



*“Inclusion of vulnerable groups in the right of access to public information”*

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## 1. Access to Information as a Fundamental Right

The right of access to information is a component of the fundamental right of freedom of expression as set forth by the Article 19 of the Universal Declaration of Human Rights<sup>22</sup> and the subsequent International Covenant on Civil and Political Rights. The Right to Information constitutes an essential guard to fight mismanagement and corruption, and a prerequisite to achieving sustainable development. It not only permits individuals and groups to defend their rights, but also governmental decision-making processes to be more trackable and transparent, thus improving citizen trust in public policies and actions.

To assess the state of the human rights the UN carries out the Universal Periodic Reviews, which is a unique process which involves a review of the human rights records of all UN Member States. An analysis of the Universal Periodic Review shows a range of recommendations arising from the Universal Periodic Review process that are related to the right to information. Laws that guarantee the right to information, or their absence, is being increasingly scrutinized from the point of view of the right to information by human rights agencies.

<sup>22</sup> Universal Declaration of Human Rights, see <https://www.un.org/en/about-us/universal-declaration-of-human-rights>



UNESCO produced guidelines for Information Commissioners so that they are able to input into submissions to the Universal Periodic Review, and they are directly implicated when there are recommendations, accepted by the Member State concerned, about strengthening the right to information in that country.<sup>23</sup>

## 2. Sustainable Development and the Right to Access Information

While exercising their activities, governmental bodies produce, receive and store public sector information and data. Article 10 of the United Nations Convention Against Corruption<sup>24</sup>, obligates State Parties to take necessary measures to enhance transparency, including publishing relevant information and adopting procedures allowing people to obtain “information on the organization, functioning and decision-making processes of its public administration”. The right to information is at the heart of good governance practices, but also a prerequisite to achieve the Sustainable Development Goals (SDGs).

This is recognized in SDG Indicator 16.10.2<sup>25</sup> that track progress on “the number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information”. These guarantees reinforce transparency, impact public service delivery, and, more generally, benefit the society. UNESCO is the UN custodian agency for SDG Indicator 16.10.2. In the last survey in 2022 UNESCO surveyed 136 Right to Information Laws and the country reports clearly shows a recognition of the role of access to information, as a critical instrument for development and protecting fundamental human rights. The report also highlights the important role of national oversight institutions. The report further points to a stable ratio of about three quarters of all requests for information being granted worldwide, but this figure is still based on rather small number of countries and territories that provided statistics on the numbers of actual requests submitted.<sup>26</sup>

UNESCO supported capacity development initiatives aimed to provide governments and civil society organizations with capacities to collect, analyze,

23 New guidelines issued for Information Commissioners for fostering access to information through the Universal Periodic Review, see <https://www.unesco.org/en/articles/new-guidelines-issued-information-commissioners-fostering-access-information-through-universal>

24 United Nations Convention against Corruption, see <https://www.unodc.org/unodc/en/corruption/uncac.html>

25 Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels, see <https://sdgs.un.org/goals/goal16>

26 A Steady Path Forward: UNESCO 2022 Report on Public Access to Information (SDG 16.10.2)



and increase the availability of high-quality, timely and reliable data on SDG 16.10.2. It is hoped that the data will not only improve the implementation of Access to Information provisions at a national level, but also encourage those Member States that do not yet have such guarantees to do so.

### 3. Inclusion of vulnerable groups in the right of access to public information

The Universal Periodic Review also makes a specific link between the Right to Information and vulnerable groups. UNESCO advocates for specific legal provisions to be enacted to ensure that access to information is recognized as a Human Right, but UNESCO also highlight the importance of specific strategies so that all segments of societies, including women, the elderly, racial and ethnic minorities, people with disabilities and rural populations can exercise their right to Information.

