information non-infringement. However, Al-Awadi argues that the civil society's role has not adequately challenge the system, and that the demands for access made by I Watch, for example, will not change anything, and that the real impact requires a collective attack.

Mohammed al-Haddad also believes that civil society has played an active role in paving the way for the right to information, including individuals, institutions and associations. However, he believes that some civil society components, sometimes affected it negatively when they treated the information as if it was their own after it was acquired, as sometimes while the reason for not publishing the information is technical some authorities gives the information exclusively for some associations, and whenever they are asked about the information they refer to this association they gave it to so as to deal with, but that association that owns the information does not provide it. Although these associations opened the field and were pioneers in seeking information, they built an obstacle to the other associations, inadvertently.

According to Hajar Trabelsi, the Tunisian civil society did not have a significant role or influence in establishing the information access authority, but after its establishment, it played a later role for example, in organizing meetings between its members. Hajar explains that the Tunisian civil society expectation's from the Authority are different from those of the Authority to the civil society.

Najib al-Mekni believes that the authority is responsible for forming the national organizations role and position on them, according to its right to information protecting issued decisions, and he views that the national organizations role was crucial and decisive in

advocating and directly influencing decision-makers during drafting the right to information law .

As for the impact of journalists on developing the right to information, opinions differ. Mohammed al-Haddad believes that the use of the right to information by many journalists was a crucial stage in developing that right, as well as their coverage for ratifying the right to information law in 2016. Al-Haddad Also believes that accessing information is not the most difficult phase but using it is, as any added value won't be in accessing information but in putting it in context.

External Effects

External influences on the right to information in Tunisia can be divided into two main parts: international cooperation and non-governmental cooperation. This division takes into account the Tunisian entity that is affected by the external factor, whether governmental or non-governmental.

The donors positive effect on the right of access to information appeared during the first months that passed after the revolution, especially during drafting and publishing Decree 41 on Access to Administrative Documents, which was published in March 2011, it was drafted in the Prime Ministry (it was called the first ministry back then), as part of a program with World Bank to support the economy (Al-Mekny 2018).

Ashraf al-Awadi believes that there are no negative external effects, and that the impact of international partners is only positive, but that the ceiling of their demands cannot be trusted because it is very low. He gave the example of the United Nations Development Fund, because it is the partner of the government, not the people.

Despite this, Ashraf Al-Awadi believes that without some international conventions, the law on the right to information, for example, wouldn't have been passed, and gave an example of the open governance partnership that Tunisia has joined, and dealing

with the World Bank. But despite this important role of external actors, Al-Awadi believes that constituting truth «has made us win the battle.»



Mohammed al-Haddad gives free trade agreements or bilateral agreements (ALICA) as an example of negative external effect. These agreements, as the highest rank of law and lower than the Constitution, may have a negative effect because of their conditions such as the trade secret, which is the most effective way to withhold everything . Al-Haddad recounts an incident at a meeting organized by the management Committee for the objectives of the ALICA Convention that focused on the legislative convergence between the EU and Tunisia, where he proposed merging the law on Access to information in the context of legislative convergence, but the government representatives were surprised by this proposal, which seems to have not come to the negotiators attention although the European side mentioned the trade secret.

Non-governmental cooperation determines donors dealing with national and local civil society components, where available grants affect civil society's ability to carry out activities that promote the right to information. The negative effect of international partners or donors comes when an opportunistic or professional civil society meets with a financier who has no strategic priorities for spending money in a certain country , and this is a bad equation, according to Ashraf Al-Awadi.

Mohammed al-Haddad considers that external non-governmental cooperation is an indirect negative effect, that problem is not related

to access to information as a system, but actually gives international organizations more access than local organizations. Al-Haddad is surprised that there are international organizations offices, for example, built into public structures, and that they can easily access all information, while it is difficult when you are a Tunisian citizen. The negative effect is derived from citizens taking an impression that there is a disparity in access to information. The negative effect extends to limits of project's unsustainability as well, and he says that in some ministries, using open websites, for example, stops when the external financier project ends.

