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Navenda Sûriyayî ya Ragihandinê û Azadiya Derbirinê
Syrian Center for Media and Freedom of Expression



Study The Right of Access to Information & Protection of Sources in Syria

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"Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated¹."

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Resolution 59-A, 1st session of the United Nations General Assembly,
December 14, 1946

General guidance: **Mazen Darwish**. Founder and Director of the Syrian Center for Media and Freedom of Expression

Author: **Yahya Shuqair**, Jordanian journalist, researcher in media legislation.

Questionnaire development and analysis: **Orwa Khalifa**, Syrian researcher and writer.

Review: **The SCM team**

Yara Badr: Director of the Media and Freedoms Program

Dr. Ayman Mun'em: Head of the Legal Office

Ebaa Munzer: Coordinator of the Media and Freedoms Program.

¹ Dr. Nabila Abdulfattah Qashti Media between rights and duties. Al-Rasheed College of Mixed Education - Egypt, 1st Edition, P 159
<https://books.google.com.tr/books?id=cmEMEAQAQBAJ>

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Terminology abbreviations

FOI, RTI	Freedom of Information or Right to Information
RTK	Right to Know
RTKD	Right to Know Day (28 September every year)
NGOs	Non-Government Organization
CSO	Civil Society Organization

Executive summary

The public's right to know and to have access to information is a cornerstone in any democracy worldwide, because the effective participation of citizens depends on information. Access to information is also an essential tool to fight corruption and reveal government misconducts. Through information, journalists, NGOs and citizens can highlight mistakes to help address them. Access to information has also become a basic human right for the realization of other rights. It is a prerequisite for individuals to participate in community work and make wise decisions. Fulfilling the right to information is also a prerequisite for achieving full gender equality and justice.

Since the right to freedom of expression and freedom of the press cannot be realized without the right of access to information, the world has, in the last thirty years, witnessed a plethora of laws enacted towards this end. 110 countries have passed laws on access to information. 134 countries have so far passed legislation guaranteeing this right, including seven Arab countries: (Jordan 2007, Tunisia 2011, Yemen 2012, Sudan 2015, Lebanon 2017, Morocco 2018, and Kuwait 2020). In addition, Egypt and Algeria have enshrined the right to access and share information in their constitutions (through the 2016 constitutional amendment in Algeria and the 2019 constitutional amendment in Egypt).

This study aims to highlight the importance of this matter with the hope to enhance people's participation in the public dialogue about the necessity to enact such a law in Syria to ensure access to information for citizens in general and journalists and media professionals in particular, and to protect information sources and advocate for this end.

Accordingly, a team from the Syrian Center for Media and Freedom of Expression (SCM), in cooperation with the independent researcher Orwa Khalifa, conducted a survey among Syrian journalists to explore their views about issues related to the freedom of access to information and protection of journalistic sources in order to build comprehensive understanding of the challenges facing these two critical issues for journalism and freedom of expression in Syria. Meanwhile, this study is just a first step in line with the global trend toward legalizing the right to access information. We still need to conduct multiple discussions with various influencers in formulating such a legislation and identify stakeholders in order to draft a comprehensive access to information law in Syria.

The questionnaire showed that one third of the respondents (32.7%) believed that obtaining information from official authorities is either difficult or very difficult. This is the case not only with information and data considered sensitive by these authorities (e.g., security and political issues) but even on services and other issues related to citizens' lives, including information about Covid-19 pandemic. 50.49% of the respondents indicated that access to official information is moderate, and 16.97% said it is easy or very easy.

How do you rate your access to official information in your area on a scale of 1 to 5 where 1 means no access to any information, and 5 means full access to all information?	(%)	Number
1	5.66%	3
2	26.41%	14
3	50.94%	27
4	7.54%	4
5	9.43%	5
Total	100%	53

The vast majority of respondents also referred to a life-threatening risk when dealing with a certain type of information that affects the people's lives and future. Two thirds of the respondents argued that the effective laws in their areas do not guarantee the right to protect the sources of information. This is very dangerous, especially with the existence of laws aimed at the opposite through pressuring journalists to reveal these sources and they sometimes face punitive actions, including lawsuits and security action.



Introduction

The right to information has different names; most notably, 'freedom of information', 'access to information' and 'right to know'. These terms mean one thing: "the right of individuals to obtain adequate information from the administration or the authority that governs their society, about matters that concern them and that they desire to know."

As early as 1946, the United Nations recognized the freedom of information as a fundamental right in its first session, through the UNGA Resolution 59(1), which stated: "Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated." The UNESCO General Conference-38th Session, held in Paris on November 17, 2015, adopted September 28 as the International Day for Universal Access to Information, and the UN General Assembly decided to name it the International Right to Know Day 2021. One of the most closely related rights is the right to protect the sources of information and not to disclose them, because forcing journalists to reveal their sources will impede the flow of information and consequently jeopardize the right of citizens to know.

In *Goodwin v. the United Kingdom* (1996), the European Court of Human Rights upheld freedom of expression, a fundamental right of journalists to remain anonymous, stating that: "The protection of journalistic sources is an essential means of press freedom ... and without such protection, the press cannot use sources to inform the public about matters of public interest"².

In Syria, Article 50(a) of the 1990 Law of the Journalists Association guarantees the journalists' right to obtain information and statistics from their sources, as well as the right to publish them. Journalists may not be forced to disclose their sources, all within the limits of law. Article 105 of the Syrian Journalists Association Bylaws reiterates the previous right as follows:

- a. Journalists have the right to access news, information and statistics from their sources as well as the right to publish them. They may not be forced to disclose their sources, all within the limits of law.

However, throughout the 48 years under the state of emergency law, and as is the case in most countries that prioritize the so-called "protection of national security" over human rights and citizens' dignity, these provisions had not been in place and many media professionals are even not aware of their existence. This has eroded the confidence between citizens and media professionals in Syria, because the latter are not able to maintain professional independence under such strict government control. Subsequently, the security agencies would interfere in the legislative power. Article 28 of Legislative Decree No. 50 of 2001, concerning the freedom of publications and libraries (repealed in 2011 by the Media Law No. 108) states that:

- c. Journalist may not be asked about the sources of their information, except when referring to official sources, and the Minister may cancel the work authorization of any journalist if the latter fails to disclose such sources.

² <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-57974%22%5D%7D>

In reality, this was not the case. For example, the 2009 SCM report³ "Media Landscape in Syria 2008-2009" stated that the Ministry of Information refused, without further explanation, to provide the SCM with the lists of newspapers and media outlets that are typically issued by government agencies, or the lists of private newspapers and media outlets.

The failure to enforce Article 7(b) of the Media Law No. 108 of 2011, which states that "no one may ask the media professional to disclose their sources of information except through the judiciary and in a secret session.", has blocked any attempt to restore confidence by both the media professionals and the citizens.

41.50% of the respondents believe that the people in various sectors - both civilians and local government officials - have poor desire to speak publicly to the press, while 49.05% considered such desire to be moderate.

These answers reflect the fact that information sources have no protection, which makes ordinary people and civil servants reluctant to share information, no matter how insensitive, with journalists to avoid security and even legal persecution. This affects the performance of journalists and their ability to communicate data, information and stories about to the lives, livelihoods and future of the population. 98.10% of the respondents said that their sources sometimes or often express security concerns when providing information, which reflects the extent of the fear of speaking to the press among the population in Syria.