#### 3.1 Guaranteeing the Right of Access to Information for women

In a policy brief on Promoting gender equity in the right of access to information<sup>27</sup>, UNESCO reiterates the fact that in spite of access to information being a fundamental right, the right remains elusive for women. The Policy brief highlights that women are challenged in several countries by:

- Poverty;
- Lack of awareness of the right to information and where/how to make requests to access information;
- Fear, including fear of asking for information, physical violence, threats, retaliation for making requests, and dangers related to women in public spaces;
- Cultural constraints, including someone in the family is not supportive/impedes women's access;
- Lack of mobility and time;
- Negative mindset of public officials/poor treatment in public office; Language<sup>28</sup>
- To support women in overcoming these challenges international mechanisms must be more intentionally engaged in the issue. Actions that can be undertaken include:
- Exchanges among the Committee on the Elimination of Discrimination against Women, UN Working Group on discrimination against

27 Promoting gender equity in the right of access to information, <https://unesdoc.unesco.org/ark:/48223/pf0000381684.locale=en>

28 Ibid.



women and girls, UNDP and Un women on how to mainstream the right to information and equity within the United Nations System;

- Analyze the relevance of SDG16.10.2 and interrelated SDGs for demystifying the misconception about the importance of access to information in gender empowerment;
- Draft UPR Model Recommendation related to the right to information for women and the Convention on the Elimination of All Forms of Discrimination against Women;
- Produce a guidance note for UN Country Teams about access to information for agency and autonomy of women.

The policy brief identify cooperation among UNESCO, the Committee on the Elimination of Discrimination against Women, UN Working Group on discrimination against women and girls, UNDP and Uunwomen. Multilateral organizations such as the Organization of American States could also be invited to partake in these exchanges as its Model Law on Access to Information 2.0 engaged gender in a number of key sections.

At the national level, the right to information can also be reinforced in specific strategies to promote gender equality in access to information. In UNESCO's 2023 report: *A Steady Path Forward: UNESCO 2022 Report on Public Access to Information (SDG 16.10.2)*<sup>29</sup>, 24 Member States' reports provides best practices to mainstream gender equality. These included such activities as implementing action plans and specific policies on gender mainstreaming, as well as awareness raising through seminars and other programmatic activities.

The UNESCO Policy brief<sup>30</sup> also provides some recommendations on national laws and practices to consider gender equality. For the most part, access to information laws are gender neutral. The recommendations treats the promotion of gender-sensitive Right to Information laws, the establishment of Access to Information practices such as increased desegregated data by gender. It also calls for the development of a comprehensive strategy, plan of action and accompanying dedicated budget to ensure that the Right to Information is equitable, including engaging with the ministries responsible for women's rights/gender/family/youth, other ministerial gender units and Human Rights bodies/ Ombudspersons. Lastly it encourages Open Government Partnership Commitments to include national and subnational actions to advance an equitable right of access to information for all women<sup>31</sup>.

29 A Steady Path Forward: UNESCO 2022 Report on Public Access to Information (SDG 16.10.2)

30 Promoting gender equity in the right of access to information, <https://unesdoc.unesco.org/ark:/48223/pf00000381684.locale=en>

31 Ibid



By combining advocacy and action at the international level and adjusting access to information laws and strategies a real contribution can be made to recognize the role of Access to Information as fundamental for women's empowerment.

### 3.2 Guaranteeing the Right of Access to Information for persons with disabilities

The UN Convention on the Rights of Persons with Disabilities stipulates in Article 21 that "States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice [...]".<sup>32</sup>

According to a recent UNESCO Issue brief<sup>33</sup>, the rights of persons with disabilities are absent from most Access to Information Laws. Where reference is made to persons with disabilities and accessibility of information, the scope of the disabilities covered and the rights secured for persons with disabilities are rather limited, or not always clear.

The Issue brief is based on an analysis of 132 countries with Access to Information Laws and only 37 explicitly Access to Information Laws refer to persons with disabilities and their rights to varying degrees.

