

# Openness and Access to Information

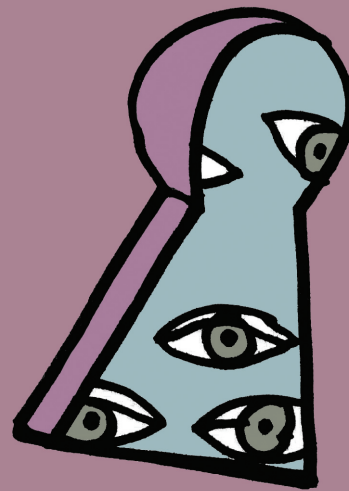
*Your key to public affairs*





# Openness and Access to Information

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Eds. Lisbeth Arne Pedersen & Birgit Lindsnæs

The Danish Institute for Human Rights, 2008

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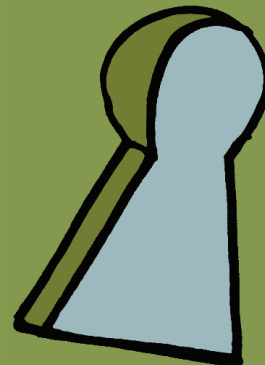
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# Preface

Access to information is in itself a human right, but also a lever for implementing other human rights.

No human right can be claimed by a citizen who does not know her or his rights – access to information can provide you with this knowledge.

Access to information enables citizens to keep a watchful eye on elected representatives and civil servants; do politicians keep their promises, and do civil servants offer services to the public as required by law? The best way to monitor what the administration is doing is through constructive dialogue.

Access to information is also about making choices – not only at election time when we choose our representatives, but just as importantly between elections. There are many choices in life: where to live, which job to choose; finding the right school for our children; whether to start a business of our own; whether to run for public office, etc. These choices only make sense if you have the necessary information to be able to decide: which municipality offers the best service; what are your rights as an employee; what is the quality of education offered in schools; what are the conditions for starting a new business; how does local and national governance work, etc.? Using your right of access to information is your passport to active participation in public affairs.

This booklet is also about openness and transparency. Access to information is a clearly defined, legal right; openness and transparency are not. They are, however,

crucial elements of good governance. Openness is an integrated element of competent and professional administration: when you approach a government office, the door should literally be open, it should be easy to find the right desk, and the staff should be welcoming and helpful.

When the administration is open and transparent, this will prevent and fight corruption and mal-administration. Openness and transparency are also tools to fight rumours, which damage both citizens and the administration. This way, accountability is also promoted.

Access to information, openness and transparency create a win-win situation: a professional and efficient administration and assured, knowledgeable and active citizens; thus facilitating a constructive dialogue between the two.

It is our hope that this booklet can be an inspiration for both public administration, the individual civil servant, independent institutions like ombudsmen and civil society in general as well as the individual citizen. It is through the combined efforts of all these partners that a modern and professional public administration based on access to information, openness and transparency can be created.

**Lisbeth Arne Pedersen**

*Project manager*

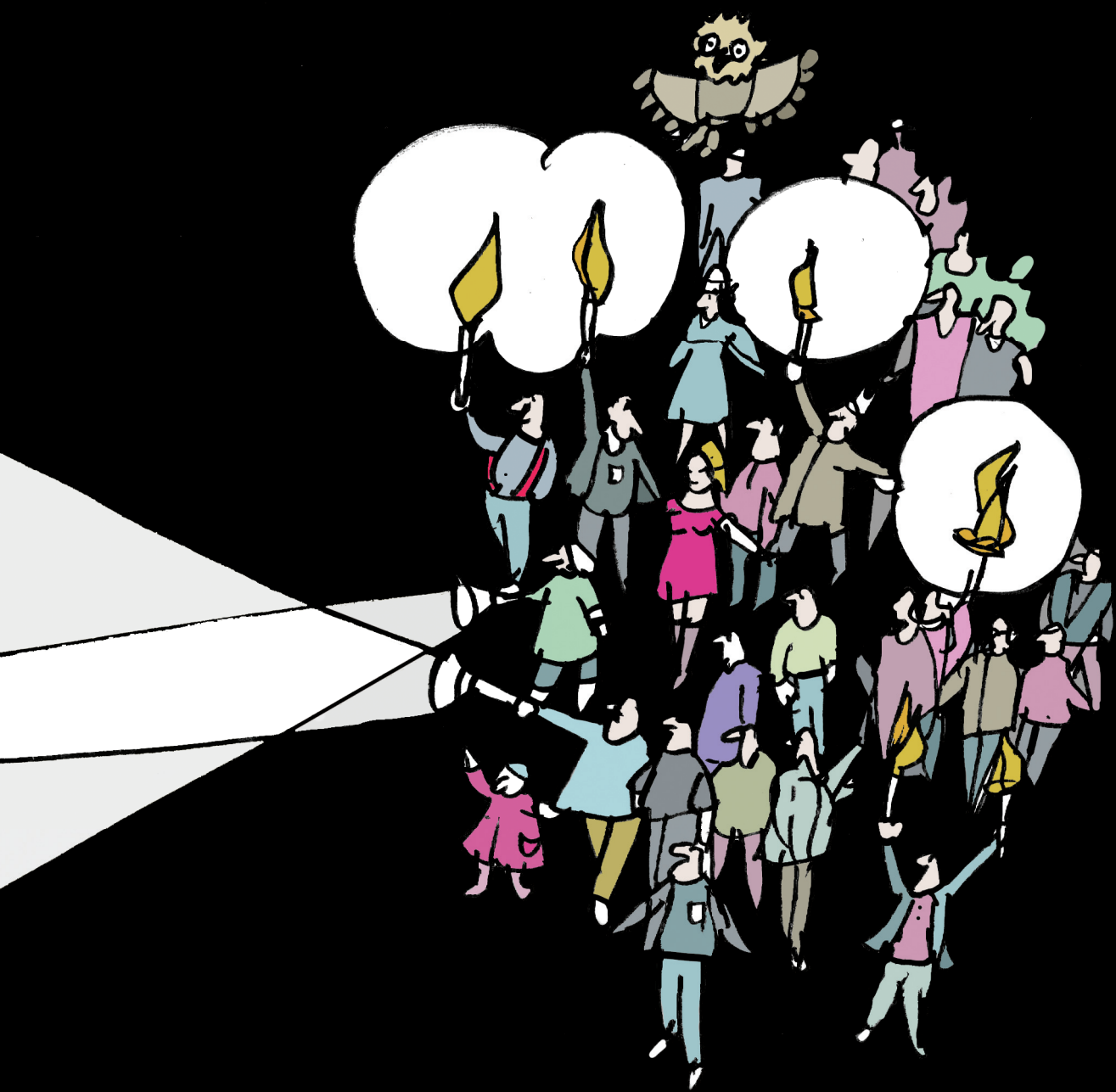
**Birgit Lindsnæs**

*Head of International Department*

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

**Article 19;**

Universal Declaration of Human Rights





## Dear reader;

This booklet serves two purposes: promoting access to information as a human right and promoting openness in governance. Together, human rights and good governance amount to genuine popular participation. Please let me explain:

Access to information is important as a human right and also as a lever for the promotion and implementation of other human rights. Under certain, specific conditions, the right of access to information can be denied. But the general rule is always in favour of access; the few exceptions to this rule are rarely encountered in practice.

Popular participation is about making choices – not only during elections when we choose our representatives, but just as importantly when we go about our daily lives. Knowledge means empowerment. If we know our rights – and, for instance, when civil servants do right as well as when they do wrong – then we possess the knowledge to make choices regarding our own protection and security, our job, where to live or where to send our kids to school, the environment, and myriads of other issues. Thanks to the right of access to information, we can wield our right to participation in public affairs, our right to be informed, our right to work, our right to education, etc.

In order to claim your rights, you have to know them; access to information enables people to claim these rights and to assume an active, knowledgeable and participatory role in governance.

Another important aspect of access to information is that it enables people to monitor and keep tabs on elected representatives and civil servants: do politicians keep their promises, and do civil servants really serve the public by adhering to legislation, directives and guidelines? To find out, you need access to information.

The second purpose of this handbook is promotion of openness in governance. Whereas access to information is a clearly defined legal right, openness is less tangible. It is, however, a crucial element in good governance. Rather than a legal concept, openness is a state of affairs. A professional and efficient administration must by necessity be open in every sense of the word: when you approach a public office, the door should literally be open to you – no tall fences and barbed wire – and it should be easy to find your way to the right desk. Bureaucracy should be kept to a minimum. The staff should be welcoming and helpful; ideally, they should greet you with open arms. And all its information material as well as letters to citizens should be written in language that is readily understood.





Corruption and mal-administration thrive in secretive governments and closed environments. But when citizens, individually or through civil society organizations, gain access to information from an open administration, corruption and mal-administration will decrease.

