

People's Development Association
Human Rights Monitoring Project
Regular Human Rights Monitoring Report

Access to information in the Kurdistan Region



**Human Rights Monitoring Project
Regular Human Rights Monitoring Report**

Right to Access Information in the Kurdistan Region

This project is implemented by:

People's Development Association (PDA)



In partnership with Norwegian People's Aid (NPA)



Prepared by:

Shwan Rashid: Field Officer of Human Rights Monitoring Project

In cooperation with PDA's human rights monitors:

Umed Amin

Aras Hakim

Kurdistan Zirar

Paiman Abas

Fakhriya Omer

Farida Muhammad

Shadiya Hassan

Rizgar Mahmud

Initial edition by: Hunar Fatah: Field Director of Human Rights Monitoring Project

Final edition by: Shabaz Jamal: General Coordinator of the PDA

In cooperation with Faraidoon Rashid: Chief of Information Department

Translated and revised by:

Hazhar Taha : PDA Information Officer

Edited by: Joseph Young

The People's Development Association is a fully independent, nonprofit organization that strives for community development in the Kurdistan Region and in Iraq as whole through implementation of various social projects using civic lobbying and by offering direct services to individuals and groups.

The PDA was established in 2004 as part of the process of nationalizing the NPA's Community Development Program implemented in the Kurdistan Region and Iraq. The PDA was granted its work permit in 2007. Since that time, it has implemented numerous strategic and long-term projects, with human rights monitoring just one of these projects.

The PDA works to establish peace and solidarity among all social groups and to protect human dignity pursuant to international human rights treaties.

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graphic and designed by: Faraidun Rashid, Head of PDA's Information Department

Translated by: Hazhar Taha, information officer

Edited by: Joseph Young

The photo posted on the front cover of this report is the arrest of Soran Ahmad Hussien, a journalist with Hawlati newspaper, by the security forces known as S.W.A.T when he covered the students strike in front of the general directorate of education in Suliamani on April, 20th, 2010, two days before the Kurdish journalism anniversary. His camera and record player were seized by those forces, and after being physically beaten, he was

Preface

Access to information has become a subject of debate by different authorities at different levels. A proposed draft law pertaining to the question of access to information has thus recently been submitted to the Kurdistan Region Parliament.

The right to access information is in direct relation with many other questions and issues, beginning with those related to people's everyday lives and continuing up to the question of the principles of democracy, transparency and combating corruption, as well as the extent of freedom of expression, which is closely related to media and journalistic activities.

People's Development Association (thereafter the PDA) has thus dedicated a special report within its regular human rights monitoring reports to examine access to information in an attempt to reveal those violations practiced against those who seek information so that the concerned authorities are informed of those violations and are able take immediate and appropriate measures to uphold this right.

It is important to note that human rights monitoring and the reporting of human rights violations is new organizational work at the local level and that moreover our potential and capacity for this work is still at its beginning and thus needs to be further developed. However, the PDA has three years of working experience in the area of human rights monitoring and has published three reports so far. The environment of our society is not yet fully suitable for such work- human rights monitoring- given the obstacles at all levels that impede such activity. What increase the challenge are the sensitivity of this topic and the minimal level of awareness about it among all kinds of people. Thus, documenting and debating access to information in the Kurdistan is a difficult task which will inevitably include many deficiencies. Nevertheless, the PDA has decided to initiate such a task by conducting a monitoring report on the subject.

To clarify some legal and scientific concepts related to the subject, the first chapter provides a brief introduction to access to information, in which some articles of international and local treaties and agreements pertaining to access to information are presented.

The majority of the interviews and data that were collected and are presented in this report date back to field activities conducted from March to July 2009. We should note, however, that there is also some information retrieved after that period. The repetition of some concerns and issues from other PDA reports is another characteristic of the current report given that most subjects of this type are inter-related.

We know well that we cannot report all violations pertaining to access to information; rather, we seek to give a comprehensive image of the status of access to information in the Kurdistan region. We hope this will be a good initial step aimed at further broadening access to information and working to fulfill people's right in this regard.

People's Development Association

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Introduction

The right to access information has become a legal and constitutional right in many countries, a right that has increasingly grown and is now guaranteed in 90 countries.

Information refers to the records that exist in different forms and are saved with their particular properties, including their nature, their date of creation, and the names of the public bodies that created them.

The right to access to information constitutes people's ability to access information that is saved by the government, especially that information needed by people to construct their ideas and views. The state has a responsibility to disclose information even if there is not a particular person or body that requests it.

The right to access information is not only a key element of a democratic government and transparent governance but is also a fundamental right directly related to the question of freedom of expression. As such, this topic is covered in an article in the Universal Declaration of Human Rights.

The importance of the right to access information lies in the ability to make the government's activities clear and unconcealed. As a result of this access, those in power can be held accountable for their actions. This right also gives meaning and value to the right of freedom of expression.

The state may choose not to disclose or disseminate information which may harm national security or national interests, but such restrictions should be provided for according to laws in accordance with the principles of human rights and democracy.