Hajar Trabelsi considers that the partnership agreement signed by the National Information Access Authority with Article 19 Association, for example, is very important for providing technical support, organizing awareness campaigns, producing an information access manual, and several other partnerships with the World Bank, UNESCO and others. Najib al-Mekni illustrates another aspect of supporting international organizations and its positive impact on developing the right to information, such as providing legal analysis, comparative experiences and foreign experts. Al-Mekni argues that this support has legitimized national demands for the right to information, and that the Open Governance Partnership, for example, has created a political commitment to the state.

Apply the right to information

Assessing the right to information's implementation is based on studying the State's obligation to guarantee this right and the manifestations of exercising this right by citizens, individually or regularly. This assessment represents a unique opportunity in Tunisia to develop the legal framework that regulates the right to information as a policy.

The State's obligation to guarantee the right to information

The state's obligation to guarantee the right to information can be assessed by monitoring the right to information manifestations in its practices, according to legal obligations set by its general policy

on the right to information, from government orders and laws to conventions and the constitution.

The Official Gazette, one of the official press publications of the Republic of Tunisia, is one of the oldest official publications, in which legal and regulatory texts are issued. The first Official Gazette was issued on July 22, 1860. There are many types of Official Gazette according to their competence, there is The Official Gazette on laws, orders, decisions and opinions, which is issued and published to the public every Tuesday and Friday of each week, and there is the Official Gazette on legal, judicial and legitimate announcements and other related to the Real State Court's announcement. The three types Official Gazette are available in either hard copy or electronically at www.iort.gov.tn.

The Official Gazette “ Al ra'ed Al rasmy” allows tracking official decisions, business activities and establishment of associations and parties, according to law requirements for publication. However, this information is sometimes affected by delays in publication, as it isn't always published on time which subsequently would be delayed in the Official Gazette. Despite the commitment to publish the Official Gazette regularly, the chaos in publishing decisions sometimes reduces the published information's value such as naming decisions, which may be published months after taking them. The Official Gazette also provides the House of Representatives' the deliberations, which are also published on the official website of the House.

The application by the State institutions of laws providing for the provision of information also reflects the extent of their commitment to guarantee the right to information.

Although the People's Assembly's bylaws provide for publishing specific information to the public within a specified period, such as voting results of laws that must be published within 48 hours after voting is conducted, this information sometimes gets delayed. The rules of procedure also stipulate that the attendees list shall be published in general sessions and the committees no later than three days after each session, which is not always respected as it

usually either gets delayed or not published at all.

The law also stipulates that the decisions of the Assembly of Representatives of the People's Bureau should be published with three days of its issuance which are published according to its rules of procedure, despite that fact, issuing then is usually gets delayed, as well as the committees' sessions transcripts which the rules of procedure stipulated that it should be published within one month of the session as it gets delayed for months usually and some of them doesn't get published at all.

Parliamentary committees meetings are also held without prior announcement, contrary to the rules of procedure and the right to information. The Assembly of Representatives of the People has committed to general sessions television coverage, allowing everyone to follow debates and voting. The Assembly broadcasts some committees work directly in a digital way, but this initiative came after strong resistance to civil society's attempt to broadcast some meetings, despite the fact that the rules of procedure stipulated that those meetings are open to the public. I Watch Organization considered prohibiting it from photographing one of the parliamentary committee meetings «a violation to the citizen's right to access information.» (I Watch Organization)

While ratifying the access to information law is a manifestation of the legislator's obligation to activate a constitutional right in an organic law, the State institutions obligation to respect legal texts requirements does not necessarily reflect an obligation to guarantee the right to information.

The law expressly stipulates responsibilities that all institutions are subject to,

On top of them, of course, is that this law's provisions must be respected. These responsibilities include the availability of a website for each institution, that automatically includes information required to be published, and an access to information directory that enables citizens to access information those institutions bear the

responsibility of building such structure, in its transitional provisions, the law provides for clear deadlines for respecting provisions, which is six months after the law enters into force.