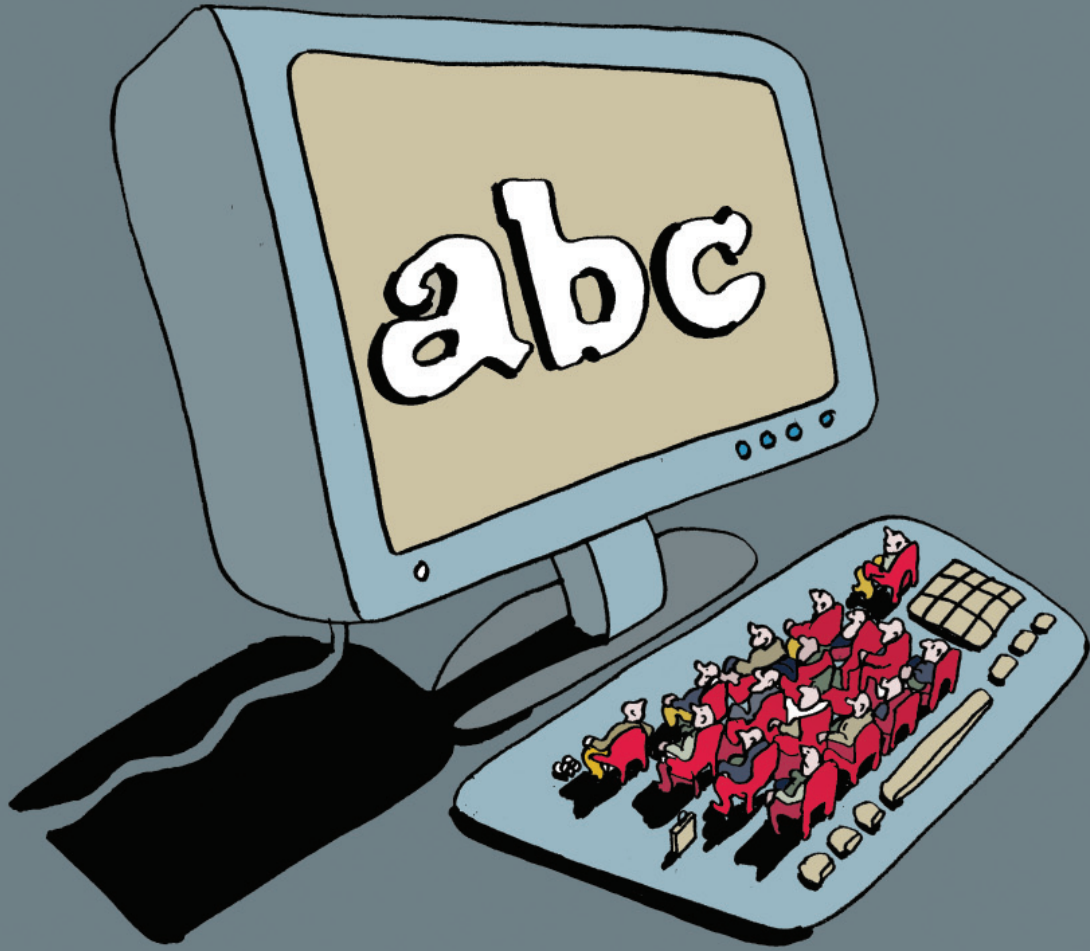
In short, we need access to information and open governance in order to make informed choices and secure genuine popular participation.

I hope that in this handbook, you will find inspiration to venture on the path to *Openness and Access to Information*.



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# Introduction

Access to information is a human right. Furthermore, it is a precondition for any individual's ability to participate in society. It is an absolute prerequisite for making informed choices in life.

What's more, public participation in decision-making and government leads to a dynamic society as well as to economic development. The very best way for government to create a framework for economic development as well as social cohesion is by involving the public in decision-making.

Open and transparent government and administration is a must for combating corruption and mal-administration.

In order to make use of these principles, it is necessary to make people aware that *Openness and Access to Information* are part of their rights as well as essential to the development of a fair and just society founded on democratic principles.

Even if *Openness and Access to Information* are our given rights, implementation takes trust, good faith and cooperation on all sides. Government, administration and civil service must learn to share information rather than withhold it; the public must learn to ask questions as well as to look for and demand answers. With open access to solid knowledge, the public will be empowered to make informed choices on important issues in their lives; informed people are truly in a position to make the

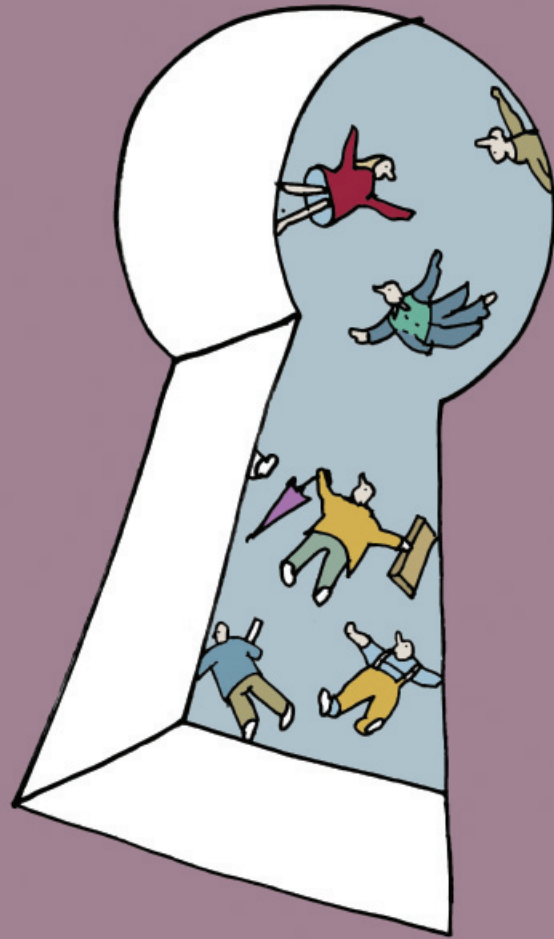
important decisions and choices that a participatory society demands of them, and it gives them the drive to participate in government and keep an eye on it at the same time, which again leads to sound economic development.

Some countries initiate openness and transparency in the administration of their own accord; others drag their feet and may need encouragement – even if they are party to relevant binding treaties. In these cases, the process may be set in motion by eager and impatient agents of change in civil society at grass root level.

This handbook seeks to define and explain *Openness and Access to Information* as well as give ideas and inspiration on how to push for or implement it.

Regard it as an appetizer; for a deeper insight into the principles and what it takes, please consult An Introduction to *Openness and Access to Information*, published by the Danish Institute for Human Rights and Local Government Denmark.

You can download it at <http://www.humanrights.dk> Other important documents are international conventions and covenants and two publications by “Article 19”, an organization promoting freedom of expression and information globally. They are: Principles on Freedom of Information Legislation and the Public's Right to Know, 1999, and A Model Law on Freedom of Information, which was published in 2001.



# Lingo

## **In this handbook, openness means:**

- Transparency in affairs of governance and administration
- Strengthening of public trust in public institutions
- Public participation and easy access to public institutions

## **The concept of Openness and Access to Information comprises what it takes for public authorities to make the conduct of public affairs transparent; e.g.:**

- Providing access to information they hold – of their own accord
- Providing access to information they hold upon request
- Involving the public through hearings, open meetings and campaigns
- Involving the public in the formulation of policies and implementation through participation in relevant committees, boards and similar bodies

Public sector is used in the broadest sense: health, education, administration, etc.

Public institutions are the public administration at state and local level, courts, national human rights institutions, state schools, hospitals, etc.

Whistle blower: public official who releases confidential information on the wrongdoing of public bodies or officials of public bodies.

# Legal definition

The right of access to information is defined in Article 19 of the International Covenant on Civil and Political Rights:

*1. Everyone shall have the right to hold opinions without interference.*

*2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

*3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*

- 1. for respect of the rights or reputations of others,*
- 2. for the protection of national security or of public order (ordre public), or of public health or morals.*

**Article 19**

The United Nations International Covenant  
on Civil and Political Rights

# 1. What is it?

We all want to live in a secure, efficient and prosperous society or state with healthy economic growth – and all the benefits this entails. Absolutely essential in this respect is openness and public participation; without transparency and openness you cannot create or maintain a dynamic, well-functioning society with the economic thrust to maintain an efficient public sector.

Knowledge is a prerequisite for understanding human rights as well as claiming them. Thus one might argue that *Openness and Access to Information* serve as the foundation for many other established human rights; because in order to make use of your rights, you must be aware of them.

Also, all experience proves that public participation in government decision-making is a fertile stimulant for creating policies, planning and services; also – and very importantly for government – it creates public support for political decisions.

And public participation serves as a watchdog keeping an eye on democracy – along the same lines as legal institutions and independent media.

In short, adopting the principles of *Openness and Access to Information* creates a win-win situation for any nation, benefiting the general public as well as administration and government.

Article 19 on Freedom of Expression of both the Universal Declaration of Human Rights and the United Nations International Covenant on Civil and Political Rights (ICCPR) establishes that every human being is entitled to the right to seek, receive and impart information. Thus Access to Information is a human right, and states that have ratified ICCPR are legally bound to grant and even promote it.

*Openness and Access to Information* is the complete opposite of corruption and its illegitimate offspring of mal-administration and nepotism, as often experienced in opaque, secretive and closed administrations. However, corruption may occur in any society, and thus also in one with transparent governance and administration; but under these circumstances, corruption will rear its head less frequently; it will be exposed, and the perpetrators will be held responsible according to law.

