

**Access to Information in the Middle East and North Africa Region:
An overview of recent developments in Jordan, Lebanon, Morocco and Tunisia¹**

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I. INTRODUCTION

The right to access and request information is enshrined in Article 19 of the Universal Declaration of Human Rights. Information is considered “the oxygen of a democracy.” Access to information (ATI) plays an essential role for promoting accountability and citizens' ability to monitor the actions of the government, and it contributes to participatory development. The goal of this report is to provide an overview of the situation of access to information in the Middle East and North Africa (MNA) region, in particular the cases of Jordan, Lebanon, Morocco and Tunisia.

This report looks at previous and current efforts for promoting ATI in the region in order to facilitate knowledge exchange among ATI practitioners across those countries and to help them identify areas for collaboration in the region.

For each country, this report will first examine the legal and/or institutional framework, including a range of factors such as constitutional provisions, restrictive legislation, relevant regional and international conventions, and key administrative bodies. Government initiatives affecting the right of access to information are then considered in detail for each country. Next, this report examines the practice of access to information for each of these four countries, including the use and implementation of ATI legislation or other applicable transparency provisions. Finally, a summary of recent developments of the ATI coalitions and campaigns in these countries is provided.

II. JORDAN

In 2007, an access to information law was passed in Jordan. Although Jordan has an ATI law, there are limitations due to its vagueness, exceptions regime, and its relationship with the larger legal framework. The Jordanian experience serves as an example about limited progress regarding ATI despite the passing of legislation. In this case the law has not supported improvements in access to information. The majority of Jordanians have no knowledge of the law, and those who know about it have not tested government openness fully.

A. Legal framework

Jordan's Constitution

1. In September 2011, the Jordan's Constitution was amended, including a number of legal reforms. However, Article 15 of the Constitution was not amended to include the right of access to information despite the demands by civil society.³ This article was however reworded to include an obligation on the State to "secure" freedom of opinion and freedom of the press within the limits of the law.

Access to information law

2. **Law on Securing Access to Information** (LSATI) no. 47 of 2007, the first of its kind in the Arab region, was perceived as an important step towards government openness. However, the implementation of the law during the last five years since its adoption has shown little progress. The law scored 52 out of 150 points on the ATI rating developed by the Center for Law and Democracy and Access Info

³Interview with Yahia Shukkeir, 23 February 2012.

Europe. This rate is attributed to its vagueness, the broad regime of exceptions, and the problematic requesting procedure.

3. Media law expert Yahia Shukkeir noted that "for the ATI law to be effective, it is necessary key amendments to the Law on the Protection of State Secrets and Documents are needed. Otherwise, [the] ATI law will not be adequately effective."⁴ He added: "[the] ATI law did not represent a huge transition in facilitating the flow of information, and [it] did not change the widespread culture of secrecy among government agencies."
4. Journalist Rana Sabbagh commented that "the ATI law was expected to stimulate a white revolution, but the community's failure to make use of it, the vagueness of its provisions, and the government's failure on its implementation have undermined the effectiveness of the law."⁵ Journalists also called for amending the law criticizing its "prolonged request process".⁶
5. In March 2011, Jordanian news sites reported that the Information Council asked the Ministry of the Interior to prepare an amendment to the law.⁷ In May and June 2011, news sites also reported that the government was considering amendments to the law, and that a special committee was examining a proposal of amendments that would remedy the negative aspects of its implementation.⁸ However, there is no progress reported on these efforts.

National Charter

6. Jordan's Second National Charter of 1990⁹ was prepared by a royal committee to mark a new phase in Jordan following the elections of 1989. The Charter was meant to lay down the foundations of pluralistic political activity based on constitutional principles and to facilitate Jordan's transition to a democracy. The Charter has been the subject of national consensus and acquired a unique status subordinate to the Constitution, but no mechanisms or procedures were formulated to implement it.¹⁰
7. Chapter Six of the Charter on "Information and Communication" highlights the role of mass media in "strengthening democratic process", and provides that "Citizens must have the right to know and to access information from legitimate transmission

⁴*Id.*

⁵Why Jordanians do not use right to access information, Rana Sabbagh, Ammon News, 2 July 2010.. Available at: <http://www.ammonnews.net/article.aspx?articleno=54159> (Arabic) (Accessed on 6 April 2012)

⁶Necessity of amending ATI law, Al-ghad, 6 October 2009. Available at: <http://alghad.com/index.php/article/332496.html> (Arabic) (Accessed on 6 April 2012)

⁷Information Council studies amending ATI law, Radad Qalab, 17 March 2011. Available at: <http://arij.net/%D9%85%D8%AC%D9%84%D8%B3-%D8%A7%D9%84%D9%85%D8%B9%D9%84%D9%88%D9%85%D8%A7%D8%AA-%D9%8A%D8%AF%D8%B1%D8%B3-%D8%A7%D8%AF%D8%AE%D8%A7%D9%84-%D8%AA%D8%B9%D8%AF%D9%8A%D9%84%D8%A7%D8%AA-%D8%B9%D9%84%D9%89-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%B6%D9%85%D8%A7%D9%86-%D8%AD%D9%82-%D8%A7%D9%84%D8%AD%D8%B5%D9%88%D9%84-%D8%B9%D9%84%D9%89-%D8%A7%D9%84%D9%85%D8%B9%D9%84%D9%88%D9%85%D8%A7%D8%AA>. (Arabic) (Accessed on 6 April 2012) See also, "On the Edge" Status of Media Freedoms in Jordan 2010, CDFJ, p. 248. See, <http://www.cdfj.org/look/PDFs/Media%20Freedom%20Status%20in%20Jordan%202010-Ar.pdf> (Arabic) (Accessed on 6 April 2012)

⁸The government studies amending the ATI law, Jfranews, 9 May 2011. Available at: <http://jfranews.com/more.php?thisid=16665&thiscat=5>) (Arabic) (Accessed on 6 April 2012); See also, Only six complaints examined by Information Council, 22 June 2011. Available at: http://www.alarabalyawm.net/pages.php?news_id=309261 (Arabic) (Accessed on 6 April 2012)

⁹National charters are charters with political value rather than legal value. Jordanian National Charter, December 1990. Available at: <http://www.kinghussein.gov.jo/charter-national.html> (Accessed on 6 April 2012)

¹⁰A view of the Second National Charter of 1990, Assawsana, 18 April 2009. Available at: <http://assawsana.com/portal/pages.php?newsid=102848> (Arabic) (Accessed on 6 April 2012)

and publication sources within Jordan and abroad."¹¹ "The circulation of news and data must be regarded as an indivisible part of the freedom of the press and information. The state must guarantee free access to information to the extent that it does not jeopardize national security or the national interest."¹²

Amended Press and Publications Law No. 8 of 1998¹³

8. The Press and Publications law guarantees journalists' right to access information. Article 6 (c) provides that freedom of press includes "the right to access information, news and statistics of interest to the citizens from various sources."
9. Article 8 requires public authorities to facilitate the journalists' access to information. "A journalist has the right of access to information; official authorities and public agencies shall facilitate their task and allow them to view their programs, projects and plans." It also "prohibits the imposition of any restrictions on freedom of the press in fulfilling the flow of information to citizens or procedures that would hinder the exercise of such right."
10. However, Law no. 17 of 2011 amending the Press and Publications law broadened the definition of a Press Publication to include electronic websites.¹⁴ Therefore, they shall be subject to the provisions of the Press Law on licensing and prohibitions. The amending law also subjected electronic newspapers to sanctioning such as heavy fines for violating the law's prohibitions.

Restrictive legislation

11. The Provisional Law on Protection of State Secrets and Documents No. 50. Of 1971 is considered the most detrimental to access to information in Jordan. The scope of classified information is overly broad. In addition, it identifies neither the competent body in charge of classifying information and documents nor an independent agency to verify and review the classification system.¹⁵ According to Yahia Shukkeir, "this law has turned the law on access to information into just ink on paper".¹⁶
12. The Anti-corruption Law of 2006 provides in Article 21 (a) that "all information, data and documents, received by the commission and to which its employees have access, are secret and it should not be disclosed or made available except within the limits of the law." A 2012 amendment of the law added the phrase "without prejudice to any severer penalty provided in any other law" to paragraph (b) of the article, which states that "a violation of this provision is punishable with a one-year prison sentence."¹⁷
13. Article 9 of the Financial Disclosure Law of 2006 considers "all financial statements, data, documents and the audits thereof secret and can only be accessed by the competent investigation committee and bodies; their publication or disclosure is prohibited subject to legal responsibility."

¹¹ Paragraph 4 of Chapter Six of the National Charter

¹² Paragraph 11

¹³ Amended Press and Publications Law, available at: http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1998&no=8 (Arabic) (Accessed on 6 April 2012)

¹⁴ A 2009 judgment by Amman Court of Appeal found that electronic websites can be considered as a publication under the definition of the Press and Publications Law and therefore is subject to its provisions. Judgment No. 40401, 13 September 2009

¹⁵ Jordan's access to information law vs. Protection of State Secrets and Documents law, Yahia Shukkeir, February 2012.

¹⁶ Interview with Yahia Shukkeir, 23 February 2012.

¹⁷ Law of Anti-corruption Commission of 2006. Available at: http://www.lob.gov.jo/ui/laws/search_no.jsp?no=62&year=2006 (Arabic) (Accessed on 6 April 2012)

14. Article 68 of Civil Service By law of 2007¹⁸ provides that, subject to disciplinary procedure, "public officials are prohibited from keeping any official document or communication, or any copy thereof, or leaking it to any outside body or writing or speaking about it without an authorization to do so." In addition, a decree by Jordan's Prime Minister instructed the government officials not to give any information to the press except through the minister or the deputy minister.¹⁹ Journalists have frequently complained about public employees refusing to give information fearing repercussions by their superiors.
15. Article 11 of Cyber Crime Law of 2010 provides: "Every person that intentionally enters without permit, in violation of the permission into an electronic site or information system in any manner for the purpose of acquiring access to data or information unavailable to the public and harming national security, the foreign relations of the Kingdom, public safety or national economy shall be penalized with no less than four months of imprisonment and a fine of no less than 500 JD and no more than 5,000 JD." "If the entry seeks to delete, damage, destroy, change or transfer or copy the data or the information, he or she shall be penalized with temporary hard labor sentence and a fine of no less than 1,000 JD and no more than 5,000 JD."

International and regional Conventions

16. On 19 May 2004, Jordan signed the Arab Charter on Human Rights, which was adopted by the Council of Ministers of the Arab League in March of the same year. The Arab Charter entered into force on January 2008 after seven Arab countries ratified the text.²⁰ Article 32 of the Charter largely mirrors Articles 19 of the UDHR and ICCPR.
17. In addition to the International Covenant on Civil and Political Rights (ICCPR), on 24 October 2005, Jordan ratified the United Nations Convention against Corruption. Jordan has also adopted the Rio Declaration that includes the principle on access to environmental information.

B. Institutional Framework

Information Council

18. According to the LSATI, the Information Council (IC) is the competent institution responsible for the implementation and promotion of access to information. The National Library was designated to perform the functions of the Information Commissioner.²¹ The law was passed without adding any financial obligation on the state's budget. The National Library had not received any funding, in its role as the Information Council, for the implementation of the law; this has had an impact on the capacity of the Information Council to promote access to information. This Council is based in the National Library Department, and headed by the head of this department.

¹⁸Civil Service Law of 1963 was repealed in 1965. The Civil Service Bylaw was adopted by the Cabinet in accordance with Article 120 of the Constitution that provides that public departments and agencies are regulated by bylaws adopted by the Cabinet after they are approved by the King.

¹⁹Fifth Annual Report on Media Freedoms, Amman Center for Human Rights, Yahia Shukkeir. P. 7. See also CDFJ report Of 2010, p. 238 (Citing Decree of the Prime Minister 13/11/1/2776 on 13 February 2008)

²⁰Arab rights charter deviates from international standards, says UN official, 30 January 2008, UN News Centre, <http://www.un.org/apps/news/story.asp?NewsID=25447&Cr=human&Cr1=rights> (Accessed on 6 April 2012)

²¹Interview with Yahia Shukkeir, 23 February 2012.

19. All the members of the IC come from the government with no participation by independent experts, media professionals or academics.²² IC's lack of members from outside the government was lamented by media practitioners and experts. There is also a vacant place in the IC which belongs to the Higher Media Council, the body that was dissolved in 2008.²³
20. The decisions of the IC are non-binding. In different occasions the IC failed to oblige government agencies to disclose information.²⁴ (See the section on practice of access to information).

Ombudsman Bureau²⁵

21. Although the mandate of the Ombudsman is not directly related to access to information, it may provide a forum for requesters to file a complaint against refusal to release information by government agencies. Jordan's Ombudsman examines complaints from individuals relating to any decree, procedure, practice or any act of refusal by public administration."²⁶ The Ombudsman has helped citizens to access information withheld by government agencies. (See the section on practice of access to information.)

C. Government Initiatives on ATI

Government Websites

22. A 2009 survey was conducted about journalists' use of the government website, www.jordan.gov.jo.²⁷ Sixty five percent of the sample surveyed said that they have browsed the website, while 36% stated that they had not done so. Only 46 percent of female journalists had visited the website. On the other hand, 63% said that the website did not provide information required for their work, while 37% percent found the information useful.
23. Responding to a question about why journalists have not benefited from public agencies' and private sector entities' websites, 32.3 % said that the information was not regularly updated, while 15.5 % said that the quality and content of information was irrelevant to the needs of journalists.

Disclosure of Information by State Pro-Accountability Institutions

24. Jordan's Anti-corruption Commission started publishing its annual reports on its website in 2011. In the same year the Audit Bureau published its annual report on its website for the first time after being unavailable to the public.

Open Government Partnership (OGP) agenda²⁸

²²“Only six complaints examined by Information Council”, alarab alyawm, 22 June 2011.

²³Interview with Yahia Shukkeir, 23 February 2012.

²⁴Interview with Yahia Shukkeir. See also, “Only six complaints examined by Information Council”

²⁵The Bureau started its work in 2009

²⁶Mission of Jordan's Ombudsman, (Arabic). Available at:

<http://www.ombudsman.org.jo/Arabic/about%20beurea/Pages/Mission.aspx> (Arabic) (Accessed on 6 April 2012)

²⁷42 percent of media professionals do not know about ATI law, February 2009. Available at:

<http://www.amanjordan.org/articles/index.php?news=3379> (Arabic) (Accessed on 6 April 2012)

²⁸The Open Government Partnership formally launched on September 20, 2011, when the 8 founding governments (Brazil, Indonesia, Mexico, Norway, Philippines, South Africa, United Kingdom, and the United States) endorsed an Open Government Declaration, and announced their country action plans.