In a report assessing state institutions commitment to law on provisions access to information which was published by I Watch organization in September 2018, it was

found that only 20% of ministries respected the law's automatic dissemination of information, 41% of Governorates did not have a website, and 11 of those who have a website that did not update it with the needed information. The organization also found that a number of public institutions and most sports federations do not respect law provisions, As for municipalities, Al Bawsala Association published a report assessing the response of all municipalities to law requirements on automatic publication, the demands for access to information was indeed responded to positively , and it was found that 61.7% of municipalities owned websites in 2018,

47.7% of these sites contain some published information as provided by law, and only 14% of them stipulates rules of access to the information. The Association is also assessing all municipalities extent of responsiveness to information access demands since 2014 by publishing a transparency measure that assesses each municipality responsiveness to the set of information access applications . There are also some measures related to automatic dissemination of information that were added after ratifying the Access to information law on the website.

The law also provides for establishing the National Authority for Access to Information within one year of its ratification. The Authority's establishment was delayed due to disrupting the election of its members, and its first decision was issued on 1 February 2018, nine months after the period stipulated by law. Despite being delayed the Authority was able to adjudicate more than 700 cases by the end of August 2019, and published more than one thousand cases since its inception. And all the Authority decisions is published on its website www.inai.tn. The challenge remains in the responsiveness

extent of structures concerned with the Authority's decisions and the providing information to applicants.

Other laws provide for access to information, such as the Archive Act, which gives the right to access confidential information after a specified period. (Interview with Mohamed El Haddad on Ben Ali's statement).

Local Communities Code is a law that also affects information. Although the code is based on the right to information and legislation to implement this right, but some of its provisions have already been violated after the first municipal elections after the revolution. The first of these violations was in the electing mayors process. As some governors invited citizens for closed electing sessions, although the law stipulated clearly that sessions should be public. Some citizens and associations resorted to the judiciary to challenge the legal integrity of closed those closed sessions before the Administrative Court.

The state did not commit to guaranteeing the right to information in the internal rules of procedure model which was proposed by the government to the municipal councils, which explicitly prohibited direct broadcasting of municipal meetings, despite the code's provision on publicity. The civil society pressured the municipal councils to reject the chapter related to this ban, and Al Bawsala Association filed a petition for those who want to challenge the internal rules legality as it prohibits live broadcasting.

The Tunisian State has joined an open government partnership in 2014,

It is an initiative that was announced on 2011 at the United Nations General Assembly and it involves a number of countries. Tunisia is one of the 75 countries that joined that initiative which seeks to engage citizens and cultivate open governance principles in public structures, transparency and anti-corruption.

Tunisia's accession to this initiative is an evidence for the

country's commitment to the right to information, as accession to the partnership requires a minimum respect for open governance principles in the following areas: financial and fiscal transparency, access to information, announcing gains, participation and protection of civil liberties (Tunisian Government 2019).

Three action plans have been formulated since Tunisia joined the initiative, which goes beyond the state's commitments to promote open governance. These plans were formulated within a leadership committee contains civil society representatives and different state structures representatives equally, and they are followed up through assessment reports (Tunisian Government 2019).

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Increasing the right to information's popularity



Tunisia

The right to information legal aspect's evolution and the multiplicity of its guarantor structures in Tunisia make practicing is the best way to consolidate that right among citizens.

Focusing on the information's local or sectoral aspect, and relying on decentralization, local independent bodies and administrations.

Focusing on exercising this right at the local level based on the process of decentralization which was defined by the Tunisian Constitution, it is one of the opportunities to increase the this right's popularity, as it has a geographical proximity to citizens, and a direct impact on his/her daily life. It is also preferable to focus on exercising this right in specific vital sectors, such as education and health, because of their popular interest and impact on all groups.

To Work on involving civil society, Information Access Authority, and the Administrative Court in establishing human rights, societal legal, and judicial principles.

The multiplicity of those who are involved in guaranteeing the right to information, from the state institutions and the civil society components, represents an opportunity to increase its popularity. Civil society represents a popular extension, and state institutions such as the Information Access Authority and the Administrative Court give an administrative extension, both of which give credibility to this right.

Communicating on information access successes by presenting case studies and examples

Communicating on the right to information practices, especially those that have been successful and have had a clear impact, at the local or national level, which is a guarantee on which the right to information is established as a mechanism used by citizens. Diversity should be taken into account in this communication, provided that it should not solely be the State institutions responsibility, so as to avoid false propaganda. And the media should be allowed to share experiences of this right.

