ARTICLE 19

公众知情权：信息权立法的原则

The Public's Right to Know: Principles on Right to Information Legislation

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The Public's Right to Know: Principles on Right to Information Legislation

These Principles were originally developed in 1999 and updated in 2015. They have been endorsed by Abid Hussain, the UN Special Rapporteur on Freedom of Opinion and Expression, in his report to the 2000 Session of the United Nations Commission on Human Rights (E/CN.4/2000/63), and referred to by the Commission in its 2000 Resolution on freedom of expression, as well as by Hussain's successor Frank LaRue in 2013 in his report to the UN General Assembly in 2013 (A/68/362, 4 September 2013).

公众知情权：信息权立法的原则

这些原则最初制定于1999年，并在2015年得到更新。联合国意见和言论自由问题特别报告员阿比德·哈桑，在其对联合国人权委员会2000年会议的报告(E/CN.4/2000/63)中同意了这些原则，人权委员会在其2000年关于言论自由的决议中也提到这些原则。哈桑的继任者弗兰克· 拉卢在其2013年对联合国大会的报告(A/68/362，2013年9月4日)中也同意了这些原则。

Principle 1: Maximum disclosure

Right to information legislation should be guided by the principle of maximum disclosure

The principle of maximum disclosure establishes a presumption that all information held by public bodies should be subject to disclosure and that this presumption may be overcome only in very limited circumstances (see Principle 4). This principle encapsulates the basic rationale underlying the very concept of the right to information in international law and ideally should be provided for in the Constitution to make it clear that access to official information is a basic right. The overriding goal of legislation should be to implement maximum disclosure in practice.

Public bodies have an obligation to disclose information and every member of the public has a corresponding right to receive information. The right should be available to all persons and informal and formal organisations, regardless of citizenship or residence. The exercise of this right should not require individuals to demonstrate a specific interest in the information or to explain why they wish to obtain it. Where a public authority seeks to deny access to information, it should bear the onus of justifying the refusal at each stage of the proceedings. In other words, the public authority must show that the information which it wishes to withhold comes within the scope of the limited regime of exceptions, as detailed below.

Definitions

Both 'information' and 'public bodies' should be defined broadly.

'Information' includes all materials held by a public body, regardless of the form in which the information is stored (document, computer file or database, audio or video tape, electronic recording and so on), its source (whether it was produced by the public body or some other entity or person) and the date of production. The legislation should also apply to information which has been classified as secret or some other designation, subjecting them to the same test as all other information. In some jurisdictions, this extends to samples of physical materials used by public bodies in public works The law should also include, the obligation to disclose should apply to records themselves and not just the information they contain, as the context in which it is held is information also.

For purposes of disclosure of information, the definition of 'public body' should include all branches and levels of government including local government, elected bodies (including national parliaments), bodies which operate under a statutory mandate, nationalised industries and public corporations, non-departmental bodies or quangos (quasi non-governmental organisations), judicial bodies, and private bodies which carry out public functions (such as maintaining roads or operating rail lines) or hold decision-making authority or expend public money. No bodies, including defence and security bodies, should be exempt. Private bodies themselves should also be included if they hold information whose disclosure is likely to diminish the risk of harm to key public interests, such as the environment and health or affect individuals' human rights. Inter-governmental organisations should also be subject to right to information regimes based on the principles set down in this document.

第1条原则：最大程度的披露

信息权的立法应由最大限度披露的原则指导。

最大限度披露的原则确定的一个假设是，公共机构掌握的所有信息都应得到披露。只有在十分有限的情况下，该假设才可能被推翻（参阅第4条原则）。本原则概括了国际法中信息权概念的基本理由，《宪法》在理想情况下应列载本原则，以阐明获取官方信息的权利是一项基本权利。立法的首要目标应是在实践中施行最大限度的披露。

公共机构负有披露信息的义务，每个观众成员则都相应具有得到信息的权利。任何人和正规及非正规组织都应享有此权利，而无论其国籍或居留权情况。此权利的行使，不应以人们显示对信息具有特殊兴趣，或解释他们为何希望得到该信息为条件。公共当局在试图拒绝人们获得信息时，应负有责任来在程序的每个阶段证明其拒绝的合理性。换句话说，公共当局必须显示其希望隐瞒的信息属于下文所述的有限例外范畴内。

