

Status of Freedom of Information as a Human Right

Freedom of information, according to which the public has a right to have access to government-held information, is largely considered as a tool for improving transparency and accountability in governments, and as a requirement of self-governance and good governance. So far, more than ninety countries have recognized citizens' right to have access to public information. This recognition often took place through the adoption of an act referred to as "freedom of information act", "access to public records act", and so on. A freedom of information act typically imposes a positive obligation on a government to initially and regularly release certain public information, and also obliges it to provide individuals with information they request. Such an act usually allows governmental bodies to withhold information only when it falls within a limited number of exemptions enumerated in the act such as exemptions for protecting privacy of individuals and protecting national security.

Freedom of information has been endorsed by many scholars as a human right. One of the main reasons provided for considering freedom of information as a human right is that public access to government information is a component of the human right to freedom of expression. It is argued that in order to fully exercise their right to free expression citizens need to have a maximum access to government-held information. The other reason given to support the recognition of freedom of information as a human right is that access to public information helps citizens to better exercise other human rights such as human right to a fair trial and human right to privacy.

Some steps have been taken at the national and international level towards the recognition of freedom of information as a human right. Freedom of information was recognized in a few countries as a part of freedom of expression, and therefore, as a human right. For example, the Supreme Court of India articulated that "[t]he right to know ... is derived from the concept of freedom of speech".¹ Freedom of information was also recognized by some international bodies as a human right. The Inter-American Court of Human Rights ruled in 2006 that Article 13 of the American Convention on Human Rights, which concerns the human right to freedom of expression, "protects the right of all individuals to request access to State-held information".² The European Court of Human Rights has recently taken a considerable step towards recognizing freedom of information as a human right.³ However, in spite of the measures that have been taken, public access to government information is not yet widely accepted as an international human right.

The paper will study how far freedom of information has been recognized at the national and international level, and analyze the arguments concerning the recognition of freedom of information as a human right. It will also examine the possibility of widespread recognition of such a right in the future, and the possible benefits of the recognition.

¹ *S.P. Gupta v. Union of India*, [1982] AIR (SC) 149.

² *Claude Reyes v. Chile*, Ser. C/No. 151, Judgment of September 19, 2006, para. 77.

³ See *TASZ v. Hungary*, Application No. 37374/05, Judgment of April 14, 2009.