Deep research of the three countries indicates that the right to information is not based on a popular basis that demand it clearly, although there are manifestations and reasons that indicate the citizen's awareness of the information's importance in his daily life. Developing the right to information requires an increase in this right's popularity by consolidating it in the society and this varies from country to another.



Egypt

The delicate and discouraging political situation in the civil society movement in Egypt may not encourage developing or exercising the right to information, but it does not prevent building a popular base that defends it and calls for its practice without risking its own freedom.

To increase initiatives that monitor popular questions (media, human rights, creative culture, community activism)

To support Initiatives that monitor public questions about information that citizens want to know, and these initiatives should put information within a framework that demonstrates the availability of such information's impact on daily life functioning.

To seek enhancing the civil society's role in working to establish the right to information with the various sectors and parties concerned.

Focusing on specific sectors may enable civil society to consolidate the right to information and interact with those who are influencing it, but not in a national and public manner that may arouse the ire of political actors.



Libya

The absence of a legal framework regulating the right to information in Libya may be an opportunity to consolidate popular adherence as a first step, and it may be an opportunity to establish it, in the absence of institutional structures that clearly interfere with its codification.

To Work on increasing the external and internal support to civil society organizations orientation that support the right of access to information.

External and internal support for associations did not explicitly support the right of access to information. To Direct financial, logistical and capacity-building support to civil society to raise awareness about the right of access to information in a way that responds to the Libyan reality and the field is one of the first steps that may provide mechanisms to consolidate this right.

To Increase debate in the Libyan media about the right of access to information in the draft constitution, as well as the place of this right within the arsenal of Libyan legislation.

The media represents an important opportunity for the follower to share the right of access to information's importance, especially since it is present in the current version of the Constitution. Opening the debate on this right may compensate for the absence of debate on this right during drafting the constitutional bill, and may protect it if it is violated when the constitution is ratified. This debate in the future represents a building block for the debate on future legislation as well.

To Begin work on ongoing processes to explore opinions on information that citizens would like to know and prioritize based on needs as a result of expressing opinion processes.

To monitor the Libyan citizens concerns, especially in areas they are asking about, accurately and scientifically, as this contributes to good guidance of awareness campaigns and good exercising of the right to information, even if it was not developed enough in Libya.



Enhancing the public policy on the right to information



Tunisia

The public policy on the right of access to information in Tunisia is clearly defined, stipulated in the Constitution, laws and regulations, but may be obstructed by other legal frameworks that adversely affect the right to information, or by lack of implementation.

To review and evaluate the legal framework on the right to information and to revise laws that have a negative impact on this right

The existence of a legal framework governing the right to information is an opportunity because it represents the standard by which the quality of public policy is measured. The application of this law must be evaluated first, the extent of its activation by the state, and the extent of resorting to it by the citizen. The law on information cannot be assessed in isolation from other legal frameworks that negatively affect it, which must be revised through advocacy campaigns that pressure the legislator.

Investing in implementing the law on the right to information in terms of providing approved budgets and assigning the necessary and adequate human resources

Public policies are turned into a reality by providing human and materialistic resources necessary for all structures involved in the right to information. These possibilities should be stipulated in finance laws that define the state budget and its components. and we should invest in information security infrastructure, such as linking enterprises to the Internet, or the acquisition of document processing equipment

To Work on the completing digitization in all concerned bodies and ministries, including the necessary programs, technological applications and laws

The public policy on the right to information cannot be applied to in isolation from digitization in the citizens dealings with the state in all its manifestations, from electronic documentation to electronic signature, which shortens the deadlines for responding to citizens' demands, including access to and providing information.

Studying public policies on access to information in the three countries shows that the chances of influencing them exist, although this policy manifestations vary in each country, taking into account the extent applying the officially authorized policies.



Egypt

To legalize the right to access information in a clear law that responds to the Constitution

Investing in existing constitutional articles as well as relevant laws in which the right of access to information is clearly included in order to come up with a clear law for access to information in Egypt.

Resorting to strategic litigation

To take advantage of judicial rulings in which judgments provisions are based on respect for the right of access to information as an inherent human right, in order to establish a new generation of lawyers and jurists who respect and recognize these judicial principles in their defense and literature.