定义

“信息”和“公共机构”都应得到广义的定义。

“信息”包括公共机构掌握的所有材料，而无论信息的储存形式（文件、电脑文档或数据库、音像带、电子记录等形式）、来源（无论其是否由公共机构或其他实体或个人制作），以及制作日期。立法还应适用于被定为机密或其他种类的信息，使其得到与其他所有信息一样的检验。在某些司法管辖区，这延伸到公共机构在公共工程中使用的物质材料样本。法律还应规定，披露的义务应适用于信息记录本身，而不仅是其包含的信息，因为持有信息的背景情况也是重要的。

为了信息披露的目的，“公共机构”的定义应包括各级政府（包含地方政府）的所有部门，选举产生的机构（包括国家议会），法定授权运作的机构，国有化行业和公营公司，非政府部门机构或半官方机构（准非政府组织），司法机构，和行使公共职能（例如维修道路或运营铁路）或具有决策权威或花费公款的私营机构。包括国防和安全机构在内的任何机构都不应例外。如果私营机构掌握的信息在披露后，可能会降低环境和健康等关键公共利益受损的风险，或影响到人们的人权，那么这些机构也应被包括。另外还应根据本文件阐述的原则，对政府间组织实行信息权方面的规定。

Retention and Destruction of Information

To protect the integrity and availability of information, the law should establish minimum standards regarding the maintenance and preservation of information by public bodies. Such bodies should be required to allocate sufficient resources and attention to ensuring that public record-keeping is adequate. It should provide that obstruction of access to, or the willful destruction of information is a criminal offence.]

Principle 2: Obligation to publish

Public bodies should be under an obligation to publish key information

The right to information implies not only that public bodies respond to requests for information but also that they proactively publish and disseminate widely information of significant public interest, subject only to reasonable limits based on resources and capacity. Which information should be published will depend on the public body concerned. The law should establish both a general obligation to publish and key categories of information that must be published.

Public bodies should, as a minimum, be under an obligation to routinely publish and update the following categories of information:

- operational information about how the public body functions, including objectives, organizational structures, standards, achievements, manuals, policies, procedures, rules, and key personnel;
- information on audited accounts, licenses, budgets, revenue, spending, subsidy programmes public procurement, and contracts;
- information on any requests, complaints or other direct actions which members of the public may take in relation to the public body;
- guidance on processes by which members of the public may provide input into major policy or legislative proposals;
- the types of information which the body holds and the form in which this information is held, including any registers of documents and databases; and
- the content of any decision or policy affecting the public, along with reasons for the decision and background material of importance in framing the decision, including all environmental, social, or human rights impact assessments.

Open data and reuse

Information proactively published, as well as that released in response to requests, should be made available in open and machine readable formats when applicable, and without restrictions on its further use and publication.

信息的保留和销毁

为保护信息的完整性和可得性，法律应设立关于公共机构维护和保存信息的最低标准。应要求此类机构分配足够的资源和注意力，来确保适当的公共记录保存。法律应规定，阻碍获取信息或任意销毁信息是犯罪行为。

第2条原则：公布的义务

公共机构应负有公布关键信息的义务

信息权不仅意味着公共机构对信息请求作出回应，还意味着这些机构主动公布和广泛传播那些具有重要公益性的信息，而这只应受到基于资源和能力的合理限制。应公布哪条信息取决于相关的公共机构。法律不仅应确立进行公布的一般性义务，还应确立必须公布哪些关键类别的信息。

公共机构至少应有义务定期公布和更新以下类别的信息：

- 有关公共机构如何行使职能的运作性信息，包括其目标、组织机构、标准、成绩、手册、政策、程序、规则和关键人员；
- 关于受审计的账户、执照、预算、收入、开销、补贴项目、公共采购和合同的信息；
- 关于公众成员可能进行的有关公共机构的要求、投诉或其他直接行动的信息；
- 关于公众成员参与重大政策或立法提议的程序的指导方针；
- 机构掌握的信息种类及其持有信息的形式，包括任何文件登记和数据库；
- 任何影响到公众的决定或政策内容，以及决定的理由和影响决定的重要背景材料，包括所有环境、社会或人权影响评估。

公开数据和重新使用

主动发布的信息以及根据要求发布的信息，应以公开和在适当情况下可用机器读取的形式提供，而且不应限制这些信息的进一步使用和发表。

Principle 3: Promotion of open government

Public bodies must actively promote open government

Informing the public of their rights and promoting a culture of openness within government are essential if the goals of right to information legislation are to be realised. Indeed, experience in various countries shows that a recalcitrant civil service can undermine even the most progressive legislation. Promotional activities are, therefore, an essential component of a right to information regime. This is an area where the particular activities will vary from country to country, depending on factors such as the way the civil service is organised, key constraints to the free disclosure of information, literacy levels and the degree of awareness of the general public. The law should require that adequate resources and attention are devoted to the question of promoting the goals of the legislation.