I. Access to information from constitutional and legal perspectives

Right to access information in international human rights treaties:

Shortly after World War II, when the international community became active, the question of the right to access information was given priority. This established the significance of this question in the framework of protecting basic principles of human rights and securing peace and stability at the international level, which was the duty of the international community after being reorganized according to a number of laws and treaties.

In its first session in 1946, the United Nations General Assembly highlighted the importance of the right to access information when it adopted Resolution 59 (1) which stated that " Freedom of information is a fundamental human right and is the touchstone of all freedoms to which the United Nations is consecrated."



The universal declaration of human rights, which was adopted in 1948, explicitly referred to access to information and freedom of expression in article 19 which stated: "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."

This declaration has come to be regarded as the most fundamental and comprehensive of all documents pertaining to human rights and is seen as a landmark in the development of human beings, by which the basic principles of human rights were established.

Similarly, according to the second paragraph of article 19 of the International Covenant of Civil and Political Rights, which was adopted in 1966 and came into force in 1976, "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."

These articles and statements reinforce the strong relationship between freedom of expression and right to access information given that the latter is a necessary prerequisite to the process of receiving, analyzing and disseminating information in a way that gives freedom of expression meaning. In other words, the provision of the right to access information is an important measurement of the availability of freedom of expression.

This was made more explicit in the joint declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, OSCE Representative on Freedom of the Media and OAS Special Rapporteur on Freedom of Expression in 1999, in which it was stated that "Implicit in freedom of expression is the public's right to open access to information and to know what governments are doing on their behalf, without which truth would languish and people's participation in government would remain fragmented."

By way of paragraphs A and B of article 13 in the UN Convention against corruption, adopted in December 2000, the right to access information was stressed by the addition of the clauses "Enhancing the transparency of and promoting the contribution of the public to decision-making processes" and "Ensuring that the public has effective access to information."

A general conference of UNESCO was held in 1978 called the Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights

and to Countering Racism, Apartheid and Incitement to War. This conference recalled Resolution 59(I) of the General Assembly of the United Nations, as adopted in 1946.

The second article of this declaration states that "The exercise of freedom of opinion, expression and information, recognized as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding."

This article clarifies the importance of the dissemination of information and the free access to it as a factor in establishing peace and international understanding, the elimination of racism and the prevention of war. This article makes clear that the violation of people's right to access information will damage other rights and national security as whole.

The importance of providing access to information is also made clear in the second paragraph of the same article, which states that "Access by the public to information should be guaranteed by the diversity of the sources and means of information available to it, thus enabling each individual to check the accuracy of facts and to appraise events objectively. To this end, journalists must have freedom to report and the fullest possible facilities of access to information. Similarly, it is important that the mass media be responsive to concerns of peoples and individuals, thus promoting the participation of the public in the elaboration of information."

Article nine of the same declaration puts a responsibility upon the international community to protect and fulfill the right to access information for those who seek it , especially the media, stating that

" In the spirit of this Declaration, it is for the international community to contribute to the creation of the conditions for a free flow and wider and more balanced dissemination of information, and of the conditions for the protection, in the exercise of their functions, of journalists and other agents of the mass media. Unesco is well placed to make a valuable contribution in this respect."

ARTICLE 19, a human rights pioneer, defends and promotes freedom of expression and freedom of information all over the world. This organization sets certain principles pertaining to the right to access information, which were then endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression, and its counterpart in the OAS.

1. **MAXIMUM DISCLOSURE:** Freedom of information legislation should be guided by the Principle of maximum disclosure. All information should be subject to disclosure. This provision may be overcome only in limited conditions which must be provided in the law.

2. **OBLIGATION TO PUBLISH :** Public bodies should be under an obligation to publish key information. They should be committed to publish all information relevant to people's interest upon request or even without it.

3. **PROMOTION OF OPEN GOVERNMENT:** Public bodies must actively promote open government and put an end to secrecy and concealment of information.

4. **LIMITED SCOPE OF EXCEPTIONS:** Exceptions should be clearly and narrowly drawn and subject to strict "harm" and "public interest" tests.

5. **PROCESSES TO FACILITATE ACCESS:** Requests for information should be processed rapidly and fairly and an independent review of any refusals should be available.

6. **COSTS:** Individuals should not be deterred from making requests for information by excessive costs

7. **OPEN MEETINGS:** Meetings of public bodies should be open to the public. Freedom of information includes the public's right to know what the government is doing on its behalf and to participate in decision-making processes

8. **DISCLOSURE TAKES PRECEDENCE:** Laws which are inconsistent with the principle of maximum disclosure should be amended or repealed.

9. **PROTECTION FOR WHISTLEBLOWERS:** Individuals who release information on wrongdoing - whistleblowers - must be protected.

Access to information in Iraqi laws and constitution:

Since Iraq signed and ratified several international treaties and documents on human rights, including the International Covenant on Civil and Political Rights on February 18, 1969, in which the right to access information is introduced as a fundamental principle of human rights and establishes it as a prerequisite for people's participation in the running of the state, those documents should become an indispensable part of Iraqi laws, or, at least, no law should be passed in Iraq or the Kurdistan region which is inconsistent with those treaties, especially those provisions related to the right to access information.

