

ARTICLE 19

Iran: Review of the Publication and Free Access to Information Act 2009

September 2017

Legal analysis

Executive Summary

The right of access to information held by public bodies is recognised worldwide in both United Nations (UN) documents and national laws. The adoption of the Publication and Free Access to Information Act 2009 and the regulations implementing it are a positive first step in enabling the right in Iran. Every Iranian citizen should be able to use the law to obtain information from public bodies and other institutions doing public business to find out how public money is being spent, decisions that affect their communities, and other information important to their lives.

However, the law does have problematic provisions that undermine its effectiveness and make it weaker than international standards and the laws of many neighbouring countries. There are many unclear or undefined provisions where additional bylaws are necessary to clarify them, it only applies to citizens, the exemptions are broad, the appeals mechanism is unclear, and the oversight body is housed within a public body known for limiting access to information. It also includes a number of provisions unrelated to its primary purpose that appear to threaten free expression.

Implementation has also been very slow, with some key provisions only being implemented now, eight years after its adoption. It is important that the government now fully implements the law and begins a process to review and revise some of the provisions to fully enable the right of information in Iran.

Recommendations:

There are numerous provisions within the law and its bylaws that should be revised as a long-term aim. In the meanwhile, we urge the government to take administrative measure to improve the implementation of the law as a first step. Some of the initial activities in this regard should include:

1. Making the annual reports of the bodies and Information Commission public;
2. Creating a new bylaw on the appeals mechanism, including its independence from the Ministry's other functions, time frames for Commission decisions and the process for making them binding; and
3. Adopting a bylaw on reuse of information and data obtained under its provisions.

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About the ARTICLE 19 Transparency Programme

The ARTICLE 19 Right to Information Programme advocates for the development of progressive standards on access to information at the international and regional levels, and their implementation in domestic legal systems. The Right to Information Programme has produced a number of standard-setting publications, which outline international and comparative law and best practice in areas such as national security and privacy.

On the basis of these publications and ARTICLE 19's overall legal expertise, the Right to Information Programme publishes a number of legal analyses each year, commenting on legislative proposals, as well as existing laws that affect the right to information. This analytical work frequently leads to substantial improvements in proposed or existing domestic legislation. All of our analyses are available online at <http://www.article19.org/resources.php?tagid=464&lang=en>

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I. Introduction

This analysis reviews the 2009 Publication and Free Access to Information Act of Iran (the Act), its implementing bylaws and their relationship to other laws. It examines both how the current law works and how it compares with similar laws in other countries in the region and international standards.

The analysis is based on unofficial translations of the Act and its implementing bylaws, which are included as appendices, as well as research into the current implementation of the law.

II. The benefits of the right to information

The right to information gives individuals, groups, and companies the right to be able to obtain information from public bodies while also obliging those public bodies to facilitate that access through responses to requests and the proactive publishing of information. There is wide agreement that a properly implemented and working right to information regime provides benefits to the public and to government departments. Some of the benefits are:

Anti-corruption

Right to information is considered a key tool in anti-corruption measures as reasons for awarding contracts and other financial transactions must be documented and justified. The UN Convention Against Corruption and regional anti-corruption conventions in the Middle East and North Africa, Europe, the Americas, and Africa all require governments to adopt laws to make information available to the public.

Democratic participation and understanding

The public is better able to participate in the democratic process when they have information about the activities and policies of their government. Public awareness of the reasons behind decisions can improve support and reduce misunderstandings and dissatisfaction. Individual members of parliament are also better able to conduct oversight.

Decision-making processes

Officials are more likely to make decisions based on objective and justifiable reasons when it is known that the decisions will eventually be made public. Public confidence in the government is improved if it is known that the decisions will be predictable and rational.

Internal sharing of information

Right to information can also improve the flow of information inside governments. Excessive secrecy reduces the ability of government departments to share information and reduces their efficiency. Many jurisdictions have reported that enacting right to information laws improved coordination and policy development.

Government records management

The adoption of right to information legislation has been found to improve the record keeping practices of public bodies. This is both due to revised record keeping systems which meet the new legal requirements of access but also, as noted above, to ensure that decisions would appear to be based on rational processes. Some governments have used it as an opportunity to rewrite manuals and other

documents. Others keep more information on decisions. Some progressive right to information laws such as Tunisia's have also included provisions on better record keeping.

III. International law on the right of access to information

The right of access to information is well established in international law as a human right relating to freedom of expression as well as an important mechanism for achieving other rights and objectives, including anti-corruption and ensuring social and economic rights.

The right is recognised under Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights (ICCPR) as an element of freedom of expression and the right to seek and receive information. The UN Human Rights Committee in General Comment 34 interpreted the scope and limits of the right to information in 2011, stating that Article 19 of the ICCPR ensures the right to information held by public bodies. It requires that states proactively disseminate information in the public interest and that the access is “easy, prompt, effective and practical.” The Comment also states that countries must enact “necessary procedures” such as legislation to give effect to the right to information and that fees for access must be limited, responses to requests must be timely, authorities must provide explanations for withholding information, and states need to establish appeals mechanisms.¹

The Human Rights Committee further described the right to information in Article 19 of the ICCPR in the case of *Toktakunov v Kyrgyzstan*,² reaffirming that exemptions to the right are limited to only those permitted under Article 19(3) and that information should be provided without requiring a direct interest or explanation.

The right has been recognised as a key enabler in environmental protection. In the 1992 Rio Declaration, the world's leaders agreed in Principle 10 that:

Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

The right to information is also found in international treaties and agreements relating to pollution,³ and climate change.⁴

¹ UN Human Rights Committee, General Comment No. 34 Article 19: Freedoms of opinion and expression, (2011) <http://www.refworld.org/pdfid/4ed34b562.pdf>.

² *Toktakunov v Kyrgyzstan*, Communication No. 1470/2006, 21 April 2011.

³ Stockholm Convention on Persistent Organic Pollutants; Minamata Convention on Mercury, 2014.

⁴ United Nations Framework Convention on Climate Change, 1992.

The right to information has also been recognised in international law relating to other human and social and economic rights. These include the right to water,⁵ the right to health,⁶ and the right to education.⁷ The right to information is also specifically in the Convention of the Rights of the Child which Iran signed in 1991 and ratified in 1994, and the Convention on the Rights of Persons with Disabilities ratified by Iran in 2009. In these conventions, the right to information is considered an enabler right, which facilitates people to better achieve other rights and to more effectively participate in public discussions on policy and government activities. In the Sustainable Development Goals, UN member states agreed to a specific target calling on states to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.”⁸

There are also other important international treaties which include promoting access to information. Article 10 of the UN Convention Against Corruption (UNCAC) requires states to “take such measures as may be necessary to enhance transparency in its public administration” including:

Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public [...]

Article 13 of UNCAC requires that states should “[ensure] that the public has effective access to information” and take measures for “[r]especting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption”. It also requires whistle-blower protections. Iran signed the convention in 2003 and ratified it in 2009. It is currently undertaking a review of the implementation of these sections.

IV. Global and regional overview

At the national level, the first law on the right to information was adopted in Sweden in 1766. It became more common in the 1960s as a means to improve public oversight and accountability of governments as they became administrative states. Over the past 20 years, there has been a significant growth in recognition of the right to information, with now nearly 120 countries around the world having adopted right to information laws or national regulations which set out legal rules on access to information held by government bodies.⁹ In the past few years, these include countries from a diversity

⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 15: The Right to Water (2002).

⁶ Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000): The Right to the Highest Attainable Standard of Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights); Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mission to Japan, A/HRC/23/41/Add.3, 31 July 2013; Committee on the Elimination of Discrimination against Women, General Recommendation No. 24: Article 12 of the Convention (Women and Health) (1999).

⁷ Committee on Economic, Social and Cultural Rights, General Comment No. 13: The Right to Education (Article 13 of the Covenant) 1999.

⁸ Target 16.10. Also see Indicator 16.10.2 which measures the target: “Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information.”

⁹ For a comprehensive list of countries, see ARTICLE 19, Access to Information and the Sustainable Development Goals, July

of political and economic development stages including Brazil, China, Ethiopia, Indonesia, Nigeria, Mongolia, and Vietnam. Approximately 50 other countries, including Cambodia, Ghana, and Myanmar, are currently at various stages of considering proposals. In addition, non-legislative measures such as open data and electronic government are increasingly making information proactively available to the public.

Regionally, many countries have adopted laws on access to information in the past two decades, including Armenia, India, Turkey, Pakistan, Azerbaijan, Yemen, Jordan, and most recently Afghanistan (2014), Tunisia (2016), and Lebanon (2017). A number of other countries including Morocco and Egypt are also considering proposals. Tunisia's 2016 Organic Law on access to information is the most detailed and strongest law in the region and will be used as a benchmark to compare the Iran law.¹⁰ Other laws will be referred to as relevant.

V. The legal framework in Iran

1. Constitution of 1979

The 1979 Constitution has limited provisions on access to information.¹¹

Article 24 provides for a limited freedom of expression, as recognised by international law. It is also narrowly focused on publications and does not expressly provide for a right to information.

Article 3 on "state goals" requires that the government has a duty to use its resources for achieving several goals including reducing corruption and "raising the level of public awareness in all areas, through the proper use of the press, mass media, and other means."

Article 55 requires that the National Accounting Agency annually review the annual budget and make the report public.

2. Citizens' Right Charter

In 2016, President Hassan Rouhani launched the Citizens' Rights Charter (the Charter). The Charter is in a non-binding document made up of 120 articles which incorporates many of the existing international civil and political and social and economic rights obligations including freedom of expression, privacy, clean environment, and employment.

Critics, including Nobel Laureate Shirin Ebadi, have described the Charter as being redundant¹² but as described below, it does include new rights relating to access to information not in the Constitution. In

2017.

¹⁰ Organic Law No. 2016-22 of 24 March 2016 on the Right of Access to Information, Official Journal of the Tunisian Republic, N. 26, 29 March 2016, p. 949 (the Organic Law).

¹¹ Iran (Islamic Republic of)'s Constitution of 1979 with amendments through to 1989; English text available at https://www.constituteproject.org/constitution/Iran_1989.pdf?lang=en.

2017 the administration began proposing bills to the Parliament to make its provisions binding in sections.¹³

Chapter 7 includes three sections on access to information:¹⁴

Article 30

Citizens have the right to access public information available in public institutions and private institutions that provide public services. All organs and entities are required to continuously publish unclassified information required by society.

Article 31

Citizens have the right to access their personal data collected and kept by persons and institutions providing public services, and to request correction of such data, should they find it to be incorrect. Personal information pertaining to individuals shall not be placed at the disposal of others, save pursuant to the law or with the consent of the individuals themselves.

Article 32

Children have the right to access information appropriate to their age, and shall not be exposed to immoral, violent or any other types of content that would cause intimidation or physical or psychological harm.

In addition, the Charter also includes access to information rights in other articles relating to media, personal privacy, competition, insurance, pollution, public participation, and citizenship. Although the final adopted version of the Charter is weaker on the principles than the original draft published in 2015. See Appendix A for the text of those provisions.

VI. Analysis of the Act

1. Background¹⁵

The first bill in Iran on the right to information was considered over 25 years ago, when the Supreme Council of Informatics prepared a preliminary draft. Another draft bill was prepared over a decade later by the Shahid Beheshti University Law School, which was presented to the administration during the

¹² Ebadi: Citizenship Charter Is Redundant Distraction from Justice, Center for Human Rights in Iran, 19 December 2013.

¹³ Rouhani pushing ahead with milestone rights bill, Tehran Times, 27 January 2017, <http://www.tehrantimes.com/news/410486/Rouhani-pushing-ahead-with-milestone-rights-bill>.

¹⁴ Translation of draft text available at <http://epub.citizensrights.ir/CitizensRightsEN.pdf> ; Farsi version <http://rouhani.ir/files/CitizensRights.pdf>.

¹⁵ This background was drafted with the addition of material provided by Justice for Iran in February 2017.

second term of President Khatami. This draft was in line with fundamental and international principles of the right to information.

The draft was substantially modified by the administration and finally submitted to the Majlis (Parliament) as a bill in 2008 in the first term of President Ahmadinejad. In 1387 (2009), the revised bill, entitled the Bill on Free Information, was adopted by the General Assembly of the Majlis. It was reported informally to us that one of the purposes was to limit the powers of President Ahmadinejad. The bill was rejected by the Guardian Council for several reasons, including that it applied to organisations under the supervision of the Supreme Leader. It was subsequently approved by the Guardian Council and submitted to the Expediency Council following the inclusion of an additional footnote in Article 10 requiring the Leader's permission for the publication of information regarding these organisations. It was adopted in 1388 (22 August 2009) and proclaimed in January 2010.