Libya

Libya has not yet ratified a constitution that governs the state and stipulates rights and freedoms that it would guarantee, but the current draft provides for guaranteeing the right to information, and a legislative council or government to legislate may be agreed upon until elections is held , which provide opportunities to influence State policies in the light of the current instability.

To Maintain the right of access to information provisions in any constitutional draft submitted to the people

preserving of the right to information in the current draft constitution is a duty, and although the risk of its deletion is not significant, but being prepared is a duty.

To Ensure that the right to information is incorporated into all legal texts

The absence of a constitution does not preclude promulgating laws that may directly or indirectly affect the right to information. All bills must be considered as opportunities to provide for the right to information.

Building the capacity of political parties, civil society and the media to have access to information

Building the capacity of public actors, is an opportunity for the right to information and the way in which its guarantor, policy is formulated.



Protecting the right to information



Tunisia

Although the right to information is enshrined in the Tunisian Constitution and there is a clear legal framework, protecting this right from reluctance to resort to it or not to respecting it during its application is a duty .

Good handling of censorship cases

Coordinating among various actors to develop a crisis strategy that would work in cases of intentional or temporary censorship, including communication and positive pressure to resolve and document them.

To support researchers and academics and build their capacities

Providing legal support to researchers and academics who wish to obtain information, whether through a legal framework that protects their rights or by providing legal support for counseling or advocacy for such cases

Ensuring the administrative judiciary's participation

Working with administrative judges to raise their capacity and awareness of this right's importance

Although the right to information's development is different in the three countries, the protection of this right is a duty in accordance to the political realities and those who are involved in it, and relevant effects.



Egypt

Despite the absence of a legal framework on the right to information and restricting civil and human rights work, there are opportunities based on the state's judicial institution, and civil society struggles.

Enhancing strategic litigation

To Strengthen strategic litigation's role in protecting the right to legal and judicial access to information, documenting it and disseminating its successes.