Although there is no text, article or paragraph in the Iraqi endorsed laws and constitution, which explicitly refer to the right to access information, there are indirect indications in them, which refer to this right through provision of the right to freedom of expression and journalistic activities.

Subparagraph (b) of paragraph (1) of article 2 in the first section of the Iraqi constitution states that "No law may be enacted that contradicts the principles of democracy." This provision puts a responsibility upon Iraq and the Kurdistan region to implement all principles related to public rights and freedoms including the right to access information, given that it is introduced as a principle of democracy in most international documents on human rights which Iraq signed.

Article 38 of the second section of the Iraqi constitution indirectly guarantees the right to access information given that this right is necessary for the right of freedom of expression and journalistic activities or work, stating that "The State shall guarantee in a way that does not violate public order and morality:

- A. Freedom of expression using all means.
- B. Freedom of press, printing, advertisement, media and publication.

This article provides a limitation to these provisions through

commitment to " public order and morality." But these concepts are not clearly stated and they may be variously defined by some parties so as to justify the restriction of the freedom of expression, journalistic work, and the right to access information.

Nevertheless, the limitations posed by article 38 are clarified in article 46 of the same constitution, more explicitly stating that "Restricting or limiting the practice of any of the rights or liberties stipulated in this Constitution is prohibited, except by a law or on the basis of a law, and insofar as that limitation or restriction does not violate the essence of the right or freedom."

It is expected that the draft bill to protect journalists' rights, which will be ratified by the Iraqi Council of Representative and which has been given a first-reading, will be a step toward establishing and further guaranteeing the right to access information and journalistic activities in Iraq.

According to article 4 of that draft bill, a journalist has the right to access information, news, documents and statistics on the condition that the law permits him or her to do so. Article 6 further elaborates that the journalist has the right to read and see official information and documents which do not harm the public interest if they are disclosed or are not inconsistent with the articles of this bill. In fact, on the contrary, the respective governmental bodies are obligated to allow a journalist to have access to them and read them.

According to information the PDA received from unofficial resources, a number of civil society organizations and the Iraqi journalists' syndicate have submitted a proposed bill pertaining to the right to access information to the Iraqi Council of Representatives, which is a positive step toward better providing this right in Iraq.

Access to information in laws and the draft constitution of the Kurdistan region:

There is a huge gap of available information on many subjects and topics, leading to a lack of transparency in the government and hindering many public affairs in the Kurdistan region. Access to information is one of those topics which remain obscure from a legal perspective. Nevertheless, there are some legal documents and attempts at obtaining such documents to which we can refer.

The constitution of the Kurdistan region is still merely a draft, and although it is expected to be approved by referendum, there is dispute over re-sending it to the Kurdistan parliament for further review.

Nevertheless, it will be the supreme legal document in Kurdistan at some point. In this way, the current draft will lay the foundation for any other alternatives the Kurdistan region will devise in the future.

According to the third paragraph of article (6) in that constitution, laws that contradict the principles of democracy cannot be enacted.

This puts a responsibility upon the government and its respective bodies to respect the principles of democracy, access to information being one of these principals.

Subparagraph (10) of article (19) in the second section of the constitution states that "Every person shall have the right to freedom of expression. The freedom and diversity



of the press and other media must be guaranteed.” This is an important constitutional recognition of freedom of expression and the right to engage in media and journalistic activities, and the right to access information is an important means of practicing such freedoms.

However, this subparagraph continues by imposing some conditions which may be interpreted and defined in different ways, possibly leading to the violation of the provisions guaranteed in that constitution, as it stating that “This right shall not apply to libel, infringement of others’ rights, sacrilege, provocation to violence, or the incitement of hatred between the groups of the people of Kurdistan-Iraq” The following subparagraph of the same article, which states that “The right to obtain information shall be guaranteed by law,” has two different important dimensions. First, it is a positive step toward recognizing the right to access information and puts a responsibility upon the judicial authority to regulate this right. Accordingly, efforts have to be intensified to produce an advanced law based on international standards of the right to access information. Second, however, this provision is vague in that it does not state any constitutional guarantee to produce that advanced law regarding access to information that was discussed above.

However, article (37) may prove to be the most important constitutional guarantee, not only for the right to access information but also for all other important rights and questions, stating that “Everyone shall have the right to enjoy the rights mentioned in the international agreements, charters, covenants and declarations on human rights that have been ratified and acceded to by Iraq.” This is an explicit recognition of the international principles of human rights, which were ratified by Iraq and which obligate the country to enforce them.

Currently there is only one reliable legal source pertaining to the right to access information in the Kurdistan region, which is a press law numbered 35 that was approved by the Kurdistan region’s

parliament on September 22, 2008. According to paragraph (2) of article (2) of that law, a journalist has the right to obtain any information from various resources that has importance to the people or is related to the public interest. This is also an explicit recognition of the right to access information, or at least for journalists, who disseminate that information to the people.

There have been several attempts made by parliamentary factions, organizations and persons to submit a law pertaining to the right to access information to the Kurdistan region's parliament, the most obvious one being a proposal called "Runaki." According to information which the PDA received from Sardar Harki, the former MP in the Kurdistan region's parliament who was then in charge of preparing that law, the proposed law was formally submitted to the 4th round of parliament, which gave a first-reading of it. It was then sent to the Kurdistan Regional Government (KRG), but it has remained unanswered by the government.