25. The Open Government Partnership (OGP) has created an opportunity to review the legal framework on ATI. Jordan is the only Arab country member of the OGP.
26. Jordan expressed interest to join OGP in September 2011, and since has worked on developing its commitments. The OGP declaration include a commitment to "increase the availability of information about governmental activities" which comprises of a number of goals: "promoting increased access to information and disclosure about governmental activities at every level of government; increasing efforts to systematically collect and publish data on government spending and performance for essential public services and activities; pro-actively provide high-value information, including raw data, in a timely manner, in formats that the public can easily locate, understand and use, and in formats that facilitate reuse; providing access to effective remedies when information or the corresponding records are improperly withheld, including through effective oversight of the recourse process."
27. In January 2012, Jordan submitted its national action plan.²⁹ The action plan contains a number of commitments on three pillars including "increasing public integrity". Under this Jordan has committed itself to "improve access to information through adopting amendments to the existing Access to Information Law in view of further improving it and ensuring that it is consistent with international best practices."

D. Practice of Access to Information

Lack of public engagement and debate during the formulation of the ATI law

28. Journalists and media practitioners have written about the limited use of the law due to the genesis of the law. Yahia Shukkeir notes that "the law was not the outcome of national dialogue. Neither journalists nor citizens demanded the law." He believes that "the circumstances under which the law was adopted were quite similar to those leading to the adoption of the Tunisian ATI decree. The process was very quick."³⁰
29. Yahia Shukkier, who contributed to drafting Jordan's ATI law, relayed the events leading to the adoption of the law. During his work at the Higher Media Council, government officials asked for recommendations for improving Jordan's rank on the Press Freedom Index run by Reporters without Borders (RSF).³¹ Among others, the adoption of ATI law was then suggested. The Amman Center for Human Rights reported in its 2007 annual report that "the joint legislative committee - the Freedoms and Legal Committees – endorsed the draft in thirty minutes, while the House of Representatives took no more than 30 minutes to vote on the law."³²

Limited use by the media

²⁹OGP National Action Plan for Jordan, January 2012. Available at: http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/country_action_plans/Jordan%20Draft%20Action%20Plan.pdf (Accessed on 6 April 2012)

³⁰Interview with Yahia Shukkeir, 23 February 2012.

³¹ Jordan's ranking fell from 109 in 2006 to 122 in 2007 according to RSF Press Freedom Index

³² Status of Media Freedoms in Jordan during 2007, Amman Center for Human Rights. Available at: http://www.achrs.org/index.php?option=com_content&view=article&id=492:%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%AD%D8%A7%D9%84%D8%A9-%D8%A7%D9%84%D8%AD%D8%B1%D9%8A%D8%A7%D8%AA-%D8%A7%D9%84%D8%A5%D8%B9%D9%84%D8%A7%D9%85%D9%8A%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D8%A3%D8%B1%D8%AF%D9%86-%D8%AE%D9%84%D8%A7%D9%84-%D8%A7%D9%84%D8%B9%D8%A7%D9%85-2007&catid=36:2010-10-11-12-31-35&Itemid=60 (Arabic) (Accessed on 6 April 2012)

30. Journalist Rana Sabbagh attributes this limited use to "lack of community pressure as it was not the outcome of a systematic struggle by civil society."³³ She also argues that the majority of journalists rely on personal relations and acquaintances in obtaining information without filing an official request. A 2009 survey shows that 42% of journalists do not know about the ATI law.³⁴
31. In addition, journalists cannot wait to write an article until the public agency gives its answer; the law establishes a thirty-day period for public agencies to respond. Media expert Said Heter has noted that journalists encounter a dilemma with the complexity of procedures from the moment of filing the request and the one-month time period awaiting government response and the complicated litigation procedure when there is a denial of information.³⁵
32. During a panel discussion on World Press Freedom Day on May 3, 2011, Communication Minister Odwan said that "Journalists do not create enough pressure to get more access to information. They should be professional and find the right sources from which to access information, and that documents will be classified in all ministries of Jordan and archived in accordance with the Access to Information Law."³⁶

Limited awareness of the law

33. According to Yahia Shukkeir, half of the ministries do not know about the law. To illustrate this, during a training workshop Shukkeir assigned a group of trainees to conduct an experiment in order to test knowledge of the ATI law. Trainees were sent to the ministry of health requesting the number of TB patients in Jordan, which is published in the annual report. The trainees found that there were no ATI forms at the ministry and the officers did not know about the law.³⁷
34. According to a 2010 survey by Al-Urdun Al-Jadid Research Center (UJRC), half of the ministries did not know about the law and 40% of journalists had no knowledge of its existence.³⁸
35. In March 2010, a survey by Arab Reporters for Investigative Journalism (ARIJ) found that only 5% of journalists used the law to request information.³⁹
36. In its 2010 annual report, Center for Defending Freedom of Journalists (CDFJ) surveyed 505 journalists and found that 29% of the targeted sample was unaware of

³³Why Jordanians do not use right to access information, RanaSabagh, Ammon News, 2 July 2010. (Arabic). Available at: <http://www.ammonnews.net/article.aspx?articleno=54159> (Arabic) (Accessed on 6 April 2012)

³⁴ 42 percent of media professionals do not know about ATI law, February 2009. Available at: <http://www.amanjordan.org/articles/index.php?news=3379> (Arabic) (Accessed on 6 April 2012)

³⁵Right of Access to information between theory and practice, Said Heter, Sahafi, 24 November 2011. Available at: <http://www.sahafi.jo/files/54179a9bee957f823faa013d4e1eab8ab35d8a1a.html>

³⁶Debating access to information in Jordan, 16 May 2011, available at: <http://www.i-m-s.dk/article/celebrating-world-press-freedom-day-jordan>

³⁷Interview with Yahia Shukkeir, 23 February 2012.

³⁸What ATI law achieved?, Yahia Shukkeir, 11 July 2010. Available at: http://www.ujcenter.net/index.php?option=com_content&view=article&id=7365:%D9%85%D8%A7%D8%B0%D8%A7-%D8%AD%D9%82%D9%82-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%A7%D9%84%D8%AD%D8%B5%D9%88%D9%84-%D8%B9%D9%84%D9%89-%D8%A7%D9%84%D9%85%D8%B9%D9%84%D9%88%D9%85%D8%A7%D8%AA%D8%9F&catid=418:%D9%8A%D8%AD%D9%8A-%D8%B4%D9%82%D9%8A%D8%B1&Itemid=176 (Arabic) (Accessed on 6 April 2012);

³⁹ Arab Reporters for Investigative Journalism (ARIJ), see, <http://arij.net/en/node/4795/page/0/1%3Fpage%3D0?qt-report=0> (Arabic) (Accessed on 6 April 2012)

the law.⁴⁰ The report stated that only 53% of the sample has used the law to request information.

37. Despite lack of knowledge about the law, there are ongoing efforts to provide trainings to the government, private sector, and the media about the benefits of using the ATI law. For example, UJRC held trainings in conjunction with IREX in 2009⁴¹ and the abolished Higher Media Council organized training workshops in 2008 in cooperation with the Information Council and the National Library.⁴²

Government classification of documents

38. According to Article 14 of LSATI, public agencies shall classify their documents in accordance with existing legislation. Classification of public documents would therefore be based on the Law on protection of state secrets and documents. A study by ARIJ found that 16 government agencies surveyed used different standards and policies in the classification process.⁴³
39. The study highlighted that despite the government's instructions to public agencies to complete the classification process, this has not been completed.⁴⁴ While the Information Council claimed that 85% of the 120 government agencies completed the classification of documents, ARIJ's study questioned this statement.⁴⁵ The government had not made any visits or a review of the implementation and completion of the classification process. A 2010 CDFJ report highlighted that "implementation of the law suffers from arbitrary classification of information by the different ministries and state institutions."⁴⁶

Requesting information in practice

40. The requesting procedure requires citizens to fill out a form with their personal information and the purpose for such request, which is not in line with international good practice. Further, "such formal procedure has made some government officials hesitant and in some cases reluctant to give information. However, when

⁴⁰ "On the Edge" Status of Media Freedoms in Jordan 2010, CDFJ. See, <http://www.cdfj.org/look/article.tpl?IdLanguage=17&IdPublication=1&NrArticle=7081&NrIssue=1&NrSection=2> (Arabic) (Accessed on 6 April 2012)

⁴¹ UJRC, in conjunction with IREX, held a series of two-day training workshops in February 2009. 27 journalists and members of the news media attended the first session in Amman. The second workshop targeted private sector and business associations. Finally, 48 members of the Jordanian government attended sessions on best practices in ATI implementation.

⁴² 25-26 August 2008: The abolished Higher Media Council organized training workshops in 2008 in cooperation with the Information Council and the National Library for media practitioners and information providers from government departments about the ATI law.

Training workshops about ATI law, Ammon News, 26 August 2008.(Arabic). Available at: <http://www.ammonnews.net/article.aspx?articleno=27628>

⁴³ Fragility of the ATI law and government's disregard, ARIJ, 23 November 2010.(Arabic). Available at: <http://arij.net/%D9%87%D8%B4%D8%A7%D8%B4%D8%A9-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%AD%D9%82-%D8%A7%D9%84%D8%AD%D8%B5%D9%88%D9%84-%D8%B9%D9%84%D9%89-%D8%A7%D9%84%D9%85%D8%B9%D9%84%D9%88%D9%85%D8%A7%D8%AA-%D9%88%D8%A7%D8%B3%D8%AA%D9%87%D8%AA%D8%A7%D8%B1-%D8%A7%D9%84%D8%AD%D9%83%D9%88%D9%85%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D8%AA%D8%B9%D8%A7%D9%85%D9%84-%D9%85%D8%B9%D9%87> (Arabic) (Accessed on 6 April 2012)

⁴⁴ CDFJ Annual report of 2010, p. 254

⁴⁵ Why Jordanians do not make use right to access information, Rana Sabbagh, Ammon News, 2 July 2010. Available at: <http://www.ammonnews.net/article.aspx?articleno=54159>. (Arabic) (Accessed on 6 April 2012). Yahia Shukkeir also questioned this figure.

⁴⁶ "On the Edge" Status of Media Freedoms in Jordan 2010, CDFJ. The National Center for Human Rights shared this view in its Seventh annual report page. 35

approached informally, they might collaborate and even may give more valuable information," said Yahia Shukkeir.⁴⁷

41. Arab Reporters for Investigative Journalism (ARIJ) study: Majdoleen Allan, an investigative journalist who prepared ARIJ's study, highlighted the lack of a governmental mechanism to record the number of requests by either journalists or ordinary people.⁴⁸ The Information Council only records the number of complaints against government refusals. For the study, Allan submitted 10 requests to various government agencies to test their responsiveness. Majdoleen Allan reported about the outcomes of the 10 requests she filed with the government agencies⁴⁹: one agency provided the information in a timely manner; two responses provided partial information; another agency gave an irrelevant response; one agency answered that no information is available; two agencies refused to give information on the grounds of confidentiality and lack of legitimate interest respectively; another agency was unwilling to give the information; the other two agencies: one referred the request to an incompetent department that later denied receiving the request, the second one asked the request be resubmitted.
42. Access to information about housing loan default: In October 2010, Journalist Mohamed Khateeb of Amman Net Radio requested the Central Bank of Jordan to disclose detailed information about the percentage of personal and housing loan default in 2009. Following the Bank's refusal to provide that information on the grounds of its confidentiality, he filed a complaint with the Information Council. The latter recommended that the Bank provide the information. But, the Central Bank did not comply with the decision of the Information Council.
43. In its 2010 report, CDFJ examined the implementation of the LSATI in three government agencies: Ministry of Interior, Ministry of Finance and Public Security directorate.⁵⁰ The Center identified a number of problems, most important among which are "the agencies' failure to appoint an information officer, lack of clear and specific policy on classification of documents, adoption of a subjective assessment to the classification of documents, lack of statistics about the number of classified documents and the overlap between the roles of spokesman and information officer."⁵¹

Obliging a public university to publicize a policy: An employee of the Al-Albayt University complained to the Ombudsman about the university's refusal to extend his contract. After investigation, the Ombudsman Bureau found that the university extended some contracts without clear grounds, which was inconsistent with the university's extension policy. The Bureau mandated that the university, in accordance with its bylaw, publicize the executive directives relating to the criteria of contract extension.

Source: Summary of Ombudsman's report of 2010, (Arabic). Available at: <http://www.ombudsman.org.jo/arabic/news/Pages/SummaryReprtheOmbudsman%202010.aspx> (Arabic) (Accessed on 6 April 2012)

⁴⁷Interview with Yahia Shukkeir

⁴⁸According to CDFJ report of 2010, The National Library received 46 requests in the period 2007-2009, and 82 requests in 2010. See also, Fragility of the ATI law and government's disregard

⁴⁹*Id.*

⁵⁰"On the Edge" Status of Media Freedoms in Jordan 2010, CDFJ, P. 258

⁵¹*Id.*

44. In August 2010, Al-Urdun Al-Jadid Research Center (UJRC) published the results of a survey study⁵² about Jordan's private sector, which found that 75.2% of businesses have no knowledge of the ATI law and that businesses pointed out a wide range of obstacles in requesting information, such as slow procedures, inadequate responses, refusals, and high costs.⁵³
45. A few journalists have published on the right to access environmental information held by government agencies.⁵⁴ The Information Center of Jordan's Environment Ministry aims, among other goals, to provide and communicate information to interested groups and researchers.⁵⁵

Handling appeals

46. Until February 2010, Department of the National Library, in its role as the Information Council, received only ten complaints regarding denial of access to information.⁵⁶ Recourse to the complaint mechanism was very limited. This is probably due to the non-binding nature of the Information Council's decisions to government bodies.

Appeal to the High Court of Justice (HCJ) and resort to the Ombudsman Office

47. In September 2010, journalist Majdoleen Allan, filed the first appeal to the High Court of Justice against the Department of Lands and Survey for its refusal to disclose information about the price at which public property was sold and the identity of the buyer.⁵⁷
48. First, Allan submitted the appeal on behalf of ARIJ. The prosecution found that ARIJ had not disclosed its budget and renewed its registration. The court found ARIJ having no legitimate interest. Allan later submitted the appeal as a journalist. The Court however dismissed the application on the grounds that the applicant was not a registered journalist and therefore is ineligible to request such information. Then, the journalist appealed to the Court as a Jordanian citizen. The appeal in the end failed and the court found that the requester had no legitimate interest.⁵⁸
49. Many journalists would not be willing to appeal to the HCJ because they would not incur the cost of appeal - around 2,500 JD - with the likelihood that they would not win the case.