The same Policy brief identifies a number of inadequacies:

- Reference to the rights of persons with disabilities remains vague and brief;
- The legislation does not provide clear criteria for the provision of government information to persons with disabilities online;
- The legislation does not clarify the scope of disabilities subject to the Act or is restrictive regarding the disabilities covered;
- The legislation only refers to the submission of a request for access to information for persons with disabilities but omits to insist on the provision of such access and clarify;
- The legislation only covers direct requests for information by persons with disabilities without covering proactive disclosure;
- The legislation does not cover the issue of the cost of making information accessible to persons with disabilities;

<sup>32</sup> Convention On the Rights of Persons with Disabilities, <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd>

<sup>33</sup> Issue brief: Access to Information laws: a guarantee of inclusion and disability rights, <https://unesdoc.unesco.org/ark:/48223/pf0000380470>



- The legislation imposes restrictive conditions on provision of access to information for by persons with disabilities;
- The legislation does not provide for appeal and oversight mechanisms in relation to access to information for persons with disabilities.

Effective accessibility criteria are missing from many existing legislative frameworks, or that implementation is hindered by factors such as inadequate awareness and training around the rights of persons with disabilities and insufficient funding.

Moreover, in implementing Access to Information Laws more can be done to proactively disseminate widely information and documents in accessible formats for people living with disabilities. The Policy Guidelines Development and Promotion of the Right to Information in National Frameworks identify Principles of the Right of Access to Information that include specific provisions [...] to be elaborated to include persons with disabilities<sup>34</sup>.

In order to fully acknowledge the Right of Access to Information for people living with disabilities the UNESCO Issue brief<sup>35</sup>, recommendations are made to advance the rights of persons with disabilities within the larger scope of right to information, and this include:

- Adoption of a legal framework and relevant policies;
- Requirements of an effective legislative framework;
- Ensuring the implementation of legislation recognizing Access to Information for persons with disabilities.

Finally, to reinforce the implementation of the Rights Based approach of people living with disabilities, UNESCO also produced a Guidance Note for Member States on drafting Universal Periodic Review recommendations<sup>36</sup>, specifically as it relates to people living with disabilities. In ensuring a commitment to ensure inclusivity for persons with disabilities “Member States are encouraged to introduce, or amend, an access to information law that is in accordance with international standards and ensures the inclusion of legal provisions to assist persons with disabilities...”.

34 Policy Guidelines Development and Promotion of the Right to Information in National Frameworks, <https://unesdoc.unesco.org/ark:/48223/pf0000385179>

35 Issue brief: Access to Information laws: a guarantee of inclusion and disability rights, <https://unesdoc.unesco.org/ark:/48223/pf0000380470>

36 The Universal Periodic Review (UPR): Model recommendations in the field of freedom of expression, safety of journalists and access to information, see <https://unesdoc.unesco.org/ark:/48223/pf0000381721>



### 3.3 Guaranteeing the Right of Access to Information for multilingualism and linguistic diversity

According to the United Nations Declaration on the Rights of Indigenous Peoples<sup>37</sup>, the right to free expression and to access information in one's own language is one of the fundamental conditions for full empowerment of indigenous peoples. The Global Action Plan of the International Decade of Indigenous Languages<sup>38</sup> acknowledges the right to information under its output 3 that calls on optimal conditions to be established for digital empowerment, freedom of expression, media development, access to information and language technology, alongside artistic creation in Indigenous languages. UNDESA in its Policy Brief No. 151: Why Indigenous languages matter: The International Decade on Indigenous Languages 2022–2032, calls on governments to facilitate access to public services in Indigenous languages, including, but not limited to education, health and the justice system.<sup>39</sup>

There are best practices of formulating information requests in indigenous languages but also receiving information in Indigenous languages. One such example is Mexico where indigenous languages are on equal basis of Spanish, for any matter or procedure of a public nature, as well as access to public information. In federal districts and the other federal entities, where indigenous communities speak indigenous languages, the corresponding governments can require services in some of the languages.<sup>40</sup>