In some societies, most people know of local, relatively underpaid public officials who flaunt big expensive cars and houses that they couldn't possibly afford on their official salary. Some may have inherited great fortunes, of course, but most often they are blatant examples of corruption and ill-gotten gains.

*Openness and Access to Information* may involve, say, access to knowledge about how resources are



allocated and used in terms of budgets and accounts. It is also imperative to apply openness regarding the people who administer the public budgets. For instance, it is important to have access to information about salaries, and to know whether a government minister or a mayor has personal economic interests which can influence his or her decisions.

Another area which can benefit immensely from *Openness and Access to Information* is the environment – locally as well as globally. Knowledge and experience can be pooled and made accessible to stakeholders as well as anyone with an interest – governments, individuals, NGOs, experts, etc. Knowledge and information are two of the few commodities that very often gain value and usefulness when shared, rather than decrease in value and size.

It is also important to know when rules against particular incompetence or disqualification due to conflict of interests apply to a person participating in a decision-making process. And it remains in the public interest to know that a set of procedures is followed in order to avoid arbitrary and corrupt conduct – say, in relation to recruitment, procurement and general procedures as well as procedures for outsourcing of contracts and for privatization.

Openness involves continuous public scrutiny; it presupposes that authorities are held responsible for

possible mal-administration and human rights abuses and thus is a way to foster good governance in the performance of public administration.

#### **Authorities must:**

- Inform on activities in the administration (health, education, government affairs, environmental issues, etc)
- Give the public an opportunity to understand, comment on and participate in major decisions
- Every official body must provide access to information as well as publish relevant information (mandate, policy, strategy, budget, salaries, ownership of shares, real estate, etc.)

Public authorities are not only duty bound to provide information; sometimes they are also entitled to acquire information from other authorities. Public authorities with these special rights and obligations might be:

- Ombudsmen
- State auditors

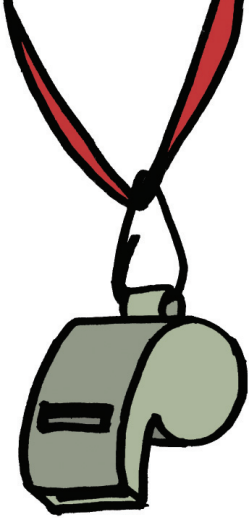
#### **The public must:**

- Be empowered to receive as well as actively obtain information, and thus be enabled to make informed choices and decisions on all subjects

- An informed public is a defining participant and contributor to a well-functioning society
- Civil society is often front runner in the call for *Openness and Access to Information*. The goal is to empower and enable the public to act on its own

Ideally, *Openness and Access to Information* should be laid down in national legislation -in information Acts and special Acts protecting the right of access to specific information. “Article 19”, an organization leading a global campaign for free expression and information, has drawn on existing international and national standards and practice to outline a set of principles for legislation on freedom of information as well as a model law on freedom of information to guide national users to best practices. The essence of these principles is:

- **Maximum disclosure:** This places an obligation on public authorities to disclose all information held by them unless it is subject to a clear and limited set of exception grounds
- **Obligation to publish:** Public bodies should provide relevant information to the public about their own activities and information of public interest within their field – on their own initiative and not only on request.
- **Promotion of open government:** Public bodies should actively promote a culture of openness and open government within its own ranks as well as externally.
- **Limited scope for exception:** Exception grounds should be few, limited and precise – and spelled out clearly in legislation.
- **Easy access:** Requests for access to information should be treated efficiently and expediently – within a defined time limit.
- **Control and review bodies,** in the form of, say, courts, commissions, state auditors, and Ombudsmen, should monitor and safeguard openness and easy access.
- **Access for free:** Access to Information is a right and should thus be free. Citizens should generally obtain information at no cost; it should be paid for by the state or local budget.
- **Public meetings in government bodies:** Access to Information includes the public’s right to know what the government is doing as well as public participation in the decision-making process.



- **Protection for whistle blowers:** In order to ensure that corruption and other public mal-administration is revealed, legislation should provide protection for whistle blowers against criminal and disciplinary liability.

In 1999, the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion

and Expression determined a set of “Principles on Freedom of Information Legislation and the Public’s Right to Know”. In the year 2000, the UN Human Rights Commission noted these principles, which amounts to an endorsement of the nine principles developed by “Article 19”. Although not strictly legally binding, the principles do carry a high level of authority.

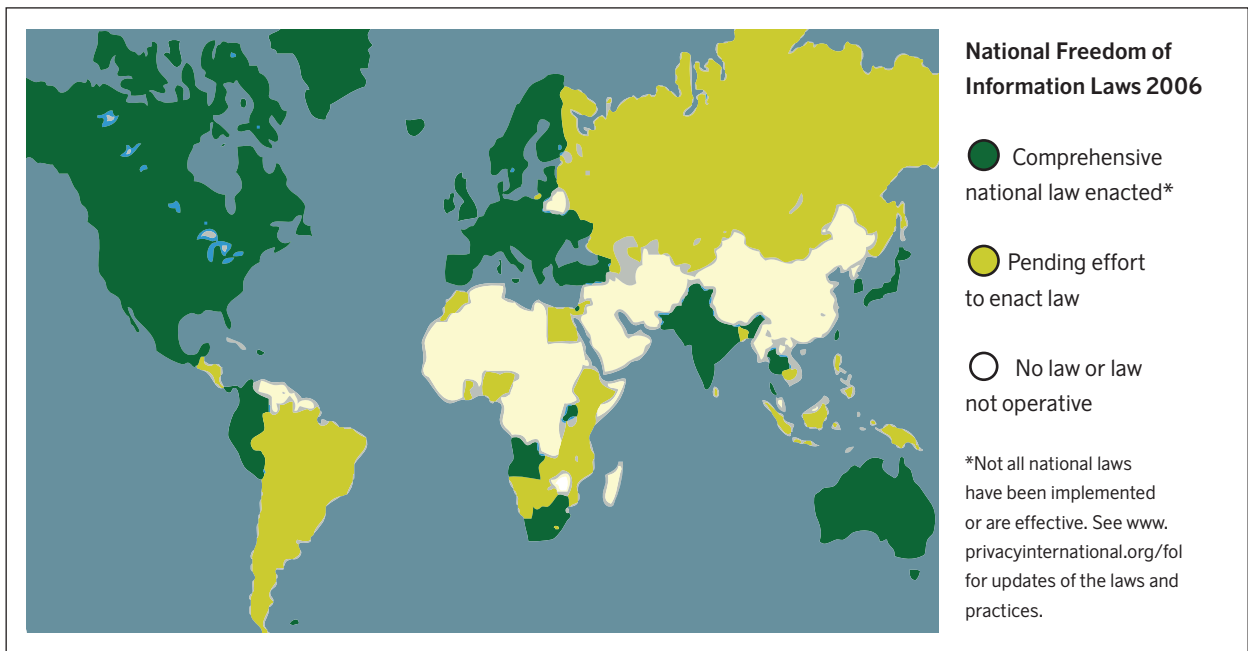


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## 2. Who needs it?

Who needs *Openness and Access to Information*? The obvious answer is that we all do; the two are essential for a well-functioning, just and even prosperous society. The state and the citizens benefit equally – there really aren't any real losers in the equation.

While the suppliers of *Openness and Access to Information* are generally the state and administration, i.e. public institutions, the most frequent users of the access to files are:

- **Journalists**
- **Activists**
- **Civil society**
- **Citizens**
- **Politicians**
- **Administration**
- **Researchers**

Ideally, all information on government and administration should be accessible to the public; accessible meaning not only available but also navigable. Only then is the public's right to knowledge and freedom of information fulfilled in keeping with the right to freedom of expression.

Naturally, no single person can access, much less digest, all information. But the right – in countries where it is actually respected – is being diligently used by many people acting for the public good.

### **Journalists:**

Imagine that a national newspaper or broadcaster is doing a series on education. The journalists will interview teachers, the Minister of Education or civil servants in the Ministry; perhaps they will interview pupils, students and parents; as well as access national statistics on education and collect information on selected schools and educational institutions in order to present a balanced picture of the situation. They will look into educational policies and check whether schools and educational institutions live up to them. They will scrutinize budgets against performance; they will verify that salaries have been paid and that tenders and procurement have proceeded according to the rules, etc.

When they have collected all the material they need, they will analyze and compare this body of information and digest it into articles or broadcasts that are easy for the general public to grasp and thus form an opinion on.



*“The right of access to information held by public bodies and companies will lead to greater public transparency and accountability, as well as to good governance and the strengthening of democracy.”*

African Commission on Human and People's Rights –  
principles on Freedom of Expression 2002

**Civil society**

Not only journalists do this kind of work; in some instances, civil society organizations also perform such investigations. It could be about the health sector, a university, parliament or a single party's or a ministry's performance. Or a single minister's: perhaps (s)he possesses real estate or other valuables that are way beyond what her or his salary can buy or that might influence the way (s)he votes in parliament. Government should have accessible files on legislators' and ministers' salaries, their assets beyond a certain level (shares, real estate, etc), and other details that might influence their performance in government or in parliament. Such publicly accessible files are not necessarily read by everyone, but they are often scrutinized by journalists.