Moreover, according to the latest information received, the same proposed law was submitted by the Gorran parliamentary bloc to the 5th round of the parliament. The proposed law was given a first-reading in June 2010. It is expected to be given a second-reading by September. Putting the right to access to information into a legal context will be an important step to establish and fulfill this right.

II. Status of the right to access information in the Kurdistan region in general:

At the time of preparing this report, there is as yet no specific law pertaining to the right to access information, leading to the lack of requirement of public bodies to publish their information. Moreover, people can not hold them accountable for not giving information. Thus, information-giving is subject only to a personal or a foundation's will and desire. The possibility of receiving information is often relative to having a social connection with that person or foundation. As a result, a person or a body seeking information may not have access to even the simplest information. On the other hand, a person with social connections may have access to kinds of information which harm the national security, the judicial process or personal secrecies if they are published.

As discussed, there is only one legal resource which recognizes the right to access information, which the press law has numbered 35. This law has faced many obstacles in terms of implementation or enforcement. The Kurdistan Journalists' Syndicate clearly referred to those obstacles in its latest report. The employees disciplinary law No (14) of 1991, which was issued by the collapsed Baath regime, is still effective in many governmental foundations. There are some paragraphs and articles in that law pertaining to information-giving to the media which contradicts the press law of the Kurdistan region. According to the press law, no law may be enacted or enforced that contradicts it.

Based on our interviews with many ordinary people and those in official positions, we conclude that there is a pervasive unawareness of the right to access information at all levels. There is still a common misunderstanding from some officials who believe that all information belongs to the government and do not see the need to publicly publish that information. In other words, they do not see it as a basic right for people to be aware of the information they are in charge of.

Rebin Rasul, director of a nongovernmental organization, has said that "I think the right to access information has not yet become a principle of democracy and human rights in the Kurdistan region. Many foundations do not see it as people's right to have access to information. Many people with official positions believe they can only maintain their high status by hiding as much information as possible. This is a kind of mentality which couples information disclosure with interests of national security. Thus, no one should know it."

National security has become a justification for not disclosing many kinds of information to the media and to the general public as well. Meanwhile, the question of national security has not been well defined or its limitations specified. This is also due to the lack of a law that regulates the right to access information. There are many kinds of information which is not disclosed under the pretext of national security even though this information has nothing to do with national security.

During the PDA's interviews with media channels and journalists, most of them agreed that information that is related to governmental financial issues, the budget, and expenses are given maximal secrecy and confidentiality. Thus, it is hard, if not impossible, to access information regarding these issues, which, as they believe, is related to the widespread financial corruption in public and governmental bodies.

In addition to the lack of a law that regulates the right to access information, there are some practices by foundations which in fact restrict the right to access information. In addition, there are some bureaucratic procedures which cause seekers to be unable to successfully access the information they need.

Moreover, in addition to these difficulties in accessing information in the Kurdistan region, some information given by governmental foundations is not authentic or true. The PDA's human rights

monitors obtained many examples of invalid or unreliable information given by those foundations to the media. This was sometimes done intentionally to hide the truth, and sometimes this was related to archiving information systems which are outdated, leading not only to problems with the validity of information stored in them but also creating problems of national security.

The media in general and the independent media channels in particular have thus suffered the most from the situation surrounding the question of accessing information to the point that it has almost become impossible for them to perform their activities. Independent media has become to mean a subject equivalent to dealing with a critical condition.

Moreover, the critical condition of information access compels the independent media to seek other resources. As a result, they may come up on information that is found to be invalid or inaccurate after being published. Thus, the independent media channels face many lawsuits and threats and even arrest of their members. What's more, these media channels face threats even when they publish valid and true information.

Similarly, the civil society organizations suffer from the critical condition of information access, which prevents them from performing their activities effectively or even compels them to stop working on a project, especially those projects related to human rights monitoring.

III. Governmental foundations and information-giving in the Kurdistan region:

Differences over the definition of sensitivity of information:

The PDA made efforts to identify those standards and criteria used by foundations to distinguish confidential information from that which can be disclosed. However, different information-giving procedures and sometimes contradictory instructions for this task among those foundations were discovered. What this tells us is that publishing or not publishing information is often tied to personal interests. National security then becomes a justification for not giving out this information.

That information which is mostly related to expenses, finances and commercial activities is especially well guarded.

Safin Dzayee, the KRG education minister, said in response to a question posed by the Chawyxalik website concerning the budget of his ministry that "The amount of the budget of the ministry is an internal issue; therefore I do not want to talk about it."

Similarly, Bayiz Talabani, the KRG minister of finance, said the "ministry of finance is a kind of particular ministry from which every thing cannot be disclosed. But our budget is transparent in general. Nevertheless, we have confidential articles whose copies are not given to anyone and they should be kept secret. This is a kind of information which affects the national security."

Information-giving is also a problem among small foundations in rural and remote areas.

Muhammad Ali Aziz, the financial manager of the Garmiyan administration areas, said "we do not have any kind of secrecy except for invoices and receipts. If a journalist, for example, asks to see them, he must have permission from the financial supervisory agency."