⁵²82.6% of businesses have no information collection units, Addoustour, 1 August 2010, (Arabic). Available at: http://www.addoustour.com/ViewTopic.aspx?ac=%5CLocalAndGover%5C2010%5C08%5CLocalAndGover_issue102_6_day01_id256109.htm#.TypHacU5LZs

⁵³Businesses pointed out the following obstacles in requesting information: 1) slow ATI procedures and late government response; 2) provision of inadequate information; 3) difficulty in identifying the competent department providing information; 4) lack of assistance to obtain the best possible information; 5) lack of information; 6) absence of person competent to provide the information; 7) refusal to give information; and 8) high cost of access to information. The Center organized a seminar to discuss the survey. Reem Badran, Second Deputy of Amman Chamber of Industry, spoke about the role of ATI in promoting the right of local and foreign investors to the transparency of economic and legislative information, and in promoting markets' activity. Badran noted article 8 of the ATI law that obliges the government to "facilitate" not to "ensure" access to information. See Jordan, Badran calls to improve the ATI Law, Al-Arab Alyawm, 30 July 2010, available at:

http://www.alarabalyawm.net/pages.php?news_id=243984

Seminar about private sector and access to information, Amman Chamber of Industry, 29 July 2010, (Arabic). Available at: http://www.aci.org.jo/development/ar/news_details.php?NEWS_ID=13102&page=63

⁵⁴Access to environmental information, BatirWardam, 14 February 2011, available at:

<http://ar.ammannet.net/madmoun/?p=567>,

⁵⁵Environment Ministry Information Center, (Arabic). Available at:

<http://www.moenv.gov.jo/arabic/moe/Users/Pages/WithoutTemplate.aspx?pageId=186&type=1>

⁵⁶Interview with Yahia Shukkeir.

⁵⁷Fragility of the ATI law and government's disregard, ARIJ, 23 November 2010.(Arabic).

⁵⁸ Surgical Procedure required for media laws in Jordan, Yahia Shukkeir, Ainnews, 4 May 2011, (Arabic). Available at: <http://ainnews.info/83815.html> (Arabic) (Accessed on 6 April 2012)

50. *Access to social security policy*: Following the refusal by the Social Security Corporation (SSC) to provide a copy of the executive directives relating to social security benefits, and its demand that they can only be disclosed pursuant to court order, a Jordanian lawyer filed a complaint with the Ombudsman Bureau on the grounds that such directives are part of the legal rules regulating social security. The Ombudsman Bureau ordered the SSC to publicize those directives and all the legislation relating to social security in accordance with the citizen's right prescribed in the ATI law. The SSC abided by the order and the directives were published in the Official Gazette no. 5076 dated 16 January 2011.⁵⁹

Information Council's annual reporting

51. Although the Information Council (IC) produces annual reports about the implementation of the ATI law, such reports were only shared with the cabinet and not made public. According to media law expert, Yahia Shukkeir, "these reports would have shown the extent to which government bodies have responded to ATI requests, the number of requests received, grounds of denial of access and the efforts by the IC in raising awareness about the law."⁶⁰
52. Arab Reporters for Investigative Journalism (ARIJ) filed a request with the cabinet demanding a copy of the 2008 report of the IC. However, the cabinet refused to provide ARIJ with the report on grounds that the latter had no legitimate interest.⁶¹
53. A Jordanian graduate student Omar Al-Elaiwi submitted a request to access the IC's annual report for the purposes of his Ph.D. thesis. He was initially denied access, and he decided to sue the IC. He then negotiated with the IC representatives who finally agreed to provide the student with a summary of the report.⁶²

E. ATI Campaign Agenda

54. Jordanian civil society organizations are engaged in training government officials about the implementation of ATI law. Media law and human rights groups provided training for journalists and media practitioners about the practicalities of the law. Media groups also took part in conducting surveys about the awareness and use of the law and why information is withheld.⁶³
55. On the International Right to Know Day, September 28, 2008, UJRC launched the 'Jordanian Alliance for Freedom of Information and Transparency' (JAFIT) which includes a group of 18 civil society organizations, and more than 14 individuals including parliamentarians, academics, and media practitioners.⁶⁴ The Alliance started publishing a newsletter in September 2008.

⁵⁹Summary of Ombudsman's report of 2010, (Arabic). Available at:

<http://www.ombudsman.org.jo/arabic/news/Pages/SummaryReprttheOmbudsman%202010.aspx>, See also, Ombudsman dealt with 1572 complaint in 2010, (Arabic), available at: <http://www.karamanews.com/more-9498-11-%D8%AF%D9%8A%D9%88%D8%A7%D9%86%20%D8%A7%D9%84%D9%85%D8%B8%D8%A7%D9%84%D9%85%20%D8%AA%D8%B9%D8%A7%D9%85%D9%84%20%D9%85%D8%B9%201572%20%D8%B4%D9%83%D9%88%D9%89%20%D8%A7%D9%84%D8%B9%D8%A7%D9%85%202010> (Arabic) (Accessed on 6 April 2012)

⁶⁰Surgical Procedure required for media laws in Jordan, Yahia Shukkeir, Ainnews, 4 May 2011, (Arabic).

⁶¹Fragility of the ATI law and government's disregard, ARIJ, 23 November 2010.(Arabic).

⁶² Interview with Yahia Shukkeir

⁶³ 14 January 2012: Center for Defending Freedom of Journalists (CDFJ) organized a focus group on the problem of withholding information in Jordan. A questionnaire was provided for the participants and the outcome of this research will be published in CDFJ's report on media freedom on the coming World Press Freedom Day (3 May).⁶³ No updated information online yet.

⁶⁴Jordan Times, "New Alliance to enhance access to information," October 3, 2009. Available at: http://www.menafn.com/qn_news_story_s.asp?StoryId=1093214440; See the signatories to the Jafit founding statement, JAFIT newsletter, Issue no. 1, November 2008, p. 3. Available at:

56. Yahia Shukkeir, media law expert, believes that access to information agenda in Jordan in the short-term should focus on areas that would not raise government's concerns such as anti-corruption, national security issues or those of political implications.⁶⁵ Priority should be given to using access to information to help citizens, businesses, CSOs access information about development, economic growth, or the environment. Women groups may also need to expand their programs through access to information relating to reproductive health. The youth are also a prospect group that needs assistance to exercise their right to know and access information about jobs and opportunities.
57. Yet more than four years after the adoption of the ATI law, there is a limited community of practice and lack of strong ATI campaign that is able to foster use of the right to access information.
58. Overall, the ATI campaign in Jordan needs to carry out more research and documentation to diagnose the status of the implementation of the law and expand the dialogue about access to information among other community-based groups and grassroots campaigners.

III. LEBANON

There is no legislation guaranteeing the right to access public information. There is a bill on access to information sent to the Parliament since 2009 but no significant development has occurred since then. The Lebanese government and public agencies have adopted a number of initiatives to disclose information to the public; publication of annual reports and government web sites provide the public with key information.⁶⁶

A. Legal framework

Since 2000, Lebanon witnessed several attempts by media and legal activists to have the Lebanese parliament pass a law on access to information.⁶⁷ But these efforts have not yet materialized in the adoption of an access to information legislation.

Constitution

1. Lebanon's Constitution⁶⁸ recognizes the right to freedom of expression. Article 13 provides that "freedom of expression, oral or written, and of publishing are protected within the limits of the law." The constitution's preamble also points out that the State "abides by the United Nations Charter and the Universal Declaration of Human Rights and that the State shall reflect these principles in all rights and fields with no exception."

Press and Publications law

⁶⁵Interview with Yahia Shukkeir

⁶⁶ See "Freedom of Information: Bridging the gap between the citizen and State", Carmen Jeha, June 2008. Available at: <http://right2info.org/resources/publications/publications/CARMEN%20THESIS.pdf>. (Accessed on 6 April 2012)

⁶⁷Proposing a bill on access to information, UCIPLIBAN, 21 May 2010. Available at: http://ucipliban.org/arabic/index.php?option=com_content&task=view&id=18576&Itemid=55 (Arabic) (Accessed on 6 April 2012)

⁶⁸ The Lebanese Constitution was adopted in 23 May 1926 and amended several times (1927, 1929, 1943, 1947, 1948, 1976 and 1990 after the Taif Agreement, also known as the "National Reconciliation Accord" that provided a basis for the end of the civil war).

2. The Press and Publications Law⁶⁹ has no specific provision on journalists' right to access information.
3. Article 12 of this law includes a prohibition on publishing about the facts of criminal investigation during the pre-trial phase and investigations by the Inspection department, and about secret trials, cabinet sessions, and secret sessions of the Parliament. The article also contains a broad prohibition over communications, documents and any dossiers belonging to public agencies that are classified.

Environmental law

4. Lebanon's Environment Law of 2002 guarantees access to environmental information. Pursuant to the principle of participation, Article 4 (f) of the law provides that "every citizen has the right to obtain information relating to the environment in accordance with applicable laws and bylaws." This law is not applicable yet in Lebanon because no implementing ordinances were adopted.

Various legal provisions on access information

5. Law on Land Registry provides that "every individual has the right to obtain the information on property registration after paying the retrieving and copying fees."
6. The laws regulating the telecommunications and electricity utilities provide that "With no harm to commercial secrets and competition, the utility makes available all available documents, records and data. Every individual wishing to acquire access or obtain a copy shall complete a written form; the utility will then determine the fees in accordance with incurred cost."
7. Article 30 of the 1994 Law of Radio and Video Broadcasting gives the State, represented by the Ministry of Information, the power to use TV and radio outlets to disseminate information the State wishes to communicate to citizens.
8. A number of public agencies are obliged to publish their annual reports in accordance with applicable laws. These agencies include Central Inspection Council, Civil Service Council, Accountability Bureau, Lebanon's Central Bank, Ombudsman Office, etc.

Restrictive laws

9. The Amended Penal Code contains a list of prohibitions on publication violation of which is penalized with a fine.⁷⁰ The prohibition includes: publishing any document of criminal investigation before it is examined in public hearing, publication of court briefs, secret trials, trials in family, marriage affairs and disputes, or publishing information banned by the Court about a trial.
10. Article 15 of Public Service Law prohibits employees from 1) conveying speech or publishing articles, statements or publications without the supervisor's written permission or 8) giving official information he had known because of his/her job, even after the end of his/her service, unless the ministry authorizes such disclosure in writing.⁷¹ Participants from public agencies highlighted in a training workshop that was organized by Lebanese Transparency Association that Article 15 is a significant obstacle to disclosing information. As a result, civil servants fear repercussions from their superiors.⁷²

⁶⁹ Press and Publications Law was adopted in 1962 and amended in 1976

⁷⁰ Article 420 of the Penal Code.

⁷¹ Law of Civil Service. Available at:

http://lebaneselw.com/index.php?option=com_content&view=article&id=157&Itemid=80&lang=ar (Arabic)

(Accessed on 6 April 2012)

⁷² Interview with Dani Haddad of Lebanese Transparency Association (LTA), 23 February 2012

11. Article 9 of Bylaw⁷³ regulating the functions of the Prime Ministry states that cabinet deliberations are secret. Article 34 of the Bylaw of Lebanese Parliament states that the sessions, minutes, deliberations, voting of parliamentary committees are confidential unless the committee decided otherwise.⁷⁴ Article 35 of the Law of Municipalities provides that the sessions of the municipal council are secret. The Mayor may invite any employee or individual to attend a session.

International Conventions

12. Lebanon ratified the ICCPR on 3 November 1972. On 16 October 2008, Lebanon joined the United Nations Convention against Corruption. It is worth noting that in accordance with the Law of Civil Procedure, "Courts shall abide by the principle of hierarchy of legal rules. If a conflict occurs between the rules of an international treaty and those of national law, the former prevail."⁷⁵
13. Lebanon approved several laws in line with the Rio Declaration in 1992 and is in the process of finalizing work plan to achieve economic, social and environmental reform.⁷⁶

Other relevant provisions

14. There is an Ombudsman office, "*Waseet eljumhuria*", that was established by Law no. 664 of 2005. However, this law is still lacking the implementing ordinances to implement it.⁷⁷
15. Lebanon has a National Archive Center⁷⁸ that was established in 1978. Citizens can have access to the archives, but it is mostly used by public agencies.⁷⁹

B. Government initiatives

Government bill on citizen-administration relations

16. In 2002, in order to bridge the gap between the administration and the citizen and to enhance transparency, the Ministry of Administrative Reform (OMSAR) designated a committee, including a judge from the Council of State and three lawyers, to draft a bill. The proposed bill acknowledged citizens' right to access administrative documents including "records, reports, studies, notices, memos, reports of administrative audit commissions and all administration's reports except those relating to national defense secrets, public security or the private life of individuals."⁸⁰

⁷³Bylaw No. 2552 of 1 August 1992

⁷⁴Bylaw of Lebanese Parliament. Available at: <http://www.lp.gov.lb/SecondaryAr.aspx?id=4774> (Arabic) (Accessed on 6 April 2012)

⁷⁵ Article 1 of the Law of Civil Procedure

⁷⁶ Miqati Stresses Commitment to Sustainable Development , Calls for Environment Tribunal, Naharnet, 22 June 2012. Available at: <http://www.naharnet.com/stories/en/44251> (Accessed on 3 July 2012)

⁷⁷National Report on initiatives of administrative reform in Lebanon, Dr. Tony Attalah. <http://www.pogar.org/publications/civil/mdf5-atallah-a.pdf>. (Arabic) (Accessed on 6 April 2012) See also: National Evaluation of citizens and civil society participation in the reform of public sector in Lebanon, Dr. Tony Attalah. P.33. Available at: <http://www.pogar.org/publications/civil/assessments/lebanon-a.pdf> (Arabic) (Accessed on 6 April 2012)

⁷⁸National Archive Center. Available at: <http://www.can.gov.lb/>

⁷⁹Interview with Dani Hadad

⁸⁰Follow-up on the Citizen's right to information law, OMSAR. Available at: <http://www.omsar.gov.lb/Cultures/en-US/Programs/GovernmentServices/OnGoing/Pages/1.4.2%20Citizen%20right%20to%20access%20info%20law.aspx>. (Accessed on 6 April 2012) See also, Information Ethics, Paul Morcos, UNESCO, June 2007, P.38 Available at: <http://www.justiciabc.com/pdf/Information%20Ethics.pdf> (Arabic) (Accessed on 6 April 2012)