Public Education

As a minimum, the law should make provision for public education and the dissemination of information regarding the right to access information, the scope of information which is available and the manner in which such rights may be exercised. In countries where newspaper distribution or literacy levels are low, the broadcast media are a particularly important vehicle for such dissemination and education. Information and communications technologies can also be effective. Local public information boards and other community-based information systems should also be used. Creative alternatives, such as town meetings or mobile film units, should also be explored. Such activities should be undertaken both by individual public bodies and a specially designated and adequately funded official body – either the one which reviews requests for information, or another body established specifically for this purpose.

Tackling the culture of official secrecy

The law should provide for a number of mechanisms to address the problem of a culture of secrecy within government. These should include a requirement that public bodies provide comprehensive right to information training for their employees. Such training should address the importance and scope of right to information, procedural mechanisms for accessing information, how to maintain and access records efficiently, the scope of whistleblower protection, and what sort of information a body is required to publish. Officials at all levels should receive some training, depending on their role.

The official body responsible for public education should also play a role in promoting openness within government. Initiatives might include incentives for public bodies that perform well, campaigns to address secrecy problems and communications campaigns encouraging bodies that are improving and criticising those which remain excessively secret. Bodies should provide annual reports to Parliament and/or Parliamentary bodies on their activities, highlighting problems and achievements, which might also include measures taken to improve public access to information, any remaining constraints to the free flow of information which have been identified, and measures to be taken in the year ahead.

第3条原则：促进政府公开

公共机构必须积极促进政府公开

如果要实现信息权立法的目的，那么告知公众其权利并促进政府内部的公开文化就是至关重要的。实际上，多个国家的经验显示，最具进步性的立法也会遭到顽固的公务部门的损害。因此，促进公开性的活动是信息权制度中必不可缺的要素。这一领域的特定活动在各国各不相同，取决于公务部门的组织形式、信息自由披露所受的关键限制、识字率和普通公众的意识程度等因素。法律应要求在促成立法目的的方面投入适当的资源和关注。

公众教育

法律至少应规定，在获取信息的权利、可得信息的范围及行使此类权利的方式方面，要进行公众教育并传播信息。在那些报纸发行和识字水平较低的国家，广播媒体是进行此类传播和教育的特别重要的工具。信息和通讯技术也可以有效，还可以使用地方公共信息公告牌和其他社区信息系统，也应探寻具有创意的替代方法，例如城镇会议或移动电影单位。此类活动既应由单独的公共机构进行，也应由一个特别指定和得到适当资金的官方机构来进行，该机构要么是审议信息请求的机构，要么是为此目的而专门成立的另一机构。

杜绝官方保密文化

法律应规定有一些机制来处理政府内部的保密文化问题。这应包括要求公共机构为其员工提供全面的信息权培训。此类培训应宣讲信息权的重要性和范围，获取信息的程序机制，如何有效地维护和获取信息，举报者保护的范围，以及要求一个机构公布何种信息。各级官员都应根据其职责而受到一些培训。

负责进行公众教育的官方机构，还应发挥促进政府内部公开性的作用。举措可能包括奖励那些表现良好的公共部门，开展运动来处理隐瞒信息的问题，开展交流活动来鼓励那些正在改进的机构并批评那些仍过度保密的机构。各机构应向议会和/或议会机构提供其活动的年度报告，重点指出问题和成绩，还可能包括其采取的扩大公众获取信息渠道的措施，确认的信息自由流动所受的任何残存限制，以及来年将采取的措施。

Principle 4: Limited scope of exceptions

Exceptions should be clearly and narrowly drawn and subject to strict "harm" and "public interest" tests

All individual requests for information from public bodies should be met unless the public body can show that the information falls within the scope of the limited regime of exceptions. A refusal to disclose information is not justified unless the public authority can show that the information meets a strict three-part test.

Bodies should only withhold the specific information that is exempted in documents or records and provide redacted versions of the remainder of the material.

The three-part test

- the information must relate to a legitimate aim as provided for in international law;
- disclosure must threaten to cause substantial harm to that aim; and
- the harm to the aim must be greater than the public interest in having the information.

No public bodies should be completely excluded from the ambit of the law, even if the majority of their functions fall within the zone of exceptions. This applies to all branches of government (that is, the executive, legislative and judicial branches) as well as to all functions of government (including, for example, functions of security and defence bodies). Non-disclosure of information must be justified on a case-by-case basis.

Restrictions whose aim is to protect governments from embarrassment or the exposure of wrongdoing including human rights violations and corruption can never be justified.

