

*Nota bene*: This Right to Know Declaration will be discussed in the panels to be held on 28 and 29 September 2021 as part of the events organised by UNESCO to mark the International Day for Universal Access to Information.

Feedback from the panels on this text, will be compiled, and will be discussed at two Right to Know policy discussions to be organised with the global right to information community. (Provisional dates 19 or 21 October, and 8 or 9 November). It will then be finalised as a community document, initiated by UNESCO and arising out of International Day for Universal Access to Information 2021.

International Day of Universal Access to Information

28 September 2021

#AccessToInfoDay

The Right to Know Declaration:

Building Back Better

with the Right of Access to Information

*Recalling* that the right of access to information is a fundamental human right and is a foundation for democracy, the rule of law and good governance, and for the defence and full enjoyment of other human rights;

*Affirming* that access to information laws and their proper implementation at all levels of government can deliver the transparency necessary to help societies build back from the global pandemic, and to ensure that this is done in a way that improves governance, enhances respect for human rights, protects and promotes civic space, better protects health, reduces inequality, contributes to sustainable development, strengthens resilience, and addresses climate change;

*Understanding* that access to information is necessary for informed decision-making, for the right to participation in the conduct of public affairs, for monitoring of public actions, and for enhancing accountability and reducing corruption;

*Recognising* that access to information is a key driver for the achievement of the UN 2030 Agenda for Sustainable Development;

*Noting* the Sustainable Development Goals (SDG), and in particular Goal 16 to promote just, peaceful and inclusive societies, which includes as a target 16.10 to “ensure public access to information and protect fundamental freedoms” and *recognising* this as relevant to achieving all SDG goals;

*Noting also* that SDG Indicator 16.10.2 measures the “number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information” and that UNESCO is the responsible agency for evaluating this indicator;

*Recalling* The Finlandia Declaration of 3 May 2016 on “Access to Information and Fundamental Freedoms - This Is Your Right!”, which, inter alia, underscored the importance of access to information in promoting inclusive societies free of discrimination and in advancing gender equality;

*Recalling* that the right of access to information is an integral part of the right to freedom of expression, as recognised by Resolution 59 of the United Nations General Assembly adopted in 1946, and defined in Article 19 of the Universal Declaration of Human Rights, and Article 19 of the International Covenant on Civil and Political Rights;

*Further recalling* the UN Human Rights Committee General Comment No. 34 of July 2011 which affirms that the right to freedom of expression as set out in Article 19 of the International Covenant on Civil and Political Rights “embraces a right of access to information held by public bodies”;

*Emphasising* that the right of access to information encompasses access to information held by or on behalf of public authorities, or which public authorities are entitled to access by law, as well as access to information that is held by private bodies which exercise of public functions or operate largely with public funds;

*Considering* the jurisprudence of the Inter-American Court of Human Rights and the European Court of Human Rights, the Council of Europe Convention on Access to Official Documents (Tromsø Convention), and the model laws on access to information of the African Commission on Human and People’s Rights and of the Organisation of American States;

*Recalling* the joint declarations by the United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information.

*Recognising* that many constitutions around the world establish the right of access to information as a stand-alone fundamental right in and of itself;

*Welcoming* the increasing number of countries who enable the right of access to information in national law, including in their constitutions, while also *noting* that legal guarantees for the right still do not exist, or face significant implementation challenges, in a number of UNESCO’s Member States;

*Underscoring* that universal access to information and to knowledge is central to the UN’s World Summit on the Information Society (WSIS) process, which reaffirmed freedom of expression and universal access to information as part of the ambition of achieving inclusive knowledge societies;

*Recognising* that the right to access to information is also vital to developing a free, independent and pluralistic media, as well as fostering healthy information ecosystems;

*Underscoring* that the right of access to information is essential to strengthening the capacity of all social actors to counter misinformation and disinformation, combat hate speech, promote intercultural understanding, and fight radicalization and violent extremism;

*Recalling* the Political Declaration of the UN General Assembly Special Session on Corruption, held in June 2021, in which UN Member States committed to respect, promote and protect the freedom to seek, receive, disseminate and publish information concerning corruption, and to take concrete steps to ensure that the public has effective access to this information, including by adopting necessary regulations and enhancing bodies responsible for facilitating access to information;