Under the Act, the Ministry of Culture and Islamic Guidance was required to develop a bylaw on implementation within six months of its adoption that would then be adopted by the Council of Ministers. This bylaw was agreed to by the Ministry in 1392 (28 December 2013) and adopted by the Council of Ministers in 1393 (22 November 2014).¹⁶ Subsequently, additional bylaws on Article 8,¹⁷ relating to provisions governing requests, and Article 18,¹⁸ relating to the setup of the Information Commission (the Commission), were adopted in 2015.

2. General provisions

a. Definition of information

The Act and its regulations broadly define information covered under the law to apply to all recorded information held by covered bodies, regardless of format or age.

Article 1(a) of the Act defines information as “[a]ny data contained in documents, saved as electronic file, or recorded in any other form.” The 2014 bylaw defines information as “[a]ny form of data including audio tapes, visual images, films and recordings, written documents, signs, maps, and numbers, or combinations thereof contained in hard copy, soft copy, or otherwise saved and recorded.”¹⁹

In addition, the Act defines “general information” as “[n]on-personal information such as rules and regulations, national figures and official statistical data, administrative documents and correspondence, except those noted in Chapter IV of this Act.”²⁰ It is not further defined in the 2014 bylaw. The term is

¹⁶ Executive Bylaw on The Publication and Free Access to Information Act, No.99517/T49016H, 22 November 2014 (the 2014 bylaw). Included as Appendix C.

¹⁷ Executive Bylaw of Article 8 of The Publication and Free Access to Information Act, Proclamation No: H51979T/84348, 21 September 2015 (the Article 8 bylaw). Included as Appendix D.

¹⁸ Executive Bylaw of Note 1 of Article 18 of The Publication and Free Access to Information Act, 26 July 2015 (the Article 18 bylaw). Included as Appendix E.

¹⁹ 2014 bylaw, Article 1(a).

²⁰ Article 1(c).

mostly used in the context of proactive publication of information under Article 10 of the Act and Article 3 of the 2014 bylaw.

b. Bodies covered by the Act

The Act applies to both public and private bodies, including non-governmental organisations (NGOs) and service providers. Article 1(k) of the 2014 bylaw states that the law should apply to “[p]ublic, Private, and semi-private institutions providing public services.”

For the most part, the Act and bylaws refer to these collectively as “institutions subject to this act”. However, a number of the provisions in the Act only refer to the obligations of public bodies. These are specifically mentioned in the analysis.

Public institutions

Public institutions are defined in Article 1(d) of the Act as “[o]rganizations and agencies affiliated with the government, in general terms, including all organs and their subsidiaries mentioned in the laws and regulations of the Islamic Republic of Iran.”

The 2014 bylaw further defines public institutions in Article 1(h) as:

Organizations and institutions affiliated with the government, including executive apparatuses subject to Article (5) of Management of the State Services Act, revolutionary institutions, armed forces, the Executive and Legislative branches and their affiliated institutions, offices, and organizations as well as foundations and agencies under the aegis of the Supreme Leader, and every institution or firm, which is owned in full, or more than fifty percent of its shares is held, by the government or state, as reflected in the laws of the Islamic Republic of Iran.

Under Article 10, bodies which are under the control of the Supreme Leader (such as the Revolutionary Guard, Ministry of Intelligence and Security, and the Supreme Council of Cyberspace) are only subject to the requirements to proactively publish information about their structures and activities with the permission of the Supreme Leader. This provision does not appear to affect other obligations of those institutions, including a duty to respond to requests and being subject to the jurisdiction of the Commission. However, in the Guardian Councils’ opinion and under Iran’s budget laws, these bodies are exempt from all obligations under the law.

Private institutions

Private institutions are defined in the Act as “any for-profit or non-for-profit institutions, except for public institutions.”^{21, 22}

The 2014 bylaw includes two definitions for private institutions:

²¹ §1(e) of the Act.

²² See http://rc.majlis.ir/fa/legal_draft/state_popup/737534?fk_legal_draft_oid=720433&a=download&sub=p.

- Private institutions are “[l]egal entities licensed by law or initiated based on a specific law with for-profit or non-for-profit activities, such as businesses or non-commercial institutions, political parties, and NGOs.”²³
- Public service providing private institutions are defined as “[n]on-governmental organizations that provide public services, such as trade and professional associations, banks, and the stock exchange.”²⁴

It is not specified in the Act or bylaws under which circumstances a person can ask for information from a private institution. It would appear from other provisions that a person could ask for information held by the body about themselves, such as a medical record or employment record, or about the activities of a private body which is conducting public services, such as building a road or operating a government service. Additional guidance from the Commission would be helpful in clarifying this.

c. Who can request information

The right of access to information is available to any Iranian citizen or incorporated body. Under Article 2 of the Act, “[a]ny person of Iranian nationality has the right to access public information, unless otherwise indicated by law.” Under the Article 8 bylaw, this has been further clarified to state that requests can be made by “[a]ny Iranian (real person or legal entity).”²⁵

This limitation to Iranian citizens and Iranian-based companies is inconsistent with international law. In General Comment 31, the UN Human Rights Committee said that human rights protected by the ICCPR (which includes the right to information) are “not limited to citizens of States Parties but must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party.”²⁶ In Tunisia²⁷ and Lebanon,²⁸ the right is available to any natural or legal person, while in Turkey²⁹ and Yemen,³⁰ foreign citizens residing in the country have a right of access if their home country allows the same.

d. Relationship with other laws

Like other countries, Iran has a large body of existing criminal, civil, administrative, and other laws, some of which may affect the disclosure of information by public bodies. Many of these laws can seriously undermine the right to information and do not adequately reflect international standards on human rights.

²³ 2014 bylaw, Article 1(g).

²⁴ 2014 bylaw, Article 1(i).

²⁵ Article 8 bylaw, §1.

²⁶ UN Human Rights Committee, General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant.

²⁷ Organic Law, §9.

²⁸ The Right to Access Information Law, §1.

²⁹ Law on the Right to Information, §4.

³⁰ Law (13) for the Year 2012 Regarding the Right of Access to Information, §4.

The Act is silent on the hierarchy relating to these other laws. If a request for information is made, it is not clear whether the release provisions of the access to information or the restrictions in existing law will prevail. However, since the exemption in Chapter 4 of the Act does specifically make reference to other laws relating to classified information (see section 4 below for a discussion of exemptions), but no other exemptions refer to other laws, it may be assumed by that omission that the right to information prevails in other cases.

A better practice shown by the Turkish Law on Right to Information ³¹ and the Indian Right to Information Act ³² is that the newer access to information provisions, specifically override the older law and information is protected through the application of the exemptions.

3. Procedures for requests

a. How to make requests

Guidance

Under the Article 8 bylaw, the electronic gateways of institutions are required to “provide sufficient guidance to those requesting information.” ³³ This guidance should include details on the information held by the institution, how to submit requests, the appeals mechanism, and other information to allow a requester to make a request.

Form

The use of a specific form is not required in the text of the Act itself. However, under the 2014 bylaw, institutions are required to provide an electronic request form, as well as a printable version of the form, on their gateways. ³⁴ The Article 8 bylaw states that requestors should use a special form approved by the Commission to submit requests. ³⁵ In Tunisia, the law allows the request to be submitted either on a form or “an ordinary sheet of paper”.³⁶

Requestor information requirements

The Article 8 bylaw requires that the requestor must provide detailed personal information about themselves, with the request. Article 2 requires: name and surname, national ID number (for real persons), and national registration number (for legal entities), name of the legal representative of either the real person or legal entity, postal code, and at least one form of contact such as mobile number, landline number, internal [work] email address, or Iranian national file reference.

³¹ Law on the Right to Information, §5.

³² Right to Information Act, §22.

³³ Article 8 bylaw, §4.

³⁴ 2014 bylaw, §3.

³⁵ Article 8 bylaw, Article 1.

³⁶ Organic Law, §9.

This is problematic, as it would seem that the information request could deter requestors who are concerned about repercussions for making requests. The obligation to provide this information is not set out in the Act itself.

Ways to submit requests

The Article 8 bylaw sets out the rules for making requests for both in person and electronic requests. Article 1 states that requests can be made by:

- Submitting the form online via the institution's electronic gateway;
- Governmental e-service;
- Post; or
- In person to the Information Dispatch Unit of the desired institution.

The 2014 bylaw requires that institutions provide “through their gateway, a safe and legal communication pathway for administrative process to allow users to contact the institution in question by various means of communication such as phone, cell phone and computer.”³⁷

Receipt

The Article 8 bylaw requires that all institutions, upon receiving a request for information, “provide a written or electronically issued receipt which includes registration date and number to the applicant.”³⁸ The 2014 bylaw requires that institutions provide requesters “a tracking number to allow them to track the status of their request.”³⁹

Provisions for assisting persons

It should be noted that the Act and bylaws do not provide for any special means for persons who are not able to make requests themselves, for reasons such as disability or illiteracy, to be able to submit requests or receive information in a means they can use. It also does not provide for translations for national minorities. According to the Constitution, the only official language in Iran is Persian and the languages of ethnic groups are considered as local languages that shall not be used in official documents including requests for information and responses.

Iran has signed the Convention on the Rights of Persons with Disabilities (the CRPD) that requires countries to provide assistance to persons with disabilities. Article 21 of the CRPD says that states should “take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice.”

³⁷ 2014 bylaw, §4.

³⁸ Article 8 bylaw, §1, Note 1.

³⁹ 2014 bylaw, §3.

In comparison, the Indian right to information law requires that the access to information officer of the public body provide assistance to any person who is unable to submit the request in writing to “render all reasonable assistance to the person making the request orally to reduce the same in writing”⁴⁰ and to provide a form of access for those who are “sensorily disabled.”⁴¹ In Tunisia the duty also falls on the access to information officer.⁴²

In the event the applicant requesting access to information suffers from impairment, or is unable to read and write, or has a hearing and/or seeing handicap, the Access to Information Officer shall provide him with necessary assistance.

In this area, an additional bylaw setting out the obligations of institutions to assist requestors would be helpful.

b. Ban on public institutions asking for reasons for requests

Article 7 of the Act provides that public institutions are prohibiting from asking the requestor “provide a reason or explanation for his/her request.” This is one of the positive provisions of the Act.

This is consistent with the opinion of the UN Human Rights Committee cited above that “information should be provided without requiring a direct interest or explanation.” This is also consistent with other national laws including India and Tunisia.

c. Form of responses

Under Article 9 of the Act, institutions must respond to requests for information in written or electronic form. Under the Article 3 of the Article 8 bylaw, institutions must respond in one of four ways that is chosen by the requestor:

- Online through the applicant’s internal email address;
- Online through the applicant’s Iranian national file reference;
- In written form, by post, to the address and postal code provided by the applicant; or
- In written form, in person.

Article 3 of the Article 8 bylaw states that the institution must provide the information in the form wanted by the requestor.

d. Time for responses from institutions

Receipt on receiving request

⁴⁰ Right to Information Act §6(1)(b).

⁴¹ Right to Information Act §7(4).

⁴² Organic Law, §9.

Under the Article 8 bylaw, institutions are required to issue a receipt upon receiving a valid request and submit the request to the unit for processing immediately.⁴³ Further, the bylaw provides that institutions are required to provide a written or electronically issued receipt which includes registration date and number to the applicant.⁴⁴

Further, under the 2014 bylaw, institutions are required to include on their gateways “[a] page to allow tracking the status of the requested service or information, with progress report.”⁴⁵

Response times for providing information

Under Article 8 of the Act, public and private institutions are required to respond to requests for information “expeditiously”, taking no longer than ten business days to respond.

The time for electronic requests starts the first business date following the date of submission.⁴⁶

Ten days is a reasonable period to respond consistent with international standards, which require timely responses to information.

Expedited requests

Under Article 11 of the Article 8 Bylaw, the bodies are required to consider the “nature, urgency, and necessity” of the request in determining how quickly to respond. This is not further elaborated. Many countries require that governments respond in 48 hours to emergencies. In Tunisia, the body must respond in 48 hours where the right to access “could affect a person’s life or liberty.”⁴⁷

Extension of time

There is no provision in the law authorising that institutions can obtain approval to extend the time more than the ten-day period. As it is currently written, the requester’s right of appeal will automatically become available after the tenth business day. This is another area where the Commission could issue a bylaw setting out more clearly the rights of the requester.