17. The bill stated that the "administration is not obliged to respond to requests that are arbitrary in terms of their number and repetitive nature", and mandated "public agencies to justify in writing their refusal to provide copies of documents."⁸¹ It also required all agencies to reduce the number of required administrative decisions to a minimum in order to limit, as much as possible, potential abuse of power.⁸²
18. According to OMSAR's website, the bill was reviewed and approved by the Legislative and Consultative Board, the State Council, Civil Service Board and the Central Inspection Board.⁸³

Public disclosure initiatives by ministries or agencies:

19. In 2002, OMSAR established the Central Office for Administrative Information (COAI), consisting of two elements: a phone help line (1700) and a website www.informs.gov.lb aimed at disseminating "transactions related to the public that specifies the documents that are required as well as the fees."⁸⁴ The COAI also introduced administrative procedure forms that users can download and use to request services from the administration.
20. "Informs" website also contains information on more than 4,000 administrative transactions, list of addresses and contact information of ministries and public agencies.⁸⁵ However, the website was only the first step towards government openness, and further awareness-raising about the website is necessary.⁸⁶
21. "Informs" website established a one-way communication based on government provision of specific types of information to citizens, therefore allowing minimal level of engagement possible. "People will only know what the government wants them to know. There are no legal instruments that guarantee the people's right to know nor are there oversight bodies to ensure that all relevant documents are disseminated."⁸⁷
22. In October 2001, the Lebanese cabinet adopted Citizens' Charters prepared by OMSAR under a plan for administrative reform and modernization of public administration.⁸⁸ The Charters inform citizens of their rights and duties regarding specific policies such as taxation, healthcare and education. Although these online resources opened up the government in Lebanon, "they fell short of securing two-way communication channels where citizens are empowered with knowledge about internal government processes."⁸⁹ Furthermore, the charter is considered to be non-binding to public agencies.⁹⁰

⁸¹Information Ethics, Paul Morcos, UNESCO, June 2007.

⁸²Follow-up on the Citizen's right to access information law, OMSAR

⁸³*Id.*

⁸⁴ Carmen Jeha, June 2008.

⁸⁵National Report on initiatives of administrative reform in Lebanon, Dr. Tony Attalah, April 2006. Available at: <http://www.pogar.org/publications/civil/mdf5-atallah-a.pdf> (Arabic) (Accessed on 6 April 2012) (The paper was presented at the regional conference of the MENA Fifth Development Forum (MDF 5) in Beirut Lebanon. See, learning activities at World Bank:

<http://web.worldbank.org/WBSITE/EXTERNAL/WBI/0,,contentMDK:20588569~pagePK:209023~piPK:207535~theSitePK:213799,00.html>

⁸⁶Carmen Jeha. See also Tony Attalah.

⁸⁷*Id.*

⁸⁸*Id.* See also Information Ethics, Paul Morcos, UNESCO, June 2007.

⁸⁹Carmen Jeha

⁹⁰Presentation by Tony Mikhail.

23. In 2002, with the support of USAID and the State University of New York, the Ministry of Interior and Municipalities published "the Citizen's Guide at the municipality."⁹¹
24. In March 2007, with the support of United Nations Development Program POGAR program, OMSAR launched new six codes regulating citizen's relationship with the administration, on education, health, environment, heritage, public finance and public safety. OMSAR stated that it prepared a three-year implementation plan to disseminate the codes and raise public awareness about them. However, it is not clear the extent to which these codes have provided transparency about the administration. "The majority of Lebanese do not know about them. No training was delivered to public officials to implement the codes. In addition, they are not binding against the government" said Dani Haddad of the Lebanese Transparency Association.
25. With the support of UNDP, OMSAR and the Ministry of Justice established an information office that assists citizens in accessing legal information.⁹²
26. Before June 2009 elections in Lebanon, lawyer and member of the National Network for the Right of Access to Information (NNRAI), former Minister Ziyad Baroud published, in an individual initiative, a comprehensive report about implementing ATI law for the Interior Ministry in the hope to encourage other ministries to start implementing the law before its official ratification.⁹³
27. Following Lebanon's ratification of the United Nations Convention against Corruption (UNCAC), the NNRAI drafted a bill on Access to Information that was submitted to Lebanese parliament in April 2009 by members of the Lebanese Parliamentarians Against Corruption organization (LebPAC).⁹⁴ Yet there has been no progress since its submission; the bill was not presented to any parliamentary committee.⁹⁵

C. Practice of access to information

28. There is lack of awareness about the right of access to information in Lebanon. In general, journalists depend on their relationship with politicians as sources of information in their work.
29. In 2009, Maharat Foundation, in collaboration with International Freedom of Expression Exchange (IFEX), conducted a survey among 70 journalists about the practice of journalistic profession. Maharat found that 70% of the participants talked about difficulty in accessing sources of information.⁹⁶
30. In 2008, MAHARAT's Observatory conducted a survey among 61 journalists to assess the situation of the Lebanese media. Journalists were not well acquainted

⁹¹ The Citizen's Guide at the municipality, Bint Jbeil, 30 June 2002. Available at:

http://www.bintjbeil.com/A/news/2002/0630_daleel.html

⁹²*Id*

⁹³Will Lebanon ever get access to government information, Josie Ensor, 30 September 2009. Available at: <http://josieensor.wordpress.com/2009/09/30/will-lebanon-ever-get-access-to-government-information/> (Arabic) (Accessed on 6 April 2012)

⁹⁴Now Lebanon, "Freedom of information draft law announced," April 15 2009. Available at: <http://www.nowlebanon.com/NewsArchiveDetails.aspx?ID=88860>; Access To Information Draft Law, available at: (English) http://www.a2ilebanon.org/index.php?option=com_rubberdoc&view=doc&id=20&format=raw; (Arabic) http://www.a2ilebanon.org/index.php?option=com_rubberdoc&view=doc&id=19&format=raw

⁹⁵Interview with Dani Haddad of LTA

⁹⁶Freedom of opinion and expression in Lebanon 2009, Maharat Foundation. Available at: http://www.ifex.org/lebanon/2009/05/27/maharat_report/ (Accessed on 4 May 2012)

with the laws that regulate their profession. Responding to a question about whether there were any law securing right to access public information, journalists were divided into three main categories: 18% said “I don’t know”; 20% said “YES”; 62% said “NO”.⁹⁷

31. A 2006 report about media in Lebanon compiled by Dr. Deema Dabous touched upon access to information. The report cited a survey by the Beirut-based Information International⁹⁸ in which 150 media professionals in Beirut participated. The participants highlighted their inability to access documents held by the government as the common challenging aspect of their work. 69.7% of the participants said that it was not possible to obtain government documents in a timely manner, while 44.9% believed that such documents cannot be made available to journalists without bias and favoritism.⁹⁹ According to a news editor at the Lebanese NTV channel, "journalists typically do not obtain information through professional means. While some journalists are completely denied access to news, others enjoy some favorable treatment by some politicians."¹⁰⁰
32. A 1999 study¹⁰¹ about the right to access information among 500 individuals concluded:
 - Do you have any information about official procedures or documents related to your interests to which you are entitled to have access? 8% yes, 27% partially, 65% no
 - Why do you lack knowledge of these records? 46% lack of information, 41% lack of information centers, 6% no ATI law, 7% don't know.

D. ATI campaign agenda

33. There are around 7000 non-government organizations in Lebanon.¹⁰² However, civil society organizations have not developed sustained strategies to demand the right of access to information as a vehicle to strengthen their mission. Demand for access to information was limited to anti-corruption groups and media activists who have been vocal about the need for the “right to know” and government transparency.
34. Lebanese activists came together and established the National Network for the Right of Access to Information (NNRAI).¹⁰³ NNRAI was initiated on 11 April 2008 by Lebanese Parliamentarians against Corruption (LebPac), Lebanese Transparency Association, and the Association on the defense of rights and liberties "Adel", in cooperation with ABA Rule of Law Initiative (ABA ROLI) Lebanon office. The Network brings together key actors from the public and private sectors in support of a comprehensive reform agenda. Throughout 2009 and 2010, the network engaged in a number of activities including: meetings with the media, lobbying of parliamentarians, training public servants, engaging with the private sector, building knowledge on ATI concepts and mechanisms and raising public awareness.

⁹⁷Freedom of opinion and expression in Lebanon 2008, Maharat Foundation. Available at:

<http://www.ifex.org/lebanon/2009/05/27/foe2008-maharatfoundation.pdf> (Arabic) (Accessed on 6 April 2012)

⁹⁸Information International. Available at: <http://www.information-international.com/info/index.php> (Arabic) (Accessed on 6 April 2012)

⁹⁹Media in Lebanon, Dr. Reema Dabous and others January 2007. Available at:

http://www.arabruloflaw.org/Files/PDF/Media/Arabic/P2/MediaLebanonReportP2S2_AR.pdf (Arabic) (Accessed on 6 April 2012)

¹⁰⁰ *Id.*

¹⁰¹Information Ethics (citing Hekmat Zein and others, 1999)

¹⁰² Interview with Dani Haddad

¹⁰³See, NNRAI website: <http://a2ilebanon.org/>

35. The NNRAI drafted an ATI bill proposal that was submitted to Lebanese parliament in April 2009, but no progress followed.¹⁰⁴ NNRAI and partner organizations held a series of events advocated for the bill's progress in Parliament.¹⁰⁵
36. In June 2010, NNRAI submitted a bill proposal on whistleblower protection to Parliament. The bill covers the public and private sectors, offers protection for whistleblowers employment and their personal safety—including for family members—and provides compensation for violations.¹⁰⁶
37. Beyond the focus of some networks and a handful of organizations, access to information has not been a priority. Civil society organizations continue to face a challenging context where communities are suffering from unemployment and poverty.

IV. MOROCCO

There is no law on access to information. The Arab spring has mounted the demand by Moroccan media and transparency activists for legal reforms on transparency. Morocco has become the first Arab country to introduce a constitutional provision securing the right to access information in 2011. However, in order to strengthen the legal framework for transparency, a law securing access to information held by the government is needed.

A. Legal framework

Constitution

1. The new Constitution in Morocco, adopted in July 2011, guarantees access to information. Article 27 states that "Citizens have the right to obtain information held by public administration, elected agencies, agencies tasked with the administration of public utilities. Such right cannot be restricted except by law for the purpose of protecting national security, the State's internal and external security, and private life, for the prevention of infringing upon basic rights and freedoms provided for in the constitution, and for the protection of the sources of information precisely set by the law."

¹⁰⁴The draft bill was submitted in April 2009 and a campaign begun shortly thereafter. .1

¹⁰⁵Key events included: (1) *May*: LebPAC, Nahwa al Muwatiniya (Na'am), ABA Rule of Law Initiative (ABA ROLI) partner organizations and members of the NNRAI began a campaign encouraging members of parliament to support the bill; (2) *30 July*: Nahar Ash Shabab, a Lebanese Society, organized in cooperation with ABA ROLI and NNRAI a workshop on drafts of the ATI Law and the Law on Protection of Whistleblowers; (3) *September 28*: NNRAI held a press conference for International Right to Know Day; and (4) *October 7, 14*: Lebanese Transparency Association (LTA) with ABA ROLI organized four workshops on ATI for public servants at the Ministry of Finance. More than 77 participants coming from 32 public agencies attended. The workshops aimed at introducing ATI principles and discussing the draft submitted to Parliament. Also, Nahar Shabab workshop on the right to access information, Saida Net, 30 July 2009. Available at: <http://web.saidanet.com/modules.php?name=News&file=article&sid=13729>. Also, <http://nowlebanon.com/Arabic/NewsArchiveDetails.aspx?ID=105058> (Arabic)

¹⁰⁶Lebanese National Network Submits Draft Whistleblower Protection Law to Parliament, ABA Rule of Law Initiative, August 2010. Available at: http://www.americanbar.org/advocacy/rule_of_law/where_we_work/middle_east/lebanon/news/news_lebanon_draft_whistleblower_protection_law_submitted_to_parliament_0810.html
Also, Access to Information and Protection of Whistleblowers, Now Lebanon, July 22, 2009.

Press and Publication Law¹⁰⁷ and Statute of Professional Journalists

2. On 20 January 2002, Morocco introduced an amendment to the Press and Publication Law that contained a general provision on access to information.¹⁰⁸ Article 1 provided "all media have the right to access information sources and obtain information from various sources, unless such information is classified under the law".
3. The Press law however falls short in setting up a mechanism through which the media can access news sources. It does not specify the duties of the State and the consequences for refusing to give information. It also lacks an appeal mechanism against the refusal by public agencies.¹⁰⁹ The law has a number of shortcomings in terms of its ambiguity and its sanctioning system and penalties.
4. In February 1995, pressures exerted by the National Union for the Moroccan Press led to the government's adoption of the Statute of Professional Journalists.¹¹⁰ Article 4 stipulates for "journalist's right to access news sources of information in the context of practice of his/her profession and within the limits of observance of the laws in force".
5. The National Union of Moroccan Press has been vocal about the need for regulating the right to access information. In its statement on the 2003 World Press Freedom Day, "in the absence of provisions implementing of the right to access information prescribed for in the Press Law and Statute of Professional Journalists, it then keeps for public agencies full authority to withhold and conceal information that would hamper the materialization of informed public opinion."¹¹¹

Archives Law¹¹²

6. Archives law 99/69 of 30 November 2007 contains a legal right to access the archives. Article 15 provides that "every individual can access, without adherence to any time limit, documents made available to the public or documents access to which the law authorizes." Article 16 provides that the public can have free access to public archives after thirty years of its production, except in the cases provided for in Article 17.
7. Archives Du Maroc¹¹³ (ADM) was inaugurated on 27 May 2010 after more than two years public demand to activate the Archives law.¹¹⁴ However, ADM has not started

¹⁰⁷ Press and Publication Law. Page 220. Available at: http://www.sgg.gov.ma/BO/bulletin/Ar/2003/BO_5075_ar.pdf (Arabic) (Accessed on 30 July 2012)

¹⁰⁸ Annual Report of 2003, Moroccan Organization for Human Rights. Available at: http://www.omb.org/newombh/def.asp?codelan_gue=29&info=952 (Arabic) (Accessed on 6 April 2012)

¹⁰⁹ Right of Access to Information, Case of Morocco, Transparency Morocco, 2008.