*Noting* thatscientific knowledge best serves humanity and will best help the world to overcome the global covid-19 pandemic when it is accessible to all, and *welcoming* the work done by UNESCO to promote open access to all scientific knowledge;

*Emphasising* that a well-informed and empowered public is necessary to address the urgent challenge of climate change, and that the right of access to information can contribute to ensuring that decisions are taken in the best interests of humanity and the planet;

*Celebrating* the proclamation of 28 September of each year as the International Day for Universal Access to Information by the UNESCO General Assembly in 2015 and by the UN at its 74th General Assembly in October 2019;

*Welcoming* the role played by other inter-governmental bodies, notably the Organisation for Economic Cooperation and Development which has placed the right of access to information central to its open government work globally, and by the Open Government Partnership which requires participating countries to have access to information laws and to strengthen compliance with this right through regular action plan commitments, inculcating a culture of transparency in government;

*Highlighting* the essential role of civil society organisations and academia around the globe in advancing standard setting on the right of access to information, promoting the adoption of access to information laws, and establishing the annual 28 September International Day for Universal Access to Information in order to raise awareness of and advance compliance with this fundamental right;

*Noting* the contribution made by in advancing understanding of the right of access to information by the International Conference of Information Commissioners;

*Recalling* the rich debates on the pressing access to information issues raised by the global coronavirus pandemic that took place on International Day for Universal Access to Information 2020 in an entirely online format under the title “Access to information in Times of Crisis”;

*Declaring* the period from 2021 to 2031 as the Decade of Action on Access to Information with the goal of achieving a measurable increase in respect for this fundamental right, including through the adoption of laws where they do not exist, strengthening of existing legal frameworks, significantly strengthened implementation of the right to access to information; as well as measure and evaluate the impact of ATI laws, their benefits and their wider influence across diverse policy domains;

*We do hereby*

Call on each UNESCO Member State:

To reaffirm their commitment to recognising and respecting the fundamental right of access to information, including through a constitutional recognition of the right of access to information and through strong and effective laws that establish mechanisms for exercise of this right;

To work to improve the statutory, policy and institutional environment so that people can receive information in practice, including through proactive publication as well as in response to information requests;

To ensure independent oversight of access to information laws, with figures such as information commissioners or commissions, are empowered with the resources, mandate, and enforcement powers necessary to carry out their work in defending the fundamental right of access to information as well as ensuring that any challenges that they may face in the fulfilment of their mission are identified and addressed;

To further guarantee that the public can enforce its right to information through independent, fair, and inexpensive means, including through independent oversight bodies and by a right of access to judicial review, including to the highest courts;

To direct the necessary attention and political will to ensure full implementation of the right of access to information, including by promoting a culture of open government within public institutions and to ensure public education and awareness raising on this right for all sectors of society;

To ensure that national legal frameworks for the fundamental right of access to information applies to all branches of power, including the legislative and judicial branches, local government, autonomous and independent public entities, and private bodies operating with public funds or performing public functions;

To require that all bodies under the scope of access to information laws keep an accurate and full record of the decision-making process in order that the public is able to know how their government is operating and how decisions are being taken and by whom;

To set clear rules on the preservation of documents and on archiving so that an historical record of government action is preserved over time and is accessible in the future;

To ensure that exceptions to the right of access to information, including secrecy rules, adhere to international standards on the permitted limitations on this right, that they comply with the principles of legality, legitimate purpose, and necessity, that they are always subject to harm and public interest tests,; and to ensure that that adequate mechanisms are in place, including a requirement for full justifications, to deliver transparency around the application of such limitations;

To ensure that measures are taken to protect the privacy of private persons whilst ensuring that the right to privacy and personal data protection is not used to prevent the public obtaining access to information needed to hold government and public actors to account, to follow the spending of public funds, and to participate in decision making;

To put in place strong systems for proactive disclosure of information, with prioritisation of the content of the publication to be determined on consultation with stakeholders and the general public, following a publish with purpose approach. All publication should be in full compliance with open data principles, making available clear, complete, timely, reliable, and relevant public sector data and information that is free of cost, available in an open and non-proprietary machine-readable formats, easy to find, understand, use and reuse, and is disseminated through a multi-channel approach.

