

# كسر القوالب Breaking the mold

#Breaking\_The\_Mold

## Arab Civil Society Actors and their Quest to Influence Policy-Making

Country: **Palestine**

### Campaign to Pass the Law on the Right to Access Information in Palestine Dormant Alliance, Missing Plan and Random Tactics

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The Law on the Right to Access Information is defined as legislation regulating the process of requesting and obtaining information, cases of approval or rejection of a request, information obtained or supposed to be withheld, and other procedures in various cases. While the law specifies some exceptions related to national security or what its publication may cause harm to society, provided that the period for withholding this information does not exceed twenty years, taking into consideration to keep it confidential for another period if the Commissioner-General is convinced of the need to do so.

The right to access information is one of the basic principles of human rights. It is guaranteed by most international conventions and stipulated in states' constitutions and internal regulations, especially that this right is closely related to the right to know<sup>1</sup>. Hence, this law is considered essential to legitimize the citizen's right to know, enhance transparency in administration, combat corruption, participate in public life and decision-making, and enhance trust between citizens and the state. The absence of such a law may help spread rumors about the management of public affairs, and making this information available helps journalists to collect and publish accurate information, and researchers, academics and research institutions collect information that helps them in analyzing the reality and coming up with recommendations that benefit decision-makers in the public field, detecting and reforming errors.

Western countries began from the 18<sup>th</sup> century, specifically Sweden in 1776, to implement the Law on the Right to Access Information and France through the Declaration of Human Rights in 1789 (Stearman, 2012, p. 46). To date, more than a hundred countries in the world have passed this law and granted their citizens the right to access information, among them four Arab countries, namely Jordan on June 17, 2007, Yemen on May 6, 2012 (Choucair, 2018, p. 25), Tunisia on March 16, 2016<sup>2</sup> (Choucair, 2018, p. 22) and Lebanon on February 10, 2017 (Legal Agenda, 2017, p. 4).

Although this law has been approved in some Arab countries, some studies indicate formal approval. For example, a study prepared by Choucair (2012) shows that this law in Jordan was not successful in achieving the positive reasons that led to its approval. Most of its articles do not comply with international standards on the right to information best practices in this field. In Lebanon, for example, and despite the Lebanese Parliament's approval of the Right to Information Law in February 2017, the Parliament itself does not abide by this law<sup>3</sup>.

In addition, the problem in Palestine revolves around the lack of a strategy that allows the public to obtain information orderly, as the Palestinian Basic Law refers to the freedom of opinion

<sup>1</sup> The twenty-eighth of September of each year was devoted to the celebration of the right to know. This occasion was celebrated for the first time in 2003, and the decision was taken on the last day of the Freedom of Information Litigation Conference within September 26 and 2002, 28 in Sofia, Bulgaria, with the participation of representatives of Freedom of Information organizations from 15 countries (RightToKnowDay.net, nd).

<sup>2</sup> After the Tunisian Jasmine Revolution in 2011, Decree No. 41 was issued on May, 26 2011, relating to access to administrative documents for public structures, which was revised by Decree No. 2011 - 54, on June 2011, 11, as well the Constitution of January 2014, 27 in Chapter 32, stipulates that the state guarantees the right to information and the right to access information. Then Basic Law No. 22 of 2016 was issued on March 2016, 24 regarding the right to access information (Choucair, 2018, p. 22).

<sup>3</sup> According to the «Ghorbal Initiative», which deals with issues of transparency and accountability and conducted a test over nine months in 2018 to verify whether or not 133 administrations and public institutions abide by this law, the Parliament did not respond to its request for specific information. According to the initiative's study, 34 out of 133 departments responded to their requests for information, 19 of them complied with the -15day legal deadline, 15 departments responded outside the deadline, while 99 departments did not respond (Al-Gharif, 2018).

and expression in general, without directly addressing freedom of information. In April 2005, the first Palestinian attempt was carried out to pass a draft law protecting citizens' right to obtain information. The Legislative Council discussed it in its tenth session and passed it in public reading before it referred it to parliamentary committees for discussion and remarks. During this period, specifically on June 3, 2006, a campaign was launched to accelerate the passage of this law, after a workshop held by the Coalition for Integrity and Accountability "AMAN", during which it called for reviewing and developing a law on the right to access information and the need to put pressure on the Legislative Council to accelerate its passage and approval (Wafa, 2006). This call clashed with the Islamic Resistance Movement's coup (Hamas) on June 14, 2007, and its control of all security sites, ministries, and government institutions in the Gaza Strip, which prevented the campaign's continuity due to the failure of the Legislative Council to work. The law remained disregarded (Musa al-Rimawi, Exclusive interview, December 25, 2018)<sup>4</sup>. Accordingly, it can be said that the political situation is no longer valid to talk about this law due to the division between the poles of the government and the main players in Palestine, namely Hamas and Fatah, and the subsequent decline in the reality of rights and freedoms in the West Bank and Gaza Strip, especially freedom of opinion, expression and information in the West Bank according to the Board of Grievances of the Independent Commission for Human Rights (Ichr, 2012).