Or it could be the passage of legislation. Have all rules and regulations been followed? Have the relevant civil society organizations been heard? Has the public? Has the proposed legislation gone through all the statutory readings? In order for the media and civil society organizations to check this, records have to be open and accessible.

*“Freedom, prosperity and the development of society and of individuals are fundamental human values. They will only be attained through the ability of well-informed citizens to exercise their democratic rights and to play an active role in society. Constructive participation and the development of democracy depend on satisfactory education as well as on free and unlimited access to knowledge, thought, culture and information.”*

**UNESCO Public Library Manifesto 1994**

**Activists and civil society:**

Imagine an NGO that works to promote environmental protection. Members need to know, for instance, the regulations on emissions from fertilizer and other agricultural sources into the environment; they need to know the amount that farmers use; how they dispose of their waste, and many other factors. When they

have collected all the necessary information, they can analyze it and act accordingly; pointing out, for instance, possible breaches of the law, or introducing improved procedures, etc. They need to have access to pertinent files. A very fine example of how such information can be made accessible is the (Environmental) Right-to-Know Network ([www.rtknet.org](http://www.rtknet.org)), which was created following the introduction of a law on access to environmental information in the USA.

Or, say, an organization that helps battered women needs to know what a ministry is doing to implement legislation against domestic violence. Is it easy to report domestic violence? Are police doing what they should according to the law? In order for the organization to thoroughly investigate this, there must be access to a large amount of information; once all this information has been gathered and processed, the organization can approach local politicians and suggest improvements or demand that the law is respected.

**Citizens:**

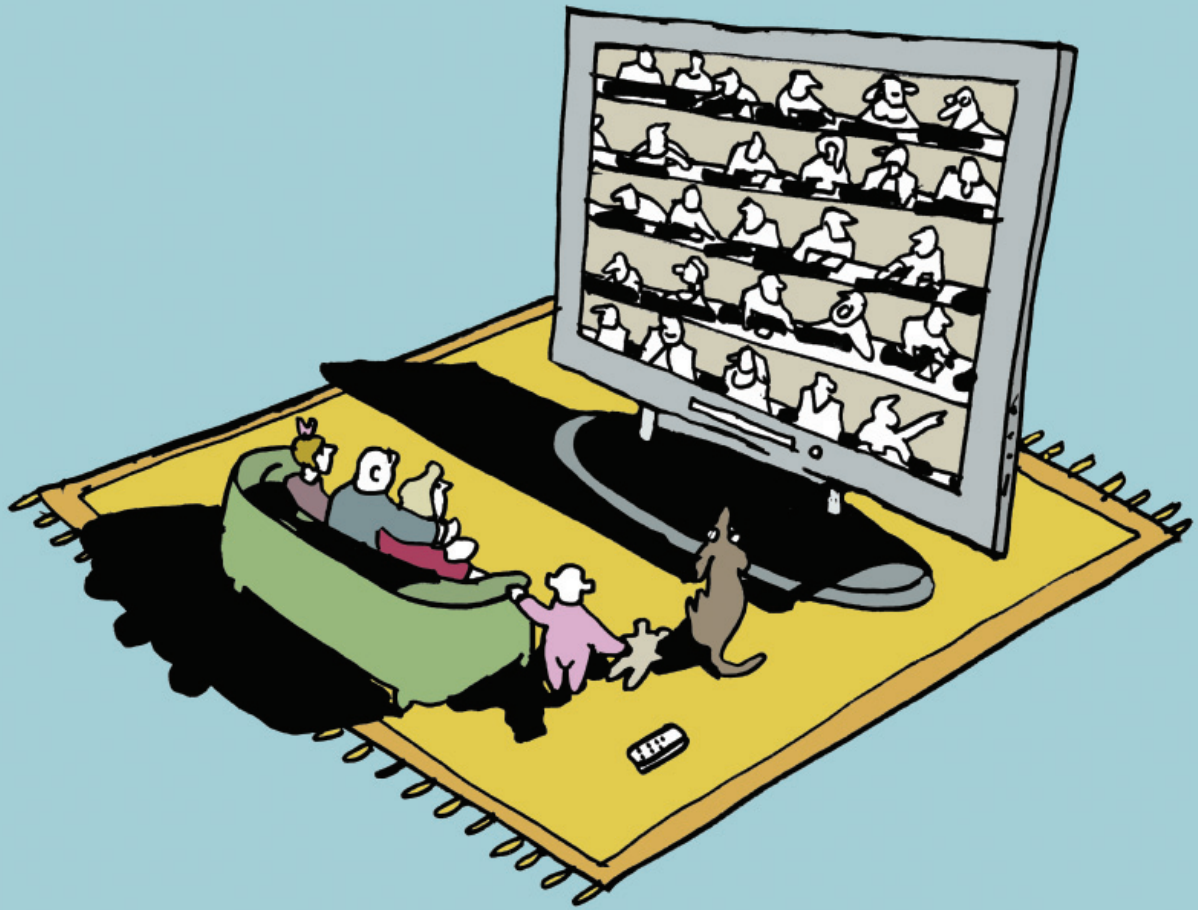
A woman owns a house that has belonged to her family for generations. Local government wishes to extend a road close by. The woman does not want to sell off part of her land and she does not want a bigger road,

since noise will increase intolerably as will pollution from traffic. In order to state her case, the woman must know her rights and find out whether or not it is legal to expand the road; she needs to access many files, study laws and see what similar cases have been brought to court and what rulings were made, etc.

**Politicians:**

One of the ways government ministers are held accountable for their actions and deeds is when they answer questions in parliament. This is how the legislature and the public ensure that the government is playing by the rules. Individuals or interest groups may have issues that they take to their elected parliamentary representative who will look into it – and, if need be, put them forward as questions to the responsible minister. This is very much part of the division of power in governance between the legislative, the executive and judicial branches, in which all three are independent of each other – and accountable to the public.





### 3. What does it take?

*Openness and Access to Information* is but a hollow shell without the backing of strong political will and commitment. Political leaders must lead the way in order for civil servants and the general public to see and truly understand that the commitment to openness is honest; because only then can the civil servants who are to implement it on a daily basis have the confidence and the backup necessary for it to succeed.

*Openness and Access to Information* must be secured by legislation and accompanying guidelines, etc.

The exact wording of such legislation may differ, as may the way in which it is implemented. Some countries need to pass specific legislation. In other countries, it may suffice to ratify and implement relevant international and/or regional conventions and covenants, as they simply serve as legislation when ratified.

Depending on which continent you are on, you should consult your regional bodies as well as the international ones on what they offer for your country or region. (\* illustration: uddr. fra African Commission osv.)

Also, as suggested in *An Introduction to Openness and Access to Information*, all concerned parties should work together to create an Information Act or Bill. Often this takes place in a work group with lawyers and representatives from the legislature, grass roots, human rights organizations, and other representatives from civil society and government, both national and local; it frequently takes several years. Naturally, all voices should be heard and all relevant contributors to such an Act consulted in order to incorporate universal principles as well as national and local considerations.

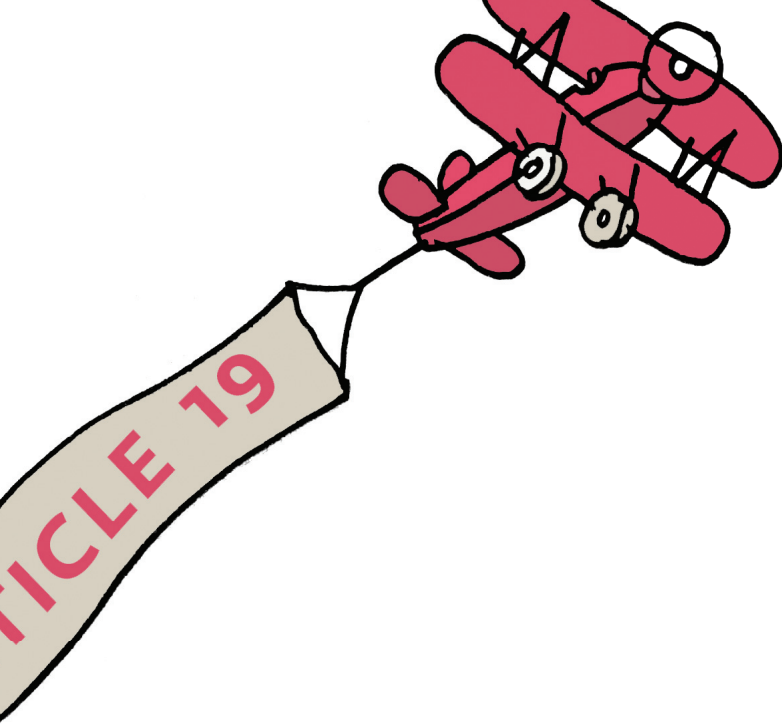
#### **Openness vs. Privacy:**

The balance between the public's access to information and protection of the individual's privacy is one major challenge:

“Information privacy ... involves the establishment of rules governing the collection and handling of personal data such as credit information and medical and government records. It is also known as ‘data protection.’“

- “Privacy” as defined by the organization Privacy International.





The right to privacy forms part of several human rights instruments: the right to confidential communication, the inviolability of your home, protection of your physical and mental integrity through the prohibition of torture and slavery, etc. The right to privacy protects individuals against unlawful intrusions into their privacy, which includes information of a private nature.