Can you rate the desire of people in various sectors - both civilians and civil servants - in your area to speak openly to the press?	(%)	Number
Poor	41.50%	22
Moderate	49.05%	26
High	9.43%	5
Total	100%	53

Do your sources express any security concerns when providing information to journalists?	(%)	Number
No concerns	1.88%	1
Sometimes	54.71%	29
Much concerns	43.39%	23
Total	100%	53

³ <https://scm.bz/studies/الرقابة-وضجج-الاقلام-و-صمت-الاقلام-2008-2009-سوريا>



Chapter One: International Standards for Freedom of Expression and Freedom of the Press

Information is key for ensuring freedom of opinion and expression as well as freedom of the press. Without accurate and reliable information, these freedoms would be mere opinions and impressions not based on facts. Also, access to information is a prerequisite for any individual to participate in public life, make wise decisions on issues such as elections, participation in public discussion of policies and draft laws, monitoring governments, revealing human rights violations, exposing corruption and poor performance of government agencies, and facilitate the establishment of commercial and economic projects. Information is one of the best tools for dialogue among citizens to reach consensus on various political, economic and social issues. However, the correlation between access to information and transparency, accountability and combating corruption may discourage the influential official suspected of corruption and profiteering from passing such a legislation because they prefer to work without any parliamentary, media and legal oversight.

Section 1: International Standards for Freedom of Expression and Freedom of the press

Freedom of expression is one of the most important rights in the International Bill of Human Rights, and the legal text provides for it but does not enforce it. It is the most important among defensive liberties, which were basically enshrined to protect individuals from state authorities.

The issuance of the Universal Declaration of Human Rights (UDHR) in 1948 was the starting point for influencing the development of human rights legislation globally, regionally and nationally. According to UDHR, "Everyone has the right ... to seek, receive and impart information and ideas." Article 11 of the 1789 French Declaration of the Rights of Man and of the Citizen states that: "The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law." This was one of the first legal texts that recognized this right. It was followed in 1945⁴ by the UNESCO Constitution⁵, which is one of the first international documents in this regard. Later, Article 19 of the UDHR stated that: "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."

⁴ <http://unesdoc.unesco.org/images/0011/001176/117626e.pdf>

⁵ <http://unesdoc.unesco.org/images/0011/001176/117626e.pdf>

Below is a comparison between Article 19 of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), and Article 32 of the Arab Charter on Human Rights:

UDHR, 1948	ICCPR, 1966-1976	Arab Charter on Human Rights, 2004-2007
Article 19: 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(1): 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: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order, or of public health or morals.	Article 32: This Charter guarantees the right to information and to freedom of opinion -and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries. These rights and freedoms are practiced within the framework of the basic components of society and are subject only to restrictions imposed by the respect of the rights of others or the protection of national security or of public order, or of public health or morals.

The three words (seek, receive and impart information) are repeated in all covenants related to freedom of opinion and expression. ICCPR is an international binding treaty, which means it takes priority over national and local laws. 167 countries have endorsed the ICCPR, including Syria, which ratified it on 12 January 1969 through Legislative Decree No. 37 issued by President Nouraddin al-Atassi, which made it an enforceable domestic legislation. Accordingly, the Syrian government submitted its Universal Periodic Review to the Human Rights Council in 2016.

⁶ <https://arij.net/wp-content/uploads/2019/02/حق-الحصول-على-المعلومة.pdf>

⁷ <https://syrmh.com/2021/03/11/مرسوم-انضمام-سورية-الى-العهد-الدولي-ال->

To explain these concerns, we recall the recent law No. 20 issued on April 18, 2022 by the Syrian President, which restructures the criminal rules for information crimes. This law is an example of silencing the citizens and media professionals, including cyberspace and social media. As usual, its provisions use unmeasurable terms, hence leaving the door wide-open for punitive action.

Article 27: Crimes against the Constitution

Anyone who creates or runs a website or web page or publishes digital content intended to provoking actions calling for changing the constitution by illegal means, or severing parts of the Syrian territory, or inciting armed rebellion against the existing authorities or preventing them from exercising their constitutional functions, or overthrowing or changing the constitutional government, shall receive an imprisonment term of 7-15 years and shall pay a fine between ten million and fifteen million Syrian pounds.

Article 28: Undermining the prestige of the state

Anyone who, by means of information technology, publishes false news on the internet that undermines the prestige of the state or harms the national unity, shall receive an imprisonment term of 3-5 years and shall pay a fine between five million and ten million Syrian pounds.

Article 29: Undermining the financial status of the state

Anyone who creates or runs a website or web page or publishes digital content intended to causing decline of value, instability or loss of trust in the national banknotes or their exchange rates as specified in the official bulletins, shall receive an imprisonment term of 4-15 years and shall pay a fine between five million and ten million Syrian pounds.

In these articles, the words "publishing content ... provoking actions that call for" do not have specific meaning. What does 'false news' mean at a time when the freedom of journalists and citizens to access information to know what is true and what is false is restricted? Will talking on social media about, for example, the deteriorating economic and poor living standards be considered destabilization of trust that could lead to the author to jail?!!!

Section 3: Historical background of access to information laws

The public's right to know and to have access to information is a cornerstone in any democracy worldwide. The active participation of citizens depends on information, and it is an essential tool in fighting corruption and revealing the mistakes of governments. Through information, journalists, NGOs and citizens can shed light on mistakes and deficiencies to help address them. The London-based Article 19 organization has described information as the "oxygen of democracy", because "for any democracy to work, citizens must have access to information so that they can make good decisions."

There is a major global trend towards legal recognition of this right. Countries aiming for democracy have either adopted freedom of information laws or are in the process of doing so. In 1766, Sweden (and Finland) was the first country in the world to enact an information law¹¹. 200 years later (in 1966), only four countries in the world had do so, and until 1990 there were 18 countries with such a law. In the past 30 years, 100 countries have issued information legislations, indicating an upward trend in this regard. Andorra was the last country to pass its law on December 3, 2021 and now, all the Council of Europe' 47 countries have information laws.

Access to information has become a constitutional right of about sixty countries, including four Arab countries: Morocco in 2011, Tunisia in 2014, Egypt in 2014 and Algeria in 2016. Enshrining this right in these four constitutions came after what is known as the Arab Spring. The Syrian constitution remains silent about this right, and it is hoped that it will be enshrined at the first possible opportunity.

It is also important to note that the essence of information laws is that citizens and not only journalists and media professionals should have access. In fact, information laws in most of these countries stipulate the right of every person to obtain information, including foreigners.

When the Moroccan constitution states, for example, that "the right to information can only be restricted by virtue of law," this means that the right may not be restricted by any other instrument less than a law (passed by the parliament) including regulations, instructions, or decisions. Contrary to the above, Article 9(f) of the Syrian Media Law (issued by Legislative Decree 108 of 2011) states that "A decision by the Council of Ministers shall determine the types of information that public entities are entitled not to disclose".

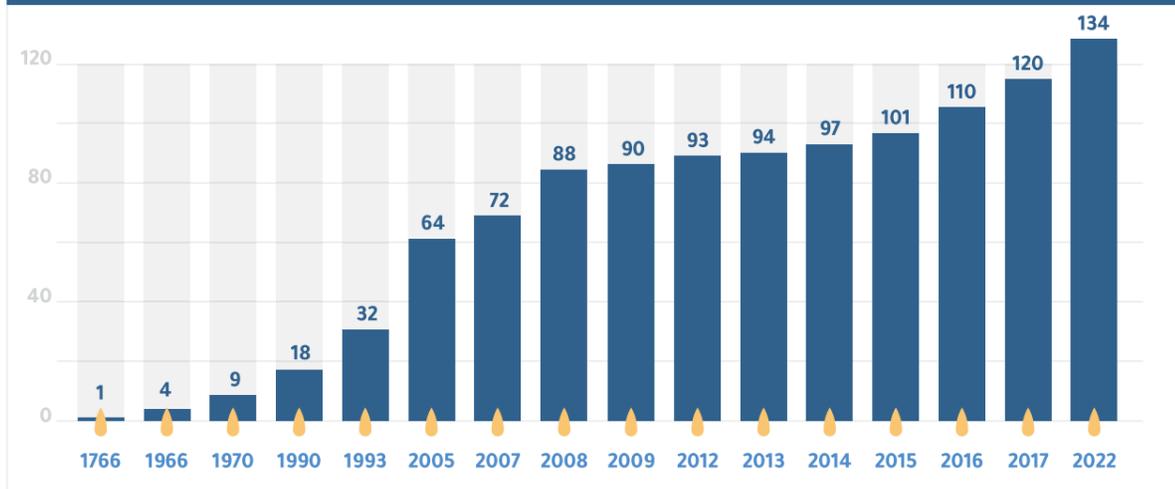
Thus, protecting the access to information right through the constitution is stronger than in the law only, because the violation of the constitutional text is subject to constitutional scrutiny and appeal to the Constitutional Court. The lack of a constitutional provision for this protection would mean wide discretion by the legislature in restricting the right of access to information.