### CAMPAIGN'S PHASES TO ADOPT THE LAW ON THE RIGHT TO ACCESS INFORMATION IN PALESTINE

In early December 2012, the regulators of the Palestinian Center for Development and Media Freedoms (MADA) - an independent, non-governmental, non-profit Palestinian human rights media organization founded by a group of journalists and personalities interested in defending the rights of journalists by providing legal advice to them and revealing violations against them, raising awareness concerning the right to freedom of expression and the rights of journalists - believed that the political situation has become favorable for the launch of the campaign once again, especially with the availability of material support from the Geneva Centre for Security Sector Governance (DCAF), an international organization based in Switzerland that helps advanced countries, democracies and emerging democracies in establishing good governance in the security sector and respect for the rule of law.

The new campaign aimed at raising public awareness of the importance of this law and pressuring decision-makers to pass it. For this campaign, a group was created on Facebook entitled "Campaign for Adoption of the Law on the Right to Access Information" on November 29, 2012, on which the center will publish a series of educational and awareness-raising publications, articles and videos about the law, as well as the various activities related to the campaign. Nevertheless, the number of those joining it does not exceed 308 followers. The number of views of each post is very small<sup>5</sup>, which raises a deep question about the effectiveness of this method and the seriousness of the regulators, especially since the last post was added in September 2015 and did not get any likes. The total of what was published in 2015 reached 14 posts, compared to only one in 2014 and 20 in 2013, noting that publishing regularly is one of the most important characteristics of successful Facebook pages (socialreport, 2018).

On December 16, 2012, the two centers (MADA and DECAF) held a conference on enhancing the ability of journalists and citizens to obtain information through legislation, in which representatives of Ministry of Information, legal affairs in the Cabinet, Legislative



Council and Coalition for Integrity and Accountability "AMAN", the Journalists Syndicate, the Freedom of Expression Alliance, and many media professionals, security men, researchers and interested parties participated. During the conference, the Undersecretary of the Ministry of Information at that time, Mahmoud Khalifa, affirmed the Ministry of Information's support for the process of passing the law, describing it as a "very important law". He pointed out that, according to a study conducted by the Ministry: "We urgently need to pass this law for our media is copying some of it, investigations are almost non-existent, and we need creativity. All of this needs information, which needs a law that regulates that" (Mada, 2012). Despite these assurances, the Ministry of Information is not the authority to pass the law, but President Mahmoud Abbas.

Later, the center formed a mini-committee of experts that included a group of jurists to draft a modern draft of the Law on the Right to Access Information, which included substantial amendments to the previous draft. Earlier in 2013, the center called on President Mahmoud Abbas, through a letter addressed to him, to ratify the amended draft, despite the Legislative Council's disruption, especially that the law allows him to issue decisions by law if the Palestinian Parliament is suspended. However, this message was not responded to without knowing the reasons (Musa al-Rimawi, Exclusive Interview, December 25, 2018). It seems that there is a lack of follow-up by the center in this regard, as this message was not followed by appropriate follow-up and pressure tactics.

Later, in July 2015, as a part of the campaign's tactics and at the initiative of the Palestinian Center for Development and Media Freedoms (MADA), the Coalition for the Right to Information "Khaberni" was formed, consisting of the Mada Center, the Media Development Center of Birzeit University, and the Coalition for Integrity and Accountability Aman, "Al-Haq" Organization, and the Palestinian Journalists Syndicate. These organizations are considered among the most important Palestinian civil society organizations working within the framework of developing media, establishing civil rights, and strengthening integrity, transparency, and accountability in Palestinian society. However, this coalition does not have a clear plan or strategy to achieve its goals of putting pressure on the government and President Mahmoud Abbas to pass the Law on the Right to Access Information, as

<sup>4</sup> Musa Al-Rimawi, Director General of the Palestinian Center for Development and Media Freedoms (MADA), and head of the secretariat of the Right to Information Coalition, «Khaberni».

<sup>5</sup> These numbers were accessed on the page on April 2019, 12.

the law has been disregarded in the Palestinian Cabinet since December 2013. President Abbas has not presented it to ratify it in the absence of a clear vision and message for the coalition. In the aftermath of the bloody coup, Hamas takeover of the Gaza Strip in 2007, and the Legislative Council's disruption, the Palestinian President began issuing legislation by issuing law resolutions based on Article (43) of the Basic Law. However, most of these laws are limited to the West Bank due to Hamas takeover of the Gaza Strip. On the other side, Hamas parliamentary bloc (Change and Reform Bloc) meets in the Gaza Strip, issues legislation that is limited to application in the Gaza Strip and exercises its duties in the name of the Legislative Council, despite the absence of the necessary legal quorum for the Council to convene and President Abbas not to call the Council to convene as required by law. On December 12, 2018, the Supreme Constitutional Court decided to dissolve the Legislative Council due to suspension, absence and non-meeting since its first session on July 5, 2007, until the end of its legal term on January 25, 2010.