Ardalan Muhammad, director of the directorate of electricity distribution of Chamchamal, said "Nothing is secret (here), but documents are not provided unless permission is granted from the media directorate. Nevertheless, we can comment and give information verbally."

The PDA monitoring teams continued to interview journalists and some media foundations, all of which on the extent of the difficulty to access some kinds of information in the governmental foundations.

Niaz Abdulla, director of editing at Media newspaper, said "I went to the ministry of culture, requesting with official permission to give us information on the ministry's annual budget allocation to cinema, music and theatre works, etc. Unfortunately, the ministry was not ready to provide us with such information."

Handren Ahmad Abdulla, editor-in-chief of Regay Kurdistan Weekly, said that "a change has occurred in information-giving but information especially on budgets, funds, names and project bids is hard to access."

Zana Ali Kamal, a correspondent and journalist with Khak TV and Kurdsat satellite channel, said "You face obstacles if you ask for confidential information while you can easily access information on the work and activities of foundations simply to praise them. A journalist can access official and genuine documents while he or she cannot access those which are counterfeit and include corruption."

Atta Hussein Ali, a correspondent with Awene newspaper, said "information on weather forecasts is, for example, disclosed, but information on finance, budget and corruptions among people with official positions is kept hidden, as it is on the meetings of the KRG with Baghdad and outside the country."

Shaxawan Mahmoud Ahmad, another correspondent with Awene

newspaper, said "information is given if it is in their interests (foundations and persons) while they do not give it if it mentions their corruptive works."

Procedures for providing information:

There are procedures and instructions followed by some governmental foundations which obstruct people accessing information. When these foundations are requested to disclose information, they usually reply that they are informed by their supervisors not to do so.

Nawzad Hadi, the governor of Erbil, did not see unlikely to inform the down employees within his governance not to comment and disclose information, saying "This may happen in the ministries. Problems occurred in foundations when they replied that a minister informed them not to give comment or information. Yes, that happened."

Some ministries have informed all their directorates not to give comments or information to the media, or they must obtain permission from their superiors to do so. Brigadier Gen. Nzar Rahmulla Aziz, general director of the Erbil passport and residency office, said "we do not give statistics or data to anyone because they are formal or official. We also officially informed all our directorates not to do so as well. We cannot, for example, tell you [addressing a PDA human rights monitor] how many immigrants or how many Arabs or Iranians are here. If someone gives information within our directories or office, he will be definitely questioned because we informed them not to do so, as were we by his Excellency the minister, not even to official persons. Kurdistan TV, for example, is our TV channel, it belongs to the government, but I must be given permission to do so if the station wants to interview me."

Bakhtyar Nihmat Sadiq, who is in charge of the directorate of citizenship in the Soran area, said "we respond to the media but we have to first receive permission from our superiors. General information is given to the people but not all kinds of information.

There is some secrecy which I cannot tell you.”

Aziz Mina Sofi, governor of the Penjwen district, said “some kinds of information are particular or private to a foundation or directorate. Thus, it should not be disclosed to the outside. According to the law, if it is sent out, it will be a crime. According to the regulations issued by most foundations, only the general or central office of a foundation is allowed to give comments, data or statistics. In other words, the small offices are not allowed to do so. This regulation has to be enacted.”

Adnan Haji Kaka, director of the media department in the KRG ministry of work and public affairs, said “some information we may not give such as the number of prisons in our reform center or number of prostitutes because it may incite people to follow these acts. However, we can give information on the number of street children. This is something normal to people.”

Some instructions given by the foundations to its directorates not to give information only include the media, but the governmental foundations also tend not to give information to civil society organizations, academic centers, and students of higher educational levels.

Currently, the foundations that belong to the KRG follow employees disciplinary law No (14) of 1991 that was issued by the collapsed Baath regime. This law relates to information-giving by employees and employers within official foundations.

Unfortunately, there are numerous cases of penalties being set against employees based on this law because these employees gave out information.

Khasraw Kamal Ahmad, general director of the directorates of municipalities of Sulaimani, said “if someone gives secret information to the outside, he or she will be questioned or probed according to the employees disciplinary law.”

Bestun Abdul-Salam Hussein, deputy director of the meteorology

office in Chamchamal, said "if someone within this office discloses information on corruption or an illegal act to the media, he will be punished through cutting off his payment, or he will be cautioned formally, or he will be transferred to somewhere else."

These penalties are specified according to the employees disciplinary law mentioned above.

Zana Muhammad Salih, governor of the central district of Sulaimani, said "there is a law called employees disciplinary law, according to which penalties are to be issued."

As some journalists have indicated, the possibility of questioning and punishment of employees for giving information creates fear and concern among employees, even among senior officials, leading them to speak or comment only on the condition of anonymity.

In addition, much of the information given by organizations in the Kurdistan region is not accurate and reliable. The PDA human rights monitoring teams obtained numerous reports of information given by the governmental authorities to the media, journalists, and civil society organizations which was not authentic. Sometimes, that information was released in official press statements.

This situation is worsened when, for example two employees within the same foundation provide different information on a topic, or they explain the instructions for information-giving differently.