Article 27 of the Moroccan constitution states:

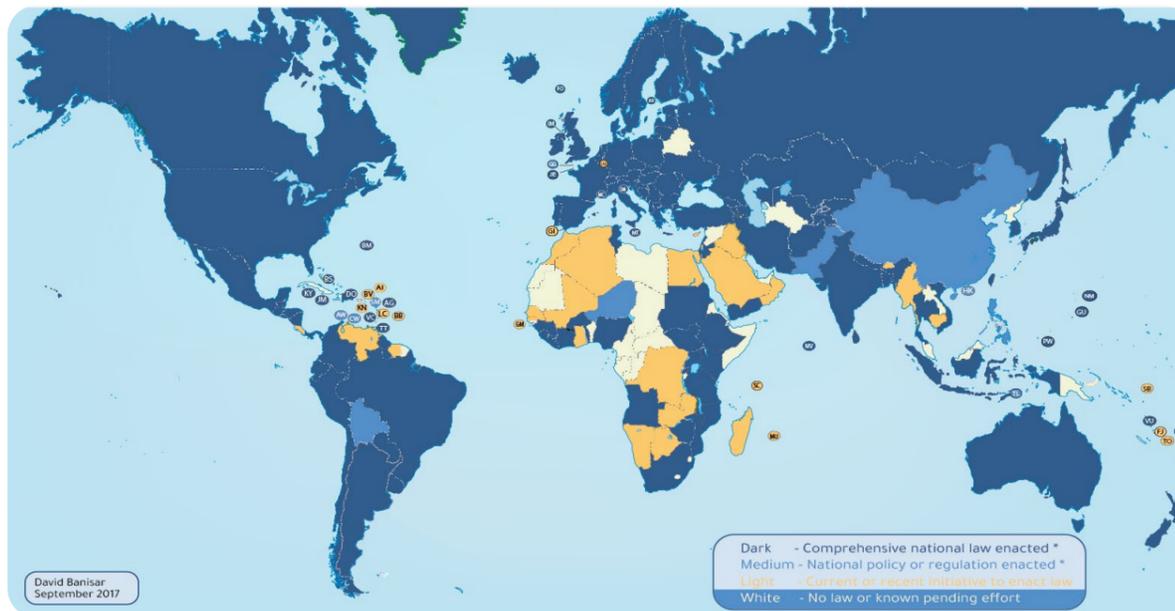
- "The citizens [feminine] and citizens [masculine] have the right of access to information held by the public administration, the elected institutions and the organs [organismes] invested with missions of public service.
- The right to information may only be limited by the law, with the objective [but] of assuring the protection of all which concerns national defense, the internal and external security of the State, and the private life of persons, of preventing infringement to the fundamental freedoms and rights enounced in this Constitution and of protecting the sources and the domains determined with specificity by the law."

¹¹ <https://studies.aljazeera.net/en/node/2065>

Chronology of enacting information laws in the world



National Right to Information Laws, Regulations and Initiatives 2021



Section 4: International standards for access to information

There are ten common aspects of access to information laws, which constitute the most relevant international standards in this regard. They are based on regional and international laws and rules that enhance country practices, as expressed, inter alia, in national legislations and rulings of national courts, in addition to the general principles of law recognized by the international community. These are primarily designed for national legislation on freedom to access official documents, but they are also applicable to other information sources like the United Nations, the European Union and the World Bank. Based on wide studies, analyzes and consultations under Article 19, these principles are also based on extensive experience and comprehensive work with partner organizations in many countries. These principles were ratified by the UN Special Rapporteur on Freedom of Opinion and Expression in the 2000 Annual Report.

The UN Human Rights Committee, which oversees the ICCPR implementation, also affirmed in its General Comment No. 34, after two years of consultations and discussions on how to interpret freedom of opinion and expression enshrined in Article 19 of the ICCPR that this article “guarantees the right of access to information held by government bodies. States should try their best to ensure rapid, easy, effective and practical access to state-controlled information.”

These principles are¹² :

- Maximum disclosure.
- Promoting the culture of open government, proactive duty to publish, and duty to assist requesters
- Limited scope of exceptions
- Overriding right
- Determining the timelines for responding to requests
- Right to appeal against denial
- Existence of an independent body to ensure the right of access to information
- Determine the overall historical time limits
- Fair cost
- Protection of whistle-blowers

¹² https://en.unesco.org/sites/default/files/annex_iii_pub_8.pdf

There are two ways to disclose information:

1- Proactive

Here, the ministry and agency in question disclose most of the information of interest to the public without requests.

A key principle is 'maximum disclosure' which means that information should be disclosed except in particular cases. Public entities must disclose information, and every individual has the right to obtain it, and every person living in the country also benefits from it. This right is enforceable regardless of the individuals' interest in the information. Official entities that prevent the public from accessing information must justify such denial at every stage of the process.

In other words, public entities should make it clear that the denial is based on exceptions specified by the law. For information disclosure purposes, "public entities" shall include local government, elected and commissioned bodies, as well as state-owned enterprises, quasi-governmental gongos, private sector bodies running a public utility, and private businesses receiving government funding or possessing information whose disclosure could prevent harm to the public interest, such as the environment and health.

2- Reactive

Here, the ministry or agency provides information upon request, unless the information falls under exceptions that prevent disclosure.

While international standards recognize exceptions, these must be tested for harm to the public interest. Public entities must respond to all individual information requests, unless the information falls under exceptions that prevent disclosure. Restriction is only justified if the public entity shows that it passes the 'three-part test' inspired by Article 19 of the ICCPR, which consists of:

- Legality (stipulated in a law);
- Legitimacy (to protect a legitimate objective);
- Proportionality with the expected harm.

Ensuring balance between the right to information and protection of national security is difficult, especially today and worldwide, where fighting terrorism is overlapped with protecting national security. Tshwane Principles came to strike this balance and ensure public access to information without jeopardizing national security interests.