State authorities as well as private entities have accumulated vast quantities of information, including information regarding individuals. In recent decades, international standards have been adopted in order to protect individuals against misuse of their personal information as well as unlawful invasion of their privacy. In a number of countries around the globe, the international standards are supplemented with national legislation protecting personal data and privacy.

The basic aim of these standards is to enhance the security procedures regarding data processing about individuals. This includes:

- Protecting individuals against misuse of personal information held about them

- Providing individuals with the right of access to files concerning themselves as well as a right to correct this information
- Regulating how and when information holders can pass on personal information to persons or bodies authorized to receive, process and use it

Even though it is part of the same set of rights, protection of the individual's right to privacy can potentially be in conflict with the public's general right to know. In such instances of conflict, the rights therefore need to be weighed against each other to strike the right balance in each specific case.

Article 17 of the International Covenant on Civil and Political Rights affirms the protection of privacy, family, home and correspondence, which includes the right to access to information about oneself, held by private and public bodies.

Even though modern information technology has meant a major step forward in the exchange of information, it also constitutes a major challenge; the possibilities inherent in collecting, processing and



exchanging data with computer technology pose serious threats to the protection of privacy.

Therefore, the Guidelines for the Regulation of Personal Data Files, adopted by the United Nations General Assembly in 1998, recommend that states include minimum guarantees relating to computer handling of personal data in national legislation.

Also, the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data are regarded as a very important instrument in this regard.

**Legislatures should:**

When all voices have been heard and all reservations have been discussed and dealt with, the appropriate work groups should produce a proposal for an Information Act or Bill for the legislature to treat like it would any new law. This is the first – and very important – step.

In order to allow openness to thrive in practice, the exception grounds for disclosure of information should be clearly and narrowly defined by law and serve a legitimate aim.

**Exceptions:**

Subsequently, the legislature should define and create the legal framework regarding exceptions to the Information Act or Bill.

The presumption is always in favour of disclosure, unless the information meets a three-part test which implies a difficult but necessary balancing of interests:

The three-part test, which is inferred from international law, provides that information can be exempted from disclosure if:

- The information relates to legitimate interests protected by law and
- Disclosure of the information threatens to cause substantial harm to those interests and
- This harm to the interests is greater than the public interest in receiving the information.

The administration should:

Once the Information Act has been adopted, the administration should implement it and incorporate it in daily procedures.



This sounds like the easy part – however, it is not. *Openness and Access to Information* isn't just introduced overnight. Converting it from law into practise requires dedicated leadership which is prepared to lead the way and act as a role model, setting new standards for an open approach to governance.

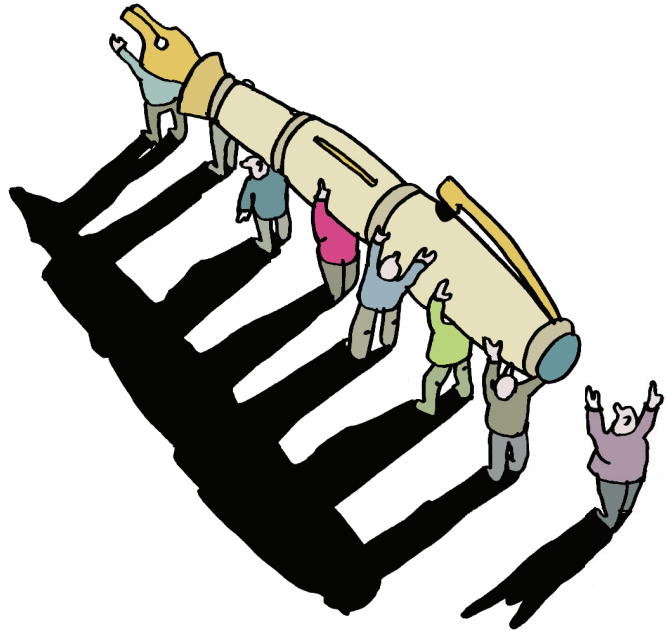
From the inside of an office, it is all too easy to perceive openness in administration as an unnecessary complication befuddling daily routines, which may hitherto have included very little contact with the public. If this is not already the case, it is necessary to impress on staffers in public institutions that they are there to actually assist the public as well as society in general – which again demands sincere intentions from leadership.

It is essential that an administration which is in the process of adopting a system of openness and transparency explains what it is doing to everyone and conducts training, etc., so that the staff doesn't feel ambushed by a system it doesn't understand. Such lack of understanding creates unnecessary insecurity and suspicion, which again will lead to exactly the opposite of openness and accessibility.

Public bodies should actively promote a culture of openness and open government within its own ranks as well as outwardly. This includes raising awareness of the duty to provide information as well as the public's right to receive it; establishing accountability principles making it clear who is responsible for providing information; as well as publicizing sanctions for obstructing this duty. It also means establishing ways to handle and store records and information in a systematic manner permitting easy retrieval. All this should eventually develop into daily routines.

Requests for information should be dealt with expediently and efficiently following a clear procedure for decision-making, which includes:

- Providing assistance to the requester
- Providing a timely answer within the defined time limit
- Thoroughly explaining in writing the legal reasons for the decision if a request is refused
- Accompanying any refusal to disclose specific information with information on review bodies to which the refusal can be appealed



There are various ways to provide access to information; however, it should include some or all of the following:

- Inspection of records in the place where they are kept
- Transcripts of files
- Copies of documents; either hard copy, electronic or other
- Verbal explanation
- Special forms of access, e.g. for people with disabilities

Control and review bodies must be established and accompanied by a review procedure in order to facilitate access to information and offer citizens easy and affordable access to review of the decisions made by public bodies. Control and review bodies include courts, information commissions and Ombudsman institutions.

**The public should:**

As is the case in most relationships – be it marriage, democracy, education, or other – *Openness and Access to Information* is about rights as well as duties; in this case, the state has the obligation to make information available and accessible to the people, so that the people may gain knowledge that makes them able to make informed choices. It is the public's duty to make use of this access to information.

So, to carry out their duty as responsible citizens, people should seek relevant information in order to gain the knowledge that allows them to make informed choices and decisions – in all manners of issues, and sometimes on a large and breathtaking scale: ideally, all citizens should know and understand:

- How public institutions perform, and whether that differs from how they should perform
- How tax money and other state or local authority income is spent
- What to expect from the legislature so that, when voting in parliamentary elections, citizens can make an informed choice between candidates.

- What to expect from public servants (ranging from government ministers to teachers, doctors, and garbage collectors), and what to do if they do not live up to their duties
- Insight into decisions made by public bodies, enabling citizens to assess whether they receive the benefits and services they are entitled to
- The difference between, say, healthy and unhealthy food, and the consequences of eating either
- About health and hygiene, in order to take best possible care of themselves and their children
- About education; to a degree where citizens can ascertain whether or not teachers and other educators live up to their responsibilities
- The environment – nature’s as well as at work
- And much more...

Naturally, all citizens in all societies cannot possess complete knowledge about every aspect of society and their own life. The profusion of information is simply too large, and part of the division of labour in

any society is the specialization of knowledge and expertise.

This is why it is extremely important that the people and institutions that we as citizens put our faith in carry out their duties with great responsibility – because they are entrusted with the running of important aspects of society such as administration, education, and the health sector, etc. – .

Both civil society and the media should heed their calling to select and filter down the omnipresent deluge of information to “digestible” and manageable amounts for people to access, professionally and without bias. And then, if people wish further information, they can themselves navigate deeper into the issue in question.

Under a system of *Openness and Access to Information*, we always have the possibility of scrutinizing the way things are run; this doesn’t mean that we should scour each individual public servant’s and government minister’s every action. But this very option serves as a guarantee in itself.

Also, under the principles of *Openness and Access to Information*, citizens carry a major responsibility for participating in the running of society; i.e. reviewing

and commenting on law proposals and voicing their opinion on the development of policies, planning and service delivery. When society thus becomes the result of the combined efforts of the public and the state, the best possible conditions for economic development are created; this, of course, is in everyone's best interest.

*Openness and Access to Information* – the fact that we have access to almost any information regarding most aspects of the administration of society – serves as a permanent reminder to all citizens that public institutions and their staff are open to public scrutiny. It serves as a safeguard against corruption and mal-administration.

If and when corruption or mal-administration does take place in an open and transparent society, the culprits will be held responsible according to law – and punished accordingly.

So while we cannot completely eradicate corruption in an open society, we can investigate, prosecute and punish it.

In addition to an Information Act or Bill, specific legislation on specific subjects may also be required; e.g. an Anti-Corruption Act, Data Protection Act, Access to Environmental Information Act, Public Archives Act, etc. In some countries where local governments work relatively independently of central government, special legislation on local governance might also be necessary.



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## 4. Tests and Challenges

There is no shortcut to *Openness and Access to Information*. The road is paved with crucibles and challenges. Access to information is a human right and also a precondition for claiming other human rights. Privacy is a human right as well, and one that may clash with access to information. The boundaries between the two should be regulated by law. Instances where the privacy of the individual ranks higher than the general public's right to information could be, say, personal data regarding health or matters of court.