¹¹⁰ Report on The State of Media in Morocco (Second Draft), Arab Center for the development of rule of law and integrity (ACRLI). Available at: http://www.acrli.org/files/media_in_the_arab_countries_book.pdf (Arabic) (Accessed on 6 April 2012)

¹¹¹ Report on the freedom of Press and Media in Morocco, May 2006. Available at: http://www.snpm.org/document_open.php?id=165&fid_rubrique=3&fid_cat=22 (Arabic) (Accessed on 6 April 2012)

¹¹² Archives Law, Page 4068. Available at: http://www.sgg.gov.ma/BO/bulletin/Ar/2007/BO_5586_ar.pdf (Arabic) (Accessed on 30 July 2012)

¹¹³ ADM was established "to protect the heritage of national archive, set standards to the collection, classification, organization, destruction, maintenance, restoration and transfer of archives, and to develop the archives through scientific research and international co-operation. ADM also seeks to collect sources of archives of Morocco outside the country and facilitate access to them. See, Inauguration of 'Archives Du Maroc', for a rational pluralistic documentation of history, National Center for Human Rights, June 2011. Available at: <http://www.ccdh.org.ma/spip.php?article5377> (Arabic) (Accessed on 6 April 2012)

¹¹⁴ The Fourth Authority seeks right to information, Ayman Ben Tuhani, Elaph, 13 January 2008. Available at: <http://www.elaph.com/Web/Webform/SearchArticle.aspx?ArticleId=295635§ionarchive=Politics> (Arabic) (Accessed on 6 April 2012) See also: A pressing necessity to guarantee right to access information, Seham Ithleen, 15 January 2008. Available at: <http://www.maghress.com/almassae/4935> (Arabic) (Accessed on 6 April 2012)

functioning yet, and Moroccans are still waiting for the adoption of regulations that set the implementation mechanisms.¹¹⁵

Various provisions on legal right to access information

8. A number of laws guarantee the right of certain stakeholders to access information within time constraints so that they take actions to protect their rights.¹¹⁶ For example the Law on Property Registrar, Law of the Commercial Code, the Law on Rural and Civic Development allowing the public to exercise their rights and ensure that their interests are fulfilled, the law on Confiscation of Private Property, and Law on Prices and Competition securing the right of consumer to information. The Decree on Public Procurement provides for the duty of public agencies to publish and to respond to inquiries.
9. The 1992 Law relating to Parliament Investigation Committees provided for an optional disclosure by the Parliament about the findings of its investigations. The Parliament may also discuss the findings in a private session. Those committees investigate corruption cases concerning government agencies, and may offer the public an important flow of information.¹¹⁷ The committees had a legal right "to access public or private documents relating to the subject matter of the investigation". The Parliament did publish the findings of the committees in a number of occasions for example the investigations of the cases of the bank "Property and tourist loans (C.I.H)" and "National Fund for Social Security(C.N.S.S.)" between 2000 and 2001.¹¹⁸ The Committees however did not continue this function in establishing Investigation Committees and did not publish any findings about important events such as Sidi Ifni in June 2008.

Restrictive laws

10. Despite legal reforms in the Moroccan constitution and the Press law, access to information can still be inhibited through a number of legal texts. There are still legal obstacles, mainly the ambiguity of the legal provisions of the Press Law, as well as the professional secret and the secrets of national defense. A small circle of government officials have access to information related to the military, diplomatic, economic and industrial institutions.¹¹⁹

Statute of Public Service of 1958¹²⁰

11. This Statute obliges every public employee to keep the professional secret related to the "works and news that he/she learns while performing his/her duties or on the occasion of practicing the profession."¹²¹ The Statute bans "the illegal seizure of papers or documents related to the profession and the notification thereof to others in a manner that violates the law". This includes correspondence, decrees, regulations,

¹¹⁵Interview with Amine Alaoui of Transparency Morocco

¹¹⁶ The Right of Access to Information, the case of Morocco, Transparency Morocco, Abdelaziz Nouaydi, 2006, and updated in 2008.

¹¹⁷Obstacles regarding public communication in Morocco, Yahia El-Yahyaoui, presentation at the International Forum "Public Communication: Approaches, Developments, and stakes. April 2007. Available at: http://www.elyahyaoui.org/com_publicque_ipsi.doc (Arabic) (Accessed on 6 April 2012)

¹¹⁸Abdelaziz Nouaydi, President of Adala and Law Professor based in Rabat

¹¹⁹Obstacles regarding public communication in Morocco, Yahia El-Yahyaoui,

¹²⁰ Statute of Public Service. Available at: <http://www.mmmp.gov.ma/uploads/documents/StatutFPArabe.pdf> (Arabic) (Accessed on 30 July 2012)

¹²¹Article 18

resolutions etc. Such ban is not removed unless permitted by the Minister in charge of the competent government agency.¹²²

12. Media and ATI activists called for reviewing article 18 of the Statute and for "publicizing the information to be the rule, and withholding it the exception."¹²³ Activists lamented that government officials have abused this as they can give information to some journalists and withhold it from others.

*Penal Code of 1962*¹²⁴

13. The Penal Code bans employees of the private sector from disclosing information, if their work is of "sensitive nature", or related to public security or sovereign entities.¹²⁵ Article 187 provides for the secrets of national defense and contains a broad scope: "items, notes, graphs, designs, maps, copies, photographs, or documents because of its nature shall only be accessed by the individuals competent to use or preserve it ...".
14. The code also punishes by up to five-year imprisonment and a fine of 200 to 10 thousand Dirhams every director or worker who revealed or tried to reveal to any foreigner or Moroccan residing in a foreign country the secrets of the business/industry for which they work. If the secrets were leaked to a Moroccan resident of the country the penalty will be imprisonment between three months and two years and a fine ranging between 200 and 250 Dirhams.¹²⁶
15. CSOs are demanding a review of legislation including the Penal Code and Public Service law. In 2011, both laws were amended but the amendments did not touch upon those restrictive provisions.¹²⁷

International Conventions

16. In addition to the ICCPR, Morocco ratified the United Nations Convention against Corruption on 9 May 2007, and the Rio Declaration of 1992 that contains an obligation to guarantee access to environmental information.

B. Institutional framework

Administrative Court

17. In accordance with Article 23 of the law of Administrative Court, an individual may resort to the Court against the decision of a public agency refusing to provide the requested information. The requester may build his case on the grounds of the agency's failing to justify its answer.¹²⁸ The Court has the power to demand the agency to disclose the required information or documents.
18. The law also shifts the burden of proof to the public agency. If the agency fails to answer to the court, the court may find the agency admitting the facts of the case and therefore this would justify repealing its decision. However, if the public agency insists on refusing to disclose the information, the applicant may go to the court.

¹²²Obstacles regarding public communication in Morocco, Yahia El-Yahyaoui,

¹²³Modernizing the administration downplayed access to information, al-maghreb, 17 January 2009. Available at: <http://www.almaghribia.ma/Reports/printArticle.asp?id=78367> (Arabic) (Accessed on 6 April 2012)

¹²⁴ Penal Code. Available at: <http://adala.justice.gov.ma/production/legislation/ar/Nouveautes/لقانون%20الجنائي.pdf> (Arabic) (Accessed on 30 July 2012)

¹²⁵Obstacles before public communication in Morocco, Yahia El-Yahyaoui,

¹²⁶ Article 447 of the Penal Code

¹²⁷Interview with Saad Filali Meknassi, Transparency Maroc.

¹²⁸Under the law on justifying administrative decisions of 2002, public agencies and utilities are obliged to justify negative individual administrative decision.

Ombudsman “al-Waseet”

19. The Ombudsman office was established by Law of Ombudsman no. 1.01.298 of 2001. On 17 March 2011, Morocco enacted a new law establishing “al-Waseet” (Ombudsman) in a step to succeed and modernize the existing Ombudsman office.¹²⁹
20. Citizens may lodge a complaint with the Ombudsman office against any public agency. The Office conducts research and investigation to confirm the facts of the complaint and the damage suffered by the complainant.¹³⁰ The Office may contact the competent authorities requesting the necessary explanations on the subject matter and the supply of documents and information relating to the complaint.¹³¹ If the Office confirms the facts and damage it makes recommendations, proposals and observations to the relevant agency that must take the necessary measures to examine the complaint and inform the Office afterwards of the decision and measures taken in that regard.¹³²
21. “The Agency shall provide the necessary support for the Ombudsman Office ... through supplying all the documents and information relating the complaints except those considered classified under applicable legislation.”¹³³
22. The Ombudsman Office is formed of a number of special officers among which the RTI Special Officer who is tasked, in accordance with the Ombudsman Office Bylaw¹³⁴, with ensuring that persons with a direct legitimate interest can exercise their right of access to information held by public agencies, and taking the necessary measures to secure that exercise.¹³⁵
23. The RTI Special Officer requests the agency to supply the requested information except legally classified information, within a time the Officer sets, if it fails to supply the information to the complainant.¹³⁶ If the Office finds that the agency’s conduct breaches, in itself or by its consequences, the principles of justice and equity and results in damage to the complainant, the Office requests the agency to take all necessary measures to remedy the damage.¹³⁷
24. The Bylaw provides for three types of inaccessible information: the operations of judicial bodies that acquire the classified status, the preparatory works of public agency’s decision-making, and the private data as prescribed by the provisions on data protection.¹³⁸
25. The Office submits a special report to the Prime Minister after notifying the Minister or the head of the relevant agency for the purpose of imposing the necessary sanctions and measures toward the agency’s conduct that thwarts the functions of the Ombudsman or the Special Officers. Among these cases is the case when the agency’s person-in-charge is deliberately negligent in responding to the complaint or the observations or proposals or recommendation relating to it.¹³⁹

¹²⁹ Law of Ombudsman Office. Available at: http://www.sgg.gov.ma/BO/bulletin/Ar/2001/BO_4963_ar.pdf (Arabic) (Accessed on 30 July 2012).

¹³⁰ Article 9 of the Law

¹³¹ Article 13 of the Law

¹³² Article 14 of the Law

¹³³ Article 28 of the Law

¹³⁴ Bylaw of Ombudsman Office. Available at: http://www.sgg.gov.ma/BO/bulletin/AR/2012/BO_6033_Ar.pdf (Arabic) (Accessed on 30 July 2012).

¹³⁵ Article 11 of the Bylaw

¹³⁶ Article 15 of the Bylaw

¹³⁷ Article 16 of the Bylaw

¹³⁸ Article 17 of the Bylaw

¹³⁹ Article 81 of the Bylaw

26. Article 37 of the law provides that the Ombudsman office submits its annual report to his Majesty the King. The report is published afterward in the official Gazette and publicized at a large scale. However the practice before the adoption of the new law points out that annual reports were not published in a timely manner; for instance, the 2008 report was published in 2010.¹⁴⁰
27. The Ombudsman office has been mostly approached with complaints related to human rights violations, not to access to information.¹⁴¹

C. Government Initiatives

Bill on access to information

28. The new government formed in November 2011 has made public statements about drafting a bill on access to information. The Ministry of Public Service and Modernization of the Administration is currently taking the lead in this process. However, no plan or project has been made public yet.¹⁴² The Central Committee against Corruption (ICPC) is taking part to the committee for drafting an ATI law. Civil society organizations working in this specific field are not consulted to take part in these processes.
29. In 2010, the Ministry of Public Service and Modernization of the Administration organized a new round of the National Debate on Administrative Reform, under the name of "Moroccan Administration and the Challenges of 2010". The report called in section 106 for the adoption of a law to guarantee the public's right of access to administrative documents.¹⁴³

Access to environmental information

30. April 2008. Morocco's Ministry of Environment prepared a bill on access to environmental information and submitted it to the secretary of the government.¹⁴⁴
31. On 22 April 2010 in celebration of Earth Day's 40th anniversary Morocco announced the National Charter for Environment and Sustainable Development, the first commitment of its kind in Africa and the first in the Arab World. The Charter contains a number of principles, including "access to information". It stated "it shall be respected access to information relating to the environment held by any individual to secure the realization of the objective of this charter."¹⁴⁵ However, this charter has not been activated as a means to access environmental information.¹⁴⁶

E-government websites

32. In 2006, Morocco launched the national web portal (www.maroc.ma). A number of ministries and public agencies established websites. However, these initiatives

¹⁴⁰Interview with Saad Filali Mknassi, Transparency Maroc.

¹⁴¹*Id.*

¹⁴²Interview with Amine Alaoui of Transparency Maroc.

¹⁴³Report of the debate, 2010. Available

at: <http://www.mmsp.gov.ma/SiteMonadara/siteAra/conference/Atelier/takrir.pdf>

¹⁴⁴ Report by Center for Media Freedoms "Right to access environmental information", 27 April 2010. Available at: <http://www.almogtarbeen.com/almogtarbeen/Show/4828/> (Arabic) (Accessed on 6 April 2012). See also, Ministry of Environment realizing the significance of access to information. Maghreb. Available at:

<http://www.almaghribia.ma/paper/Article.asp?idr=7&idrs=7&id=106906> (Arabic) (Accessed on 6 April 2012)

¹⁴⁵National Charter for Environment and Sustainable Development. Available at:

http://www.men.gov.ma/sitecollectiondocuments/guide_charte_environnement.pdf (Arabic) (Accessed on 6 April 2012)

¹⁴⁶Interview with Saad Filali Mknassi, Transparency Maroc.

remain short of achieving government openness. There is no law that obliges public agencies to maintain a website, identifies its content, the rights of the public vis-à-vis the obligations of public agencies, or determines penalties for non-compliance and oversight mechanism.¹⁴⁷

33. Moroccan media expert Alexandra Balafrej, in her study with UNESCO about access to public information in Morocco, found that Ministry of the Interior and National Defense Department do not have websites. Also, the websites of other ministries were not updated regularly.¹⁴⁸
34. Civil society has also noted that e-government initiatives cannot substitute for access to information legislation.¹⁴⁹ Websites are not user-friendly, poor in terms of the content, inconsistent with the standards set up by the Committee of E-government.¹⁵⁰ Information on those websites contained the news and achievements of the government agency, but no substantive information for the users.
35. The websites were also not interactive; a 2005 survey of ten government websites by Center for Media Freedom, to evaluate the responsiveness of government ministries with the requests of the public, found that only four out of seven electronic messages were answered.¹⁵¹
36. Morocco launched the "Maroc Numeric 2013" strategy that included a roadmap for setting up 89 new online services by 2013.¹⁵² It is focused on forms for public services, not with divulging public information. Transparency Morocco (TM) recruited an expert to audit these sites. TM found that the government's websites were not homogeneous, not interactive, lacking information, and dated.¹⁵³

D. Practice of access to information

ATI and the media

37. Journalists are aware of their legal right to access information. However, there are two issues in exercising this right. First, journalists prefer not to take a confrontational approach with those officials giving the information. If journalists complain about denial of access, they fear they may lose their source of information and therefore may be denied information later. Second, journalists believe that there are no consequences to public servants for refusing to give information. Furthermore, journalists do not trust the courts.¹⁵⁴
38. Journalists published about the significance of public access to information of the judicial sector as a guarantee for a fair trial. Journalist Idriss Ould El Kabla pointed

¹⁴⁷The Right of Access to Information, the case of Morocco, Transparency Morocco, Abdelaziz Nouaydi, 2006, and updated in 2008.