On November 11, 2018, MADA re-launched the Right to Information Campaign, "A Step Forward to Promote Freedom of Expression in Palestine", within a three-year project in cooperation with the European Union, which aims to contribute to increasing opportunities for Palestinian citizens to enjoy their rights to access information and freely express their views. MADA launched this campaign with a media campaign under the slogan "You are right - we want the Law on the Right to Access Information" that lasted for two months on radio spots in cooperation with 3 local radio stations and billboards in many locations in the West Bank and Gaza Strip (Maan, 2018).

### TACTICS USED

MADA Center used many tools in this campaign that were divided according to its organizational stages. In the definition and education phase related to the law's importance, street billboards and radio spots were used to publicize the law and define its importance. This phase included a group of different meetings with civil organizations to include their programs and strategic plans. In addition, a series of educational sessions were held on freedom of expression in general, and the issue of the right to access information included within it, targeting a group of judges, prosecutors, lawyers and some employees of the Palestinian security services working in public relations departments, government employees, employees of the Palestine Liberation Organization, journalists and media students. As for the second phase, represented by the call's activities, face-to-face meetings were organized with the Prime Minister and the Minister of Justice (Musa al-Rimawi, exclusive interview, December 25, 2018). However, these meetings did not produce results on the policy level, and the reason may be because they did not coincide with advocacy activities with pressure campaigns on the government.

Despite the statements of the Minister of Justice, Ali Abu Dayak, on 06 March 2017, in his meeting with the international expert and executive director of the Center for Law and Democracy, Toby Mendel, in his office in Ramallah, in the presence of the head of the Palestinian Journalists Syndicate, Nasser Abu Bakr, a member of the "Khaberni" Coalition that the government is drafting a law on the right to access information to be passed soon, stressing the harmonization of internal legislation in line with the international standards (Wafa, 2017), but this did not find its results at the policy level. Perhaps the reason is due to the presence of parties in the government that oppose this law. The coalition has not succeeded in reaching these influential forces, in addition to the fact that the absence of a timeline for this campaign indicates the randomness of action.

### OBSTACLES ACCORDING TO THE REGULATORS

According to the regulators' opinion, the obstacles facing the campaign are the lack of will to pass the law by the Palestinian government under the pretext of the specificity of the Palestinian situation. The Palestinian Legislative Council has been suspended since the coup in 2007, and the general political situation has deteriorated as a result of the division that has existed since the coup (Musa al-Rimawi, Interview, in particular, December 25, 2018).

But in all cases, it seems that the real obstacle in the failure to pass the law until this moment is the lack of a real plan that the organizers and campaigners work on. President Mahmoud Abbas has issued many presidential decrees that include law resolutions since the Legislative Council was suspended, which the campaigners consider a hindrance. In fact, it is an opportunity that can be used to make the campaign a success<sup>6</sup>. The campaign's focus with its activities to influence the President to pass the law may be easier than targeting the 132 Members of Parliament.

### COMMENTARY AND CONCLUSION

As of the date of conducting this study, this campaign has not succeeded in creating any breakthrough for the policy and achieving its intended goal. The regulators did not reach decisive moments. The campaign organizers return the matter to the lack of will to pass the law by the Palestinian government on the pretext of the privacy of the Palestinian situation, but it is noticeable that there is no good planning based on scientific foundations to ensure the success of this campaign. For example, there is a wide gap in the chronological order of the campaign's events, i.e., there is no correlation between the campaign phases and the tools used. The campaign has used social networks as the main tool to promote the campaign and mobilize the audience without any result. Since 2015, this tool has not been active at all. Campaign regulators consider it an open campaign until the demands are fulfilled.

If we look at the educational sessions and their targeting of a group of judges, prosecutors, lawyers and some employees of the Palestinian security services working in public relations departments, government employees, employees of the Palestine Liberation Organization, journalists and media students, we find that the following two questions must be asked: What is the relationship of all of these who the campaign will target? How will targeting them contribute to its success? The answer to these two questions may indicate the randomness in work in this campaign framework, especially in the absence of a time frame regulating it.

Perhaps the most important recommendations that can be made in this context is to employ a group of experts and specialists in planning and building lobbying and advocacy campaigns, as the campaign will be redesigned according to a specific time plan and targeted activities with specific and measurable goals, and clear messages that are met by a team who believes in the idea.

<sup>6</sup> These decisions include, but are not limited to: Decree-Law No. 9 of 2008 amending Local Authorities Law No. 1 of 1997, Law No. 20 of 2014 amending Penal Code No. 16 of 1960 and its amendments, and Law No. 17 of 2014 amending Criminal Procedures Law No. 3 of 2001, Decree-Law No. 6 of 2015 amending Civil Service Law No. 4 of 1998 and its amendments, and other law decisions.

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## BREAKING THE MOLD PROJECT

In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

## THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.

## THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.

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