Access to information laws in the six Arab countries having such laws

	Jordan	Yemen	Tunisia	Sudan	Lebanon	Morocco
Constitutional provisions	No	No	Chapter 32	No	No	Chapter 27
Providing for proactive or automatic disclosure	No	Yes	Yes	Limited	Yes	Yes
Right of citizens or humans	Citizens	Citizens and expatriates	All	All	All	Citizens and expatriates
Written or electronic request	Written	Written	Written and electronic	Written	Written	Written and electronic
Reason for or interest in requesting the information	Yes	No	No	No	No	For legitimate purposes
Independent entity to receive complaints	All members are employees	Information commissioner	Varied, led by a judge	Under the minister's supervision	Anti-corruption Commission	Commission w/ diversified representation
Decision of complaint receiving entity is mandatory	Not mandatory	Not mandatory	Mandatory	Not mandatory	Mandatory	Not mandatory
Limited and restricted exceptions allowing discretionary powers for the administration	Wide and discretionary		Limited	Wide and discretionary	Allow discretionary powers for the administration	Wide and discretionary
Request response delay	30 days	15	20 days	One week	15 days	20 days
Penalties for the employee's intentional failure to respond to requests	N/A	Imprisonment or fine	Fine + Disciplinary penalty	Imprisonment	N/A	Disciplinary penalty
Reasonable access to information costs	Yes	Yes	Yes	Yes	Yes	Yes
Judicial appeal against denial	Admin. court	Regular courts	Admin. court	Admin. court	Admin. court	Admin. court
Supervisory authority publishes reports on its work	No	Yes	Yes	Yes	Yes	Yes
RTI-rating (out of 123 countries - 1 is the best)	115	35	13	Unavailable	93	90

Whistleblower Protection Act

Some countries, (including Kenya, Rwanda and Lebanon), have established whistleblower protection in their information legislation, while others (including Jordan) have made it in anti-corruption laws. Other countries (including the United States in 1989, South Australia in 1993, and India 2011) devoted a separate legislation for protecting whistleblowers. Syria has no such legislation, and is not expected to have one in the near future.



Chapter Two: Access to information and protecting information sources in Syria

The findings of the SCM survey, conducted by an independent researcher for this study, showed that half of the Syrian respondents are not aware of the existence of media-related legal codes in their areas of work, if any. The term 'legal codes' is used because various de facto authorities in Syria do not have the jurisdiction to enact laws; instead, they issue such operational regulations to regulate different aspects of life, and around half of the respondent are aware of such codes.

Are you aware of media-related legal codes in your region?	(%)	Number
Yes	49.05%	26
No	50.94%	27
Total	100%	53

In addition, 50.93% of the respondents believe that accessing official information is difficult or very difficult. While only 5.66% considered it easy.

This shows that Syrian journalists suffer greatly to access official information, not only about topics that the de-facto authorities may consider sensitive (e.g., security and political issues), but also about services and other critical information for citizens (e.g., Covid-19 prevalence rates), as indicated by journalists who attended the SCM focus sessions. Other journalists claimed that topics that have nothing to do with security or political issues may be labelled as sensitive in their areas (including oil trade between the Autonomous Administration and the Syrian government in Damascus), and attempting to access information about them might put journalists at risk.

How easy is it for journalists in your area to access official information?	(%)	Number
Easy	5.66%	3
Medium	43.39%	23
Difficult	35.84%	19
Very difficult	15.09%	8
Total	100%	53

The survey also showed that most respondents are aware of laws banning access to certain information in their areas of work, and attempting to search for it may expose journalists to legal accountability or even security persecution. Only three respondents said there are no such laws in their areas, while 30.18% said they do not know exactly about them.

Section I: Legal right to access information in the Syrian government areas

The legislator in Syrian government-controlled areas mentioned the right of citizens and media workers to access information, in Article 3 of the Media Law (Decree No. 108 of 2011), which defined the rules of practicing media work as follows:

- 1- Freedom of expression and other fundamental freedoms guaranteed in the Syrian Constitution, Universal Declaration of Human Rights and relevant international conventions ratified by the Government of Syria.
- 2- The citizen's right to obtain information related to public affairs.

In addition to Article 4: Media work is based on the use of media means to make media content, other than personal correspondence, available to the public or a group of it, taking into account the following basic principles:

- 1- Respect for freedom of expression, as long as it is exercised consciously and responsibly.
- 2- The right of media professionals to obtain and use information, subject to the provisions of this Law.

Article 9 added that:

- A- Media professionals have the right to seek and get information of any kind from any source, as well as the right to publish such information after verifying its accuracy, validity and reliability to the best of their ability.
- b- While performing their work, media professionals may attend public conferences, sessions and meetings and may publish their proceedings.
- d- Nobody may impose restrictions that prevent equal opportunities for media professionals to obtain information.
- e- Public entities should facilitate the media professionals' access to information.
- f- A decision by the Council of Ministers shall determine the types of information that public entities are entitled not to disclose.

Article 4 of the executive instructions¹³ of Decree 108 of 2011 issued by the Prime Minister on 4 February 2012, stipulates that:

Media professionals have the right to obtain information from all entities, to be used in their media work according to the following:

- A- Information that is made public and non-confidential, cannot be postponed, and constitutes a media scoop: is obtained immediately.
- B - Information that requires preparation: needs an application in accordance with Article 10 of the Law.

However, Article 10 itself says:

- A- Subject to the provisions of Article 9(f), public authorities must respond to the request for information submitted by identified media professional within seven days from the application date; failure to respond during this period would mean implicit rejection.
- B -The Administrative Court has jurisdiction to consider the total or partial rejection of information requests, and shall decide on it within no more than one month from receiving the case.

The previous text means that the rule is to make all information available to media professionals, and denial must be decided by the judiciary. Article 9(f) was interpreted in a Prime Minister circular regulating the relationship of ministerial staff with the media and specifies the authority responsible for providing the information. Prime Minister, Adel Safar issued Circular¹⁴ No. 1/12562 dated 7 September 2011, which specifies the authority responsible for providing the information and says that media and press statements about the work of all ministries and their affiliated entities can only be made by the minister or their authorized representatives, based on what was decided in the Cabinet session on 6 September 2011. However, the Prime Ministry website does not contain any lists or instructions on the circulation of information. The above Circular was soon repealed after being criticized even by government newspapers.

¹³<https://scm.bz/uncategorized/العمل-الاجل-قرارات-حكومية-سورية-تكتل-عمل-الاجل>

¹⁴

Less than two months later, the Prime Minister replaced the previous circular by Circular No. 1/14851 dated 19 October 2011, which stated: "Following our memo No. 1/12562 dated 7 September 2011, we clarify that the purpose of such a memo was to give media statements about economic issues and their repercussions under the current situations, rather than about the plans and work of your ministries and their affiliates. (For review and explanation in light of the foregoing).

These entities are not required to explain the reason for rejecting information requests, which negatively and significantly affects the essence of the process, hence making these entities free from obligation to provide information, or justify inaction. However, the Syrian law has many provisions open to multiple interpretations, which stipulate publication prohibitions, particularly those of the Syrian Penal Code amended by Law 15 of 2022, which include a number of arbitrary restrictions on media freedom. These laws include such crimes like "undermining the prestige of the state and compromising national identity" (Article 287), "spreading fake news" (Article 285) "... that may spread despair or weakness among members of society" (Article 286), or "offending the President of the Republic" (Article 376).

With the same effect, there are also similar provisions in the Publications Law promulgated by Decree No. 50 of 2001, and the Protection of Revolution Law promulgated by Decree No. 6 dated 7 January 1965, in addition to Article 8 of the so-called Anti-Terrorism Law of 2012, Article 123 of the Penal Code and Articles 24, 27, 28, 29 and 31 of the recently issued law on cybercrimes.

Draft law on the right to information from the Syrian government

In 2019, the Syrian Ministry of Administrative Development developed a draft law on the right to information in Syria and submitted it to the Ministry of Justice to be enacted in line with the constitution. The draft aimed to achieve transparency and inform citizens and enable them to monitor the performance of public entities.

It asks the public entities to categorize information into three levels:

- A- Information that is not confidential and will be published certainly.
- B- Information that is not confidential, but not necessarily published; it can be given to citizens upon request.
- C- Confidential information that cannot be published, because publishing may affect public safety, public order, the economy and public money, or cause harm to a particular personality.