Institutions are allowed to outsource the production of documents if there is high demand. Under Article 5 of the 2014 bylaw:

Institutions with high volume of requests for public information can, with adherence to levels of access in regards to providing electronic or paper copies of information, outsource these services with comprehensive supervision and development of a survey to ensure customer satisfaction, with adherence to provisions concerning levels of access. Data of such traffic must be saved for a period of six months.

⁴³ Article 8 bylaw, §8.

⁴⁴ Article 8 bylaw, §1.

⁴⁵ 2014 bylaw, §7(n).

⁴⁶ Article 8 bylaw, §12.

⁴⁷ Organic Law, §17.

e. Denials

If a request for information is denied, the institution must communicate to the requestor the legal reasons for denial.⁴⁸ The bylaw does not specify the detail needed but it should be sufficient to allow the requestor to understand and make a reasoned judgement on whether to appeal.

Incomplete or insufficient requests

The Article 8 bylaw provides that when a request is considered by an institution to be incomplete or insufficient information is provided, for example if it is not clear what information is being requested, then the requestor can submit a follow-up request providing the missing information. The request should include the reference number to the original request.⁴⁹

While it does not say explicitly, it is assumed that the notice of the incompleteness would be communicated back to the requestor in the ten-day time frame set out in Article 10.

Requests to wrong bodies

The Article 8 bylaw states that if the institution's information officer determines that the request has been sent to the wrong body, they should note this on the request form.⁵⁰ It does not specifically oblige the officer to transfer the request to the correct body so presumably the request is treated as rejected and the requestor must file a new request with the new body. A better practice would be to send it to the correct institution and inform the requester that they are forwarding the request in cases where the correct institution is clear.

Implied denial

As noted above, the law is silent on whether a request not responded to within the ten-day time frame is considered an implicit denial. As it is currently written, the requester's right of appeal will automatically become available after the tenth business day.

Rejection for already published information

There is an additional ground for rejecting requests set out in the Article 8 bylaw. Article 5 states that "[r]equest for documents or information that has been openly published and is accessible through the institution's website [are] not acceptable."

However, the institution should ensure that the information on the website is the actual subject of the request. This provision could be abused to deflect requests. Also, there may be an issue if the requester is asking for the information in a different format, for instance, a spreadsheet of financial information that can then be used to analyse the information rather than a PDF report where it is difficult if not impossible to extract the information in a meaningful manner.

⁴⁸ Article 8 bylaw, §10.

⁴⁹ Article 8 bylaw, §12.

⁵⁰ Article 8 bylaw, §9.

The institution should also be required to provide the exact internet address of the information. In Tunisia, the body must provide such information.⁵¹

f. Redacting exempt information

There is no specific obligation in the Act or bylaws which requires institutions to remove information from documents and files which is exempt for release under Chapter 4 and provide the remaining information in the document or file. This is a particularly significant issue as a single line or name in a document could be used to justify the withholding of the entire document or file.

However, the Act is written to provide a right of access to public information, which is defined broadly in the Act and the bylaws as data contained in a document or file or other form. There is a duty for institutions to provide all information requested that cannot otherwise be exempt from release. Following that, the officials must provide the documents or other materials that contain the non-exempt information by removing the exempt information.

This is another area where the Commission could issue guidance or a bylaw that makes this requirement explicit.

g. Fees

The Article 8 bylaw allows executive agencies to collect revenues generated by the sale of publications, books, and software and to use those funds to cover the costs of services. The Commission must approve the tariffs proposed by the agencies.⁵² Other institutions are given discretion to charge for services and to use that money to pay for the provision of the services.

h. Requests for personal information

Often, individuals will want access to their own personal information, such as medical records, employment files, social services, or credit scores, held by public or private bodies. They may wish to do this in order to ensure that they are receiving the legal amount of social support, or if their health treatment is adequate, or to challenge an employment decision.

This right of access to one's own records is generally treated separately under international law⁵³ and is known technically as a "subject access request" under privacy and data laws found in over 100 jurisdictions worldwide.⁵⁴ It is also included in the Charter in Article 31 which states that "Citizens have the right to access their personal data collected and kept by persons and institutions providing public services, and to request correction of such data, should they find it to be incorrect. Personal information pertaining to individuals shall not be placed at the disposal of others, save pursuant to the law or with the consent of the individuals themselves."

⁵¹ Organic Law, §21.

⁵² Article 8 bylaw, §13.

⁵³ See Human Rights Committee, General Comment No. 16: The right to respect of privacy, family, home and correspondence, and protection of honour and reputation (Art. 17) 04/08/1988.

⁵⁴ For a list of laws, see Greenleaf, Graham, *Global Tables of Data Privacy Laws and Bills* (4rd Ed, January 2015) (2015) 133 *Privacy Laws & Business International Report*, 18-28, UNSW Law Research Paper No. 2015-28. Available at <https://ssrn.com/abstract=2603502>.

Requests for information of this type are the same as for other types of information as described above. However, under Article 6 of the Act only the person whose information is being requested or their legal representative can ask for such personal information.

Under Article 15 of the Article 8 bylaw, the Iran Information Technology Organization is obliged to provide, within six months and in collaboration with the national post, an operational system of citizens' national files for access. The Iranian National Folder system or the citizens' national files was established in August 2017.⁵⁵ Iranian citizens can apply for a domestic mailbox online at <http://accounts.post.ir/>. However, in order to finalise the process, they have to go to a post office where their identity is verified.⁵⁶

4. Obligations on institutions

The Act and the implementing regulations set a number of obligations on public and private institutions. These obligations are not always the same. As a general requirement, Article 5 of the Act requires that public institutions implement the law quickly and without discrimination. This was not imposed on private bodies.

a. Publicity

All institutions are obligated to inform widely about peoples' rights under the Act. The Note for Article 5 requires that information about the rights and responsibilities must be "widely broadcast and published through public media." Under Article 10 of the 2014 bylaw, "[i]nstitutions subject to this Act are obliged to publish information about the rights and responsibilities of people through public media."

b. Creation of internal information units

Under Article 11 of the 2014 bylaw, the responsibility for implementation of the Act "rests upon the highest authority of the institution subject to this Act." The duties can be delegated under the note in Article 11 of the 2014 bylaw.

Under the Article 8 bylaw, each public and private institution must create a "Unit for Providing Information" to respond to requests and must appoint a person in charge of the unit.⁵⁷

In other countries, the duties of similar bodies include communicating with requesters to clarify requests, coordinating with officials to obtain the requested information, providing training to officials, and assisting with the record management systems to ensure quick and easy access to information when it is requested.

⁵⁵ <http://www.irna.ir/fa/News/82619048>.

⁵⁶ <http://www.iran.gov.ir/organ/show/id/53/serviceid/38>. The authorities have promised that the entire process will become online in the future.

⁵⁷ Article 8 bylaw, §7.

c. Online systems

The Act and bylaws create two separate obligations for access to information on the government generally and on each institution separately.

Gateways

An important requirement for all institutions is that they create gateways to facilitate access to information. The 2014 bylaw defines these gateways as “[p]ortals, websites, weblogs, or online media of institutions subject to this Act.”

Under Article 4 of the bylaw of The Publication and Free Access to Information Act, these gateways are intended to be a primary communication tool:

Institutions subject to this Act are obliged to provide, through their gateway, a safe and legal communication pathway for administrative process to allow users to contact the institution in question by various means of communication such as phone, cell phone and computer. Accessing information or submitting hard copy documents, receiving or filling out administrative forms, should not require physical presence of citizens and business owners at the institutions subject to this Act.

The gateways are also intended to be the primary means of institutions publishing information about their activities. Section 5 below describes the obligations on bodies to publish categories of information.

Online portal

The Ministry of Communication and Information Technology is also required to set up an online portal for requests.⁵⁸ The online portal is intended to be the standard interface for requestors to demand information three years after its creation.

The Secretariat of the Information Commission announced the launch of the information portal (<http://foia.iran.gov.ir>) for requests in May 2017. He announced that 17 ministries signed up at its launch.

Currently, the portal can be accessed only from inside Iran. The lack of access from outside Iran is a substantial infringement on the right to access information for Iranian citizens needing to make requests from outside the country. It is unclear as to whether this is a deliberate act or a temporary measure. However, when accessed, the website provides clear directions for request submissions with links to news articles related to freedom of information in Iran, a long list of government departments, and the type of information that can be requested from each department.

d. Annual and statistical reporting

The Act and bylaws require the production of both annual reports and quarterly statistical reports by institutions.

⁵⁸ Article 8 bylaw, §14.

Article 12 of the Act requires that the information unit of public institutions provide an annual report on their activities relating to the Act to the Commission.

Under Article 6 of the 2014 bylaw, all institutions are also obliged to disclose a statistical report of publication of information and performance of access to information that includes:

- Statistics of requests for information as well as number of approved and declined requests;
- Average volume of information as well as time of providing information for each category; and
- Statistical reports of published information and the rate of viewing.

Under the Article 18 bylaw, they are obliged to provide their reports to the Commission every three months.⁵⁹

5. Proactive publication

A significant section of the Act places obligations on public and private institutions to proactively publish information without receiving a request. This is intended to facilitate the public availability of information about the functioning of bodies. The Act describes this publication as in “support of citizens’ rights and public interest.”

There are substantial benefits to this approach. In particular, research around the world has found that public bodies which proactively make information available benefit from a reduced number of requests for basic information and subsequently minimise the quantity of requests to which they must respond. Furthermore, there are significant social and economic benefits in making such information available.

a. Mandatory lists of information to be published

Article 10 of the Act sets out six categories of general information which public institutions must publish for free at least annually on their websites or as a paid printed journal:

- Objectives, responsibilities, policies, and structure;
- Procedures and levels of services provided directly to the public;
- Methods of receiving complaints from the public for the institution’s consideration and action;
- Nature of information held by the institution and procedures for accessing them;
- Duties and responsibilities of its high-ranking officers; and
- Methods and procedures which natural persons, legal entities, or non-governmental organisations could utilise to be involved or have an impact.

⁵⁹ Article 4, Note 1.

Under Article 7 of the 2014 bylaw, all institutions covered by the Act are required to publish a variety of information about their structures and activities on their gateway, to be made available 24 hours a day, seven days a week. This includes:

- Legal duties and obligations;
- Laws and regulations governing the activities of the institution;
- Organisational chart, and responsibilities of every position within the institution to the lowest rank;
- Complete list of the directors of the institution, including their organisational phone numbers and email addresses;
- List of all subsidiary and superior entities, and ways to access them;
- A page to allow voicing objections to the activities of the institution, particular department or employees (it is mandatory to develop a system to allow complaints to be received by phone, a short message, or email);
- Information about capital assets and holdings of the institution, progress updates, and annual reports;
- Notice of auctions and tenders and their latest updates;
- Description of the institution's available services with particulars of the person in charge for each service;
- Procedure of providing each service and designated key for each category;
- Time requirement for each service and contact information of the person in charge;
- In case of outsourcing, information about services provided by the e-service, and service provider's roles and liabilities;
- A page to include introductory information about the e-service, frequently asked questions and responses;
- A page to allow tracking the status of the requested service or information, with progress report;
- Reports of the times that the e-service has been inaccessible due to updates or technical issues; and
- Information about the duties of the public institutions subject to this Act that are required to be submitted as per state laws and regulations.

Under the 2014 bylaw, institutions “are obliged to immediately publish the information they are required to publish by law on their gateway.”⁶⁰ However, Article 2 also states that institutions are required to convert the information on the list above into digital form and make it available “to users on different levels” within three years.

b. Other materials to be published

There are also several other provisions in the bylaws which require the publication of information:

- *General Information released by request.* Under the Article 8 bylaw, the responses to requests for general information can be published on the institution’s website. However, it does not require information of a public interest to be published.⁶¹ In Tunisia, information which is subject to two requests is required to be proactively published on the body’s website.⁶²
- *Resolutions on rights and responsibilities.* The 2014 bylaw states that “[r]esolutions or decisions which establish public rights and duties cannot be classified as confidential State information; and their publication shall be mandatory.”⁶³
- *Titles of information held by bodies.* The 2014 bylaw requires “[i]nstitutions subject to this Act are obliged to include the titles of their public and unclassified information and ways of accessing them on their portal.”⁶⁴

c. Limitation of application to bodies controlled by the Supreme Leader

According to Note 1 of Article 10 of the Act, publication of information does not apply to “organs that are under the direct supervision of the Supreme Leader” without the permission of the Supreme Leader.