Legitimate aims justifying exceptions

A complete list of the legitimate aims which may justify non-disclosure should be provided in the law. This list should include only interests which constitute legitimate grounds for refusing to disclose documents and should be limited to matters recognized under international law such as law enforcement, privacy, national security, commercial and other confidentiality, public or individual safety, and the effectiveness and integrity of government decision-making processes.

Exceptions should be narrowly drawn so as to avoid limiting the disclosure which does not harm the legitimate interest. They should be based on the content, rather than the type, of the information. Information that is withheld should be routinely reviewed to ensure that the exemption still applies. For example, the justification for classifying information on the basis of national security may well disappear after a specific national security threat subsides. Exceptions should be limited to no more than 15 years, except in extraordinary circumstances.

Refusals must meet a substantial harm test

It is not sufficient that information simply fall within the scope of a legitimate aim listed in the law. The public body must also show that the disclosure of the information would cause

第4条原则：例外情况范围有限

应清楚和严密地规定例外情况，并根据“危害性”和“公共利益”对其严格检验

对公共机构提出的所有信息请求都应得到满足，除非公共机构能显示该信息属于有限的例外范围。除非公共当局能显示，该信息符合严格的三项检验，否则就不能证明拒绝披露信息的行为合理。

机构只应隐瞒文件或记录中免于公开的特定信息，并应提供其余材料的节录版本。

三项检验

- 信息必须和国际法中规定的合法目标相关；
- 其披露必须可能对该目标造成严重损害；
- 对目标的损害必须大于获取信息方面的公共利益。

任何公共机构都不应完全被排除在信息权法律范围之外，即使其主要职能属于例外情况的范畴。这适用于所有政府部门（即行政、立法和司法部门），以及政府的所有职能（包括安全和国防等职能）。不披露信息的行为必须逐个被证明合理。

以保护政府免遭尴尬，或免于被揭露犯下侵犯人权和腐败等恶行为目的的限制，绝无合理性。

合法目标证明例外情况合理

法律应规定有一套完整的合法目标清单，这些目的可能证明不披露信息的行为是合理的。该清单应仅包括构成拒绝披露文件行为合理根据的利益，并应限于国际法承认的事宜，例如执法、隐私、国家安全、商业和其他机密、公共或个人安全以及政府决策程序的有效性和完整性。

例外情况应受到严密界定，以避免限制进行不损害合法利益的披露。这些例外应基于信息的内容，而不是种类。隐瞒的信息应得到定期审议，以确保其仍适合免于披露。例如，根据国家安全而将信息列为机密的理由，可能在某一特定国家安全威胁消除后就不复存在。除非情况特殊，否则例外情况应限于15年之内。

拒绝行为必须符合严重损害性的检验

substantial harm to that legitimate aim. In some cases, disclosure may benefit as well as harm the aim. For example, the exposure of corruption in the military may at first sight appear to weaken national defence but actually, over time, help to eliminate the corruption and strengthen the armed forces. For non-disclosure to be legitimate in such cases, the net effect of disclosure must be to cause substantial harm to the aim.

Overriding public interest

Even if it can be shown that disclosure of the information would cause substantial harm to a legitimate aim, the information should still be disclosed if the benefits of disclosure outweigh the harm. For example, certain information may be private in nature but at the same time expose high-level corruption within government. The harm to the legitimate aim must be weighed against the public interest in having the information made public. Where the latter is greater, the law should provide for disclosure of the information. Other public interests include making an important contribution to an ongoing public debate, promote public participation in political debate, improving accountability for the running of public affairs in general and the use of public funds in particular; expose serious wrongdoings, including human rights violations, other criminal offences, abuse of public office and deliberate concealment of serious wrongdoing; and benefit public health or safety.

Principle 5: Processes to facilitate access

Requests for information should be processed rapidly and fairly and an independent review of any refusals should be available

All public bodies should be required to establish open, accessible internal systems for ensuring the public's right to request and receive information. Bodies should designate an individual who is responsible for processing such requests and for ensuring compliance with the law.

Public bodies should also be required to assist applicants whose requests relate to published information, or are unclear, excessively broad or otherwise in need of reformulation. On the other hand, public bodies may be able to refuse clearly frivolous or vexatious requests that are only intended to disrupt the activities of the public body. Public bodies should not have to provide individuals with information that is contained in a publication that is freely available to the public, but in such cases the body must direct the applicant to the published source.

Provision should be made to ensure full access to information for disadvantaged groups, for example those who cannot read or write, those who do not speak the language of the record, or those who suffer from disabilities such as blindness.