The draft also gives a period of six months to complete this categorization. The draft gives the public authority a maximum delay of 15 days to respond to information requests, and only five days if these are submitted by media professionals. According to the draft, applicants must have an interest in obtaining information including to use it in a court and based on a court ruling. Such connection between the right to obtain information and the existence of direct personal interest is a derogation from the right, because the people's right to knowledge and free circulation of information must be absolute and not dependent on direct interest.

Unfortunately, no improvement has been made to this draft law.

The legal right to access information under the Autonomous Administration of North and East Syria (AANES)

The Media Law No. 3 of 2021 (endorsed by the General Council on May 18, 2021) and its implementing regulations are the cornerstone for media work in northern and eastern Syria. Article 10 of this law (Separation of Rights) states:

5- Journalists may:

- a. Look for and obtain information of any kind and from any entity, and publish it after verifying its accuracy and validity.
- b. Attend public conferences, sessions and meetings and publish their proceedings.

6- Public entities and institutions shall enable journalists to visit them and get information.

7- No entity may restrict the flow of information, or prevent equal opportunities for all media professionals to obtain information.

8- Media professionals may request information, news and statistics from the concerned entities, unless such information is confidential under the law.

Article 11 (Separation of Duties) prohibits publishing or broadcasting false news or any content that calls for breaking the law, incites violence or hatred, involves discrimination among citizens, or is considered as hate speech or agitation.

The law preamble explains that it was enacted to consolidate the values of freedom of opinion and expression, to grant journalists more freedom, and not prevent them from obtaining, publishing and broadcasting information, in accordance with the Social Contract Charter and the effective laws in the AANES areas. The law consists of seven chapters: Definitions; General Principles; Media Department Structure and Mandate; Rights and Obligations; Right to Respond and Correct; Violations and Disciplinary Penalties; and General Provisions.

However, the law does not require the public entities to respond within a specific period of time to information requests by media professionals, or whether these professionals can object to the decision of a public entity or not. In addition, the law talks only about media professionals and does not refer to citizens or residents, although it is much less restrictive than the Syrian government Media Law No. 108 or the new law on cybercrimes.

The legal right to access information under the Syrian Salvation Government in northwestern Syria

The de facto authority in northwest Syria, the Syrian Salvation Government led by Hay'at Tahrir al-Sham, held several meetings with media professionals to discuss the provisions and possible amendments to Media Law No. 54 in force there. The last meeting was on February 16, 2022, and the amended version of the law is expected to come out this year. This law was enacted and enforced without publishing it publicly to prevent media professionals from knowing its content.

In a leaked copy of the law, stamped by the head of the Shura Council, Article 3 stipulates the right of citizens to obtain information on public affairs. Article 4(4) also stipulates the right of media professionals to obtain and use information, subject to the provisions of this law. Article 10 require public entities to respond to information requests by media professionals within seven days, and failure to respond shall be considered as implicit denial. The administrative courts have the jurisdiction to consider decisions of total or partial rejection, and their ruling thereon shall be issued within fifteen days from the referral date. However, since the legal text has not been made public, we cannot confirm the authenticity of these provisions.

It must be noted that this law contains articles almost identical to the Syrian government media law, especially Article 9: "A decision shall be issued by the Council of Ministers specifying the types of information that public entities are entitled not to disclose."

Overall, this law is the worst in Syria. We may discuss every single article in it, as it includes a long list of violations of the right to freedom of expression and the right to circulate information freely. One example is Paragraph 10 (Criticizing Local Authority Transgressions After Verification) of Article 9 (Rights of Journalists), which prevents journalists from criticizing the government as a general rule, and allows this only in the event of transgressions, and after verifying them.

In a democratic society, citizens and media professionals have the right to criticize authorities in general, and for many reasons, including delayed implementation of plans, without being required to justify such criticism, unless it violates the law (for example using hate speech, inciting violence or insulting human dignity). Journalists also are not required to prove the transgressions they criticize; it is enough to shed light on specific facts that demonstrate such occurrences, because revealing the perpetrators and proving the transgressions is the responsibility of the competent authorities.

The legal right to access information under the Syrian Interim Government in the Turkey-controlled areas

The authors were unable to verify if there is a media law or specific provisions regulating the right to information in these areas.

Section 2: Protection of journalists' sources in the Syrian legislation

The European Court of Human Rights has an important role in protecting the journalists' sources of information. It even issued a decision allowing journalists to use hidden cameras to report on issues of public interest.

In *Goodwin v. the United Kingdom* (2002)¹⁵, the court recognized the freedom to remain silent and the journalists' fundamental right not to disclose confidential sources. The court said:

"The protection of journalistic sources is a key prerequisite for freedom of press ..."¹⁶ Without this protection, sources might be prevented from assisting the press in informing the public on matters of public interest." The court added that trying to force journalists to reveal their sources violates their right to receive and communicate information, and thus the right to freedom of expression. The court considered that obligatory disclosure of sources would reduce the flow of information to the detriment of democracy, and therefore can only be justified in very exceptional cases.

We can never find any legal provisions in any of the Syrian regions about the right to keep silent. However, with regard to the right of journalists to protect their sources, 62.26% of the respondents said that the effective laws in their regions do not guarantee such protection. This is very dangerous, especially with the existence of other laws requiring the opposite, i.e. obligatory disclosure of sources, as indicated by 32.07% of the respondents. Legal protection of sources is the most important factor for journalists. Without it, they would be subject to various types of countermeasures, including lawsuits and security persecution, even if the de facto authorities in Syria abuse freedoms. Even with the existence of laws guaranteeing protection, mandatory disclosure would lead to more pressure on the freedom of expression and on the ability of journalists to work. It would mean using methods that may be considered legal to force them to reveal their sources or perhaps to intimidate them and prevent them from speaking, which would increase fear among those sources and prevent them from providing journalists with vital information that the public should know.

Do you think that the effective laws in your area guarantee the right to protect the journalists' sources?	(%)	Number
Yes	11.32%	6
No	62.26%	33
Do not know	26.41%	14
Total	100%	53

¹⁵ <https://globalfreedomofexpression.columbia.edu/cases/goodwin-v-united-kingdom/>

¹⁶ <https://globalfreedomofexpression.columbia.edu/cases/goodwin-v-united-kingdom/>

The responses came to highlight the wide gap between theory and practice in different Syrian regions.

Have the local authorities ever pressured you to disclose your sources?	(%)	Number
Yes	62.26%	33
No	37.73%	20
Total	100%	53

With regard to legal codes, Article 7(b) of the Media Law (Decree 108 of 2011) referred unequivocally to the right of journalists to protect their sources: No entity may require media professionals to disclose their sources except through the judiciary and in a secret session.

Article 4 of the law indicated that media work is based on the use of media means to make media content that is not personal correspondence available to the public after considering the basic principles including the necessity of respecting the press code of ethics issued by the Journalists Association. Article 50(a) of the 1990 Law of the Syrian Journalists Association says: "Journalists may not be compelled to publish their sources, all within the limits of the law." the same is reiterated by Article 105 of the same law.

Meanwhile, Article 5 of the 2015 Code of Ethics for Syrian media professionals (Moral Obligations of Journalists) established balance between the need to mention the sources and the right to protect them (S-5: Mention the sources and identify them accurately, and if need arises to keep them confidential indicate the reasons, protect sources and witnesses, and not identify them except for legal necessities).

Article 10(3) of the Media Law No. 3 of 2021 in the AANES areas states that: Nobody - except the judiciary - may require the journalists to disclose their sources. This is the closest text to the code of ethics of Syrian media professionals, where the judiciary is the only authority entitled to limit the authority of journalists and their professional independence. However, both texts remain governed by the independence and integrity of the judiciary. In comparison, the Jordanian law¹⁷ protects the journalists' right not to disclose their sources, even before a court. Article 6 of the Jordanian Press and Publication Law No. 8 of 1998 states that freedom of the press includes:

- c. The right to obtain, analyze, circulate, publish, and comment on information, news and statistics of interest to citizens from various sources.
- d. The right of the publication and the journalist to keep their sources confidential.