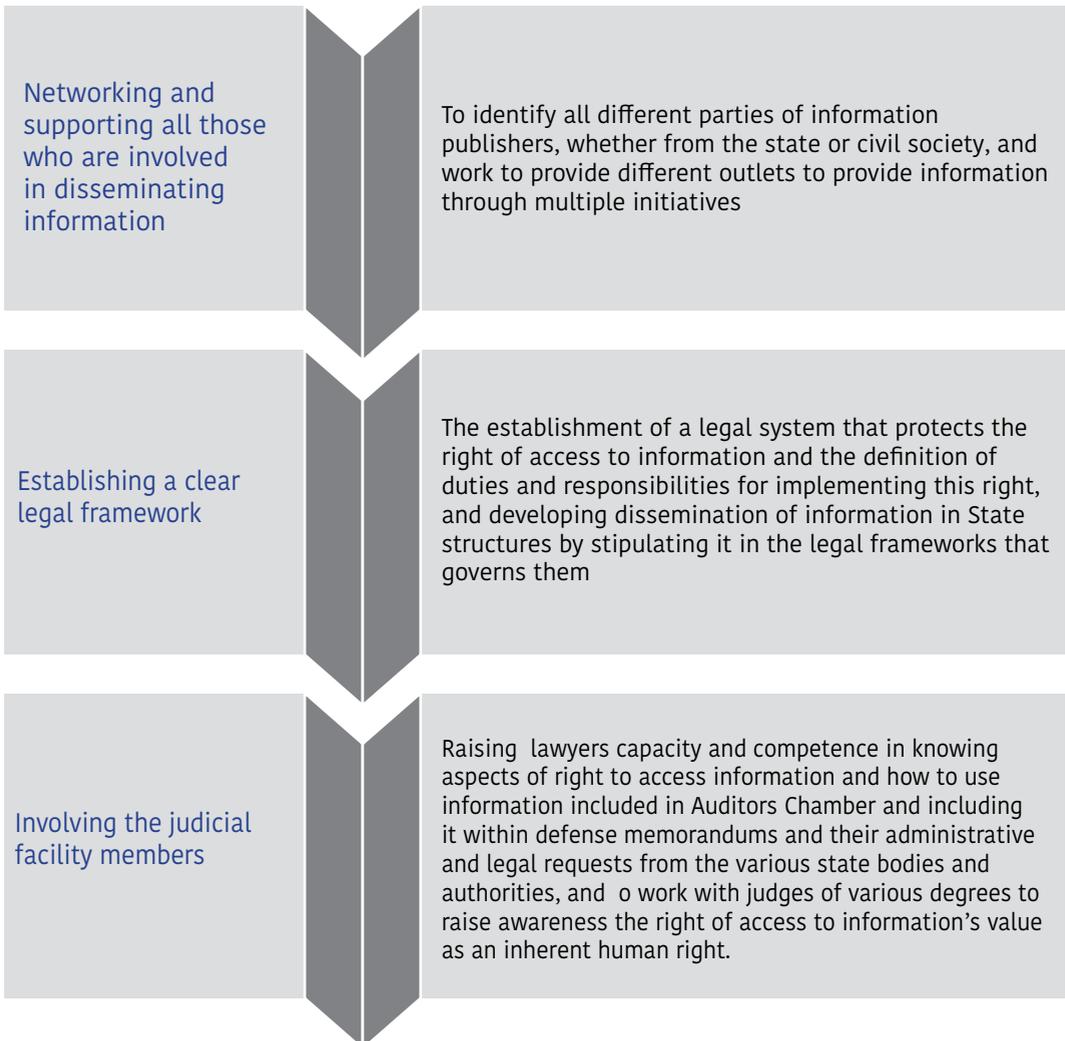
Enhancing civil society

Coordinating between civil society organizations to provide an environment that fosters and protects the right of access to information through providing human right, legal and logistical support to citizens seeking information.



Libya

Although the legal framework guaranteeing the right to information has not evolved, signs of disseminating of information must be preserved and strengthened by both citizens and state institutions





Democratic Transition And Human Rights Support Center's publications

- Flood of Dignity or Flood of Indignity? A Brief on the latest developments and updates of Libya's situation
- Preventative detention in Egypt, A procedure or a punishment?
- Integrating the culture of Human Rights and gender in the political field
- The development of Policies and Legislation on Human Rights and Democratic Transition in Egypt, Tunisia and Libya
- Integrating the principles of human rights and gender equality into the programs and policies of political parties in Tunisia and Libya
- Constitution and Human Rights in the Countries of the Arab Revolutions: Tunisia, Egypt and Libya as a Model
- The independence of the judiciary in Egypt.. An endless history of clash with the executive authority
- Recommendations of Democratic Transition Forum
- Eastern Libya: Civilian State Caught in the Crossfire of Militarization and Extremism

«مركز دعم التحول الديمقراطية وحقوق الانسان» دعم

مؤسسة شبه اقليمية غير حكومية مستقلة تأسست عام 2015، تهدف إلى خلق مناخ ملائم للتقدم بالبناء الديمقراطي المستند إلى مبادئ حقوق الانسان في تكاملها وشموليتها، وتسعى إلى دعم وتعزيز مسارات مؤسسات ديمقراطية وتشاركية على أسس المدنية والمساواة والتنمية المستدامة، وذلك من خلال تنمية القدرات ودعم الجهود الرامية إلى إصلاح السياسات والتشريعات بما يلائم ميادين الديمقراطية المرتكزة على حقوق الانسان والاسهام في انتاج معرفة حول واقع ومسارات التحول الديمقراطي في البلدان المعنية.

وتعمل المؤسسة بالتعاون مع الأطراف المعنية من مظمات وهيئات المجتمع المدني المحلية والاقليمية والدولية، والجهات الحكومية والقوى السياسية وناشطين المجتمع المدني.

DEMOCRATIC TRANSITION AND HUMAN RIGHTS SUPPORT CENTER «DAAM»

A Sun-regional independent non-governmental organization founded in 2015 that aims to create favorable climate to the progress of the democratic structure based on the principles of the human rights in its interogations and comprehensiveness.

DAAM seek to support and promote paths and sustainbles development ground via capacity development and supporting efforts designed to reform policies and legislation.

This would helpfitting the principles of democracy based on human ritghs and contributing of knowledge production about the reality and the paths of democratic transition in the related countries. DAAM works in cooperation with relvant stakeholders from the civil society organisations and bodies locally, regionally, and internationally, including governmental bodies, political forces and civil society activists.