Access to Information and the right to privacy also encompass the individual's right to information about her- or himself. These rights serve to promote transparent administration – as opposed to what one might describe as the “transparent citizen” – one whose every private detail is easily accessible and thus not protected, by law or in practise.

Some instances where the right to privacy is seen to circumvent Access to Information, this may very well be because the rules governing exceptions are vague.

The open society is built on trust; some even describe it as a state of mind. An unspoken agreement exists between the public and public institutions that the

institutions work with and for the public. The public, on its side, is expected to act responsibly within the system.

Such a society may be particularly vulnerable to illegal actions that can undermine and restrict the right to information. Amongst the most forceful threats are terrorism and corruption. Another – more subtle – threat could be a general lack of awareness of the right to information.

Information is power. The media are powerful conduits of knowledge as well as watchdogs overseeing government and public institutions and how they conduct themselves. Thus restrictions imposed on the media might hamper their ability to serve as watchdogs for the general public.

Challenges to *Openness and Access to Information*:

- Poverty
- Low level of education
- Corruption
- Restrictions on the media
- Terrorism (or, rather, the fight against it)
- State security
- The protection of privacy

**Poverty and low level of education:**

The Internet and other modern information and communication technologies are highly useful for disseminating as well as looking up information, exchanging opinions, conducting semi-public hearings, opinion polls, etc. Ideally, all public institutions should have engaging and updated home pages, and all citizens should have access to them.

Obviously, the Internet in itself does not constitute *Openness and Access to Information*, but it is extremely useful in the process. However, there are several big butts in this equation. One is cost. The hardware and maintenance that fuels the information highway in cyberspace is expensive – and far from accessible to everyone, due to multiple factors, technical as well as economic and generational. And even though the Internet is a huge step on the way, just as literacy in general is not for everyone, not everyone is computer literate .

Cost should not get in the way of anyone seeking information, which should – in principle – be made available to the individual free of charge. Generally, a public body should render this service for free. However, if a particular request for information entails,

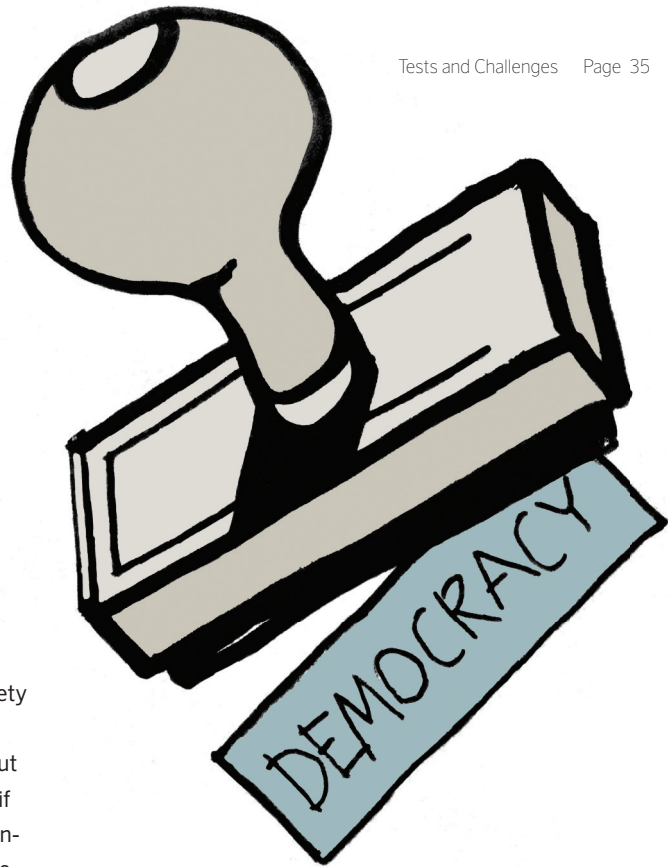
say, scientific research, photocopying several hundred pages or the like, the public body may charge for the actual cost, but no more.

**Corruption:**

Corruption leads to a vast amount of evil and squandering of resources in society – be it malpractice of justice, mismanagement of funds, election fraud, inequality, etc. The list makes for unpleasant reading and is almost endless.

The opposite of a corrupt government is an open and accountable one, operating on the principle of transparency in its actions – with good governance. This notion is clear to most societies and individuals and has led to the adoption of a number of conventions against corruption, in the UN system, in Africa, the Americas, Asia and Europe as well as in OECD – all of which can be acquired for free, in the true spirit of openness.

The conventions are a major step in the right direction. However, all too many countries have not yet actually implemented the conventions. They may need a gentle nudge in the right direction from their citizens.



### **The Media:**

Since the people cannot oversee all actions of society all of the time, the media serve as important go-betweens and watchdogs; they look into or point out injustice, mal-administration, etc.; explaining and, if need be, simplifying complex issues. The media constitute an important link between the public and the authorities. Many governments impose harsh restrictions on the media, making them unable to fulfil this important task. Even in countries with press freedom enshrined in their constitution, journalists are often threatened or even killed in order to keep them from doing their duty as carriers of information.

### **State Security**

It is all too easy for public bodies to claim that information in their possession is exempt from the principle of openness. The reasons they give may be many and varied, but that doesn't make the excuses any better.

Based on principles of international law, the organization "Article 19" has developed a test to define information that may be exempted from disclosure:

The information must relate to legitimate interests protected by law and disclosure of the information must

threaten to cause substantial harm to that interest and the harm to that interest must be greater than the public interest in receiving the information.

These grounds for exemption may not be crystal clear, but they are as clear as they possibly can be, since specifying exemption grounds constitutes a difficult but necessary balancing of interests.

### **Privacy:**

- No information that invades an individual's privacy should be accessible to others
- If by chance such information is made accessible to others, authorities are duty bound not to disclose the name of the accused, etc
- Classified information about an individual should be accessible to the individual in question, but not to the general public

## 5. Why do it?

Eradication of corruption releases substantial amounts of money that rightly belong to the state, i.e. the people – and they should be channelled into good governance and the public sector. These massive funds could work wonders for development in poor and malfunctioning societies and nations.

In corrupt societies, citizens have to cough up bribes or are charged illegal extra fees for a lot of services that should rightly be free: education, hospitalization, installing a simple phone line, obtaining a driver's license – almost anything.

Corruption can bleed a society dry. It traps people in poverty.

***“Corruption traps millions in poverty. Despite a decade of progress in establishing anti-corruption laws and regulations, today’s results indicate that much remains to be done before we see meaningful improvements in the lives of the world’s poorest citizens.”***

**Huguette Labelle, Canada, Chair,  
Transparency International**

In late 2006, Russia's Deputy Public Prosecutor stated that his country loses USD 233 billion (in numerals, USD 233.000.000.000 ) every year to corrupt officials. 233 billion dollars equals 20-30 percent of Russia's entire GDP in 2005. If this vast amount of money were part of the official economy in an open society with transparency and public participation in administration, it would go a long way towards invigorating an ailing economy as well as vital public institutions – ranging from social services and the health sector to education, to name but a few areas in need.

By no means does this handbook aim to point a finger at any specific country; the example of Russia only serves to point out the amount of money that illegally evades the public good when corruption rules.

Transparency International, an organization that monitors corruption worldwide, says that corruption by 2006 had increased sevenfold in just five years.

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Doing away with corruption is probably the most pressing reason for introducing *Openness and Access to Information*. Also, as noted elsewhere, Access to Information is a human right, inherent in the right to Freedom of Information,.



By following the path of *Openness and Access to Information*, a society creates the basis for constructive interaction between civil society and government. And this again creates the foundation for bolstering economic efficiency in the public sector, strengthening development, cooperation, public participation, and influence – the list of advantages is long, and there are no drawbacks!

Other obvious reasons are a significant increase in efficiency and countering myths and hearsay about government and administration:

If people have access to all kinds of information about administration – for instance, about salaries, ownership of shares, and other remunerated or unremunerated undertakings and interests – the breeding ground for false and often destructive rumours is minimized.

In the best of all possible worlds, society is developed and run in a constant dialogue between the people, civil service and the administration; all voices are heard, and knowledge, experience and best practises are put to use. This goes for every aspect of society: education, environmental protection, the labour market, health care, child care, and care for the elderly, people with disabilities, etc.

The balance between ideals and reality will, of course, always be a delicate one, but the whole point is that the processes should be transparent and take place in the open; every stakeholder should have her or his say and know and understand how decisions are made and whether and how they are implemented.

***Amartya Sen has said that there has never been a famine in a country with a free press and open government. The relationship between information and power is profound. Without information, the people have no power to make choices about their government – no ability to meaningfully participate in the decision-making process, to hold their governments accountable, to thwart corruption, to reduce poverty, or, ultimately, to live in a genuine democracy.***

***Sen, Amartya,  
Economist and Nobel Prize Winner,  
Development as Freedom, New York Knopf,  
1999, p. 178.***

*“Information does not belong to one ideology or another, knowledge is not the privilege of one creed or conviction.”...*

*“If information and knowledge are central to democracy, they are the conditions for development. It is that simple.”...*

*“What is so thrilling about our time is that the privilege of information is now an instant and globally accessible privilege. It is our duty and our responsibility to see that gift bestowed on all the world’s people, so that all may live lives of knowledge and understanding.”*

*Kofi Annan,*

Global Knowledge 97 conference in Toronto,  
Canada on June 22, 1997.