¹⁷ <http://www.lob.jo/?v=1.14&url=ar/LegislationDetails?LegislationID:2000.LegislationType:2.isMod:false>

Note: before 2007, the above paragraph was: “except before the judiciary in a criminal case,” and this was crossed out when amending the law.

Article 8(e) also states that it is prohibited to interfere with, influence, or force journalists to disclose their sources, including banning them from work, writing or publishing without a legitimate or justified reason, without prejudice to the right of the editor-in-chief in deciding whether or not to publish their content. Thus, as demonstrated in the two previous articles, the right of journalists to protect their sources is an absolute privilege.

On the other hand, Article 7(2) of the circulated paper copy of the Media Law No. 54 in northwestern Syria indicates that no party may ask journalists to disclose their sources except through the General Directorate of Information, and in a secret session or through the judiciary in the event of an offense. Article 9 of the law requires public authorities to facilitate media access to information, and information that may not be disclosed is determined in a decision by the Council of Ministers. Once again, we cannot confirm the authenticity of this paper copy because the law has not been published officially. However, local media professionals say that getting a work authorization from the Information Directorate requires that journalists sign a pledge to comply with the Code of Ethics and the Media Law without even seeing its provisions. However, they later became able to read the law after raising the issue in the media.

The survey showed poor level of journalists’ awareness of the existence of such codes in different Syrian regions and to varying degrees. For example, those working in the AANES areas showed better knowledge than those in the areas controlled by the Syrian government. However, this lack of knowledge is mainly related to the ineffectiveness of these legal codes and failure to enforce them in practice.

Are there any legal codes in your area that require journalists to disclose their sources publicly or in private?	(%)	Number
Yes	32.07%	17
No	35.84%	19
Do not know	32.07%	17
Total	100%	53

Chapter Three: Findings of the questionnaire on access to information and protection of sources

Introduction

The SCM team, in cooperation with the independent researcher Orwa Khalifa, conducted a questionnaire for Syrian journalists working in Syria under different de facto authorities and in the neighboring countries (Turkey, Jordan, Lebanon and Iraq). Participants were mainly: Journalist-writers, TV producers, and local correspondents. Directors and photography technicians were invited to participate, but none of them participated. The questionnaire covered media professionals speaking Arabic, Kurdish or both languages and considered gender representation. It aimed to poll views and gain insight on two critical issues to journalistic work and freedom of expression in Syria: freedom of access to information and the protection of journalistic sources.

The questionnaire was developed after two focus group discussions with Syrian journalists from various Syrian regions. The first was in person at the SCM office in northeastern Syria, and the second was virtual for journalists from the remaining Syrian regions.

The questionnaire took into account the suggestions and comments from the FGD sessions, and it was emailed to 110 journalists (17% of whom were female) who live in various Syrian areas and in neighboring countries or Europe, and cover news and stories about Syria and the region. 53 journalists responded to the questionnaire between the end of January and end of February 2022.

The questionnaire had two parts: the first discussed the journalists’ right of access to information, and the second discussed the right to protect the journalistic sources.

Sample structure:

The following tables show the sample distribution in terms of gender, education, age groups, areas of residence and areas of journalist coverage.

Although the SCM attempted to ensure gender balance when emailing the questionnaire, female journalists constituted only 20% of total respondents.

This low percentage reflects the fear of some Syrian female journalists of addressing issues in the questionnaire that might be sensitive. It also gives an indicator - albeit not accurate - that men have greater control over the profession of journalism in Syria, given the repulsive circumstances including security risks, war conditions and many other reasons that may need an independent study.

Most respondents (67.92%) were from inside Syria, followed by Turkey and then other neighboring countries and Europe.

More than half of the respondents hold a university degree, followed by those with secondary education, and the percentage of postgraduates (Master's or Ph.D.) was 7.54% only. In terms of age distribution, the age group 26 - 35 years represented 56.60% of the total sample.

Sample distribution by gender

Gender	(%)	Number
Male	81.13%	43
Female	18.86%	10
Total	100%	53

Sample distribution by place of residence

Region	(%)	Number
Syria	67.92%	36
Turkey	16.98%	9
Erbil	1.88%	1
Lebanon	5.66%	3
Jordan	3.77%	2
Europe	3.77%	2
Total	100%	53

Sample distribution by education level

Educational level	(%)	Number
High school	30.18%	16
University degree	62.26%	33
Postgraduate studies	7.54%	4
Total	100%	53

Sample distribution by area of coverage

Area of coverage	(%)	Number
Areas controlled by the Syrian government	30.18%	16
Areas controlled by the Salvation government	39.62%	21
Areas controlled by Turkey	9.43%	5
Areas controlled by AANES	20.75%	11
Total	100%	53

Sample distribution by age group

Age group	(%)	Number
18-25 years	11.32%	6
26-35 years	56.60%	30
36-45 years	28.30%	15
46-55 years	3.77%	2
Total	100%	53

Part One: Right to Access to Information

The questions of this Part deal with the most important challenges facing non-access to information, both from official and unofficial sources, particularly challenges concerning the laws that facilitate the journalists' access to information and how safe and secure they feel while handling their job. The questions also addressed the role of press institutions in supporting access to information and the ease of such access in their areas of coverage.

Countries usually deal with data that may affect public security or diplomatic relations. As confidential and often for a specific period of time. Laws that restrict the publication of certain content in Syria for confidentiality reasons do not provide for any specific delays. They are often used by the de facto authorities to justify the arrest of journalists who might not even have dealt with such prohibited information. This means that these laws in Syria are used today to restrain press freedom rather than to regulate sensitive data that affects public security in the country.

Is there information that laws in your area ban access to or publication of?	(%)	Number
Yes	64.15%	34
N/A	5.66%	3
Do not know	30.18%	16
Total	100%	53

With regard to challenges facing access to data in Syria, the respondents focused on the security challenge (77.35%), followed by material challenges (41.50%). Material challenges means the availability of means that enable journalists to best perform their work, including the affordability of transportation and travel expenses.

The responses did not bring anything new. Anyone can easily guess that security concerns represent the biggest challenge for journalists in Syria, especially when trying to access information, given the oppressive practices of all the de-facto authorities in the country.

What are the main challenges you face in trying to access official information in your area? (Multiple choice question)	(%)	Number
Security challenges	77.35%	41
Legal challenges	18.86%	10
Material challenges	41.50%	22
Other technical challenges	30.18%	16

77.35% of the respondents believe that overcoming the security challenge will shorten the journey to access information. This major concern is common among all journalists working in Syria and even those covering the Syrian issues in neighboring countries. That is why we think that the decline in violations against journalists in certain areas during the past years is not the result of improving freedom of expression, but rather the increased fears among journalists who have learned harsh lessons from the high prices paid by their colleagues previously.

What is the challenge which, if overcome, would reduce the access to information challenges you are facing?	(%)	Number
Security challenge	77.35%	41
Legal challenge	9.43%	5
Material challenge	7.54%	4
Social challenge	5.66%	3
Total	100%	53

On the other hand, the journalists' relationship with the local community is an important tool in accessing information. 43.39% of the respondents said this relationship moderately affects the ability to access information, while 24.52% of them considered it to have a significant impact. The problems and challenges facing journalists in their relationship with local communities, especially in times of crisis and as a result of incitement against them - including with support by the de facto authorities - by those affected by the dissemination of correct data and information, cannot be overcome. This relationship depends on the desire of local officials to make information available, and the local community in Syria is a major source of information because information is often not accessible from official sources.