6. Exemptions

Chapter IV of the Law sets out a number of exemptions to the access to information requests and required publication. In general, this section is very problematic. The categories are overly broad and do not provide sufficient clarity on how to identify important and sensitive information, which is in need of protection, compared to all other information which may fall under that category. Furthermore, the harm tests are limited and the public interest test is even more so.

⁶⁰ 2014 bylaw, Article 9.

⁶¹ Article 8 bylaw, §6.

⁶² Organic Law, §8.

⁶³ 2014 bylaw, §11.

⁶⁴ 2014 bylaw, §3.

a. Classified information

Article 13 of the Act exempts the release of classified information. This is the most problematic section of the law as it refers to an archaic, overly broad law from the Shah's regime which broadly defines secret information with little guidance. It states:

Requests for documents or information that are considered classified (State's confidential information) should be denied. Accessing classified information is subject to specific laws and regulations.

Article 1(d) of the 2014 bylaw defines “[c]lassified information (government secrets)” as “[s]ecret and confidential documents, subject to Punishment for Publication and Disclosure of Confidential and Secret Government Documents Act, ratified in 1353 [1974], and its executive bylaw, ratified in 1354 [1975].” This law and its bylaw are reproduced in Appendices E and F.

Article 1 of the 1974 Law on Disclosure and Release of Confidential and Secret Government Documents (the Secrets Act) defines secret documents broadly as:

those documents whose disclosure is against the interests of the state or country. Confidential government documents are those documents whose disclosure is against the special administrative interests of the organizations mentioned in this article.

The bylaw for the Secrets Act, adopted in 1975, sets out four categories of information which should be classified:⁶⁵

- *Level 1* – Documents the unlawful disclosure of which would cause irreparable damage to the foundation of the government and the bedrock of the regime;
- *Level 2* – Documents the unlawful disclosure of which would endanger public interest and national security;
- *Level 3* – Documents the unlawful disclosure of which would hinder and disrupt the orderly functioning of organisations and make it impossible for them to carry out their fundamental duties; and
- *Level 4* – Documents the unlawful disclosure of which would cause internal turmoil in organisations, or disserve their administrative interest.

Further, it places them into categories which are then referred to in Article 1 of the Act:

SECRET documents are categorized under level 1 and 2, and *CONFIDENTIAL* documents are categorized under level 3 and 4. Level 1 documents are labelled *TOP SECRET*; level 2 documents are labelled *SECRET*; level 3 documents are labelled *CONFIDENTIAL*; and level 4 documents are labelled *PROTECTED*.

⁶⁵ Bylaw on Safeguarding Secret and Confidential Government Documents, and Classification and Categorization of Documents and Information (Council of Ministers—Endorsement No. M/170-14, dated 2/10/1354 [23 December 1975]), Article 1.

Under Article 2 of the Secrets Act, if a classified document is held within a file, the entire file is to be classified to the highest level of the documents within. This is inconsistent with right to information law which as described above requires redaction and provision of non-sensitive information.

Limits

Article 11 of the Act states that “[r]esolutions or decisions which concern public rights and responsibilities cannot be classified as confidential State information; therefore, mandatory to be published.”

Further, the public interest test in Article 17, Note 1 for information related to environmental risks and threats to public health (described below), applies to classified information.

Commentary

Overall, even with the limitations stated above, the broad application of the 1975 Secrets Act violates international law. The UN Human Rights Council has stated that states must only narrowly restrict access to information for national security reasons noting that “it is not compatible with paragraph 3, for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information.”⁶⁶

b. Privacy and personal data

The right to privacy, including the protection of personal information, is also a fundamental right under Article 17 of the ICCPR.⁶⁷ It is also protected under the Constitution and Charter of Rights in Articles 36 -46.

In the context of information, the right to privacy is designed to protect personal information such as medical records, tax files and other personal information about an individual. An exemption protecting this right is typically found in every right to information law around the world.

In the Act, Article 14 limits the release of information concerning the “private sphere” of individuals. It states:

Requests for information concerning private sphere of individuals, or any information that had been acquired by violation of the provisions concerning private sphere shall be refused.

The private sphere is defined in the 2014 bylaw as:

A sphere in personal life of an individual in which, the individual expects not to be intruded by others without consent or prior notice, or legal and or judicial order. This includes: physical sphere, entering, monitoring, wiretapping and accessing one’s information through computer,

⁶⁶ General Comment No. 34, n 1 above.

⁶⁷ See General Comment No. 16, n 53 above; UN General Assembly Resolution (UNGA) 68/167, The right to privacy in the digital age (2013); UNGA Resolution 69/166. The right to privacy in the digital age (2014).

cell phone, mail, residence, automobile, rented spaces such as hotels and ships, as well as what the law constitutes as private or professional activity of an individual or legal entity, such as business documents and records, inventions and discoveries.

Article 15 prohibits the release of personal information except in limited circumstances:

Institutions subject to this Act must deny any request for information which require unlawful disclosure of a third party's personal information, unless:

- a) through written and unequivocal consent of the third party re disclosure of such information;
- b) the applicant is a legal guardian or representative of the third party acting within his/her discretion;
- c) the applicant is a public institution, and the request is within the law and directly related to its duties as a public institution.

Further, under Article 9 of the bylaw “[i]nstitutions subject to this Act are prohibited from publishing or providing private information that is considered restricted by law unless ordered otherwise by law.”

Personal information is defined in Article 1(b) of the Act as “name, surname, residential or workplace addresses, family status, personal habits, physical conditions, bank account number and password.” It is further defined in Article 1(c) of the 2014 bylaw as:

Information that is related to identity, personal status, individual conditions, thoughts and beliefs, emails, images, videos, audios, pictures, personal and behavioural characteristics including name, surname, place and date of birth, marriage, divorce, personal information of spouse, parents and children, relationship, physical and mental issues, bank account number and password, residential and occupational address and also personal information regarding business, occupational, educational, financial, professional, administrative, medical and legal affairs.

It should also be clarified that personal information does not apply to names of officials or their official activities. Under the Yemen right to information law (2012), personal information can be released if it is “connected to the duty or function or public office held by that individual.”⁶⁸

c. Harm to life/health or financial/commercial loss

Article 16 of the Act exempts information when it is evident that the release of information “would endanger someone’s life or compromise [his/her] health, or cause them financial or commercial loss.”

This would appear to allow the withholding of information such as evidence of corruption if the disclosure would cause financial or commercial loss though loss of contracts.

⁶⁸ Law (13) for the Year 2012 Regarding the Right of Access to Information, §25(B).

d. Protection of other circumstances

Article 17 of the Act sets out another four exemptions where institutions are obliged to deny requests if harm would be caused to the following areas, each of which relate to enforcement of laws in the country:

- Public peace and security;
- Prevention of crime and investigation, arrest or prosecution of offenders;
- Tax audits, government fees and their collection; or
- Supervision over immigration to the country.

While these categories are generally the same as those found in other laws around the world, most are notably brief in their descriptions and thus encapsulate wide areas of information. As written, these categories of information are likely to cause confusion over the scope and sensitivity of the information under protection that in turn, may result in information in the public interest being withheld.

e. Public interest exemption

Under Note 1 of Article 17 of the Act, there is a provision that requires the release of information even when it is covered by exemptions. It states:

Provisions of Articles 13 to 17 do not apply to information pertaining to existence or occurrence of environmental hazards or threats to public health.

This applies to exemptions related to state secrets (Article 13), protection of the personal sphere (Articles 14 and 15), protection of commercial secrets (Article 16), and other circumstances where the release would harm public order, prevention of crime, tax audits, and immigration enforcement (Article 17).

A public interest test is an important measure for ensuring that exemptions do not hide information that the public should know about the functioning of public bodies. It is notable that the provision does include some areas of high sensitivity including state secrets and public order.

However, this is quite a limited test which leaves out many areas where there is a public interest, including abuses of power, corruption, non-performance of duties, and mispending of public money, for example.

A better approach would be to take a broader view of the public interest. In Tunisia, all exemptions are subject to the public interest if disclosure is necessary in order to expose or to investigate serious violations of human rights or war crimes or to prosecute their perpetrators, provided that this does not infringe with the best interests of the state, or when the general public interest outweighs the interest in protecting, due to a serious threat to health, safety or environment, or due to a criminal act.⁶⁹

⁶⁹ Organic Law, §26.

f. Defamation, public decency and promoting vice

Under Note 2 of Article 17, there is an unusual exemption. It states:

Provisions of Articles 15 to 16 do not apply to information that could cause defamation and disgrace, or are against public decency and/or promoting vice.

It is unclear what this provision is intended to do. As described above, Articles 15 and 16 generally prohibit the disclosure of information. This section would appear to encourage the publication of information that would cause desecration or outrage public decency. This is unlikely to be the intent of the Act.

A logical reading of this note would treat it as an additional exemption which further prohibits the disclosure of information in the above scenarios even if the personal or commercial information is releasable under Articles 15 and 16. However, there is no additional regulation or guidance which clarifies this section. This is concerning from a freedom of expression standpoint and these areas are not recognised as legitimate exceptions to freedom of expression.

7. Appeals

The Act and bylaws only provide sparse details on the procedures that requesters should use to appeal a decision from an institution to deny information or not respond to a request. The portal contains a section outlining how requesters can make a “complaint” about a response they have been given and how they can track the progress of their complaint. They can make a complaint about the responding department to the Commission for Free Publication and Access to Information from the same section on the portal where responses are received. Though the response to the complaint will be received via the portal, there is no indication about the complaints procedures and how long responses to such complaints take. The portal only provides an outline of how a complaint can be submitted. Grounds for complaint are not clearly indicated here.

a. Internal review

There does not appear to be any formal process for requesting an internal review of a decision. Under the 2014 bylaw, institutions are required to develop a web page “to allow voicing objections to the activities of the institution, particular department or employees (it is mandatory to develop a system to allow complaints to be received by phone, a short message, or email).”⁷⁰ There appear to be no obligations for them to respond to these complaints as relating to right to information requests.

In most right to information laws around the world, a requester can ask the head of the administrative body to review the decision of the internal unit or person who made the decision. For example, in Afghanistan, an applicant can appeal an initial decision to the Public Information Office, which must decide within three working days.⁷¹

⁷⁰ 2014 bylaw, §7.

⁷¹ Access to Information Law, §13.

b. External review by the Commission

There are no defined procedures for appeals and review by the Commission in the Act. At best the process can be implied from the Act and bylaws.

Two provisions appear to be relevant. Under the Article 18 bylaw, one of the duties of the Secretariat of the Commission is to “record and respond to complaints made by real persons and/or legal entities concerning the Act”⁷² while under the Act, one of the roles of the Commission is to “resolve discrepancies in procedures as per the provisions of the Act.”⁷³

Thus it appears that when a requester has been denied information, they can complain to the Secretariat of the Commission. The Secretariat will respond and propose a resolution to the request, which may then be approved by the Commission as a resolution. This is consistent with the processes in other countries where a secretariat conducts most of the investigation and resolution functions while the commissioner or panel of commissioners makes final decisions.

However, under the Act and bylaws, resolutions of the Commission are only binding after approval by the President.⁷⁴ This is extremely unusual. No other law in the world has the president of the country approving the activities of the information commission and it would be infeasible for him to be expected to decide on any individual cases.

More common are bodies that have their own binding powers. In Tunisia and many other countries, the decisions of the authority are binding on the body.⁷⁵

Time frame for decisions by the Commission

There is no time frame set for the response from the Commission. In Tunisia, the authority must respond with a decision in 45 days.⁷⁶

c. Appeal to court

The Act is also silent on appeals to a court such as the Court of Government Justice if their appeal is denied or not addressed by an institution or the Secretariat/Commission. In the Iranian judicial system appeal courts do not deal with such cases. Thus, here the Administrative Tribunal as well as the National Inspection Organisation both have jurisdiction to review the complaints of citizens over the implementation of the law and its bylaws. This default jurisdiction is a general law applied to all government and public entities in Iran.

⁷² Article 18 bylaw, §9(g).

⁷³ The Act, §18.

⁷⁴ Article 18, Note 1.

⁷⁵ Organic Law, §30.

⁷⁶ Organic Law, §30.

In comparison, every other right to information law in the world specifically sets out a process. In Tunisia, the applicant can appeal within 30 days to the Administrative Court.⁷⁷ In Turkey, applicants can appeal to a Board of Review within 15 days and then to a court for judicial review.⁷⁸ In Jordan, appeals are to the Higher Justice Court if the request has not be responded to within 30 days or been denied.⁷⁹

8. The Commission for Free Publication and Access to Information

Chapter 5 of the Act creates the Commission with a Secretariat to provide oversight and act as an appeals mechanism. The roles of the Commission and Secretariat have been further developed by the Article 18 bylaw.

