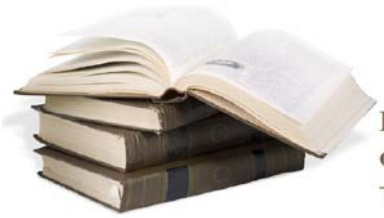

Encyclopedic Dictionary
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FREEDOM OF INFORMATION

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Freedom of information refers to a concept reflected in policies that make it possible for individuals to obtain copies of documents produced and held by components of a political system. The processes that enable such access are in most cases backed by legislation guaranteeing citizens' explicit right to official documents (Florini, 2007). The concept is also sometimes referred to as "access to official documents," "access to information" or "access to public records."

The first country to formulate the concept was Sweden, where freedom of information has been a right since 1766 (Holstad, 1979). It was two centuries later that the U.S. federal government followed suit and passed the Freedom of Information Act in 1966 (Foerstel, 1999).

In the 1960s, the Anglo-Saxon and Scandinavian countries witnessed the growth of a movement promoting the passage of legislation that would remove or weaken the dogma of secrecy expounded by governments (Michael, 1982; Rowat, 1979). By 1989, some dozen nations (as well as federal states and provinces, particularly in the U.S.A and Canada) had made progress in this direction. In 1994, when Sweden was negotiating the conditions of its membership in the European Union, it dumfounded senior functionaries in Brussels by obliging the organization to respect its two-century-old policy. Sweden's admittance meant that other Union members had to bow to a principle and mechanisms that had been often considered with distain. A decade later, the implementation of a plan and legislation ensuring access to information became a fundamental prerequisite for former "people's democracies" when they negotiated their membership in the European Union (Comeau, 2007).

Today, nearly 80 nations, most of the U.S. states, the Canadian provinces, several German Länder and certain Swiss cantons have laws that enshrine the right of access to administrative records (Privacy International, 1999; McDermott, 2007).[1] Over the years, international organizations, from the United Nations to the European Union, have fallen into step and adopted measures that facilitate access to public records (Grigorescu, 2003).

The first freedom of information laws were based on the traditional principle that the quality of the information available to citizens was directly related to their participation in political life. However, in the late 1980s, freedom of information began to be viewed in the context of measures

[1] The private company Privacy International occasionally publishes a *Freedom of Information around the world report*, listing nations with legislation in this field. See www.privacy.org

intended to reinforce transparency, in accordance with the precepts of good governance (Sanchez, 2002; Héritier, 2003).

As a rule, freedom of information legislation follows a generic model. It targets all or part of the records held by a government or various components of the public sector. These records, regardless of their form or support (paper, film, video, digital records, etc.), fall under the scope of the legislation. However, the principle of ensuring public access to government records usually includes a provision that subjects the exercise of this right to certain conditions established by legislators. Accordingly, freedom of information laws provide for the exclusion of specific types of records, such as those that concern relations with another government or that contain personal data. The laws also give public administrations a certain amount of discretionary power when it comes to particular categories of records, such as the memoranda of the deliberations of public agencies.

Freedom of information legislation also sets up access mechanisms that can be used by citizens and, in certain cases, by any individual, regardless of nationality or residence. In many nations, the laws call for government bodies to designate an official who is responsible for receiving requests for access and responding to them, in accordance with specific provisions and deadlines. This official may transmit the requested record in its entirety or only in part. He or she must justify any refusal on the basis of a specific clause in the law.

Most freedom of information legislation comprises appeal mechanisms in the case that an official refuses access to all or part of a record. Such mechanisms may include a prerogative of mercy on the part of an official, hearings before an administrative tribunal or the intervention of an ombudsman or mediator. Requests for a review or reconsideration of a refusal are processed in accordance with the spirit of the law and the politico-administrative culture. In some nations, for example, in the U.S.A., the courts are the only recourse open to someone whose request has been denied.

The events of September 11, 2001, have provided fresh fuel for political leaders and technocrats who are mistrustful of indiscriminate access to the government's records and files (Feinberg, 2004). Office holders, whether elected or appointed, find journalists' requests particularly bothersome (Pasquier and Villeneuve, 2006; Caron and Hunt, 2006). Opposition parties, especially in the Westminster system, use freedom of information laws to fulfil their role as a counterweight to the government and, often, to gather ammunition for parliamentary question periods. Some academics go so far as to question the validity of freedom of information laws that purportedly undermine the traditional “bargain” between ministers and senior civil servants (Savoie, 2003). Other university researchers deplore the tactics thought up by governments to prevent the release of potentially compromising documents (Robarts, 2006; Pasquier and Villeneuve, 2005). Such considerations explain in part why governments hesitate to undertake a review of freedom of information laws that were passed several decades prior to the significant changes ushered in by new information technologies.

Towards the end of the 20th century, large international organizations like the United Nations also proceeded to adopt charters and issue declarations establishing or encouraging freedom of information laws. For example, in 1998, the European Economic Community produced the Aarhus Convention, which proclaims the right to freedom of information in environmental matters (United Nations Economic Commission for Europe, 1998). Similarly, the Organization of American States adopted a declaration of principles that affirms the right to access records held by public administrations (OAS, 2000). In 1999, the Commonwealth drew up a model for freedom of

information legislation for its member states (Commonwealth, 1999). UNESCO followed suit by publishing a similar model (Mendel, 2008). Finally, the Council of Europe asked its member states to ratify its "Convention on Access to Official Documents," which would become the first legally binding convention when ratified by at least ten signatory nations (Council of Europe, 2008).

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