Does the relationship with the local community affect the journalists' ability to access information?	(%)	Number
Low impact	32.07%	17
Medium impact	43.39%	23
High impact	24.52%	13
Total	100%	53

A majority of respondents (60.37%) said the de-facto authorities do have institutions with employees whose task is to facilitate access to information. However, moving to the next question, 56.25% of them considered that the performance of these institutions/employees is very poor, 43.75% considered their performance to be average, while none of the respondents chose the option "good performance".

Are there government institutions or officials in your area whose job is to facilitate journalists' access to information?	(%)	Number
Yes	60.37%	32
N/A	39.62%	21
Total	100%	53

How efficient is the institution or employees to provide information to journalists?	(%)	Number
Weak	56.25%	18
Medium	43.75%	14
Good	0%	0
Total	100%	32

Part Two: Protection of Journalistic Sources

The questions of this part addressed the challenges facing Syrian journalists in protecting their sources of information, including security, legal, social or other challenges. The security challenge was chosen by the vast majority of respondents as the most important in this regard.

The respondents' answers show that there is good support from media institutions with regard to the protection of sources. 71.69% of them said that their institutions have standard procedures in this regard. This can be explained by the lack of any protection from the laws or the authorities. On the contrary, the authorities in most cases enact laws that allow them to force journalists to disclose their sources.

This is clear from the answers to the next question, where 62.26% of the respondents said that they were pressured by their local authorities to reveal the sources. This percentage is significantly lower when talking about pressures from the local community to reveal the sources. Only 39.62% of the respondents said they were subjected to such pressures.

Does your press organization take any standard measures to protect journalistic sources?	(%)	Number
Yes	71.69%	38
No	28.30%	15
Total	100%	53

Have you faced pressure from the local community to disclose your sources?	(%)	Number
Yes	39.62%	21
No	60.37%	32
Total	100%	53

As in the previous part, the majority of respondents (86.79%) said the security challenge is the most important in protecting their sources, followed by the legal challenges (43.39%).

What are the main challenges you face in protecting your journalistic sources? (Multiple choice)	(%)	Number
Security	86.79%	46
Technical	28.30%	15
Legal	43.39%	23

As for the indicator, 67.92% of the respondents considered that protecting their sources is very difficult, given the choice to rank between 1-3 on this indicator, which reflects the difficulties of protecting sources for journalists. This reflects a general trend that emerged through analyzing the response of the sample under study to the questionnaire, which considers that security concerns and security, legal and material challenges are things that prevent journalists from protecting their sources or accessing accurate information.

How would you rate your ability to protect sources in your area today, on a scale from 1 to 5, where 1 means not able at all and 5 means completely able?	(%)	Number
1	5.66%	3
2	28.30%	15
3	33.96%	18
4	18.86%	10
5	13.20%	7
Total	100%	53

Recommendations

Building on the above and in line with the global trend in legalizing the right to information:

- 1- Incorporate the right to receive information and the journalists' right to protect their sources, in future plans for constitutional and institutional reform. This include activating the role of civil society organizations and enhancing their capacities to train public officials, and raising the legal awareness of journalists and media professionals.
- 2- A number of activities can be organized to help promote the right to access information, including addressing legal challenges (filing cases before the courts).
- 3- CSOs can also carry out awareness and advocacy campaigns about the importance of a media law and how to benefit from it, and can celebrate the International Day for Universal Access to Information through multiple activities aimed at promoting this right.
- 4- Training remains the best zone for cooperation between officials and CSOs, particularly NGOs and academic institutions.

International Day for Universal Access to Information

The idea of declaring September 28 as the International Day for Universal Access to Information came from a Bulgaria CSO called AIP which held a ceremony in 2003 to award the Golden Key to the institution that works to provide information to its applicants efficiently. The Golden Lock award is also given to the institution that does not fulfill its duty to provide information. Later, this day became an international day through a decision by the United Nations.

Image from AIP Organization's website



Proposed Draft Law on Access to Information in Syria

President of the Republic

Based on the provisions of the Constitution; and As approved by the People's Assembly in its session, We promulgate the following:

Rationale	Alternative text	Article
<p>Article (1):</p> <p>Wherever mentioned in this Law, the following words and phrases shall have the meanings assigned to them below unless otherwise indicated:</p> <p>Information: Any oral or written data; or any records; statistics; documents whether written, illustrated, recorded or stored (electronically or by any other type of storage) that belong to the Department.</p> <p>Classified documents: Any oral or written information; documents whether printed or stored (electronically or by any other type of storage); tapes, photographs, films, charts, drawings, maps, or any similar material, that are classified as confidential or protected documents in accordance with the provisions of the legislation in force.</p> <p>Normal documents: Any unclassified documents that belong to the Department.</p> <p>The Department: Any ministry, authority, commission, public institution; or any company running a public unit, state-owned enterprise where the share of the state or any of the mentioned entities is more than 50%; or any legal person receiving total or partial government funding or foreign funding.</p> <p>The official: Prime Minister, Minister, Chairperson of the Information Council or Director General of the Department.</p> <p>The Council: The Information Council created under the provisions of this Law.</p> <p>The Chairperson: Chairperson of the Council.</p>	<p>Classified documents: Information classified as confidential, or documents protected by the legislation in force.</p> <p>The official: Prime Minister, Minister, Chairperson, General Manager of the Department, Legal Representative of the Company, or Legal Person. The Chairperson: Chairperson of the Council (former judge of the Supreme Court or the Administrative Court).</p>	<p>Example Military secrets, classified decisions of Council of Ministers and minutes of secret sessions of the Parliament.</p>

Rationale	Alternative text	Article
<p>Article (2):</p> <p>A. All information with the public institutions is accessible, except within the exclusions specified in this Law.</p> <p>B- Every Syrian citizen, legal (juridical) and any resident in Syria has the right to access information within the law.</p>	<p>B- Every person, normal or legal (juridical) and any resident in Syria has the right to access information within the law.</p>	<p>If the information is excluded, neither the Syrian citizen nor any other citizen shall access it.</p>
<p>Article (3):</p> <p>The right to access information may not violate the rights and reputation of others or harm the fundamental freedoms and rights provided for in the Constitution.</p>	-	-
<p>Article (4):</p> <p>A. Under this Law, a nine-member council called the Information Council shall be created with adequate gender representation. The Council shall serve a non-renewable term of six years and shall consist of:</p> <ol style="list-style-type: none"> 1. The Chairperson (former judge of the Supreme Court or Administrative Court) chosen by the Parliament. 2. The Information Commissioner as Vice-Chair to be nominated by the government and approved by the Parliament. 3. Chairperson of the Lawyers Association (member) 4. Chairperson of the Press Association (member) 5. Representative of the Department of Statistics (member) 6. Representative of the Information Technology Authority (member) 7. Three experienced practitioners from the civil society (members) to be selected by the Council from six candidates nominated by the Chairperson. <p>B- The remunerations of the Chairperson and other members of the Council shall be determined by the Council of Ministers.</p> <p>C. The Council shall address the complaints submitted by those who are denied access to information.</p>	<p>3- As per the name under which the National Media Council will be created</p>	-