Information commissions are important bodies in ensuring the effective operation of a right to information law. They have a number of important functions: they oversee the implementation of the law, issue guidance to clarify provisions of the law, provide training for officials and users, decide on cases where institutions deny access to information, and recommend changes to the law. Over 50 countries around the world including India, Tunisia, and Yemen have created independent commissions, while another 30 countries give the authority to an existing independent ombudsman or human rights commission. In only a handful of countries is an executive in charge of oversight.

There are a number of problems with the Commission set up under the Act: it is not created as an independent body and its members are all senior government officials; it is only required to meet occasionally; its functions and activities are undertaken by the Secretariat, which is within the Ministry of Culture and Islamic Guidance; it has no clear procedures on decisions; and finally its decisions are only binding if approved by the President.

a. Role and duties of the Commission

Article 18 of the Act sets the role of the Commission to “promote freedom of information and public access to information available at public and private institutions that provide public services”. The Commission is given the mandate to:

draft executive plans necessary for providing information, supervise over proper implementation, and resolve disputes on the methods of providing information subject to this Act through establishing unified practice, creating culture, and providing guidance and recommendations.

Meetings of the Commission

Under Article 2 of the Article 18 bylaw, the Commission meets every two months or the Chairman or three members can call for an extraordinary meeting.

⁷⁷ Organic Law, §31.

⁷⁸ Law on Access to Information, §13.

⁷⁹ Law no 47/2007, §17.

According to Article 18 bylaw, each meeting must have a quorum of five members with the votes by majority by at least four.⁸⁰ Under Note 1 of the bylaw, when the decision relates to security or military matters, the member representing those bodies must be present.

This would appear to be quite a long period of time between meetings if the Commission is intended to regularly rule on cases of denial and provide meaningful oversight. In comparison, the Authority set up under the Tunisian Organic Law meets at least every 15 days. In Afghanistan, the Commission is required to meet every seven days.⁸¹

Annual report of the Commission

Under Article 20 of the Act, the Commission is required to submit an annual report on its activities and compliance by institutions of the Act to the Parliament. This is reaffirmed by the Article 18 bylaw⁸² that assigns the duty to prepare the report to the Secretariat.⁸³ Thus far, the Commission has not produced a public report.

An annual report is an important oversight and accountability tool. It provides crucial information for officials, members of parliament, and citizens to be able to hold public bodies to account. It is crucial that the Commission release this report as soon as possible.

b. Decisions of the Commission

According to the Act, the resolutions of the Commission are binding after approval by the President but there is no procedure in the Act or bylaws.⁸⁴ According to Article 4 of Article 18 bylaw, they are only binding on all institutions that provide services to the public.

The best practice internationally is for a commission to have binding powers without any further authorisation. This has been adopted in many countries including Tunisia, Afghanistan, and India.

c. Obligation of bodies to cooperate with the Commission

Under Article 19 of the Act, “[r]elated institutions are obliged to collaborate with the Commission”.

This presumably includes responding to requests for information from the Commission about their implementation of the law and in individual cases, responding to the Commission on their inquiries and requests for documents to review.

⁸⁰ Article 18 bylaw, §3

⁸¹ Access to Information Law, §20.

⁸² Article 18 bylaw, §5.

⁸³ Article 18 bylaw, §9(i).

⁸⁴ The Act, §18, Note 2.

d. Composition of the Commission

Under Article 18 of the Act and the Article 18 bylaw, the Commission is made up of the following members, or their appointees:

- The Minister of Culture and Islamic Guidance (chairman of the Commission)
- The Minister of Communication and Information Technology, or his deputy
- The Minister of Intelligence, or his deputy
- The Minister of Defense and Armed Forces Logistics, or his deputy
- The Head of Management and Planning Organization, or his deputy
- The Head of the Court of Administrative Justice, or his deputy
- The Chairman of Cultural Commission of the Islamic Consultative Assembly
- The Secretary of Supreme Council of Cyberspace.

The bylaw allows for representatives of other public agencies to be invited to participate in meetings but they cannot vote.⁸⁵

Further, under the Article 18 bylaw, the Commission may create specialised committees with representatives of outside organisations and experts.⁸⁶

The makeup of the Commission is problematic. The members are only senior ministers from powerful public bodies, many of which have little or no commitment to public openness. Further, there is no requirement that they recuse themselves from deciding on cases which involve their own institutions.

In comparison, most other countries have created independent oversight bodies. In fifty countries worldwide, including India, Indonesia, Nepal, Tunisia, and Bangladesh, an independent information commission has been created. In Pakistan and Azerbaijan, the ombudsman oversees the law.

Further, in many countries which have created a council form of commission, the right to information law requires people other than officials to be included. In Tunisia, the Commission is chaired by a senior administrative judge and includes representatives from lawyers groups, civil society, and academia. Members must be approved by the Parliament with a three-fifths majority. It does not include any ministers.⁸⁷ In Afghanistan, the Commission includes representatives of the Bar Association, Lawyers Union, Professional Journalists Union, Chamber of Commerce, and two elected representatives from civil society.⁸⁸

e. Secretariat of the Commission

To manage the work of the Commission, the Act creates a Secretariat. Under Note 1 of Article 18 of the Act, the Secretariat is housed at the Ministry of Culture and Islamic Guidance.

⁸⁵ Article 18 bylaw, Note 2.

⁸⁶ Article 18 bylaw, §6.

⁸⁷ Organic Law, §41.

⁸⁸ Access to Information Act, §16.

Article 9 of the Article 18 bylaw sets out the duties of the Secretariat including:

- Drafting of minutes and decisions of the Commission;
- Follow up with formation of sub-councils and expert working-groups by utilising the potential of member institutions;
- Announcement of plans and decisions in coordination with the chairman of the Commission;
- Participation in meetings related to the mandate of the Commission;
- Coordination with executive organs to produce unified procedures to implement the provisions of the Act;
- Record and respond to complaints made by real persons and/or legal entities concerning the Act;
- Preparation of annual reports for the President and the Islamic Consultative Assembly;
- Preparation and execution of cultural publicity programs to create desired culture; and
- Carry through and implement the Commission's decisions.

Under the Article 18 bylaw, the Secretariat is given “access to required administrative resources proportional to the volume of its work and in consideration of relevant policies and regulations.” However, there are no provisions on the independence of the Secretariat from the Ministry or procedures for potential conflicts of interest. In comparison, the Secretariat of the Tunisian Access to Information Authority is independently managed by the Authority and is made up of both official seconded from other bodies and independently hired officials.⁸⁹

The Deputy Culture Minister for Press Affairs Hossein Entezami was appointed Secretary in 1393 (2014).

9. Sanctions for refusing requests for information

Sanctions are an important function of a right to information law in order to deter negative conduct by officials who may not agree with openness and transparency. Article 22 of the Act creates civil penalties for deliberate violation of its requirements:

- Restricted access to information contrary to the provisions of this Act;
- Any commission or omission of an act that would prevent the Commission for Publication and Free Access to Information to carry out its duties, or obstruct public institutions to perform their responsibilities of providing information contrary to the provisions of this Act;
- Total or partial erasure [and/or modification] of information without legal authority; or
- Violation of the terms of this Act concerning set deadlines.

The penalties range from 300,000 rials (\$9USD) up to 100,000,000 rials (\$3000USD), “depending on the required deterrence, number of recurrence, and the circumstances of the offender”. These appear to be quite low and are unlikely to effectively deter institutions from violating the provisions.

⁸⁹ Organic Law, §48.

It is not clear if it is individual information officers or the institutions themselves that are the subject of these penalties. It is also not stated which body is in charge of imposing the penalties, whether it is the Commission or the institution itself, or a separate body such as the prosecutor's office. It is crucial that an independent body is placed in charge. In India, the Federal and State Information Commissions can fine officials directly who are found to be hindering access to information for each day that they do not provide information.⁹⁰

Further, there are no detailed criminal offences, even for the most serious of crimes such as destroying information to prevent its release or the deliberate falsification of information to mislead the public. Article 22 states that if there is another law that also sanctions these offences more severely, the punishment in law should be imposed. However, this does not indicate if it is a criminal offence.

In Tunisia, the Access to Information Law refers to the Criminal Code for cases where there are serious violations of the law such as the destruction of information.⁹¹ This should be clarified by regulation. In Pakistan, Article 22 of the Freedom of Information Ordinance states:

Any person who destroys a record which at the time it was destroyed was the subject of a request, or of a complaint with the intention of preventing its disclosure under this Ordinance, commits an offence punishable with imprisonment for a term not exceeding two years, or with fine, or with both.

There should be also stronger administrative penalties against officials, including termination of employment and/or demotion, as any public official who acts in such a way has violated their oath of office. In Turkey, the law provides that "officials and other civil servants who negligently, recklessly or deliberately obstruct the application of this law, shall be subject to disciplinary sanctions as provided in the relevant regulations of personnel regime."⁹²

10. Republication and reuse of information

The Act does not provide any guidance on the republication and reuse of information and data obtained under its provisions. Article 2 states that "[u]se of public information, and/or its publication is subject to relevant laws and regulations." None of the bylaws give any further clarification to this provision.⁹³

The reuse of public information and open data are increasingly becoming common across the world. It is seen as both an accountability tool and an economic boost. As described by the United Nations Division for Economic and Social Affairs:⁹⁴

⁹⁰ Right to Information Act, §19.

⁹¹ See Tunisia, Organic Law.

⁹² Law on Right to Information, §29.

⁹³ This may include the Press Law, Computer Crimes Law and Islamic Penal code which provide general rules on publicising information.

⁹⁴ United Nations Department of Economic and Social Affairs, United Nations E-Government Survey 2016: E-Government in Support of Sustainable Development, 2016.

Making data available online for free also allows the public – and various civil society organizations – to reuse and remix them for any purpose. This can potentially lead to innovation and new or improved services, new understanding and ideas. It can also raise awareness of governments' actions to realize all the SDGs, thus allowing people to keep track and contribute to those efforts.

In Qatar, the government adopted an open data policy in 2014 which requires public bodies to make data held by the bodies “that they determine to be of interest or useful to the public” in an “open format that can be retrieved, downloaded, indexed and searched.” Further, “[a]ccess, use, adaptation and distribution of the Open Data should be permitted at no fee to the public.”⁹⁵ In Dubai, the 2015 Law Regulating Data Dissemination and Exchange creates a “Dubai Data Manual” and “sets a new framework for ensuring that all government data is either open to the public or shared as a collective asset across the Government of Dubai.”⁹⁶ In Europe, all countries in the European Union have adopted a regulation to ensure that all member states can reuse information and data released by government bodies under “fair, proportionate and non-discriminatory conditions.”⁹⁷

The Iranian authorities should adopt a bylaw on the reuse of information which would clearly allow any person or organisation to publish documents or information obtained from public institutions and private institutions conducting public business on websites, social media platforms, or other means of dissemination without costs and reuse the information for any purpose, commercial or non-commercial.

Limit on liability for republication

Article 8 of the 2014 bylaw does limit the liability of publishers of information for the accuracy of information that they received from an institution, if they publish “the exact information”. However, this could potentially be used to violate freedom of expression when, for example, an anti-corruption group uses public information and combines it with information from other sources to criticise a corrupt organisation, and is charged with a violation since they are not publishing the exact information, but rather an analysed form of it.

VII. Summary

The adoption of the law is a welcome step forward. Iran has joined with over 100 countries around the world with similar laws. The effective implementation of the law will improve public trust and decision-making, reduce corruption, and facilitate implementation of the Sustainable Development Goals and other international agreements that Iran has ratified.

⁹⁵ Ministry of Information and Communications Technology, Open Data Policy, November 2014. Available at <http://www.motc.gov.qa/en/documents/document/open-data-policy>.

⁹⁶ Law No. (26) of 2015 Regulating Data Dissemination and Exchange in the Emirate of Dubai; The Dubai Data Manual, Ver 2, Nov 2016. Available at <http://dubaidata.ae/pdf/Dubai-Data-Manual-20160612.pdf>.

⁹⁷ Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:175:0001:0008:EN:PDF>.

However, the Act itself suffers from a number of weaknesses and unclear provisions. It is further hampered by a lack of regulations and guidance. Its implementation has been extremely slow.