The deputy director of the governmental directories in Sulaimani said "we have an information center but it is not authorized to give information to the outside, especially to the media, unless we give it authorization to do so." This is because there is some secret information which would be probably become more harmful than beneficial if it is published.

At the same time, the director of that information center said "I am authorized to give information. I have given information to anyone entering this room, students or media channels, who requested information without having referred to those who are above me." This shows that specific procedures for giving information do not exist in some foundations.

Other media channels have said that they formally requested foundations to provide them with necessary information but their request remained unanswered or the response was so late in coming that the information requested was no longer useful. One of the causes for this kind of slow down in information-giving is the bureaucratic system that is required to retrieve the simplest piece of information. Sometimes, those who seek information become so desperate that they give up.

Some foundations and senior officials have claimed that anyone who requests information should first come forward and clearly introduce him or herself through a formal letter. Meanwhile, tens of journalists and civil society organizations have said that they tried all means to access information but they were rejected. There are no legal documents on which the information seekers can depend upon to base a lawsuit against those foundations which refuse to allow them to access information.

The critical situation of access to information compels many people and the media to use other sources to access information on a particular subject, leading to the receipt of invalid or unauthentic information. Thus, the foundation concerned will ask the publisher of this false information to give an explanation and sometimes will file a lawsuit against the publisher. As a result, the relationship between the foundation and the publisher will be spoiled for some time.

Nyaz Abdulla, director of editing of Media Weekly, discussed the difficulties in receiving information. The Weekly often must rely on obtaining information through personal connections even

though the Weekly requested that information through a formal letter or verbally.

In response to our comment and concern over the behavior of the KRG ministry of finance which obliged our teams to switch off their recorders during an interview, Bayiz Talabani, said “we have concerns over the media. They exaggerate certain subject in relation to us.

If we declare, for example, that we are going to employ university graduates step by step, the media twists this declaration in a headline saying that employment has been halted.”

Rashid Tahir, general director of finance in the KRG ministry of finance said “journalists sometimes reverse our statements. I may say “No”, but the journalist writes “Yes”. This is something which I have to pay for even if it is then stated that it was due to a mistake or type.”

Salih Akram Ismail, director of the Balisan subdistrict said “we are sometimes concerned over the behavior of the media. Sometimes, they do not publish what we tell them, that is, they manipulate our statement for their particular purposes. I talk about, for example, a project as a service by the government, but the media publish only the simple concerns which people have about the project and they do not publish an authentic statement by a particular foundation.”

Information bank and archiving system:

Most foundations suffer from the lack of an information bank and an advanced archiving system which helps people easily access information at any time.

Based on answers from senior managers and officials, our teams concluded that the archiving system of most KRG foundations is mostly traditional; that is, they preserve information in paper-based records. A traditional archive not only slows down the performance of an employee and wastes people's time when they have to retrieve stored papers, it also harms the security of the stored information.

This is because a paper-based archive is susceptible to deterioration over time or fires and accidental losses. Given the importance of stored documents as public properties, the foundations should protect them from being lost.



Attempts were made to establish electronic archives for storing and preserving information, but these attempts are limited given the number of foundations and the amount of information which has to be stored electronically.

Websites of foundations:

The existence of websites which belong to the ministries and central offices of the governmental foundations are a good attempt to speed up the process of information-giving and better enable people to access the information needed. But, most foundations and even the ministries, including the ministry of finance, do not have their own websites. This is true even though the ministry of finance is one of the most important ministries through which the

government sets its financial policy and is thus directly related to people's everyday life. This lack of website is not true for all ministries, however: the ministry of health, for example, has a successful website on which important statistics and data are published.

According to the KRG official website, of 42 ministries, only 13 have their own websites. There have been many critiques on the quality of those websites, including the claim that most of them do not include important data or statistics except praise and compliments on the activities of the ministries.

Some sections are found on those websites are dedicated to data and statistics but is there nothing of much substance posted there. Moreover, these sections have sometimes not been updated for years, or when they are clicked, a message appears saying this section is under construction.

Only a few foundations have their own websites. The official websites of the Erbil, Sulaimani and Duhok governances publish relatively useful information but this information is not frequently required. Information that is often required is that which belongs to the Kurdistan region's statistics committee, which should publish as much data and up-to-date information as possible.

Nawzad Hadi, the Erbil governor, said "we have our own website and media department, to which people and journalists usually send their notes and requests and we then reply to them. We also publish project bids announcements on that website.



Another problem related to these websites is that they are not updated on a regular basis.

These websites are also mostly unknown to most people as they are not advertised or announced. Worse yet, some employees within a foundation are not aware of that their foundation even has a website.

Another important means of information-giving is announcing the plans and projects of a foundation in advance through reports, conferences and press statements.

According to information we have received, only a few foundations have an approach to publish these kinds of activities such as through annual reports.

Some foundations hold press conferences only during an emergency, accidents or catastrophes. They do not regularly provide information and do not see such activities as important.

Information departments of the government foundations:

Although most government foundations have a special department for media relations or they assign someone as a spokesman of the foundation, the media departments or persons assigned often do not have enough information available on their own foundation. Moreover, some of these people or departments are not authorized to give comments to the media or provide information. Some journalists believe these departments are merely a means to prevent the media from getting close to responsible persons in a foundation.