The law should provide for strict time limits for the processing of requests on no more than one month.

The law should require that any refusals be accompanied by substantive written reasons,

信息仅仅属于法律列出的合法目标范畴是不够的。公共机构还必须显示，披露信息会对该合法目标造成严重损害。在一些情况中，披露行为可能既有利于该目标，也不利于该目标。例如， 揭露军方腐败可能乍看起来削弱国防，但实际上从长远来说有助于消除腐败并加强武装力量。要使此类情况中的不披露行为合法，披露的总体效果必须会对目标造成严重损害。

首要的公共利益

即使可以显示披露信息会对一项合法目标造成严重损害，如果披露的益处超出损害，该信息则仍应被披露。例如，某些信息具有隐私性质，但同时揭露政府内部的高层腐败。对合法目标的损害必须与公布信息方面的公共利益相衡量，如果后者大于前者，法律就应规定披露信息。其他公共利益包括对正在进行的公共辩论产生重大帮助；促进公众参与政治辩论；完善公共事务一般运行方面的问责，特别是在公共资金使用方面的问责；揭露严重的恶行，包括侵犯人权行为、其他犯罪行为、滥用公职和对严重恶行的故意隐瞒；以及有益于公众健康或安全。

第5条原则：促成获取信息的程序

信息要求应得到迅速和公正的处理，应可以对任何拒绝行为进行独立审查。

应要求所有公共机构都设立公开和无障碍的内部系统，来确保公众要求和收到信息的权利。机构应指定专人负责处理此类要求并确保合法。

如果申请人的要求与已公布的信息相关，或者其要求不清楚、过于宽泛或需要改写，法律则应要求公共机构协助他们。另一方面，如果信息要求明显是琐屑无聊或无理取闹，仅仅旨在扰乱公共机构的活动，公共机构就可能可以拒绝。公共机构不应不得不向人们提供那些公众可自由获取的出版物中包含的信息，但在此类情况中，公共机构必须指引申请人找到信息的发布来源。

法律应确保弱势群体具有获取信息的完整渠道，例如那些不能读写的人，不能讲记录所用语言的人，或例如盲人等残疾人。

法律应规定严格期限，使信息要求的处理不超过1个月。

based on the exemptions set out in the law and provide the applicant information on their appeal rights.

Appeals

A process for deciding upon requests for information should be specified at three different levels: within the public body; appeals to an independent administrative body; and appeals to the courts.

Provision should be made for an internal appeal to a designated higher authority within the public authority who can review the original decision.

In all cases, the law should provide for an individual right of appeal to an independent body from a refusal by a public body to disclose information. This may be either an existing body, such as an Ombudsman or a specialised administrative body established for this purpose. In either case, the body must meet certain standards and have certain powers. Its independence should be guaranteed, both formally and through the process by which the head and/or board is/are appointed. The best practice is the create an independent information commission.

Appointments should be made by representative bodies, such as an all-party parliamentary committee, and the process should be open and allow for public input, for example regarding nominations. Individuals appointed to such a body should be required to meet strict standards of professionalism, independence and competence, and be subject to strict conflict of interest rules.

The procedure by which the administrative body processes appeals over requests for information which have been refused should be designed to operate rapidly and cost as little as is reasonably possible. This ensures that all members of the public can access this procedure and that excessive delays do not undermine the whole purpose of requesting information in the first place.

The administrative body should be granted full powers to investigate any appeal, including the ability to compel witnesses and, importantly, to require the public body to provide it with any information or record for its consideration, in camera where necessary and justified.

Upon the conclusion of an investigation, the administrative body should have the power to dismiss the appeal, to require the public body to disclose the information, to adjust any charges levied by the public body, to sanction public bodies for obstructive behaviour where warranted and/or to impose costs on public bodies in relation to the appeal.

The administrative body should also have the power to refer to the courts cases which disclose evidence of criminal obstruction of access to or willful destruction of records.

The applicant should be able to appeal to the courts against decisions of the body. The court should have the full power to review the case on its merits and not be limited to the question of whether the body has acted reasonably. This will ensure that due attention is given to resolving difficult questions and that a consistent approach to right to information issues is promoted.