Recommendations:

There are numerous provisions within the law and its bylaws which should be revised as a long-term aim. In the meanwhile, we urge the government to take administrative measure to improve the implementation of the law as a first step. Some of the initial activities in this regard should include:

- Making the annual reports of the bodies and Information Commission public;
- Creating a new bylaw on the appeals mechanism, including its independence from the Ministry's other functions, time frames for Commission decisions and the process for making them binding; and
- Adopting a bylaw on reuse of information and data obtained under its provisions.

VIII. Appendices

Appendix A. Citizens' Rights Charter provisions relating to access to information

Article 19

Citizens have the right to good governance of State affairs based on the rule of law, efficiency, accountability, transparency, justice and equity. Observance of this right by all authorities and government personnel is mandatory.

Article 22

Citizens have the right to be informed of administrative decisions and measures that in one way or another affect their legitimate rights and interests.

Article 26

Every citizen has a right to freedom of speech and expression. This right shall be exercised within the limits prescribed by law. Citizens have the right to freely seek, receive and publish views and information pertaining to various issues, using any means of communication. The

Government shall, according to the law, guarantee freedom of speech and expression, especially in the mass media, cyber space, including in newspapers, magazines, books, cinemas, radio and television, social networks and the likes.

Article 28

Citizens have the right to criticize, express dissatisfaction, invite to do good, and advise the Government and public entities regarding their performance. The Government shall be required to promote and develop the culture of accepting criticism, tolerance and compromise.

Article 29

The Government will protect the freedom, independence, plurality, and diversity of the media within the framework of the law. No authority has the right to put pressure on the press and other media to publish or refrain from publishing information or matters, in contravention of legal principles, or embark on censorship or control of publications or other media.

Article 30

Citizens have the right to access public information available in public institutions and private institutions that provide public services. All organs and entities are required to continuously publish unclassified information required by society.

Article 31

Citizens have the right to access their personal data collected and kept by persons and institutions providing public services, and to request correction of such data, should they find it to be incorrect. Personal information pertaining to individuals shall not be placed at the disposal of others, save pursuant to the law or with the consent of the individuals themselves.

Article 32

Children have the right to access information appropriate to their age, and shall not be exposed to immoral, violent or any other types of content that would cause intimidation or physical or psychological harm.

Article 33

Citizens have the right to freely and without discrimination enjoy access to and communicate and obtain information and knowledge from cyberspace. This right encompasses respect for cultural diversity, languages, traditions and religious beliefs and observance of ethical principles in cyberspace. Imposition of any type of restriction (such as filtering, interference, speed reduction and network interruption) without explicit legal authority is prohibited.

Article 45

Citizens have the right to civil activities in the areas of citizens' rights. Non-governmental organizations must have the right to access information and the standing to make recourse to competent courts in case of violations of citizens' rights.

Article 69

Citizens have the right to be informed of the process of adoption, modification and implementation of economic policies, laws and regulations; to advise the approving authority of their views; to be notified of adoption of decisions different from previous policies and procedures on a timely basis that would allow them to prepare for such changes; and to learn about the decisions adopted through public announcements, in a transparent manner.

Article 70

Citizens have the right to enjoy equal access, in the most transparent fashion, to economic information, including the information relating to bids and tenders to be held.

Article 92

The community of veterans and others who made great sacrifices for the country and their esteemed families have the right to be specially provided necessary facilities for individual and collective empowerment in order to effectively attend and participate in various aspects of cultural, political and social life.

Article 113

Every citizen has the right to enjoy a healthy and clean environment, which is free of various pollutants, including air pollution and water pollution, and environmental pollution arising from harmful waves and radiation; and, shall have the right to be aware of the extent and consequences of existing

environmental pollutants. Executive bodies will take due measures for reducing environmental pollutants, particularly in big cities.

Article 115

The Government will take action for achieving comprehensive and balanced sustainable development and elimination of international barriers by playing an effective international role through economic cooperation, exchange of information, transfer of technical know-how and cultural exchange. Citizens have the right to enjoy the benefits and advantages of new technologies in all areas, including in health, medical, pharmaceutical, food, economic and trade.

Appendix B - The Publication and Free Access to Information Act 2009

Ratified On: 06/11/1387 [25 January 2009]. Proclamation No: 56348/32

Proclamation Date: 04/11/1388 [24 January 2010]

Reference No. 56348/32 4/11/1388 [24 January 2010]

*Honourable Dr. Mahmoud Ahmadinejad
Respected President of the Islamic Republic of Iran*

As per letter number 28489/29411, dated 10/5/1384 [1 August 2005], in execution of article one hundred and twenty three (123) of the constitution of the Islamic Republic of Iran, the Publication and Free Access to Information Act, ratified at the general assembly of the Islamic Consultative Assembly on 6/1/1387 [25 March 2008] under the title of Bill of Free Information, and further submitted to, and indorsed by, the Expediency Discernment Council, in accordance with article one hundred and twelve (112) of the constitution of the Islamic Republic of Iran, is hereby declared.

*Chairman of the Islamic Consultative Assembly – Ali Larijani
Number 217119 11/11/1388 [31 January 2010]*

Ministry of Culture and Islamic Guidance

The Publication and Free Access to Information Act, ratified by the Islamic Consultative Assembly in its general assembly on Sunday sixth of Bahman, thirteen eighty-seven [25 January 2009], and further endorsed on 31/5/1388 [22 August 2009] by the Expediency Discernment Council, with incorporation of one note under Article 10, and received by the Islamic Consultative Assembly under reference number 56348/32, dated 4/11/1388 [24 January 2010], is hereby declared for enforcement.

President – Mahmoud Ahmadinejad

The Publication and Free Access to Information Act

Chapter I – General Terms and References

Section 1 – General Terms

Article 1: The terms in this Act are defined as follows:

- a) Information: Any data contained in documents, saved as electronic file, or recorded in any other form.
- b) Personal Information: Personal information such as name, surname, residential or workplace addresses, family status, personal habits, physical conditions, bank account number and password.
- c) General Information: Non-personal information such as rules and regulations, national figures and official statistical data, administrative documents and correspondence, except those noted in Chapter IV of this Act.
- d) Public Institutions: Organizations and agencies affiliated with the government, in general term, including all organs and their subsidiaries mentioned in the laws and regulations of the Islamic Republic of Iran.
- e) Private Institutions: In this Act, private institutions include any for-profit or non-for-profit institutions, except for public institutions.

Section 2: Freedom of Information

Article 2: Any person of Iranian nationality has the right to access public information, unless otherwise indicated by law [or 'unless banned by law']. Use of public information, and/or its publication is subject to relevant laws and regulations.

Article 3: Any individual has the right to prevent publication or broadcast of information obtained by him/her, which has undergone changes in the course of preparation for publication, unless the gathering of information was at the request of another source, in which case conditions are according to the agreements between the parties.

Article 4: Coercing providers and publishers of information to disclose their source of information is prohibited, unless through judicial order; nevertheless, this does not deny the liabilities of the providers and publishers of information.

Section 3 – Right to Access Information

Article 5: Public institutions are obliged to make the provisions of this Act accessible to the public without prejudice, and as expeditiously as possible.

Note: In addition to the provisions of this Act, information concerning the rights and responsibilities of the public must be widely broadcast and published through public media.

Chapter II – Procedure for Access to Information

Section 1: Request for Information and Time to Reply

Article 6: Access to personal information, pertinent to the person requesting it, can only be requested by a natural person, or his/her legal representative.

Article 7: Public institution shall not ask the person requesting the information to provide reason or explanation for his/her request.

Article 8: Public or private institutions are obliged to respond to requests for information expeditiously. In any case, providing response should not exceed 10 business days from the date of receiving the request. Within six months of ratification of this Act, the executive bylaw for this article shall be submitted for the approval of the Council of Ministers, through a proposal from the Commission for Publication and Free Access to Information.

Section 2 – Procedure for Responding to Requests

Article 9: Response of private institutions to requests for information must be in electronic or written form.

Chapter III – Promoting Transparency

Section 1 – Instruction to Publish

Article 10: In support of citizens' rights and public interest, Public institutions must provide at least annually, their general information, including operations and fiscal reports, while protecting their classified information, through their websites, or published as a journal, to provide to citizens for a fee upon request. The content could include:

- a) Objectives, responsibilities, policies, and structure;
- b) Procedures and levels of services provided directly to the public;
- c) Methods of receiving complaints from the public for the institution's consideration and action;
- d) Nature of information held by the institution and procedures for accessing them;
- e) Duties and responsibilities of its high-ranking officers;
- f) Methods and procedures whereby natural persons, legal entities, or non-governmental organizations could utilize to be involved or have an impact.

Note: Provisions of this article with respect to organs that are under the direct supervision of the Supreme Leader are subject to his Excellency's agreement.

Article 11: Resolutions or decisions which concern public rights and responsibilities cannot be classified as confidential State information; therefore, mandatory to be published.

Section 2 – Reporting of the Information Services Unit to the Commission for Publication and Free Access to Information

Article 12: Public institutions are obliged to provide an annual report concerning their activities in execution of this Act to the Commission for Publication and Free Access to Information through the Information Services Unit.

Chapter IV – Exemptions to Accessing Information

Section 1 – State’s Confidential Information

Article 13: Requests for documents or information that are considered classified (State’s confidential information) should be denied. Accessing classified information is subject to specific laws and regulations.

Section 2 – Protection of Private Sphere

Article 14: Requests for information concerning private sphere of individuals, or any information that violates the provisions of the Privacy Act should be denied.

Article 15: Institutions subject to this Act must deny any request for information which require unlawful disclosure of a third party’s personal information, unless:

- a) through written and unequivocal consent of the third party re disclosure of such information;
- b) the applicant is a legal guardian or representative of the third party acting within his/her discretion;
- c) the applicant is a public institution, and the request is within the law and directly related to its duties as a public institution.

Section 3 – Protection of Health and Commercial Information

Article 16: Should it become evident to institutions subject to this Act through legal evidence that providing the requested information would endanger someone’s life or compromise [his/her] health, or cause them financial or commercial loss, such request should be denied.

Section 4 – Other Circumstances

Article 17: Institutions subject to this Act are obliged to deny requests for information if harmful to:

- a) public peace and security;
- b) prevention of crime and investigation, arrest or prosecution of offenders;
- c) tax audits, government fees and their collection;
- d) supervision over immigration to the country.

Note 1: Provisions of Articles 13 to 16 do not apply to information pertaining to existence or emergence of environmental hazards or threats to public health.

Note 2: Provisions of Articles 15 to 17 do not apply to information that could cause defamation and disgrace, or are against public decency and/or promoting vice.

Chapter V – The Commission for Publication and Access to Information

Section 1 – Formation of the Commission

Article 18: To support freedom of information and [allow] public access to information available at public and private institutions that provide public services, a commission will be formed with a mandate to devise executive plans for providing information, supervise over execution, and resolve discrepancies in procedures as per the provisions of this Act, through implementation of a unified practice, building culture, and providing guidance and suggestions resulted from consultation. The Commission for Publication and Access to Information is formed by the order of the president, and is comprised of:

- a) the minister of Culture and Islamic Guidance (Chairman of the Commission);
- b) the minister of Communication and Information Technology, or his deputy;
- c) the minister of Intelligence, or his deputy;
- d) the minister of Defense and Armed Forces Logistics, or his deputy;
- e) the head of Management and Planning Organization, or his deputy;
- f) the head of the Court of Administrative Justice, or his deputy;
- g) the head of the Commission of Culture of the Islamic Consultative Assembly;
- h) the secretary of Supreme Council of Cyberspace.

Note 1: Secretariat of the said Commission will be housed at the Ministry of Culture and Islamic Guidance, and management of its meetings and responsibilities of its secretariat will be determined through the proposals of the Commission, subject to the approval of the Council of Ministers.

Note 2: Resolutions made by the Commission for Publication and Free Access to Information are binding once approved by the president.

Article 19: Related institutions are obliged to collaborate with the Commission.

Section 2 – Commission's Reporting [Procedure]

Article 20: The Commission shall submit an annual report on its activities and the execution of this Act in related institutions to the Islamic Consultative Assembly and the president.

Chapter VI – Civil and Penal Responsibilities

Article 21: Every individual—natural person or legal entity—who has suffered damages, be it financially or to [his/her/its] reputation, has the right to deny the alleged information or offer explanation. Moreover, the individual has the right to seek compensation for the incurred damages, in accordance with public regulations of Civil Responsibility.

Note: In case of publication of true information contrary to the provisions of this Act, the individual—natural person or legal entity—has the right to seek compensation for the incurred damages, in accordance with public regulations of Civil Responsibility.