To digitalise government and administrative processes in order to deliver greater and more immediate transparency of decision making and to facilitate interactions between the members of the public and the administration by using multichannel approaches to address low internet penetration rates and an uneven digital literacy level;

To commit in law and practice to the transparency of all use of automated decision making and to ensure that the public has a right to know when artificial intelligence is used in decision making and to be informed of all data inputs and how that data is used. There should be transparency regarding use of AI systems, including provision of meaningful information so as to foster a general understanding of AI systems, to make stakeholders aware of their interactions with AI systems, to enable those affected by an AI system to understand the outcome, and, to enable those adversely affected by an AI system to challenge its outcome based on plain and easy-to-understand information on the factors, and the logic that served as the basis for the prediction, recommendation or decision;

To commit to supporting the Open Access publication of scientific knowledge and to provide the financial, legal, and technical support to deliver such access;

To take specific measure to ensure that information needed to deliver government accountability and to combat corruption enters the public domain, including by promoting transparency in the management of public finances, in the full cycle of government procurement, in the company structures, including with public registers of the owners and beneficial owners of companies, and in the creation of public registers of lobbyists and interest groups;

To place a special emphasis on ensuring that all information related to the covid-19 pandemic and the response to it is placed in the public domain as a matter of priority, including but not limited to the publication of health data, of data on vaccines and vaccinations, public procurement of health goods and services and of data on spending of pandemic response and recovery funds;

To work for full transparency of all information related to climate change, including data from the public and private sectors that is necessary to ensure an evidence-based debate about the current situation, about measures being taken to address it, and so to facilitate consensus on the way forward;

To ensure that data related to inequality and discrimination, including data related to the gender equality indicators in the SDGs is published proactively in formats that are accessible to all;

To promote, as far as possible, universal access to the internet and to ensure that where such access does not exist, other, complementary, means of accessing information are made easily available;

To promote media and information literacy programmes to support people in developing their capabilities to obtain and use information, promoting the use of clear, concise and simple language that is accessible to all demographics and audiences, and to empower people so that they can readily identify misinformation and disinformation;

To collaborate closely with UNESCO in measuring the right of access to information as the lead agency for SDG Indicator 16.10.2, including by collecting data from across all branches and levels of government and measuring not only the provision of information but assessing how it is used by relevant communities so as to arrive at a deeper understanding of how the right of access to information is being implemented and how it can contribute to building back better from the pandemic.

Call on civil society, including academia, journalists and business actors:

To continue to advocate for and monitor implementation of the right of access to information and national laws, policies and practices that give effect to this right;

To continue to raise awareness among policy-makers, journalists and the media, businesses, in particular small and medium enterprises, citizens at large and vulnerable groups in particular, about the right of access to information as a fundamental human right and how it can serve democracy and sustainable development;

To engage in the dissemination of good practices and experiences showcasing the direct link between the right of access to information and accountable corruption-free governance, protection of human rights, quality journalism, combatting misinformation and disinformation , recovery from the pandemic, sustainable development, and addressing climate change;

To engage with UNESCO in the collection of data needed to measure the right of access to information.

Call on UNESCO:

To promote the right of access to information as an important, fundamental human right, necessary for the enjoyment of other human rights, and essential for accountable corruption-free governance and sustainable development;

To highlight that the right of access to information can only be effectively exercised through the adoption and proper implementation of laws which regulate this right in accordance with international standards;

To strengthen, broaden and deepen the measurement of the right of access to information in law and in practice, as the agency overseeing SDG indicator 16.10.2, and to work closely with governments, other inter-governmental actors, and civil society, to gather quality data;

To study, in particular, the public availability of data on all the 231 SDG indicators so that the public is better able to evaluate progress and to participate in decision making on the SDGs;

To work with other relevant international actors, including the International Conference of Information Commissioners, the Open Government Partnership, and the Organisation for Economic Cooperation and Development, on the promotion and measurement of the right of access to information;

To continue highlighting the importance of the right of access to information for fostering universal, open, affordable and unfettered access to information and knowledge, and narrowing digital and knowledge divides, including gender gaps;

To advocate for ICT policies guided by openness, internet access for all, transparency, accountability, net neutrality, multilingualism, inclusiveness, and gender equality;

To continue promote open access to knowledge, in particular scientific knowledge.