Hawzhin Rauf Hassan, who is in charge of the media department of the directorate of human rights in Sulaimani said that although he is assigned to be in charge of media activities, he is not authorized to give information. Only his director can give comment.

Abdulrahman Abubakir Ali, a correspondent with KNN TV, said "most foundations assign a person to be in charge of information-giving and news but the information given is not as sufficient as required, that person is negligent, and also the person is not authorized to do so."

Zryan Muhammad Amin, a correspondent with Azadi Radio in Sulaimani , and Abdul Rahman Salim, a correspondent with Al-Fayhaa TV, agreed with this statement

In addition to the lack of authorization by those assigned to media activities within the foundations, most of them also lack expertise or certification in the area of media relations. In fact, their working or academic backgrounds are sometimes very far from media activities. They are not involved in training courses to improve their capacity in the area of information-giving.

Sometimes, the directors of foundations send their relatives or close friends to attend the training courses held in or outside the country instead of media employees. Thus, the training courses do nothing to respond to the people's demand for information in general.

Lack of expertise in the information departments can lead to inappropriate behavior of media employees and to mistreatment of those who request information. Most journalists and correspondents of media channels are concerned over the behavior of media employees, which sometimes leads to tension.

said "we were investigated for publishing news which was authentic. We indicated, for example, that a children's hospital received money in a piece of news. This information was true, yet we were questioned."

Questioning a journalist for releasing true information does not always take a legal form. The lawsuit's applicant does not bring his case to court because he knows that he will lose the case. Thus, he looks for other means besides through the court.

Hawzhin Omer, editing director of Komal newspaper, said "we received threatening emails and calls or threats through other means."

Sometimes, a kind of indirect pressure is put upon journalists and media channels, which is illegal.

Eron Omer Alyas, director of Zari Krmanji newspaper, said "questioning often occurred for our journalistic activities. But it is a kind of indirect questioning through attempts to narrow our activities by blocking our information resources. When a correspondent for us, for example, visits a foundation to access a piece of information, that foundation does its best to prevent him from accessing it."

Questions are not only asked of journalists but also on those who give information, scaring employees of foundations to not provide information. Thus, most of those interviewed for this report, including journalists and government employees, attribute a lack of giving-information to the existence of penalties and retribution in different forms.

The independent media is also discriminated against in terms of receiving information.

Kaka Jwan Galalayee, who works for Kurdistan Nwe newspaper, said "there was news concerning the arrest of a person who was accused of drug smuggling. So, we contacted the concerned resource but it denied it and informed us that was unfounded. But then the same resource gave a statement to another newspaper which had a close relation with it and confirmed the authenticity of the news."

Jamal Abdulla Rahim, general director of the Gali Kurdistan satellite TV channel, which belongs to the Kurdistan Patriotic Union, said "discrimination is practiced, sometimes positively and sometimes negatively. [Our status as Gali Kurdistan TV] is good in Sulaimani while it is bad in Erbil."

Such discrimination is practiced in an organized manner. That is, the government invites, for example, only a specific number of media channels to a press conference while neglecting the independent media and those which belong to an opposition group.

Handren Ahmad, editor-in-chief of Regay Kurdistan, said "we are discriminated against when it comes to invitations to a press conference or receiving information. [They] prefer those media which belong to the main political parties over the independent media. Sensitive information is given only to the media which have affiliations with the main political parties."

Niaz Abdulla, editing director of Media Weekly, which belongs to the Kurdistan Nationalistic Union, said "we are often not invited to the press conferences, especially those which are held for the Kurdistan Region's presidency or prime minister."

Omer Abdulla, programs director of the Payam satellite TV channel, said "information pertaining to routine news can be easily accessed, but accessing further information on the details is difficult. We are also discriminated against. Mostly Kurdsat and Kurdistan TV are invited to cover the joint meetings of the Patriotic Union of Kurdistan and the Kurdistan Democratic Party. Our correspondent was not allowed to cover the visit of the prime minister to the PUK political bureau. He was not allowed to enter the room [where the prime minister met the bureau members]."

Hassan Hussein Faraj, who is in charge of the coordination department of Speda satellite TV channel, said "We were and also continue to be discriminated against. We were not allowed many times to cover the Halabja festival."

Shwan Ahmad, editor-in-chief of Awene newspaper, agreed that his newspaper is discriminated against. As he said, priority was given, for example, to Kurdistan and Kurdsat TV during the coverage of the joint meeting between the PUK and KDP political bureaus in Dukan and Sulaimani.

Ahmad Mira, editor-in-chief of Levin magazine, said "we are discriminated against. When foreign delegates, for example, come to meet the Kurdish officials, only those media are invited which belong to their political parties and those media are introduced as the voice of Kurdish media as whole. We frequently go to cover the press conferences but we are not allowed to enter [the room where the press conference was held]."

Nawzad Mahmoud, who is in charge of the Sulaimani office of Rudaw newspaper, a privately-funded newspaper, said "we wasted lots of our time simply trying to access a piece of information. Discrimination is practiced among political and privately-funded newspapers.