Article 22: Deliberate commission of the following acts are considered an offence, and are subject to monetary fine from 300,000 rials up to 100,000,000 rials, depending on the required deterrence, number of recurrence, and the circumstances of the offender:

- a) Restricted access to information contrary to the provisions of this Act;
- b) Any commission or omission of an act that would prevent the Commission for Publication and Free Access to Information to carry out its duties, or obstruct public institutions to perform their responsibilities of providing information contrary to the provisions of this Act;
- c) Total or partial erasure [and/or modification] of information without legal authority;
- d) Violation of the terms of this Act concerning set deadlines.

Should any of the above-noted offences carry a higher punishment in other laws, the higher punishment should be imposed.

Article 23: The executive bylaw of this Act shall be prepared by the Ministry of Culture and Islamic Guidance, in collaboration with related agencies, and approved by the Council of Ministers within three months of its endorsement.

The above Act, consisting of twenty-three articles and seven notes, was ratified in the general assembly of the Islamic Consultative Assembly on Sunday, sixth of Bahman, thirteen eighty seven [25 January 2009], and, with addition of one note under article 10, was endorsed on 31/5/1388 [22 August 2009] by the Expediency Discernment Council.

Chairman of the Islamic Consultative Assembly – Ali Larijani

Appendix C - The Executive Bylaw on The Publication and Free Access to Information Act 2014

No.99517/T49016H

1/9/1393 [22 November 2014]

The Ministry of Culture and Islamic Guidance

The Council of Ministers, in a meeting on 21/08/1393 [23 October 2014], following proposal No.134480/01, dated 07/10/1392 [28 December 2013], of the Ministry of Culture and Islamic Guidance (in collaboration with other relevant authorities), and in accordance with Article (23) of the Publication and Free Access to Information Act, ratified in 1388 [2009], approved the Executive Bylaw on the said Act as follows:

The Executive Bylaw on The Publication and Free Access to Information Act

Article 1: The terms in this bylaw are defined as follows:

- a) Information: Any form of data including audio tapes, visual images, films and recordings, written documents, signs, maps, and numbers, or combinations thereof contained in hard copy, soft copy, or otherwise saved and recorded.

- b) Personal Information: Information related to identity, personal status, individual's conditions, thoughts and beliefs, emails, visual images, videos, audio files, pictures, personal habits and information such as name, surname, place and date of birth, marriage, divorce, particulars of spouse--[or those of] parents and children, family relations, physical and mental conditions, bank account number and password, residential and work address, as well as personal information regarding business, occupational, educational, financial, professional, administrative, medical and legal affairs.
- c) Private Sphere: A sphere in personal life of an individual in which, the individual expects not to be intruded by others without consent or prior notice, or legal and or judicial order. This includes: physical sphere, entering, monitoring, wiretapping and accessing one's information through computer, cell phone, mail, residence, automobile, rented spaces such as hotels and ships, as well as what the law constitutes as private or professional activity of an individual or legal entity, such as business documents and records, inventions and discoveries.
- d) Classified Information (government secrets): Secret and confidential documents, subject to Punishment for Publication and Disclosure of Confidential and Secret Government Documents Act, ratified in 1353 [1974], and its executive bylaw, ratified in 1354 [1975].
- e) Act: The Publication and Free Access to Information Act, ratified in 1388 [2009].
- f) Publication of Information: Providing information for public access.
- g) Private Institutions: Legal entities licensed by law or initiated based on a specific law with for-profit or non-for-profit activities, such as businesses or noncommercial institutions, political parties, and NGOs.
- h) Public Institutions: Organizations and institutions affiliated with the government, including executive apparatuses subject of Article (5) of Management of the State Services Act, revolutionary institutions, armed forces, the Executive and Legislative branches and their affiliated institutions, offices, and organizations as well as foundations and agencies under the aegis of the Supreme Leader, and every institution or firm, which is owned in full, or more than fifty percent of its shares is held, by the government or state, as reflected in the laws of the Islamic Republic of Iran.
- i) Private Institutions Providing Public Services: Non-governmental organizations that provide public services, such as trade and professional associations, banks, and the stock exchange.
- j) Commission: Commission of Article (18) of the law.
- k) Institutions Subject to this Act: Private, and semi-private institutions providing public services.
- l) Gateway: Portals, websites, weblogs, or online medias of institutions subject to this Act.

Article 2: From the first year of the commencement of these provisions, institutions subject to this Act are obliged to convert, gradually within three years, all saved information noted in Article (7) of this bylaw into digital format, and make them accessible to users on different levels in accordance with related laws and regulations.

Article 3: Institutions subject to this Act are obliged to include their public and unclassified information and ways of accessing them on their gateway.

Note: Institutions subject to this Act are obliged to provide an electronic request form, as well as a printable version of the form, on their gateway. Subsequent to filling out the electronic request form

and submitting it to the institution, users must be provided with a tracking number to allow them to track the status of their request.

Article 4: Institutions subject to this Act are obliged to provide, through their gateway, a safe and legal communication pathway for administrative process to allow users to contact the institution in question by various means of communication such as phone, cell phone and computer. Accessing information or submitting hard copy documents, receiving or filling out administrative forms, should not require physical presence of citizens and business owners at the institutions subject to this Act.

Note: Should a public key infrastructure [PKI] be provided, signing of documents shall not require physical presence.

Article 5: Institutions with high volume of requests for public information can, with adherence to levels of access in regards to providing electronic or paper copies of information, outsource these services with comprehensive supervision and development of a survey to ensure customer satisfaction, with adherence to provisions concerning levels of access. Data of such traffic must be saved for a period of six months.

Article 6: Institutions subject to this Act are obliged to disclose statistical report of publication of information and performance of access to information with respect to the following:

- a) Statistics of requests for information as well as number of approved and declined requests.
- b) Average volume of information as well as time of providing information for each category.
- c) Statistical reports of published information and the rate of viewing.

Article 7: Institutions subject to this Act are obliged to include the following information, in accordance with terms and conditions set out in regulation No. 192630/T42635K, ratified on 03/10/1391 [23 December 2012], on their gateway, and shall make them accessible online to inquirers twenty-four hours a day, seven days a week:

Legal duties and obligations;

- a) Laws and regulations governing the activities of the institution;
- b) Organizational chart, and responsibilities of every position within the institution to the lowest rank;
- c) Complete list of the directors of the institution, including their organizational phone numbers and email addresses.
- d) List of all subsidiary and superior entities, and ways to access them;
- e) A page to allow voicing objections to the activities of the institution, particular department or employees (it is mandatory to develop a system to allow complaints to be received by phone, a short message, or email);
- f) Information about capital assets and holdings of the institution, progress updates, and annual reports;
- g) Notice for auctions and tenders and their latest updates;
- h) Description of the institution's available services with particulars of the person in charge for each service;
- i) Procedure of providing each service and designated key for each category;
- j) Time requirement for each service and contact information of the person in charge;

- k) In case of outsourcing, information about services provided by the e-service, and service provider's roles and liabilities;
- l) A page to include introductory information about the e-service, frequently asked questions and responses;
- m) A page to allow tracking the status of the requested service or information, with progress report;
- n) Reports of the times that the e-service has been inaccessible due to updates or technical issues;
- o) Information about the duties of the public institutions subject to this Act which are required to be submitted as per state laws and regulations.

Article 8: Publishers of information will not be legally liable for the accuracy of the information provided to them by the institutions subject to this Act, provided they reflect the exact information.

Article 9: Institutions subject to this Act are obliged to immediately publish the information they are required to publish by law on their gateway.

Note: Institutions subject to this Act are prohibited from publishing or providing private information that is considered restricted by law unless ordered otherwise by law;

Article 10: Institutions subject to this Act are obliged to publish information about the rights and responsibilities of people through public media.

Article 11: Duties and responsibilities of the execution of the law and provisions of this bylaw rests upon the highest authority of the institution subject to this Act.

Note: The highest authority of the institution subject to this Act has the discretion to delegate all or a part of the duties of publication of information to other individuals in the institution.

First Vice-President- Eshaq Jahangiri

Appendix D - Executive Bylaw Article 8 2015

Number H51979T/84348

30/6/1394 [21 September 2015]

Ministry of Culture and Islamic Guidance

Ministry of Information and Communication Technology

The Council of Ministers, in a meeting dated 22/6/1394 [13 September 2015], following a proposal from the Commission on Publication and Free Access to Information, and in accordance with Article (8) of the Publication and Free Access to Information Act, ratified in 1388 [2009], approved an executive bylaw for the said Article as follows:

The Executive Bylaw of Article (8) of The Publication and Free Access to Information Act

Article 1: Any Iranian (real person or legal entity) can request for access to information through a special form approved by the Commission on Publication and Free Access to Information, subject of Article (18) of the law, by submitting [the form] online via electronic gateway/website], governmental e-service, post, or in person to the Information Dispatch Unit of the desired institution.

Note: Upon receiving a request for access to information, institutions subject to the Act are obliged to provide a written or electronically issued receipt which includes registration date and number to the applicant.

Article 2: Applicant's request must contain particulars such as name and surname, national ID number (for real persons), and national registration number (for legal entities), name of the legal representative of either the real person or legal entity, postal code, and at least one form of contact such as mobile number, landline number, internal [work] email address, or Iranian national file reference.

Article 3: The answer to request for information must be provided through one of the following choices made by the applicant:

- 1- Online through [the applicant's] internal email address;
- 2- Online through [the applicant's] Iranian national file reference;
- 3- In written form, by post, to the address and postal code provided by the applicant;
- 4- In written form, in person.

Article 4: Electronic gateway of institutions subject to the Act must provide sufficient guideline to those requesting information.

Article 5: Request for document or information that has been openly published and is accessible through the institution's website is not acceptable.

Article 6: General information provided to an applicant can be posted on the institution's website.

Article 7: The highest authority of the institution subject to the Act is obliged to assign a particular unit to respond to specific requests covered by the Act, and to appoint an individual to be in charge.

Article 8: Subsequent to receiving a request and reviewing required documents by the individual in charge, in the event that the request is complete, the individual in charge is obliged to issue a receipt to the applicant, and immediately submit the request to the unit to be processed.

Article 9: Should the individual in charge of receiving requests conclude that the request is not related to the institution, s/he is obliged to make a notation to that effect on the same request form.

Article 10: Should the response to the request be denied, legal reasons for denial and inaccessibility must be communicated to the applicant, as per Article (2).

Article 11: Institutions subject to the Act are obliged, by considering the nature, urgency, and necessity of requested information, to provide a written response as expeditiously as possible to the applicant, as per Article (2). In any case, providing response should not exceed 10 business days.

Note: With regard to online requests, the period of providing response will be calculated from the first business day following the date of submission.

Article 12: In the event that incomplete or insufficient information was provided, the applicant can submit a follow up request for information. Receipt for new information must include reference number of the initial request.

Article 13: Executive agencies of the provisions of Article (222) of the Fifth Expansion Plan Act have discretion to execute Article (54) of incorporation of certain provisions to the law of Regulating a Section of the State Financial Regulations, ratified in 1384 [2005], to collect revenues generated by sales of publications, books, and software, and to deposit such proceeds in the public funds account of the National Treasury. Funds equal to amounts deposited into credited accounts, allotted to relevant agencies in their annual budget for this purpose, are to be used to cover operational costs of noted services. Tariffs of such services will be approved by Council of Ministers through a proposal by the Commission on Publication and Free Access to Information.

Note: Other institutions subject to this bylaw have discretion, in consultation with relevant authorities, to charge a certain amount for noted services and to deposit these revenues in related accounts, and use such funds, in accordance with pertinent regulations, from their approved budget, to continue providing services.

Article 14: The Ministry of Communication and Information Technology is obliged to develop an electronic system proportional to the volume of requests and responses within one year of the enforcement of this bylaw, and, subsequent to the approval of the noted Commission, launch a pilot project. This system, after three years, will officially become standard operation of the Publication and Free Access to Information Act.

Note: All public institutions subject to the Act are obliged to communicate their special requirements and conditions, within three months of coming to effect of this bylaw, to the Ministry of Communication and Information Technology.

Article 15: The Information Technology organization is obliged to provide, within six months and in collaboration with the national post, an operational system of citizens' national files for access.

Article 16: Provisions of this bylaw applies equally to both in person and online responses.