法律应要求任何拒绝都应附加实质性的书面理由，这些理由是基于法律规定的例外情况，并向申请人提供关于其上诉权的信息。

上诉

应在3个不同级别确立处理信息要求的程序：公共机构内部；对一个独立的行政机构提出的上诉；以及对法院提出的上诉。

应规定可以对公共当局内部的一个更高层指定部门提出内部上诉，该部门可以审议起初的决定。

在所有情况中，法律应该规定如果公共机构拒绝披露信息，人们有权对一个独立机构提出上诉。这可以是一个现有机构，例如监察员机构，或是为此目的成立的专门行政机构。在这两种情况中，该机构都必须符合一定标准，并具有一定权力。其独立性应得到正式保障，并通过机构首脑和/或委员会的委任程序来保障。最佳做法是设立一个独立的信息委员会。

成员应由代表机构来委任，例如所有党派参与的议会委员会，程序应公开并允许公众参与，例如在提名方面。应要求被委任到此类机构的成员，符合严格的职业、独立性和能力标准，并遵守严格的利益冲突规则。

该行政机构处理被拒信息请求上诉的程序，应设计为运行迅速，其费用应在合理的情况下尽可能的少。这确保所有公众成员都能使用该程序，而且要求信息这一初始目的不会受到过度耽搁的损害。

应授予该行政机构调查任何上诉的完整权力，包括强制证人出席的能力，以及要求公共机构向其提供任何信息或记录来供其考虑的重要能力，在必要和合理的情况下这些可以私下进行。

调查结束时，该行政机构应有权驳回上诉，或要求公共机构披露信息，或调整公共机构的任何收费，或在合理情况下制裁公共机构的阻挠行为，以及/或者要求公共机构承担有关上诉的费用。

如果案件显示有犯罪性地阻挠获取记录或任意销毁记录的证据，该行政机构还应有权将案件转交法院处理。

申请人应能够就该机构的决定对法院提出上诉。法院应有全权来根据案情审议案件，而不仅限于决定该机构是否合理地行事。这将确保在解决困难问题方面进行适当关注，而且会促进信息权方面的做法一致。

Principle 6: Costs

Individuals should not be deterred from obtaining public information by costs

The cost of gaining access to information held by public bodies should not prevent people from demanding information of public interest, given that the whole rationale behind right to information laws is to promote open access to information. It is well established that the long-term benefits of openness far exceed the costs. In any case, experience in a number of countries suggests that access costs are not an effective means of offsetting the costs of a right to information regime.

Generally the principle should be that the information is provided at no or low cost and limited to the actual cost of reproduction and delivery. Costs should be waived or significantly reduced for requests for personal information or for requests in the public interest (which should be presumed where the purpose of the request is connected with publication) and for requests from those with incomes below the national poverty line. In some jurisdictions, higher fees are levied on commercial requests as a means of subsidising public interest requests but this is generally not considered to be fully effective.

Principle 7: Open meetings

Meetings of public bodies should be open to the public

The right to information includes the public's right to know what the government is doing on its behalf and to participate in decision-making processes. Right to information legislation should therefore establish a presumption that all meetings of governing bodies are open to the public.

"Governing" in this context refers primarily to the exercise of decision-making powers, but bodies which merely proffer advice may also be covered when the advice is expected to be used to influence decisions. Political committees – meetings of members of the same political party – are not considered to be governing bodies.

On the other hand, meetings of elected bodies and their committees, planning and zoning boards, boards of public and educational authorities and public industrial development agencies would be included.

A "meeting" in this context refers primarily to a formal meeting, namely the official convening of a public body for the purpose of conducting public business. Factors that indicate that a meeting is formal are the requirement for a quorum and the applicability of formal procedural rules.

Notice of meetings is necessary if the public is to have a real opportunity to participate and the law should require that adequate notice of meetings and the substantive materials to be discussed at the meeting are given sufficiently in advance to allow for attendance and engagement. This is especially important in the case of projects relating to development as

第6条原则：费用

人们不应因费用而被阻止获得公共信息

考虑到信息权法律背后的全部理由是促进信息渠道开放，人们就不应因获取公共机构所掌握信息的费用，而被阻止要求得到公益信息。得到公认的是，开放带来的长期收益要远远大于成本。无论怎样，一些国家的经验显示，信息获取费用并非抵消信息权制度成本的有效手段。

一般来说原则应是，应在无收费或低收费的情况下提供信息，收费只应限于复制和交付信息的实际费用。对于个人信息要求或公益信息要求（如果要求的目的和出版物有关，就应推定是公益信息要求），以及那些收入低于国家贫困线的人提出的信息要求，应免除或大幅减少收费。在一些司法管辖区，对商业信息要求的收费更高，来补贴公益信息要求，但一般来说这不被认为完全有效。