## 6. Experiences and Examples

*Openness and Access to Information* has so many faces and facets that we cannot possibly mention each and every one of them. The path leading there is broad and the examples are many. Openness and Access can be hi-tech or lo-tech; it may be expensive, inexpensive or even free. Most of all it takes initiative, imagination and good will. Below you will find a selection of examples from many countries; the list is not prioritized. The purpose is to illustrate these many facets and to inspire.

The Transparency Checklist for best practices in municipalities in Bulgaria is the brain child of the Bulgarian organization Foundation for Local Government Reform. Municipalities all over the country contribute to the list by providing examples of best practice in the daily work of their respective municipality. Examples may include, say, procedures of the municipal county, the way decisions are executed and communicated, openness in financial management, in relation to service delivery, to public procurement procedures, and decisions and issues relating to management and disposal of municipal property.

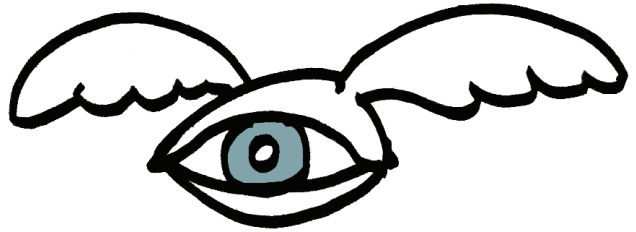
One-stop shops of municipal service in India: The Vijaywada Online Information Center (VOICE) in Vijaywada, India delivers municipal services out of

five kiosks. Services include building approvals, birth and death certificates, and the collection of property, water and sewerage taxes. The system has reduced corruption, made access to services more convenient and simple, and even improved the finances of the municipal government.

Government road show to raise awareness in Niger: In Niger, West Africa, government ministers and high-ranking officials travel the countryside to sensitize, consult with and gather comments from administrative, traditional, religious and civil society leaders; for instance, , informing and involving the public in drawing up a national strategy for conflict prevention prior to the conclusion of a final document on the issue in 2003. When aiming at raising awareness on the fight against AIDS and treatment of diseases in Niger, similar teams seek out suitable venues for campaigning, e.g. large markets or traditional gatherings like the nomads' annual "Salt Party".

General access to Communist secret police files in the Czech Republic: In 2002, the Senate of the Czech Republic approved an Act to extend the right of access to previously classified Communist secret police files. Since 1996, Czechs had had access to their own files; the extension of the Act opened the files to everyone





– except files on foreign nationals and files containing information that might endanger national security or the lives of other people. The Act also established a new Institute for the Documentation of the Totalitarian Regime to oversee access to the files and ensure transparency in the process.

Putting your money where your mouth is: In South Africa, legislation on Access to Information is further strengthened by demanding that staff is hired to actually facilitate and provide the access. South Africa's Promotion of Access to Information Act includes the following passage: "For the purpose of this Act, each body must ... designate such number of persons as deputy information officers as are necessary to render the public body as accessible as reasonably possible for requesters of its records."

The Danish Act on Transparency and Openness in the Educational Sector obliges local governments in Denmark to mount specific openness initiatives, including establishing and maintaining a website at all schools. At these sites, relevant information must be published, such as plans and schedules for lessons and courses, information on the educational principles and teaching values, and grade point averages for courses, classes, etc. This was introduced to facilitate the new Act on Free School Choice.

Accountability on requests received and processed: Every year, all Bulgarian ministries must report to the Council of Ministers the number of requests for information they have received as well as how many requests they have actually processed. This information is fed into statistics that are part of the Council's annual report, which is available to the general public.

Anti-Corruption Internet portal in South Korea: In Seoul, the Municipal Government of the South Korean capital has established an OPEN System (Online Procedures Enhancement for Civil Applications) to enhance transparency in public procurement practices. The OPEN portal publishes a variety of information related to services, permits and licenses issued by the local government; any applicant can thus track the status of her or his application at any time.

Environmental Right-to-Know Network: In the USA, the Right-to-Know Network provides free access to numerous official databases and other resources on the environment. The Network was established to empower citizens in community and government decision-making. For instance, the Network makes it possible to identify specific plants and their environmental record and impact, find permits issued under environmental statutes, identify civil suits

filed, and the like. The Network was set up in 1989 in support of the Emergency Planning and Community Right to Know Act, which mandated public access to the Toxic Release Inventory.

British government home page on Freedom of Information: The British government conducted an extensive campaign prior to 1 January 2005, when the first ever Freedom of Information Act entered into force in the UK. A home page on the right to freedom of information was designed to provide the public with an introduction to human rights in general and the new British legislation in particular.

Key figures database on local government: In Denmark, the central government hosts a Local Government (LG is the association of municipalities in Denmark) database on key figures. The Ministry of Health and the Interior publishes a large amount of key statistic figures on each municipality every year – in print as well as in a database, which is open and accessible to the public.

Despite the most sincere efforts towards transparency, large amounts of information may be inaccessible if they are impossible to navigate, i.e. to sort and

compare. The main challenge of such information gathering is to ensure that it is comparable; therefore the collection and reporting of data should follow specific guidelines.

The key figures database includes data such as demographics, living conditions, employment, municipal income and expenditure, government services, child and general social care, education and culture, costs and benefits. Anyone can access this information. The most diligent users of this service are journalists. For all the information to actually make sense, e.g. in order to find out why some municipalities perform better than others or in other ways draw conclusions from such reams of data, it is necessary to analyze the policies and administrative practices behind the numbers.

The system has turned out to be highly useful in increasing municipalities' awareness of their own efficiency. And the key figures databases have provided local governments with an incentive to apply national accounting standards in order to ensure that their financial dispositions are correctly reported to the public.

*“Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it is but a prologue to a farce or a tragedy or perhaps both.”*

*James Madison,*

Fourth President of the USA (1809-1817)

## 7. Tool Box

Check out the situation in **your** country or institution:

### National Level Check List:

*Does the constitution and legislation safeguard*

- Freedom of information?
- Data protection?
- Anti-corruption measures?

*Has an Access to Information Act been adopted, building on*

- The principle of maximum disclosure?
- Broad application to public bodies (including the legislature and the judiciary)?
- General right of access to publicly held information?
- Duty for public authorities to actively inform the public of their activities?
- Limited and clearly worded range of exceptions?
- In principle, no charge for giving access to information?

*Have Acts been adopted on*

- Anti-corruption?
- Protection of personal data?
- Archives?

*Do national legislation or procedures*

- Oblige authorities to actively involve the public with regard to specific activities, plans, etc., resulting in public hearings, debates, etc.?
- Prescribe that the core curricula of relevant further and higher educational institutions must include an introduction to good administration?
- Do authorities raise public awareness of legal standards, including the right of access to information?
- Are there civil society initiatives aimed at creating public awareness of the right of access to information?

- Does the public make use of the right of access to information?
- Are public officials aware of their duty to provide information; and do they receive training and education to that end?
- Are legal practitioners and other relevant staff aware of the standards and if not, is anything done to remedy this?
- Are the legal standards actually applied in practise?
- Do public employees provide information upon request?
- Are refusals given only when warranted by law?
- Do authorities publish the number of requests granted/refused regarding access to information in annual reports or the like?

*Bodies like Ombudsman, Information Commissioner or the equivalent*

- Are mandated to review decisions on *Openness and Access to Information*
- Have made decisions and
- These decisions are respected by public authorities
- A specific body oversees the respect for personal data protection
- A National State Auditor institution makes institutional audits (e.g. financial or public authority performance)
- Courts may deal with issues of conduct of public authorities

*The level of Openness and Access to Information is monitored by*

- National NGOs and/or independent bodies
- International NGOs (e.g. Transparency International or Privacy International)

- International Governmental Organizations
- Are monitoring recommendations respected by public institutions and implemented in practise?

### **Institutional Level Check List:**

*The institution has – and actively implements – a legal framework on openness*

*The institution has a policy, strategy and procedures on:*

- Openness and service
- Provision of information upon request and/or at the institution's own initiative
- A multimedia approach to optimize information and communication with citizens (meetings, e-government, TV, radio, local papers, news bulletin, letters)
- In-house information support system; database, storage system, intranet

### **Institutional organization entails:**

- Unified access/point of entry; e.g. supported by one-stop shop, a home page and service handbook
- Professional handling of public information and press relations
- A well-functioning archive

### **Information policy:**

- Public hearing prior to major decisions on key issues (e.g. town and country planning, budget, education, environment, welfare, etc.)
- Key meetings (e.g. of city councils) are open to the public; agendas and minutes of meetings are accessible
- Citizen Advisory Groups/Panels discuss broader policy issues and enhance communication with the institution

### **The management of the institution should:**

- Demand and encourage staff to strengthen their capacity for promoting openness
- Exchange experience with other institutions regarding best practises
- Evaluate administration from an openness perspective – and report findings to the public
- Provide information about its budgets and accounts
- Apply transparent auction and tender procedures for public procurement
- Have an internal complaints mechanism and/or accept and treat appeals of its decisions in other ways
- Respect decisions and recommendations from relevant review and oversight bodies
- Accept and respect NGO monitoring of the institution's performance