First Vice-President – Eshaq Jahangiri

Appendix E – Executive Bylaw Article 18 2015

The Council of Ministers, in a meeting dated 4/5/1394 [26 July 2015], following a proposal from the Commission on Publication and Free Access to Information, and in accordance with Note (1) of Article (18) of the Publication and Free Access to Information Act, ratified in 1388 [2009], approved an executive bylaw for the said Article as follows:

Article 1: The Commission on Publication and Free Access to Information shall be comprised of:

- a. the minister of Culture and Islamic Guidance (chairman of the Commission);
- b. the minister of Communication and Information Technology, or his deputy;
- c. the minister of Intelligence, or his deputy;
- d. the minister of Defense and Armed Forces Logistics, or his deputy;
- e. the head of Management and Planning Organization, or his deputy;
- f. the head of the Court of Administrative Justice, or his deputy;
- g. the chairman of Cultural Commission of the Islamic Consultative Assembly;
- h. the secretary of Supreme Council of Cyberspace.

Article 2: The Commission shall meet once every two months, and, when required, shall convene for a special meeting with the approval of the Commission chairman or three of its members. Agenda for each meeting shall be sent to the members at least one week prior to the session.

Article 3: The Commission's meeting shall have official quorum with at least five members present, and its decisions shall require majority vote, and at least four votes.

Note 1: Security and military subjects require the presence of the relevant member.

Note 2: The Commission can invite representatives of different institutions and organs to participate in meetings, without voting privileges.

Article 4: The Commission's decisions, once approved by the president, shall be binding for all public service providers.

Note: Institutions subject to the Act are obliged to provide their reports to the Commission's secretariat office every three months.

Article 5: The Commission shall provide its annual report, and information about the level of compliance with the Publication and Free Access to Information Act by the institutions subject to the Act, to the president and the Islamic Consultative Council.

Article 6: To best carry out its duties and responsibilities, the Commission is permitted, as it deems necessary, to form specific sub-councils comprised of representatives of its members, and expert working-groups, utilizing the potentials of various institutions and trusted experts.

Article 7: Duties of the chairman of the Commission are as follows:

- a. Chair the meetings;
- b. Announce the decisions, once approved by the president;
- c. Issue directives for sub-councils and expert working-groups;
- d. Release the Commission's annual report to required authorities;
- e. Appoint the Commission's secretary;

Article 8: The Commission's secretariat office will be housed at the Ministry of Culture and Islamic Guidance, and shall have access to required administrative resources proportional to the volume of its work and in consideration of relevant policies and regulations.

Article 9: Duties of the secretariat office:

- a. Preparation of agenda in coordination with the chairman of the Commission;
- b. Drafting of minutes and decisions of the Commission;
- c. Follow up with formation of sub-councils and expert working-groups by utilizing potentials of member institutions;
- d. Announcement of plans and decisions in coordination with the chairman of the Commission;
- e. Participation in meetings related to the mandate of the Commission;
- f. Coordination with executive organs to produce unified procedures to implement the provisions of the Act;
- g. Record and respond to complaints made by real persons and/or legal entities concerning the Act;
- h. Preparation of annual reports for the president and the Islamic Consultative Assembly;
- i. Preparation and execution of cultural publicity programs to create desired culture;
- j. Carry through and implement the Commission's decisions;
- k. Other tasks as directed by the chairman of the Commission;

Note: In the interest of carrying out its expert duties, the secretariat office is permitted to utilize expert consultants and research services.

Article 10: The Management and Planning Organization is obliged to forecast a budget for the secretariat office to include in the annual budget of the Ministry of Culture and Islamic Guidance.

Appendix F - Law on disclosure and release of confidential and secret government information 1974

Ratified on February 18, 1975

Article 1. Government documents include all written, or recorded information related to responsibilities and activities of ministries, governmental institutes affiliated with the government, and governmental companies, including the correspondences, books, files, pictures, maps, clichés, graphs, films, microfilms, and cassette tapes which have been prepared by the mentioned authorities or been submitted to them.

Secret government documents are those documents whose disclosure is against the interests of the state or country. Confidential government documents are those documents whose disclosure is against the special administrative interests of the organizations mentioned in this article.

Article 2. In case each of the employees of the organizations mentioned in article 1 who are duly supposed to protect the secret and confidential government documents or with whom the documents are duly left, discloses or releases the documents, or leaves them to others outside the scope of their

administrative responsibilities, or in any way, informs others of their content, they will be sentenced to criminal imprisonment, 2nd degree, from two to 12 years for disclosure of secret documents, and in case of disclosure of confidential documents, they will be sentenced to misdemeanor imprisonment from six months to three year. This penalty is also duly applicable to those who release or publish these documents or prepare the ground for their release and publication while they know they are secret and confidential.

In case the disclosure of the mentioned documents is a result of non-compliance with regulations, or negligence in protecting the documents, the penalty will be three months to six years of misdemeanor imprisonment.

Article 3. In case each of the employees of the organizations mentioned in article 1 or any other people discloses the secret and confidential government information, negotiations, or decisions to someone who is not qualified to be informed, or prepares the ground for their release or disclosure, the action is considered as disclosure of secret or confidential government documents.

Article 4. Prosecution of each of the mentioned crimes is dependent upon the request of the ministry, institute or the organization whose documents have been disclosed or released.

Article 5. In case, according to other regulations, more severe punishment is required for the above-mentioned actions, the offender will be sentenced to the maximum punishment.

Article 6. When disclosure or release of the government documents mentioned in this law, involves espionage or other crimes which come within the jurisdiction of military courts, the case will be pursued in the said courts.

Article 7. The royal armed forces are exempted from this law and comply with their own regulations.

Article 8. The By-law concerning protection and classification of secret and confidential government documents, classification and categorization of such documents and information is prepared by the Ministry of Justice and ratified by the Board of Ministers.

Approved by the Senate, the above Law was ratified containing 8 Articles by the National Assembly on December 2, 1974.s.

Appendix G - Bylaw on safeguarding secret and confidential government documents 1975

The Council of Ministers, in their meeting on 1/10/1354 [22 December 1975], following proposal number 4278/7, dated 11/6/1354 [2 September 1975], of the Ministry of Justice, and pursuant to Article 8 of the law of Penalties for Publication and Disclosure of Confidential and Secret Government Documents—ratified on twenty ninth of Bahman, 1353 [18 February 1975], endorsed the bylaw on Safeguarding Secret and Confidential Government Documents, and Classification and Categorization of Documents and Information, as follows:

Section One – Classification of Documents:

Article 1: Secret and confidential government documents, contingent on the level of care they require, are divided into four categories:

Level 1- Documents the unlawful disclosure of which would cause irreparable damage to the foundation of the government and the bedrock of the regime;

Level 2- Documents the unlawful disclosure of which would endanger public interest and national security;

Level 3- Documents the unlawful disclosure of which would hinder and disrupt the orderly functioning of organizations and make it impossible for them to carry out their fundamental duties;

Level 4- Documents the unlawful disclosure of which would cause internal turmoil in organizations, or disserve their administrative interest.

SECRET documents are categorized under level 1 and 2, and **CONFIDENTIAL** documents are categorized under level 3 and 4. Level 1 documents are labeled TOP SECRET; level 2 documents are labeled SECRET; level 3 documents are labeled CONFIDENTIAL; and level 4 documents are labeled PROTECTED.

Note: In this bylaw, the term ‘organization’ refers to ministries; governmental agencies, and institutions associated to the government; and governmental corporations.

Article 2: Categorization of each document is assessed by its content. Should the document be in a file or an enclosure to a correspondence, the file or the correspondence will also be classified and archived accordingly. In case of multiple documents categorized in different levels, attached files and/or correspondence will be achieved as per the document in highest level.

Article 3: Hierarchy of each document will be determined by the unit that has produced the document. Should an officer of a unit label the document secret, the highest authority of the organization, or a deputy assigned by him, needs to agree.

Article 4: Each organization, in accordance with its policies and requirements, will produce a guideline for changing the status of a document, or removing it from the four levels. Should such change of status, or removal, concern a document sent from one organization to another, the decision will be conditional upon the agreement of both organizations. Announcement or disclosure of the content of secret or confidential documents by the discretion of the authority that issued the document will remove the document from secret or confidential category. All changes must be reflected on the document.

Section 2 – Procedures for Marking Classified Documents

Article 5: Type and level of classification of each document will be marked on top and bottom of the document, and where there is more than one page, on top and bottom of each page. Each page of the document will be numbered in order, indicating the total pages of the document on every page.

In level 1 and 2, where multiple copies of a document are produced, each copy will be designated a number, indicating the total number of copies on each one.

Secret and confidential documents should not be copied more than what is required.

Section 3 – Protocols for Safeguarding Classified Documents

Article 6: Protocols for safeguarding classified documents refers to overall handling [of such documents], from the first instance the document is issued until the document is removed from the classification hierarchy, so to prevent unauthorized persons from gaining access to said documents and/or learning their contents.

Note: Whoever does not need to view the classified document, and/or learn of its content, regardless of status or position, is considered unauthorized person, and does not have the authority to access secret or confidential documents.

Article 7: Protocols for safeguarding classified documents are determined by each organization in accordance with its policies and requirements, as well as the quality and quantity of documents they handle, as per the hierarchical levels detailed in Article 1, and guidance provided in Article 4, of this bylaw. The level of care provided for safeguarding should not exceed what has been determined in this bylaw.

Article 8: Documents classified under levels 1 and 2 must be kept in fireproof safes with a rotating combination locks of at least 3-digits, and in exceptional cases fortified with a six-lever-lock.

Article 9: Documents classified under level 3 must be kept in metal cases or file cabinets. Where such arrangement is not possible, wooden cases or cabinets fortified with metal rods and secure locks are permitted.

Article 10: The place where documents classified under level 1, 2, and 3 are archived must be secured, and, other than instances when they require accessing, kept locked. The individual in charge of safeguarding such documents must, at the end of each workday, inspect the archives according to the regulations and ensure that the cabinets containing classified documents are properly locked.

Article 11: Documents classified under level 4 must be kept in a place away from unauthorized persons.

Article 12: Where the document belongs to a foreign state or an international organization, and where there are specific protocol for its safeguarding, the indicated protocol must be observed, otherwise the provisions of this bylaw will apply.

Article 13: Documents classified under level 1 and 2 should not be removed from the premises of the organizations to which they belong, unless for reference in official meetings held outside the home organization. These documents are not to be taken to private residential homes.

Article 14: Documents classified under level 3 and 4 can be taken to private residential homes only when necessary, and conditional upon the written consent of the head of the organization, or a deputy assigned by him.

Article 15: Reading of classified documents in open areas and public places are prohibited.

Article 16: Where a classified document is being sent from one location to another, the document must be safely enclosed in two envelopes. The outer envelope will be marked only with the title of the organization or unit receiving the document, and the inner envelope will bear the type and classification level of the document, as well as the name or title of the individual receiving it. Where the document is addressed to a specific individual, it is not permissible to be handed to any other person; however, where the document is addressed to an organizational title of the receiver, it is permissible to be handed to a higher-ranking officer. For documents classified under secret category, a slip should be included in the inner envelope for the receiver to sign and return to the sender. Inner envelopes for documents classified under secret category must be sealed and stamped. Outer envelopes will always remain without seal and stamp. Type and classification of the document will not be indicated on the outer envelope.

Article 17: Transportation of classified documents within the organization, and/or to other organizations, must be done through officers vetted by the security unit. Documents classified under confidential category can be sent to outside organizations by registered mail.

Article 18: Protocol for sending classified government documents to other countries, and the minimum-security measures required for safeguarding them, will be communicated to pertinent authorities through a [special] guideline.

Article 19: Where a document classified under secret category is sent, in a file or separately, to another location, a copy of it must be kept in the main archives.

Article 20: Copies of documents mentioned in Article 19 will be destroyed upon the return of the original document. Moreover, scraps, drafts, carbon copies, stencils, or any other form of notes concerning secret and confidential affairs will also be destroyed.

Note: Destruction of papers must be done with care, so as not to leave any usable trace behind.

Article 21: Provisions of this bylaw concerning secret and confidential documents will apply, as far as it allows, to secret and confidential information. Information is defined as knowledge that is shared verbally with authorized persons in official meetings. Categorization of such information is determined by the person who shares it. Type and categorization of information excerpted from a document will remain as that of the document.

Article 22: Guidelines produced based on this bylaw, according to their function, will be categorized under level 3 or 4 of Article 1.

Article 23: Provisions of this bylaw does not apply to the Royal Armed Forces which is bound by the provisions of its own bylaws. The original endorsement is at the Office of the Prime Minister.

Prime Minister's Deputy Advisor and Executive Director – Hadi Hedayati

ARTICLE 19

Legal analysis