The directorate of Police in Sulaimani, for example, called to give information to Kurdistani New newspaper but I personally went a couple of days to that directorate to get details of that information but all my attempts were in vain. We were not invited to cover a press conference held yesterday for Sulaimani governor."

Ako Muhammad, editor-in-chief of Rudaw newspaper, said that his newspaper is often not informed about press conferences.

Some journalists said that they were given information by the government but they have their own comments on the ways of accessing it.

Nyaz Abdulla said that his newspaper could access information through personal connections or after many attempts to retrieve it. Nyaz also said that they had requested to access information through both formal letters and verbal correspondence but their requests often remained unanswered.

V. Civil society organizations and the right to access information:

The uprising of the people of the Kurdistan region against the Baath regime in 1991 opened a gate to civil reform starting with rehabilitation and financial aid, which was then further broadened after 2003 to long-term development activities at all levels: political, social, and economic. To do their job well, these civil society organizations need access to official information, including data and statistics.

Abdulla Khalid, director of the Masala center, a local nongovernmental organization, said that the civil society organizations which contribute to the development of the society have to be helped by the government and its foundations to access the information needed to implement their projects effectively.

The critical condition of the access to information has also affected the performance of the civil society organizations. Sometimes, the lack of necessary information and data has led to the halt of projects or in poor implementation of the projects.

Sardast Abdulrahman, director of the center for developing democracy and human rights, a local nongovernmental organization, said "we had a project on the status of human rights in prisons but due to the lack of necessary information and transparency our project was brought to an end without being implemented."

Ali Karim, head of the Kurdistan institute for human rights, said "there were cases in which we needed to have precise information, for example, on prisons, but we could not access it. There were also cases in which the target foundations did have information but we had to follow a bureaucratic procedure to access it."

As Ali said, the information which is given is not always reliable. The statistics on women's murders which were released by the official directorate for combating violence against women is

different from those of published by the newspapers and civil society organizations.

Hemn Salih Esmail, director of PAO, a civil society organization, said "our activities cannot be launched unless necessary information is available. We sought to access information, for example, to implement a project on education. A director of a department within the general directorate of education in Erbil said 'this is confidential, I cannot give you the number of teachers we have' even though our project was to conduct training courses for teachers. Thus, we desperately needed to know the number of teachers."

Shad Muhammad, director of a youth capacity building organization, said that personal connection plays a vital role in accessing information. As he said, their formal requests to access information were mostly useless or neglected by official foundations. "We sought to know how many youths were in the prisons, for example, or we requested the directorate of passport and residency to provide us with the number of those foreign youth who visited the Kurdistan region in 2008 or the number of young IDPs, but the directorate formally replied that this information could not be provided, even though it has nothing to do with national security."

Recommendations and suggestions:

1- The Kurdistan region's parliament, the KRG and the presidency of the Kurdistan region must speed up the process of formulating and passing a law regulating access to information, one that will not contradict the international principles and documents on the right to access information, especially those documents ratified by Iraq. Moreover, a special committee should be formed to ensure that the law can and will be practically enforced, and the committee should inform all foundations to take necessary measures to do so.

2- The KRG must put an end to the existence of all obstacles through the law or any other means which prevents information seekers from accessing information. These obstacles include the pretext of national security, bureaucratic procedures, and problems with traditional archiving of information. Accordingly, the KRG must allocate a special budget to provide all foundations with their own websites and advanced information storage system.

3- The KRG and its concerned foundations must conduct awareness-raising campaigns to introduce people to the idea of the right to access information and ways to exercise this right.

4- The KRG must enforce all articles and provisions within the press law and prevent the enactment and enforcement of any law which contradicts it. The Kurdistan Journalists' Syndicate must play a role in this regard.

5- The KRG must take appropriate measures to eliminate all obstacles hindering the activities of the independent media, and provide a suitable environment for such media.

Support Us:

Let us try to encourage the concerned parties through civic and peaceful means to eliminate all forms of human rights violations, especially those detailed in this report.

You, as an organization or an individual, can help us by:

- Sending us notes or recommendations
- Writing articles and your views on the various subjects
- Contributing to the making of civic and peaceful lobbying campaigns
- Initiating projects

Or,

you can encourage the KRG ministries and other national or international foundations such as the Kurdistan National Assembly to take quick and appropriate measures to help the victims of human rights violations.



I can support you by :

- Volunteering to work on the PDA human rights monitoring project
- Providing you with financial aid

Name:

Age:

Job title:

Tel No.:

Email:.....

Please fill out this form or email it to hmr@xelik.org

Access to information has become a subject of debate by different authorities at different levels. A proposed draft law pertaining to the question of access to information has thus recently been submitted to the Kurdistan Region Parliament.

The right to access information is in direct relation with many other questions and issues, beginning with those related to peoples' everyday lives and continuing up to the question of the principles of democracy, transparency and combating corruption, as well as the extent of freedom of expression, which is closely related to media and journalistic activities.

Contact us:
office phone: (+964) 53 319 4727
(+964) 66 250 1620
Iraq- Kurdistan
Web Address: www.xelik.org
E- Post: pda@xelik.org