¹⁴⁸UNESCO study in French. Available at:

http://rabat.unesco.org/IMG/pdf/Vers_un_DAI_publique_au_Maroc_vsite.pdf. See also, Morocco is behind in access to information, Attajdid, 21 October 2011. Available at:

http://www.attajdid.info/def.asp?codelangue=6&infoun=70066&date_ar=2011/10/21 (Arabic) (Accessed on 6 April 2012).

¹⁴⁹E-government an infeasible alternative, Almaghribia, 5 May 2010. Available at:

<http://www.maghress.com/almaghribia/108344> (Arabic) (Accessed on 6 April 2012)

¹⁵⁰A pressing necessity to guarantee right to access information, Seham Iholeen, 15 January 2008. Available at:

<http://www.maghress.com/almassae/4935>; See also,

¹⁵¹Obstacles regarding public communication in Morocco, Yahia El-Yahyaoui (Citing Centre for Media Freedom, MENA, «Plaidoyer pour le droit d'accès à l'information au Maroc», Novembre 2005.)

¹⁵²Morocco pushes ahead with Maroc Numeric 2013, Rachid Jankari, Magharebia, 28 July 2010. Available at:

http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2010/07/28/feature-03 (Accessed on 6 April 2012)

¹⁵³Interview with Amine Alaoui

¹⁵⁴Interview with Amine Alaoui

out the public's need to know and observe at early stages the trials relating to corruption cases.¹⁵⁵ In April 2010 a one-day workshop was organized about "Judiciary and Media: a difficult relationship". The workshop pointed out the need for judicial reform and journalists' respect of professional ethics. Participants raised the issue for greater awareness and attention to the right to access the information of the judicial sector.¹⁵⁶

Parliament's access to government information.

39. In June 2010, Center for Media Freedoms (CMF MENA) prepared a report about the information system at the houses of Parliament.¹⁵⁷ 35% of the 150 parliamentarians surveyed asserted that executive authorities and public administrations do not provide the documents and information they need to perform their work. 46% percent who said that the Executive's authorities do provide such information but did not respect legal deadlines; they attributed that to a number of reasons: 1) negligence (43%); 2) official agencies' failure to communicate (43%); 3) confidentiality of such information (14%).

Access to Environmental information

40. In April 2010, CMF MENA published a report on access to environmental information in Morocco.¹⁵⁸ The report emphasized the need to enact a law on access to information held by government agencies and by private companies whose economic activity may impact the environment, and to ensure public participation in environment-related cases and their right to enforce it through the courts.

ATI and Consumer protection

41. CMF MENA published a report on consumers' right to access information in April 2010.¹⁵⁹ Funded by Middle East Partnership Initiative, the study found that economic actors were unaware of their responsibilities regarding consumer protection and consumer's right to access information; neither their code of ethics nor code of conduct included reference to these two issues. The research identified weaknesses in the capacity of consumer protection groups with regard to access to information and raising consumers' awareness.

Private Sector and businesses' access to information

42. In December 2008, CMF MENA published the findings of a study on "Moroccan Enterprises and Obtaining Information in the Possession of Public Authorities". The study surveyed 300 enterprises in seven economic sectors. 91.70% of the surveyed

¹⁵⁵The right to know and to communicate, Idriss Ould Kabla, 21 August 2003, Ahiwar. Available at: <http://www.ahewar.org/debat/show.art.asp?aid=9393>

¹⁵⁶<http://www.maghress.com/assif/7274>

¹⁵⁷Morocco looking forward to freedom of information law, Al-bshayer newspaper, 15 June 2010. Available at: <http://news.egypt.com/arabic/permalink/461826.html>;

¹⁵⁸New Report by Center for Media Freedoms "Right to access environmental information", 27 April 2010. Available at: <http://www.almogtarbeen.com/almogtarbeen/Show/4828/>. See also: CMF MENA demands right to access environmental information in Morocco, Maghress, 6 April 2010.

<http://www.almaghribia.ma/paper/Article.asp?idr=7&ids=7&id=106906>

¹⁵⁹For defending consumer's right to access information, Almogharbeen, 7 April 2010. Available at: http://www.alkhabar.ma/%D9%85%D9%86-%D8%A3%D8%AC%D9%84-%D8%A7%D9%84%D8%AF%D9%81%D8%A7%D8%B9-%D8%B9%D9%86-%D8%AD%D9%82-%D8%A7%D9%84%D8%B3%D8%AA%D9%87%D9%84%D9%83-%D9%81%D9%8A-%D8%A7%D9%84%D8%AD%D8%B5%D9%88%D9%84-%D8%B9%D9%84%D9%89-%D8%A7%D9%84%D9%85%D8%B9%D9%84%D9%88%D9%85%D8%A7%D8%AA_a16921.html

enterprises considered the information received incomplete; 77.30% believed it was not given on a timely basis; 70% said it was not useful; 50.30% considered it unreliable; and 48.70% considered the information unusable.¹⁶⁰ Moroccan enterprises reported many difficulties including identifying the source.¹⁶¹

43. Moroccan enterprises acknowledge that government agencies have developed websites providing information to the public, but most of its content relates to the activities of the minister while much needed economic information is not updated.¹⁶²

E. ATI campaign agenda

44. Moroccan civil society organizations (CSOs) have focused on raising awareness about the significance of access to public information. For instance advocacy efforts coordinated by Transparency Maroc¹⁶³ with other stakeholders, in collaboration with the regional UNESCO office and Friederich Ebert Stiftung focused on raising awareness about the importance of ATI in order to promote governance reforms.¹⁶⁴
45. A regional study in 2009, developed a benchmarking of four countries (Algeria, Mauritania, Morocco and Tunisia) comparing the regional situation with international ATI standards. This project led to the implementation of a specific project on promoting access to information.¹⁶⁵ It aimed originally to develop a process of political and sector-based advocacy to guarantee that ATI was enshrined in the Constitution, as well as the promulgation of a specific law on ATI. These efforts led to the creation of the Moroccan network for the right to information (REMDI)¹⁶⁶, launched with the Center for Media Freedom¹⁶⁷ (CMF-MENA) in May

¹⁶⁰Moroccan businesses dissatisfied with public information reliability, Imane Belhaj, Magharebia. 31 December 2008. Available at: http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2008/12/31/feature-01

¹⁶¹*Id.*

¹⁶²Most of the information relate to minister's activity and the rest is not useful, Magharebia, LailaAnuzla, 17 January 2009. (Arabic) Available at:

¹⁶³ In 2006, TM launched its first report on ATI in Morocco. The report described the situation of secrecy that prevails in public agencies and the lack of the State's proactive role to provide public information to citizens. The report recommended that a strategy be outlined to address ATI through raising awareness among CSOs. In 2005, TM launched its 15 measures to fight corruption in Morocco, half of those recommendations aimed to promote access to information as the main tool to foster transparency and accountability.

¹⁶⁴ On 21 October 2011, Transparency Morocco (TM) organized, in co-operation with UNESCO, a workshop on ATI. The participants highlighted that the new constitutional provision on access to information was not the "end of the road." UNESCO's publication "Towards freedom of information in Morocco" which elaborates progress and challenges related to FoI in Morocco, including the barriers on ATI in the penal code and public service law was also presented by its co-author Alexandra Balafrej. Belfreej elaborated on the barriers on ATI in the penal code and public service law. See UNESCO study in French. Available at:

http://rabat.unesco.org/IMG/pdf/Vers_un_DAI_publicue_au_Maroc_vsite.pdf See also, Morocco is behind at the international level on access to information, Ali Al-Bahi, Altajdid, 21 October 2011. (Arabic) Available at: http://www.atajdid.info/def.asp?codelangue=6&infoun=70066&date_ar=2011/10/21.

¹⁶⁵Advancing freedom of information in the Middle East and North Africa, UNESCO, available at:

http://www.unesco.org/new/en/media-services/single-view/news/advancing_freedom_of_information_in_the_middle_east_and_north_africa/

¹⁶⁶On 27 September 2010 the Moroccan Network for the Right to Access Information issued a statement on the Right to Know day calling for a national discussion to adopt a bill on access to information, and abolish all laws and regulations that hinder such access. The Network noted that public employees, judges and journalists were subject to disciplinary and criminal procedures due to leaking information the government should have made available to the public.

See, Calling for the endorsement of access to information law, Maghress, 27 September 2010. Available at:

<http://www.tettawen.com/news272.html>

¹⁶⁷ On 15 July 2010 CMF MNA signed along with other African civil society organizations a statement to the 15th African Union Summit. The statement called upon head of state and governments to "adopt national access to information legislation to guarantee the right to information and guide citizens on how they can request and receive information held by public bodies."

2010. Since 2005, this organization released different reports describing the situation of ATI in different sectors: parliament, judiciary, private sector, environment, and media.

46. A number of journalists and human rights activists called for a regulation allowing access to the archives and documents collected by the Commission of Reconciliation and Equity.¹⁶⁸ The archives of the commission were held by the Advisory Council for Human Rights, but no regulation allowed public access to the archives although the Commission recommended such access.¹⁶⁹ The Commission published a number of publications on its findings.¹⁷⁰ Saad Meknassi believes that access to the archives of the Commission is important, but not a priority for the ATI agenda. Such demand may be sensitive, and the government may get defensive and concerned about access to information.¹⁷¹
47. A variety of workshops and events have been jointly hosted by CSOs and media organizations to promote right of access to information for journalists as well as press freedoms. On 10 December 2010, on the occasion of Human Rights Day, UNESCO, Transparency Morocco and the Netherlands Embassy organized a workshop on the "Right to Access Information: The Way Forward for Morocco". The workshop brought together public policy makers, representatives of associations, information experts and journalists for a multi-stakeholder debate to discuss guidelines, standards and international good practices on access to information, and to make comparison with the situation in Morocco in a view to explore the way forward in Morocco for the recognition of public right to access information.
48. In May 2010 on World Press Freedom Day, CMF MENA organized a workshop entitled "Right to access information, toward media freedom in Arab countries." Media activists and senior press editors submitted a letter to the Minister of Communication and memo demanding the right to access information.¹⁷² Other events linking ATI and the media were held as early as 2007.¹⁷³
49. Civil society needs to expand its engagement with local communities and attempt to understand their information needs. Civil society can maximize its impact through building alliances with community based organizations and help the latter make use of access to information to improve their advocacy and improve their services to the community.

¹⁶⁸A pressing necessity to guarantee right to access information, Seham Iholeen, 15 January 2008.

¹⁶⁹*Id.*

¹⁷⁰Equity and Reconciliation Commission, Books. Available at: http://www.ier.ma/rubrique.php3?id_rubrique=316 (Arabic) (Accessed on 6 April 2012)

¹⁷¹Interview with Saad Meknassi.

¹⁷²Essoulami: E-government is no way an alternative, Aziza Ghulam, 5 May 2010 (Arabic). Available at: <http://www.maghress.com/almaghribia/108344>

¹⁷³On 24 April 2010, journalists and civil society activists gathered in a national dialogue on press issues. The dialogue outlined a plan to simplify and facilitate public access to government budget information. See, Open budget' plan may shed light on Morocco's finances, Magharebia, 23 April 2010. Available at: http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2010/04/23/feature-02

On 25-27 May 2007, Association Adala, a Moroccan NGO, organized a symposium on Media and the Right to Information in Morocco. The Symposium called upon the Moroccan government and parliament to pass a law on access to information. The Symposium adopted the "Morocco Declaration on the Right to Information." The declaration demands the bill on access to information to establish an independent body that monitors the implementation of the law, consults with and advises the administration and receives appeals from people.

See, A Call for the adoption of Access to Information law, (Arabic)

<http://morassiloun.jeeran.com/bellout/archive/2007/5/234240.html>, Morocco Declaration on the Right to Information, See, [http://www.justicemaroc.org/d_claration_de_marrakech\[1\].pdf](http://www.justicemaroc.org/d_claration_de_marrakech[1].pdf) (Arabic)

V. TUNISIA

In the aftermath of the 2011 revolution, Tunisia's interim government launched a reform process. Among other reforms, the government adopted a decree on access to public documents. Yet support for its implementation is needed. Public awareness of the legal right to access information is low. The ATI campaign is still in its early stages, and it needs to bring together individuals and activist groups around assisting the government in this shift from culture of secrecy to one of openness.

A. Legal Framework

The Constitution

1. Following the end of the previous regime, Tunisia started a process of political transition, among which included drafting a new constitution and reforming media laws. In October 2011, Tunisia elected the National Constituent Assembly (NCA) that was tasked to prepare a new constitution.
2. Activists created a website allowing Tunisians to participate by commenting and presenting their views on the articles of the constitution.¹⁷⁴ Tunisia's old constitution states that “[t]he freedoms of opinion, expression, press, publication ... are guaranteed and exercised within the conditions defined by the law.” This guarantee however was not adequate because of the existence of a legal framework that was at odds with the constitution’s principles.
3. By Decree No. 10 of 2 March 2011, Acting President Fouad Mebazaa established National Authority to Reform Information and Communication (NARIC) that advises the government on the reform of the media and communication. NARIC had discussed with Tunisian political parties to include a constitutional provision on access to information.¹⁷⁵ In August 2011 NARIC hosted a discussion where journalists, lawyers and judges gathered to request the Constituent Assembly to adopt a constitutional article guaranteeing the right of access to information.¹⁷⁶

Decree on Access to the Administrative Documents held by Public Authorities

4. On 26 May 2011, the Acting President promulgated Decree No. 41 on Access to the Administrative Documents held by Public Authorities. Article 3 of the decree provides that "any individual person or legal entity shall have the right of access to the administrative documents."¹⁷⁷
5. However, the decree falls short in a number of key areas. In addition to the weak sanctions for violating the right to information, the decree lacks the institutional entity that would promote access to information and assist in implementing the decree, and an independent oversight body that enforces the implementation by public agencies. According to Toby Mendel, director of the Centre for Law and Democracy, “it was a proper decision based on the circumstances in Tunisia.