第7条原则：公开会议

公共机构的会议应对公众公开

信息权包括公众了解政府正为其采取什么行动，以及参与决策程序的权利。信息权立法因此应建立一个推定，即管理机构的所有会议都对公众公开。

这里的“管理”主要指决策权的行使，但也可能包括那些仅仅提供建议的机构，条件是这些建议预计会被用来影响决定。政治委员会 – 同一政党成员的会议 – 不被认为是管理机构。

另一方面，选举产生的机构及其委员会、规划和区划委员会、公共和教育当局委员会以及公共工业发展机构的会议则被包括。

这里的“会议”主要指正式会议，即公共机构为公务目的举行的官方会议。显示会议正式性质的因素是法定人数要求，以及采用正式的程序规则。

如果要使公众真正有机会参与，就有必要通知他们将开会，法律应要求发出足够提前的通知，并提前充分提供将在会议上得到讨论的实质性材料，以使人们出席和参与。在有关开发项目的环境和社会影响程序会议

part of environmental or social impact procedures.

Meetings may be closed, but only in accordance with established procedures and where adequate reasons for closure exist. Any decision to close a meeting should itself be open to the public. The grounds for closure are broader than the list of exceptions to the rule of disclosure but are not unlimited. Reasons for closure might, in appropriate circumstances, include public health and safety, law enforcement or investigation, employee or personnel matters, privacy, commercial matters and national security. Decisions made at unlawfully closed meetings should be subject to review and presumed to be void.

Principle 8: Disclosure takes precedence

Laws which are inconsistent with the principle of maximum disclosure should be amended or repealed

The law on the right to information should require that other legislation be interpreted in a manner consistent with its provisions and repealed when necessary.

The regime of exceptions provided for in the right to information law should be comprehensive and other laws should not be permitted to extend it. In particular, secrecy laws should not make it illegal for officials to divulge information which they are required to disclose under the right to information law.

In addition, officials should be protected from sanctions where they have, reasonably and in good faith, disclosed information pursuant to a right to information request, even if it subsequently transpires that the information is not subject to disclosure or contains libelous materials. Otherwise, the culture of secrecy which envelopes many governing bodies will be maintained as officials may be excessively cautious about requests for information, to avoid any personal risk.

Principle 9: Protection for whistleblowers

Individuals who release information on wrongdoing – whistleblowers – must be protected

Individuals should be protected from any legal, administrative or employment-related sanctions or harms for releasing information on wrongdoing by public or private bodies. This should be established clearly in law. The best practice is for countries to adopt comprehensive laws that apply to all related aspects of criminal, civil, administrative and labour law.

“Wrongdoing” in this context includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a public body. It also includes a serious threat to health, safety

中，这尤为重要。

会议可以不公开进行，但这只能依据确立的程序，而且存在不公开的适当理由。任何不公开会议的决定都应对公众公开。不公开会议的理由，要比披露信息规则例外情况清单更为宽泛，但并非不受限制。在适当情况下，不公开的理由可能包括公共健康和安全、执法或调查、雇员或人员事宜、隐私、商业事宜和国家安全。非法的非公开会议上作出的决定应受到审查，并被推定为无效。

第8条原则：信息披露优先

不符合最大限度披露信息原则的法律应被修改或废除

信息权法律应要求，以符合其规定的方式解读并在必要情况下废除其他法律。

信息权法律中的例外情况规定应是全面的，而其他法律则不应获准扩大其范围。尤其是，保密法不应使官员根据信息权法律要求披露信息的行为非法。

此外，如果官员根据信息请求权而合理和真诚地披露信息，即使后来显示信息不应得到披露或包含诽谤材料，也应保护这些官员免遭制裁。否则，笼罩于许多管理机构的保密文化就会继续存在，因为官员可能对信息要求过度小心，来回避任何个人风险。

第9条原则：保护举报者

必须保护公布有关恶行的信息的人 – 举报者

应保护人们免于因公布有关公共或私营机构恶行的信息，而遭到任何法律、行政或有关就业的制裁或损害。这应在法律中得到明确规定。最佳做法是，各国颁布适用于刑事、民事、行政和劳动法律所有方面的全面法律。

这里的“恶行”包括犯下刑事罪行、不遵守法律义务、司法不公、腐败或不诚实、或有关公共机构的严重管理不善，还包括对健康、安全或环

or the environment, whether linked to individual wrongdoing or not.

Whistleblowers should benefit from protection as long as they acted with the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing. Such protection should apply even where disclosure would otherwise be in breach of a legal or employment requirement. Those that sanction, harm or harass whistleblowers should themselves face administrative or legal sanctions or criminal penalties in the most serious cases.