## Relevant organizations and websites:

### Civil society:

**Access Initiative:** [www.accessinitiative.org](http://www.accessinitiative.org)

**Accountability:** [www.accountability.org.uk](http://www.accountability.org.uk)

**“Article 19” Global Campaign for Free Expression:**  
[www.article19.org](http://www.article19.org)

**Access to Information Programme in Bulgaria:**  
[www.aip-bg.org/index\\_eng.htm](http://www.aip-bg.org/index_eng.htm)

**Campaign for Freedom of Information in Great Britain:**  
[www.cfoi.org.uk](http://www.cfoi.org.uk)

**Electronic Information Centre:** [www.epic.org](http://www.epic.org)

**Freedominfo.org:** [www.freedominfo.org](http://www.freedominfo.org)

**Freedom of Information Advocates Network:**  
[www.foiadvocates.net](http://www.foiadvocates.net)

**Human Rights Watch:** [www.hrw.org](http://www.hrw.org)

**International Records Management Trust:**  
[www.irmt.org/about.html](http://www.irmt.org/about.html)

**Open Democracy Advice Centre in South Africa:**  
[www.opendemocracy.org.za](http://www.opendemocracy.org.za)

**Open Society Justice Initiative:** <http://justiceinitiative.org>

**Privacy International:** [www.privacyinternational.org](http://www.privacyinternational.org)

**Statewatch:** [www.statewatch.org/foi.htm](http://www.statewatch.org/foi.htm)

**The Carter Centre:** [www.cartercenter.org](http://www.cartercenter.org)

**Transparency International:** [www.transparency.org](http://www.transparency.org)

### Independent Institutions:

**British Information Commissioner:**  
[www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

**Ombudsman for the European Union:**  
[www.euro-ombudsman.eu.int](http://www.euro-ombudsman.eu.int)

**Information Commissioner of Canada:**  
[www.inforcom.gc.ca](http://www.inforcom.gc.ca)

**Irish Information Commissioner:** <http://oic.gov.ie>

**International Conference of Information Commissioners:**  
<http://dev.telecomabmex.com/infocancun/index.php?lang=eng&seccion=linksAcceso>

**International Ombudsman Institute:**  
[www.law.ualberta.ca/centres/oi/](http://www.law.ualberta.ca/centres/oi/)

**The Danish Institute for Human Rights (DIHR):**  
[www.humanrights.dk](http://www.humanrights.dk)

**DIHR and Local Government Denmark’s handbook:  
An Introduction to *Openness and Access to Information*:**  
<http://www.humanrights.dk>

**The Ombudsnet in Latin America:**  
<http://www.iidh.ed.cr/Comunidades/Ombudsnet/>  
(English service: <http://www.iidh.ed.cr/Comunidades/Ombudsnet/english/contenido.aspx>)

**The (Environmental) Right-to-Know Network:**  
[www.rtknet.org](http://www.rtknet.org)

## **International Governmental Institutions:**

**Council of Europe; Commissioner for Human Rights:**  
[www.coe.int/t/commissioner/default\\_EN.asp](http://www.coe.int/t/commissioner/default_EN.asp)

**European Commission Governance Section:**  
<http://europa.eu.int/comm/governance>

**International Covenant on Civil and Political Rights:** [www.unhchr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhchr.ch/html/menu3/b/a_ccpr.htm)

**Organization for Economic Co-operation and Development, OECD:** [www.oecd.org](http://www.oecd.org)

**Organization for Economic Co-operation and Development, OECD; Corruption page:**  
[www.oecd.org/topic/0,2686,en\\_2649\\_37447\\_1\\_1\\_1\\_1\\_37447,00.html](http://www.oecd.org/topic/0,2686,en_2649_37447_1_1_1_1_37447,00.html)

**Organization for Economic Co-operation and Development, OECD; Governance page:**  
[http://www.oecd.org/topic/0,2686,en\\_2649\\_37405\\_1\\_1\\_1\\_1\\_37405,00.html](http://www.oecd.org/topic/0,2686,en_2649_37405_1_1_1_1_37405,00.html)

**Special Rapporteur on Freedom of Expression of the Organization of American States:**  
[www.cidh.oas.org/relatoria/](http://www.cidh.oas.org/relatoria/)

**United Nations:** [www.un.org](http://www.un.org)

**UN Guidelines concerning computerized personal data files:**  
[www.unhchr.ch/html/menu3/b/71.htm](http://www.unhchr.ch/html/menu3/b/71.htm)

**Universal Declaration of Human Rights:**  
[www.un.org/Overview/rights.html](http://www.un.org/Overview/rights.html)

**UNDP:** [www.undp.org](http://www.undp.org)

**UNESCO:** [www.unesco.org](http://www.unesco.org)

**UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression:**  
[www.unhchr.ch/html/menu2/7/b/mfro.htm](http://www.unhchr.ch/html/menu2/7/b/mfro.htm)

**World Bank; Governance and Anti-Corruption:**  
[www.worldbank.org/wbi/governance](http://www.worldbank.org/wbi/governance)

**Commonwealth Human Rights Initiative:**  
<http://humanrightsinitiative.org>

## **Public Administration:**

**Department of Constitutional Affairs of Great Britain:**  
<http://www.foi.gov.uk/>

**Ireland FOI Central Policy Unit:** [www.foi.gov.ie](http://www.foi.gov.ie)

**Local Government Denmark (English version):**  
<http://www.kl.dk/lgdsk>

**UK Parliament Freedom of Information page:**  
[www.parliament.uk/parliamentary\\_publications\\_and\\_archives/foi\\_introduction.cfm](http://www.parliament.uk/parliamentary_publications_and_archives/foi_introduction.cfm)

## 8. History

The development of openness in governmental affairs in Sweden since the 18th century has been one of the greatest sources of inspiration in spreading the principle of openness across the continents. After World War II, many countries, primarily in the Western hemisphere, started adopting legislation on access to information held by governments. Since the fall of the Berlin Wall, this process has swept to most Central and Eastern European countries undergoing transition to democracy – and also to countries in this transition throughout all other continents. Currently, a considerable number of countries in Asia, Africa and the Americas are considering legislation on *Openness and Access to Information*.

Since the adoption of the Universal Declaration of Human Rights in 1948, the protection of freedom of information has gradually developed and grown. The legally binding United Nations human rights conventions – as well as some regional ones – explicitly provide individuals with a right to seek information and affirm the authorities' corresponding duty to provide information.

The development of openness principles has been further supported and cemented in all parts of

the world by the creation of conventions against corruption as well as principles on good governance, and more and more countries are acceding to these conventions.

As of September 2006, 67 countries all over the world had legislation regarding access to information, and there is a clear tendency towards more and more countries following suit – see Privacy International's (PI) map on page 19.

Democratic countries increasingly legislate to make government records and processes accessible. The culture of secrecy that has shrouded many governments for centuries and still cloaks a few seems increasingly less viable. Modern communication technology also paves the way for easier and broader access, even if some countries fervently try to counteract this development.

According to PI, however, not all laws have proved adequate; or maybe implementation is wanting. In some countries, the laws might be solid and comprehensive, but they are not applied. In other countries, these laws are circumvented by governments for any variety of reasons. New laws



promoting secrecy in the global war on terror have undercut access to information. International organizations take on government roles in a national or global context, but cannot impose legislation or rules on access to information.

But even if there are currents that run counter to *Openness and Access to Information* in some countries or regions, the global trend is towards more access. And even if a government wishes to practise closed and unenlightened government, only very few authoritarian leaders will venture to claim outright that citizens do not have the right to know.

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The *protection of personal data* has also increased during the past decades, primarily due to the emergence of new and much more powerful technologies that simplify the technical aspects of data processing. All international and regional data protection instruments provide individuals with a right to access data processed about them as well as a right to challenge these data.

## 9. Background

This handbook is based on its mother publication: An Introduction to *Openness and Access to Information*, prepared and published by the Danish Institute for Human Rights and Local Government Denmark.

The idea originated in Ukraine where a DIHR partner suggested the need for such an introduction to the nuts and bolts of *Openness and Access to Information*. In it, you can find a variety of models and examples as well as in-depth descriptions of laws, acts, exemptions, rules and regulations – all the details that must be taken into consideration when setting out on the path to *Openness and Access to Information*.

The diligent background research as well as gathering and filtering of large amounts of information in preparation for the Introduction was done by Ms. Louise Krabbe Boserup at DIHR during late 2004 and early 2005.

The Introduction is the result of close cooperation between the two Danish partners as well as a number of international DIHR partners in South Africa, Malawi, Niger and Cambodia; the material was tested and further elaborated on during three international workshops with partners and stakeholders in Malawi, Niger and Cambodia.

When it comes to actually introducing and implementing *Openness and Access to Information*, this handbook is but an appetizer; so please regard it as such

You may download the full text of An Introduction to *Openness and Access to Information* at:

**[www.humanrights.dk](http://www.humanrights.dk)**



This booklet serves two purposes: promoting access to information as a human right and promoting openness in governance. Together, human rights and good governance amount to genuine popular participation.

Access to information is important as a human right but also as a lever for the promotion and implementation of other human rights. Under certain, specific conditions, the right of access to information can be denied. The general rule, however, is always in favour of access; citizens will rarely encounter these exceptions in practice.



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