¹⁷⁴Website: <http://www.tunisie-constitution.org/en>

¹⁷⁵Changing the mindset of journalists, Alchourouk, 28 November 2011. Available at:

<http://www.alchourouk.com/Ar/article.php?code=516084> (Arabic) (Accessed on 6 April 2012)

¹⁷⁶Tunisian journalists demand press freedom guarantee, Magharebia, 29 August 2011. Available at:

¹⁷⁷ Access to information to consolidate accountability and good governance, Mariam Othmani, Essahafa, 16 September 2011. Available at:

http://www.essahafa.info.tn/index.php?id=57&tx_ttnews%5Bttnews%5D=21688&tx_ttnews%5BbackPid%5D=5&cHash=5c5ae59568 (Arabic) (Accessed on 6 April 2012). See also, The right to access information, Aliaa Ben Nuhaila, Dar Assabah, 18 October 2011. Available at: <http://www.assabah.com.tn/article-59090-18102011.html> (Arabic) (Accessed on 6 April 2012)

Because the decree was adopted as an interim decree, the government felt they could not put in place the main institutional arrangements.”¹⁷⁸

6. On 11 June 2011, Tunisia introduced an amendment to the Decree. The amendment obliged public authorities in Article 22 (a) “to fully adjust with the provisions of the decree within a period of two years from the date of its entry into force.” It also abolished Article 23 that provides that “[u]ntil complete compliance with the provisions of this decree law is reached, the legislative and regulatory texts relating to access to administrative documents shall remain in force.” The law scored 71 out of 150 points on the ATI rating developed by the Center for Law and Democracy and Access Info Europe. This rate is attributed to the “lack of promotional measures, the absence of an independent oversight body, and weak sanctions for violations of the right to information.”
7. Different groups have highlighted concerns over perceived shortcomings in the decree. “The decree was adopted without consulting the stakeholders and contained no implementation mechanism,” said Hesham Snousi, media activist and member of the Media and Audio-visual Communication Sub-committee.¹⁷⁹ Activists criticized the decree as it was not discussed with the Administrative Court and archives specialists, and excluded from its scope documents from the legislative and judicial branches. Moreover, the regime of exceptions was not clearly defined.¹⁸⁰
8. Commenting on the consultation with civil society about the ATI decree, Toby Mendel added that “limited consultation took place with civil society. NARIC and the High Commission for the Realization of Revolutionary Goals were consulted. Very few CSOs in fact were able to contribute much in ATI. The group tasked with drafting the law was willing to talk with any groups, but it happened pretty quickly.”¹⁸¹
9. On 3 May 2012, coinciding with World Press Freedom Day 2012, the Tunisian government published the circular regulating the implementation of Decree-law.

Press and Audio-Visual Communications Laws

10. Tunisia adopted a new press law in November 2011, by Decree No. 115 of 2 November 2011 relating to freedom of the press, printing and publication. Article 9 prohibits any restrictions that would hamper freedom of information, thwart equal opportunity among media outlets in accessing information, or curtail the right of citizens to free, pluralistic, and transparent media. Article 10 provides for journalist's right to access information, news, data, statistics from different sources in accordance with the terms, and procedures under the Decree on Access to the Administrative Documents of Public Authorities.
11. The Decree No. 116 of 2011 on Freedom of Audio-Visual Communication was adopted on 2 November 2011 provides for the right of access to information and the right to audio and visual communication (Article 4).

Other Legal Provisions

¹⁷⁸ Interview with Toby Mendel, 21 February 2012

¹⁷⁹ Access to information to consolidate accountability and good governance, 16 September 2011.

¹⁸⁰ Access to administrative documents between legislative deficiency and the needs of transition, Tunis Africa, 30 June 2011. Available at: <http://www.tap.info.tn/ar/ar/2011-05-12-16-34-29/300-2010-12-17-16-30-30/5000-2011-06-30-19-05-28.html> (Arabic) (Accessed on 6 April 2012)

¹⁸¹ Interview with Toby Mendel

12. Law No. 95 concerning the Archives of 1988 guarantees access to the archives in Articles (15-21).¹⁸²
13. Law No. 40 of 1972 concerning Administrative Court allows individuals to appeal against the administration's abuse of power including "a violation of any legal rule." The Ombudsman or Administrative Conciliator, established by decree No. 2143 dated 10 December 1992, can demand the administration to provide documents. Law No. 51 of 3 May 1993 further elaborated its functions and operations.

International Conventions

14. Tunisia ratified the United Nations Convention against Corruption on 23 September 2008.

B. Government initiatives

15. The government established information and communication units at all government agencies.
16. The government publishes texts of law orders and ordinances in an official gazette (Journal officiel). This gazette is published and accessible on line.¹⁸³
17. The National Center for documentation (CDN) allows people to get general information about economic, social, cultural and politic affairs.¹⁸⁴
18. In every ministry there is a citizen liaison office. This office gives information to citizens and receives their complaints.
19. The government appointed press attachés that provide information about government activities and communicate it to media outlets.¹⁸⁵ However, many journalists accused them of assuming a propaganda role by redacting information not to the liking of officials. Some journalists were wondering whether "the purpose of their work was to offer information to media professionals or to enhance the image of the public authority for whom they work?"¹⁸⁶

C. Practice of access to information

20. Despite the ATI decree, actual access is still challenging. For instance, on 28 January 2012, Dar Assabah newspaper published a report about its bid to obtain information about an investment agreement between a Qatari investor and the government under which the investor bought government debentures. The newspaper requested information from the Ministries of International Co-operation and Finance, but both did not provide any and evaded responding to the request. The newspaper contacted the official responsible for the Tunisia-Qatar agreements who also asserted that she

¹⁸²National Archives of Tunisia. <http://www.archives.nat.tn/eng/default.asp> (Arabic) (Accessed on 6 April 2012)

¹⁸³Official Printing Office of Tunisia. Available at: <http://www.iort.gov.tn/> (Arabic) (Accessed on 6 April 2012)

¹⁸⁴National Center for Documentation. Available at:

<http://www.cdn.nat.tn/Default.asp?INSTANCE=incipio&SETLANGUAGE=AR> (Arabic) (Accessed on 6 April 2012)

¹⁸⁵Why information is lacking at numerous public administrations, Sabbah, 10 September 2008. Available at:

<http://www.assabah.com.tn/article-13834.html> (Arabic) (Accessed on 6 April 2012)

¹⁸⁶National conference on releasing government information to be held in Tunisia, Magharebia, 8 September 2006. Available at: http://www.magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2006/09/08/feature-01

had no information about the content of the agreements, and that the details about these agreements are held with the ministry of finance.¹⁸⁷

21. During the previous regime, al-Chourouq newspaper reported on the City of Culture, a project that was launched in 2006 and planned to be inaugurated in 2008. However, the project was never inaugurated; construction works were very slow and halted many times. Ex-government officials refused to provide explanation about the interruption and suspension of the project. The Ministry of Culture and Heritage Preservation and the Ministry of Supplies and Housing exchanged blame about responsibility. The public and intellectuals were denied their right to know about the grounds for the incompleteness of the national project. After the revolution the case of the City of Culture was submitted to the National Committee for the Investigation of Bribery and Corruption for allegations of corruption.¹⁸⁸ The Committee is criticized for having no communication with the public. It has not shared information about the number of cases, or provided updates about the status of the cases.
22. During the previous regime, many journalists voiced their complaints about the withholding of information or delays in obtaining it from government agencies. Ali Zaydi, a journalist for *Assabah*, said "he often has to put forth tremendous effort and wait over a week for a piece of information, which usually falls short of what he wanted. In some cases, he did not obtain anything."¹⁸⁹
23. In July 2011, journalists participating in training noted that access to economic information was difficult, and some statistics and data are unreliable. The training was aimed at exchanging views about strategies to tackle the economic crisis in Tunisia. Participants agreed on the significance of access to economic information through establishing communication offices at government agencies that facilitate journalists' access to updated, accurate, and useful information.¹⁹⁰
24. In May 2009, 200 media activists, economists and academics discussed the ways to develop economic media. Participants called for guaranteeing journalists' access to sources of economic information and facilitating their access to the data of the National Council for Statistics that has to be collected and posted on one website, in particular the data of economic nature.¹⁹¹

D. ATI campaign agenda

25. Civil society in Tunisia has recently started working on establishing a national coalition to include lawyers, media practitioners, bloggers, and CSOs.¹⁹² Discussions have taken place with the National Organization for Human Rights. This coalition is

¹⁸⁷Government officials do not know its details, Dar Assabah, 28 January 2012. Available at: <http://www.assabah.com.tn/article-63670.html> (Arabic) (Accessed on 6 April 2012)

¹⁸⁸City of Culture sinking in financial corruption and the case is before the judiciary, Najwa Haidari, 28 January 2012. Available at:

http://www.alchourouk.com/Ar/%D9%85%D8%AF%D9%8A%D9%86%D8%A9%20%D8%A7%D9%84%D8%AB%D9%82%D8%A7%D9%81%D8%A9%20%D8%AA%D8%BA%D8%B1%D9%82%20%D9%81%D9%8A%20%D8%A7%D9%84%D9%81%D8%B3%D8%A7%D8%AF%20%D8%A7%D9%84%D9%85%D8%A7%D9%84%D9%8A%20%D9%88%D9%85%D9%84%D9%81%D9%80%D8%A7%D8%AA%D9%87%D9%80%D9%80%D8%A7%20%D8%A3%D9%85%D9%80%D9%80%D8%A7%D9%85%20%D8%A7%D9%84%D9%82%D8%B6%D9%80%D9%80%D8%A7%D8%A1_A521228 (Arabic) (Accessed on 6 April 2012)

¹⁸⁹National conference on releasing government information to be held in Tunisia, Jamal Arfaoui

¹⁹⁰Means of access to economic information, 18 July 2011, (Arabic). Available at: <http://www.tap.info.tn/ar/2011-05-12-15-39-08/6008-2011-07-18-19-26-37.html> (Arabic) (Accessed on 6 April 2012)

¹⁹¹Forty recommendations to promote economic media in Tunisia, 16 May 2009. Available at: <http://www.assabah.com.tn/article-20929-16052109.html> (Arabic) (Accessed on 6 April 2012)

¹⁹²Interview with Adel Beznine.

- still in its early stages and will seek to promote public awareness of the right of access to information and to advocate for implementation of the decree law.¹⁹³ There is no Transparency International chapter in Tunisia but there is the Tunisian Financial Transparency Association (ATTF) that has an anti-corruption mandate.
26. Public sector associations have convened their members to consider the importance of access to information for public sector operations. For example, in September 2011 the National Association of public agencies' consultants with the Tunisian Association of Administrative Sciences organized a forum, which stressed the need for transparency.¹⁹⁴ Similarly, in June 2011 the Tunisian Association of Documentalists, Librarians and Archivists (ATDBA) organized a workshop on access to information held by public authorities.¹⁹⁵
 27. Tunisian activists established a number of initiatives including "Open Gov Tunisie"¹⁹⁶ demanding transparency and citizens' participation in public administration. "Open Gov Tunisie" established a Facebook group named "7elll"¹⁹⁷ that aims at supporting Tunisians' access to the National Constituent Assembly. "7elll" demands that the minutes and reports of the committees be published, and that citizens can know about the drafting process of the new constitution. The group organized a sit-in across the office of the Constituent Assembly (CA) demanding access to the functions of CA.¹⁹⁸
 28. It is worth noting that only a few CSOs are active on access to information.¹⁹⁹ The African Center for Journalist Training and Communication has engaged in organizing workshops discussing the ATI decree.²⁰⁰ Informal groups were established that demand open government and use the right to access information to claim their right to participate in the activities of the new government in Tunisia. The economic crisis in the country, unemployment, and poverty continue to dominate the public scene.²⁰¹ Civil society has various priorities to deal with including delivering much needed services for people.

E. Political parties and ATI

¹⁹³ *Id.*

¹⁹⁴ Administrative reform and the system of public service, from where to start?, Assabah, 25 September 2011.

Available at: <http://www.assabah.com.tn/article-58138.html>

¹⁹⁵ Access to administrative documents between legislative deficiency and the needs of transition, Tunis Africa, 30 June 2011. Available at: <http://www.tap.info.tn/ar/ar/2011-05-12-16-34-29/300-2010-12-17-16-30-30/5000-2011-06-30-19-05-28.html>

¹⁹⁶ Open Gov Tunisie. Available at: <http://www.opengov.tn/%D8%AD%D9%88%D9%84/>

¹⁹⁷ 7elll initiative. Available at: <https://www.facebook.com/7elll?sk=info>

¹⁹⁸ Interview with Adel Beznine

¹⁹⁹ On 25-27 January 2012 the Arab Institute for Human Rights organized a training workshop in cooperation with the Tunisian Assembly for Defending Human Rights. The workshop hosted Jordanian media law expert, Yahia Shukkeir. Shukkeir, and called on Tunisian activists "to benefit from previous experiences so that they do not duplicate work and save resources and energy," and emphasized the needs for learning from the countries that went through such transition into democracy.

See, Media law expert to Dar Assbah, 28 January 2012. Available at: .2

²⁰⁰ On 15-17 September 2011, the African Center for Journalist Training and Communication organized a workshop bringing together journalists, national and international media law experts and government press attachés to discuss the right to access information. Participants disapproved of the government for not discussing the law with journalists and civil society.