Rationale	Alternative text	Article
<p>Article (5):</p> <p>The Council shall have the following roles and responsibilities:</p> <p>A. Ensure that information is provided to requesters within this Law.</p> <p>B. Develop a template for information requests.</p> <p>C. Receive and address complaints from requesters in accordance with instructions issued by the Council to this end.</p> <p>D. Develop and issue the procedures of the complaint process.</p> <p>E. Carry out adequate activities to promote a culture about the right to know and to access information.</p> <p>F. Prepare the annual report on the enforcement of the access to information right including any irregularities and submit it to the Prime Minister and the Speaker of the Parliament and publish it together with other reports and studies addressing access barriers and proper solutions on the Council website and in the media.</p>	-	-
<p>Article (6):</p> <p>A. The Council meets at least once a month or whenever the need arises upon invitation by the Chairperson or the Vice-chair in his absence. The Council shall also meet upon request by at least five Council members to discuss the matters put forward.</p> <p>B. The meeting shall be legal with at least five members, including the Chairperson or Vice-chair, and decisions shall be made by a majority of Council members. In case of a tie, the Chairperson shall provide the casting vote.</p> <p>C. The Council may invite any person with relevant experience to attend its meetings as a non-voting member.</p> <p>D. The Chairperson and Council members shall be subject to the same rules that apply to judges in case of conflict of interest\disqualification.</p>	-	-

Rationale	Alternative text	Article
<p>Article (7):</p> <p>The Information Commissioner shall have the following roles and responsibilities:</p> <p>1. Receive complaints from information requesters and submit them to the Council to be addressed.</p> <p>2- Implement the necessary administrative and professional procedures to carry out his/her roles and responsibilities including creating a website containing relevant legislation, information request form, and complaint procedures.</p> <p>B. The Information Commissioner shall act as a judicial officer and has the right to enter any department within the law, to investigate any official individually, and to refer to legal proceedings whoever conceals, destroys, or modifies the information to evade providing it to the court.</p>	-	-
<p>Article (8):</p> <p>The Official must facilitate access to information and ensure that it is provided without delay and in the manner stipulated under this Law.</p> <p>The Department shall, subject to the provisions of this Law, automatically publish without any request the following basic information:</p> <p>A. Its organizational structure, roles and responsibilities, budget information and services provided to citizens.</p> <p>B. Decisions, instructions, circulars, and memos containing an interpretation of laws and regulations or any regulatory issues.</p> <p>C. Mechanisms and procedures available to receive citizens' requests and complaints about the Council performance; as well as a summary of the total number of requests and complaints submitted annually and their results.</p> <p>E. The procedures of requesting information as well as the Department regulations, rules and policies.</p> <p>F. The content of the Department decisions and policies that may affect citizens.</p> <p>G. Mechanisms and procedures that enable citizens to participate in policy development in the Department.</p>	-	This article encourages proactive disclosure of information

Rationale	Alternative text	Article
<p>Article (9):</p> <p>A- Information requests are submitted electronically or in writing using the related form, including the requester's name and official address.</p> <p>B. The requester shall specify accurately the types of the requested information. Appropriate additional assistance shall be provided to illiterate people and persons with disabilities.</p> <p>C. Upon receiving the information request, the Officer must give the requester a written or electronic notice indicating the application number, date of submission and the type of requested information.</p> <p>D. The Official shall respond to the request within 15 working days maximum after the day of receiving the request, provided that the requested information has not already been disclosed. This delay shall be reduced to 48 hours if the requested information affects the life or freedom of a person.</p> <p>E. If part of the requested information is classified, and the other part is not, the request can be answered within the limits stipulated in this Law.</p> <p>F. The information shall be deemed classified only if it was classified before the date of request.</p> <p>G. The Official may not withhold information that was publicly available in the past.</p> <p>H. If the requested information is not available in the Department, the requester will be referred to the relevant department.</p> <p>I- If the required information is destroyed due to expiry, the administrator must explain this to the applicant in writing.</p> <p>J-In case the request gets rejected, the reasons must be provided. Failure to respond within the specified delay shall be deemed as rejection.</p>	-	<p>Paragraph (D) allows for quick access to information if a person's life is jeopardized (especially in cases of undeclared arrest or habeas corpus)</p>

Rationale	Alternative text	Article
<p>Article (10):</p> <p>A. The requester shall pay the cost of photocopying the requested information. If the information cannot be photocopied, the requester will be enabled to read the content.</p> <p>B- The photocopying or copying fees charged by the Department shall be determined by the Council of Ministers based on recommendation by the Council C. These fees do not include the time the staff takes to arrange, highlight, or transfer such copies.</p>	-	-
<p>Article (11):</p> <p>Subject to the provisions of the effective regulations, the Official may not disclose:</p> <p>(a) Information of national security, in particular classified documents protecting defense and security secrets.</p> <p>B. Information about a third party without their consent if it violates privacy or the identity of persons who provided information to report abuses or corruption.</p> <p>C. Information that would hinder the following:</p> <ol style="list-style-type: none"> 1) Preventing or detecting a crime. 2) Arresting or prosecuting perpetrators. 3) Good management of justice. <p>D- Classified documents may remain confidential for 30 years from the day of classification. It must be disclosed after this period.</p>	-	-

Made	Nivîseke şûngir	Sedemên nivîsê
<p>Article (12):</p> <p>Each department shall index and organize the information and documents it has in accordance with the applicable professional and technical standards and within this Law.</p>	-	-
<p>Article (13):</p> <p>The Official may delegate any of his powers under this Law to any senior staff, provided that the authorization is clear and in writing.</p>	-	-
<p>Article (14):</p> <p>A. The requester may file a complaint against the Official to the Council through the Information Commissioner if his request was rejected or if the Official failed to provide the requested information. The complaint shall be filed within 30 days of the rejection note or after the expiry of the legal delay of response.</p> <p>B. The Council shall issue its decision concerning the complaint within 30 days, otherwise the complaint shall be deemed rejected. The complaint exceeds the date of the complaint against the Official specified in paragraph (a) of this Article. The duration of the complaint shall take effect from the date the requester got notified or from the expiry date of the Council decision.</p> <p>C. The Council decision can be appealed by the requester if the decision supports the Official and by the Department if the decision is against the law.</p>	-	-

Made	Nivîseke şûngir	Sedemên nivîsê
<p>Article (15):</p> <p>A- The administrative judiciary has jurisdiction over the complaint, provided that the case is filed by the requester against the Official. The complaint shall be filed within 30 days of rejection note or the expiry of the delay for response under this Law, or in a decision by the Council.</p> <p>B- The fees for appealing a decision shall be minimal.</p> <p>C- The court may examine classified documents and verify that they comply with the procedural and substantive requirements of classifying information.</p>	-	-
<p>Article (16):</p> <p>Without prejudice to any more severe punishment provided for in any applicable law, the following acts shall be punishable:</p> <p>A- Anyone who conceals, amends, damages, or denies or disrupts access to information, without a legitimate excuse shall be imprisoned no more than six months or pay a fine between 50,000 and 100,000 Syrian pounds.</p> <p>B- Violation of this Law that have no specified penalty provision shall be punished with a fine between 100,000 and one million Syrian pounds.</p>	-	-
<p>Article (17):</p> <p>The Council of Ministers shall issue the necessary regulations to implement the provisions of this Law, including a law to define protected documents that may be disclosed, and which have been kept confidential for at least 30 years.</p>	-	-

Made	Nivîseke şûngir	Sedemên nivîsê
<p>Article (18):</p> <p>All provision in any other legislation that is contrary to the provisions of this Law shall be annulled.</p>	-	-
<p>Article (19):</p> <p>The Council of Ministers shall issue the executive instructions of this Law upon a proposal by the Minister of Administrative Development and in coordination with the Supreme Council of Information.</p>	-	-
<p>Article (20):</p> <p>This Law shall be published in the Official Gazette and shall take effect three months after issuance.</p>	21. This Law shall be published in the Official Gazette and shall take effect six months after issuance.	Enforcement may be delayed 3-6 months to enable training the officials and raise awareness about the Law.



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