In some countries, protection for whistleblowers is conditional upon a requirement to release the information to certain individuals or oversight bodies. Protection for disclosure to other individuals including to the media should be available where the persons reasonably believed that disclosure to those bodies would not result in an adequate remedy for the wrongdoing that is exposed. Anonymous disclosure should also be allowed and protected.

The "public interest" for disclosure to other parties include the media in this context would include situations where the benefits of disclosure outweigh the harm, or where an alternative means of releasing the information is necessary to protect a key interest. This would apply, for example, in situations where whistleblowers need protection from retaliation, where the problem is unlikely to be resolved through formal mechanisms, where there is an exceptionally serious reason for releasing the information, such as an imminent threat to public health or safety, or where there is a risk that evidence of wrongdoing will otherwise be concealed or destroyed.

境的严重威胁，而无论这和单独恶行相关或无关。

只要举报者合理地认为信息基本正确，而且披露恶行的证据，他们就应得到保护。即使披露行为违反法律或工作要求，也应提供此类保护。那些制裁、损害或骚扰举报者的人，本身应面临行政或法律制裁，或在最为严重的情况中受到刑事处罚。

在一些国家，举报者得到保护的条件是向特定人士或监督机构公布信息。如果人们合理地认为，向这些机构披露信息不会导致所揭露的恶行得到适当补救，就应保护他们向媒体等其他人员披露信息的行为。还应允许和保护匿名披露。

这里的向媒体等其他方面披露信息产生的“公共利益”，包括披露的益处超过损害的情况，或者对于保护关键利益而言，使用替代手段来公布信息是必要的情况。例如，这适用于举报者需要被保护免遭报复的情况，问题不大可能通过正规机制得到解决的情况，存在特别严重的公布信息的理由的情况，例如对公众健康或安全迫在眉睫的威胁，或者恶行的证据不然有可能被隐瞒或销毁的情况。

About ARTICLE 19

ARTICLE 19 envisages a world where people are free to speak their opinions, to participate in decision-making and to make informed choices about their lives.

For this to be possible, people everywhere must be able to exercise their rights to freedom of expression and freedom of information. Without these rights, democracy, good governance and development cannot happen.

We take our name from Article 19 of the Universal Declaration of Human Rights:

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers."

ARTICLE 19 works so that people everywhere can express themselves freely, access information and enjoy freedom of the press. We understand freedom of expression as three things:

Freedom of expression is the right to speak

- It is the right to voice political, cultural, social and economic opinions
- It is the right to dissent
- It makes electoral democracy meaningful and builds public trust in administration.

Freedom of expression is freedom of the press

- It is the right of a free and independent media to report without fear, interference, persecution or discrimination
- It is the right to provide knowledge, give voice to the marginalised and to highlight corruption
- It creates an environment where people feel safe to question government action and to hold power accountable.

Freedom of expression is the right to know

- It is the right to access all media, internet, art, academic writings, and information held by government
- It is the right to use when demanding rights to health, to a clean environment, to truth and to justice
- It holds governments accountable for their promises, obligations and actions, preventing corruption which thrives on secrecy.

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关于第十九条组织

第十九条组织期许世界上的人们，都能自由地表达自己的意见、参与决策，并对自己的生活作出知情情况下的选择。

为使这成为可能，世界各地的人们都必须能行使其言论自由和信息自由的权利。没有这些权利，民主、善治和发展都不可能实现。

我们的名称来自《世界人权宣言》第19条：

“人人有权享有主张和发表意见的自由；此项权利包括持有主张而不受干涉的自由，和通过任何媒介和不论国界寻求、接受和传递消息和思想的自由。”

第十九条组织致力于使世界各地的人们,都能自由进行表达、获取信息并享有新闻自由。根据我们的理解，言论自由包含三个方面：

言论自由是发言的权利

- 它是表达政治、文化、社会和经济观点的权利；
- 它是异议的权利；
- 它使选举民主制具有意义，并建立公众对行政机构的信任。

言论自由是新闻自由

- 它是自由和独立的媒体在没有恐惧、干涉、迫害或歧视的情况下进行报道的权利；
- 它是提供知识、使边缘化人群发声和揭露腐败的权利；
- 它创造一个环境，使人们感到能安全地质疑政府行动并对当权者问责。

言论自由是了解的权利

- 它是接触所有媒体、互联网、艺术、学术文章和政府所掌握信息的权利；
- 它是被用来要求得到健康权、清洁环境权、真相权和正义权的权利；
- 它就政府的承诺、义务和行动对其问责，防止出现保密状态下滋生的腐败。

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DEFENDING FREEDOM
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