See, Access to information to consolidate accountability and good governance, 16 September 2011. Available at: http://www.essahafa.info.tn/index.php?id=57&tx_ttnews%5Btt_news%5D=21688&tx_ttnews%5BbackPid%5D=5&cHash=5c5ae59568

²⁰¹ *Id.*

1. New political parties emerged after the revolution. Among others, "Tunisia Youth of Tomorrow" party adopted access to information as one of its objectives. "To support and encourage freedom of thought, expression, media and freedom of information in a pluralistic, free, impartial and transparent environment."²⁰²

VI. REGIONAL DEVELOPMENTS

Arab Corruption and Integrity Network (ACINET)

1. 19-21 December 2011: In co-operation with UNDP and Moroccan Central Anti-Corruption Commission, ACINET organized its third conference in Fes, Morocco. The conference discussed community participation in countering corruption. The conference asserted that the right to access information is a human right that has to be enshrined in the constitutions, laws and practices. The conference called for a national campaign that would propose a comprehensive plan on access to information.²⁰³

ANSA Arab World

2. June 2011: Affiliated Network for Social Accountability – Arab World (ANSA-AW) is an initiative to create a regional network of practitioners on social accountability and participatory governance in the Arab World. ANSA-AW held a regional workshop in June 5-9, 2011 in Amman, Jordan. In this workshop the issue of access to information (ATI) emerged as one of the priorities among participating countries. The Network seeks to support a space for multi-stakeholder coalitions and a regional community of practice to move this agenda forward.

Conference of Arab Press Associations

3. April 2011: In co-operation with International Media Support and Friedrich Ebert Foundation, Moroccan Press Association organized a conference that brought together representatives of Arab press associations and syndicates. The conference discussed media reform and the legal environment. The conference adopted a number of recommendations among which, "to work towards enacting a modern law on access to information that secures publishing, broadcasting or disseminating all information and news."

International non-governmental organizations

4. In 2011, Transparency International launched in the MENA region its "ACTION" project, which title comes from: "Addressing Corruption Through Information and Organized Networking". The project is running until 2013 in four Arab countries including Morocco.²⁰⁴

²⁰²Objectives of "Tunisia Youth of Tomorrow" party. Available at: <http://www.turess.com/alchourouk/504300> (Arabic) (Accessed on 6 April 2012)

²⁰³ACINET Third Conference, December 2011. Available at: http://www.icpc.ma/wps/wcm/connect/b35276804984426a925fd272e05e0009/Conclusions_ar_ACINET_Conf_19-21_12_11_pre-finalI+2.pdf?MOD=AJPERES&CACHEID=b35276804984426a925fd272e05e0009 (Arabic) (Accessed on 6 April 2012)

²⁰⁴Access to information in the Arab region, TI blog, 25 July 2011. Available at: <http://blog.transparency.org/2011/07/25/into-action-promoting-information-in-the-arab-region/> (Accessed on 6 April 2012)

5. On 14-15 December 2009 ARTICLE 19, with the support of International Media Support (IMS), organized a workshop on the Right to Know in the Middle East. The workshop took place in Amman, Jordan with the participation of sixty activists, parliamentarians, journalists and lawyers from across the Middle East and North Africa. The main aim of the workshop was to map out an ‘agenda for action’ for freedom of information in the region.²⁰⁵

Arab Freedom of Information Network

6. Arab Freedom of Information Network (AFOINET) is a coalition of four Arab NGOs, from Morocco, Egypt and Jordan, which was established in Casablanca in July 2008 and is dedicated to the defense and promotion of the fundamental right of access to information.²⁰⁶ Marking the International Human Rights Day on 10 December 2009, AFOINET published a report entitled “For the defense of the right of access to information in Arab States”.²⁰⁷ The report appealed to Arab governments and parliaments to undertake national consultations to enact laws on the right of access to information. The Network sent copies of the report to government officials in Arab States and to offices of international intergovernmental organizations operating in Arab countries.
7. On 14 October 2008, AFOINET called on Arab states to adopt laws and regulations that preserve public access to information held by official authorities.²⁰⁸
8. In January 2009, the first regional conference of the Arab Freedom of Information Network, titled “Information is a Right for All,” was held in Cairo.²⁰⁹ The meeting was organized by the Egyptian Organization for Human Rights (EOHR) and the National Council of Human Rights in partnership with the Center of Media Freedom in the Middle East and North Africa and was supported by the Beyster Institute at the University of California, San Diego.²¹⁰ Participants included media professors, journalists, lawyers, parliamentarians and civil society activists from six Arab countries - Egypt, Morocco, Mauritania, Algeria, Palestine and Jordan. The conference endorsed a declaration titled “Cairo Declaration on the Right of Access to Information in the Arab World”.²¹¹ The conference also adopted a draft set of Principles on Arab Media and the Right to Information. The Cairo Declaration called upon Arab governments to endorse the right of access to information and to revise and amend all the laws that obstruct access to information. The document also called for the engagement and encouragement of all parties in discussion of these draft laws. The declaration also asked Jordan to revise and amend other laws that hinder access to information.

²⁰⁵ Article 19, Jordan: The Right to Know in the Middle East – Building an Agenda for a Culture of Transparency, 21 December 2009. Available at: <http://www.article19.org/pdfs/press/jordan-the-right-to-know-in-the-middle-east-building-an-agenda-for-a-culture.pdf>

²⁰⁶ UJRC, http://www.ujrc-jordan.net/member_network.shtml

²⁰⁷ Advocacy for the right of access to information in the Arab states, 10 December 2009. Available at: <http://en.eohr.org/2009/12/10/casablanca-the-arabic-network-for-freedom-of-information-december-10-2009/> (Accessed on 6 April 2012). See also, AFOINET calls for the adoption of laws securing ATI, Maghress, 10 December 2009. Available at: <http://www.maghress.com/map/626> (Arabic) (Accessed on 6 April 2012)

²⁰⁸ JAFIT, Issue, November 2008. Available at: <http://www.ujrc-jordan.net/pdf/Information%20is%20Right%20for%20all%20-%20Eng%201.pdf> (Accessed on 6 April 2012)

²⁰⁹ Cairo Declaration on the Right of Access to Information, 28 January 2009. Available at: <http://www.anhri.net/egypt/eohr/2009/pr0128.shtml> (Arabic) (Accessed on 6 April 2012)

²¹⁰ EOHR holds a regional conference on the right to access information, EOHR, 26 January 2009. Available at: <http://en.eohr.org/?p=78> (Accessed on 6 April 2012), See Also, Journalists, media practitioners and parliamentarians demand establishing an alliance for freedom of information, 12 January 2009. Available at: <http://www.link0777.com/Articles/POLITICS/default.aspx?url=http://news.link0777.com/News/politics/general/2009/december/1/information.aspx> (Arabic) (Accessed on 6 April 2012)

²¹¹ *Id.*

Access to Information follow-up training Workshop for Arab NHRIs

9. October 2010: The Arab-European Human Rights Dialogue (AEHRD) held a follow-up training workshop for Arab national human rights organizations.²¹² In 2009, AEHRD held two training seminars for participants from the organizations about access to information. The follow-up meeting aimed to identify possible initiatives and activities to implement the recommendations of the first two training seminars. AEHRD is a network of Arab and European National Human Rights Institutions (NHRIs) comprising 20 member organizations and observer member organization including seven Arab organizations.

Casablanca Declaration

10. 3 May 2010 World Press Freedom Day. CMF MENA organized a workshop on access to information and media freedom in Arab countries.²¹³ The participants signed "Casablanca Declaration". The declaration adopted the formation of a media committee for defending the right to access information that would serve as an advisory body for AFOINET.

Inter-Parliamentary Union resolution

11. On 10 April 2009, Inter-Parliamentary Union adopted in its 120th assembly in Addis Ababa a resolution on freedom of expression and access to information. The resolution encouraged parliaments to enact freedom of information legislation. The four countries are members of the Union.²¹⁴

WRCATI

12. Women and Children's Rights through Access To Information (WRCATI) is a women empowerment initiative by ICTDAR²¹⁵ that uses ICT as a tool to allow women greater understanding and knowledge of their rights, leading to more access to those rights and ultimately to a better quality of life. This initiative was implemented in its first cycle (2004 – 2006) in Egypt, Lebanon and Tunisia. The second cycle was implemented in Jordan, Palestine, and Morocco.²¹⁶

Civil Society Parallel Forum

In October 2008, a Civil Society Parallel Forum was convened during the Fifth meeting of the Forum for the Future²¹⁷ that was held in Dubai and co-chaired by United Arab Emirates and Japan. The Parallel Forum's participants made a number

²¹²Access to information follow-up training workshop, AERD, 12 October 2010. Available at: http://aehrd.info/j02/index.php?option=com_content&view=article&id=80%3Aaccess-to-information-workshop-for-arab-nhris-2010&catid=1%3Alatest-news&Itemid=18&lang=en (Accessed on 6 April 2012)

²¹³E-government is not an alternative, Maghress, 5 May 2010. Available at: <http://maghress.com/almaghribia/108344> (Arabic) (Accessed on 6 April 2012)

²¹⁴IPU resolution. Available at: <http://www.ipu.org/conf-e/120/120-3.htm> (Accessed on 6 April 2012)

²¹⁵Information and Communication Technology for Development in the Arab Region (ICTDAR) is a regional program of UNDP based in Cairo since 2003, and covering the Arab Region. Among its objectives is to improve access to and use of knowledge as an empowering agent to critical segments and sectors, namely women, youth, and micro enterprises.

²¹⁶WRCAT project, available at: http://css.escwa.org.lb/ictd/850/Track3/Ziad_Haddara_Empowering_Women_and_Youth.pdf (Accessed on 6 April 2012)

²¹⁷“The Forum for the Future” is a joint initiative of the countries of the Broader Middle East and North Africa (BMENA) region and the G8. It was launched at the 2004 Sea Island G8 Summit in the United States. During this summit, the G8 countries stressed their commitment to promote reforms in the BMENA region and to help establish an environment conducive to an informal, flexible, open and inclusive dialogue. Available at: <http://tunisia.usembassy.gov/forum.html>

of recommendations on political reform demanding “the revocation of legislative bans on the right to access information, and the endorsement of laws that protect the right to and the freedom of information.”

VII. RECOMMENDATIONS

1. Shifting from a culture of secrecy to a culture of openness.

In the four countries, a culture of secrecy prevails over that of openness. This situation can only be changed through a long-term process of legal and institutional reforms and shifts in underlying beliefs through appropriate incentives. A number of activists in the four countries emphasized the "culture" and "mindset" of public officials which prevents access to information.

Leadership toward an open society is crucial. It is important to identify officials who believe in openness and access to information and have them serve as champions within the government. Unless governments realize the value of openness and the benefit of openness vis-à-vis secrecy, very little can be achieved.

Governments can be helped in the development of policies on access to information and be assisted in the design of a monitoring and evaluation system and indicators that are specific, measurable, and achievable. This culture shift may also include incentives to public agencies that put in place ATI systems in line with international standards, including a reward system for public agencies that proactively disclose information about its activities. Awareness raising and training is very important to assist public agencies in this transition from secrecy to openness.

2. Prioritizing the ATI agenda

The concept of access to information continues to encounter resistance despite public statements by Arab governments. Maximum disclosure is not a concept that is fully embraced by government officials. Therefore, it is important for ATI campaigns to prioritize and advance access to information in areas that do not raise governments' concerns (i.e. issues relating to national security and corruption). ATI campaigns can demand routine information on health, education, housing, development, and the environment. In these areas, ATI activists along with journalists should request information on service delivery and government programs.

3. Reviewing legislation and institutional mechanisms:

In Jordan and Tunisia, CSOs and media rights groups should advocate for reviewing other laws that hamper access to information. Reforms should examine the regime of exceptions for information disclosure. Additionally, governments need to develop clear guidelines on the classification of documents to prevent discretionary classification. Establishing an effective and adequate appeal mechanism is also important. In Jordan, the Information Council has suffered from serious shortcomings in overseeing the implementation process by public agencies. In the other countries, civil society and ATI activists should advocate for stronger oversight mechanisms to ensure effective enforcement of the legislation.

4. Capacity building:

There is consensus in the four countries that training should be conducted to help government agencies shift from secrecy to openness. CSOs and international organizations should use innovative methods in training public officials about access to information. Local ATI trainers could serve as resource people. Case studies and ATI examples from the local communities can assist trainees in understanding the concept and principles of access to information. It is important that public agencies also develop their own capacity building so that they have ownership of training, while civil society provides technical assistance and expertise.

5. Public awareness:

Public awareness regarding the right of access to information is critical. At the local level, NGOs need to engage with community based organizations, trade unions, business associations and citizen groups and associations and help them to advance their work, claim rights, and request services through access to information. This will maximize public awareness of the law and the right of access to information as a tool to advance socio-economic rights.

6. Resort to litigation and to every available body to demand the exercise of ATI

Advocates in the four countries highlighted the importance of an independent judicial system that understands and believes in the legal right to access information. Although judicial reform may take a long time, advocates should assist the courts to take a progressive interpretation of the right to access information implied in the constitutional guarantee of freedom of opinion and expression.

One successful case before the Court will have a great impact on government practices. Additionally, civil society should test the will of the government through other institutional mechanisms. The Ombudsman bureau or administrative courts may also provide a forum for appealing administrative decisions relating to access to information.

7. Records management.

The process of collecting, organizing, classifying and managing information needs to be given more attention by public agencies. In some cases, information exists within public agencies but it is not organized, but rather scattered and thus hard to retrieve. Governments' investment in records management is essential to ensure proper implementation of any request-driven procedure.

8. Resources' allocation for ATI implementation

Governments are urged to allocate adequate resources into the implementation of ATI laws. This involves not only budget but also technological tools and human resources. Effective recruitment policies are needed to ensure that information officers are properly appointed and trained to handle ATI requests.

Allocating resources to monitoring and evaluation is also a key component of the cost of implementation. Governments need to develop mechanisms to collect data to monitor implementation of ATI while elaborating public reports on it. International organizations may assist in sharing international good practices.

9. ATI and the media

In the four countries, the media has been a key actor in the campaign for access to information. Yet it needs to make use of the requesting procedure and test the limits of governments' openness.²¹⁸ Additionally, journalists can use ATI to cover sectoral policies rather than political news. Furthermore, it is important that ATI is not seen as a journalist's or media issue, hence there is a need to build multi-stakeholder coalitions, including grassroots groups, businesses, youth, etc.

10. Regional networks and knowledge exchange

Civil society from the four Arab countries can build a community of practice around access to information that fosters knowledge sharing and lessons learned. While the approaches may vary in each country, there are problems that are common to the countries in the region. In this regard the Jordanian experience on implementation of ATI law can benefit Tunisian activists in their endeavor to advance the implementation of the law. Lebanese activists may also take advantage of the Arab spring and the events leading to the adoption of the ATI law in Tunisia to build up public demand for ATI legislation.

A regional network could facilitate knowledge exchange with other regions document concrete ATI examples from a human interest perspective, and support research to fill in knowledge gaps.

²¹⁸Jordanian Access to Information Law vs. Protection of State Secrets and Documents Law, YahiaShukkeir, February 2012.