The UNESCO Policy Guidelines Development and Promotion of the Right to Information in National Frameworks<sup>41</sup>, highlight the importance of taking multilingualism and linguistic diversity into account, when formulating and implementing Access to Information Laws. To facilitate this, the UNESCO Policy Guidelines call for legally allowing public bodies to use technologies facilitating information access and exploitation, especially innovative Machine Translation tools and online dictionaries. Such tools can contribute to linguistic integration and make all languages usable for the production and consumption of both local and national public information.

37 United Nations Declaration on the Rights of Indigenous Peoples, chrome-extension://efaidnbmninnipocajpcgiclfindmkaj/https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIPE\_web.pdf

38 The Global Action Plan of the International Decade of Indigenous Languages, <https://unesdoc.unesco.org/ark:/48223/pf0000383844>

39 Policy Brief No. 151: Why Indigenous languages matter: The International Decade on Indigenous Languages 2022–2032, see <https://www.un.org/development/desa/dpad/publication/un-des-a-policy-brief-no-151-why-indigenous-languages-matter-the-international-decade-on-indigenous-languages-2022-2032/>

40 Ley General de Derechos Lingüísticos de los Pueblos Indígenas, see <https://observatorio10.cepal.org/es/instrumentos/ley-general-derechos-linguisticos-pueblos-indigenas>

41 UNESCO Policy Guidelines Development and Promotion of the Right to Information in National Frameworks, <https://unesdoc.unesco.org/ark:/48223/pf0000385179>



More research is necessary to fully take on board the importance of the World Summit on the Information Society Action Line on Cultural diversity and identity, linguistic diversity and local content<sup>42</sup>. This action line calls on cultural and linguistic diversity to be recognized, while stimulating respect for cultural identity, traditions and religions, is essential to the development of an Information Society based on the dialogue among cultures and regional and international cooperation.<sup>43</sup>

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42 WSIS Action Lines <https://www.itu.int/net/wsis/stocktaking/help-action-lines.html>

43 Plan of Action – Geneva 2003 C. Action Lines C8. Cultural diversity and identity, linguistic diversity and local content, see [https://www.itu.int/net/wsis/outcome/booklet/plan\\_action\\_C8.html](https://www.itu.int/net/wsis/outcome/booklet/plan_action_C8.html)





## CONCLUSION

The right to access government information is a legal condition for transparency, accountability and citizen participation in policy making for all segments of societies, including women, people living with disabilities and users of Indigenous languages. Accessing relevant public information allows all citizens but also other stakeholders, such as Civil Society Organizations (CSOs), media, academia, and watchdogs' organizations, to better understand governmental policies, assess efficiently public services, and promote democratic ideals, such equality, inclusion, and openness.

The Secretary-General Report Our Common Agenda<sup>44</sup> acknowledges that the fourth industrial revolution has changed the world. The Internet has provided access to information for billions, thereby fostering collaboration, connection and sustainable development. It is a global public good that should benefit everyone, everywhere.

The right to access is becoming widely recognized around the world, but more can be done for all segments of society to exercise their right to information. By collecting more best practices and data on the implementation of Access to Information Laws and working with Information Commissions and their professional networks, UNESCO will contribute towards rebuilding trust for a comprehensive vision of human rights.

The key proposal on the commemoration of the seventy-fifth anniversary of the United Nations acknowledges the importance to abide by international law and ensure justice by appreciating Human rights as a problem-solving measure, including by comprehensive anti-discrimination laws and promoting participation.

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44 Our Common Agenda: Report of the Secretary-General, [https://www.un.org/en/content/common-agenda-report/assets/pdf/Common\\_Agenda\\_Report\\_English.pdf](https://www.un.org/en/content/common-agenda-report/assets/pdf/Common_Agenda_Report_English.pdf)