

**IT BELONGS TO YOU:
PUBLIC INFORMATION
IN EGYPT**

Transparency International is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, we raise awareness of the damaging effects of corruption and work with partners in government, business and civil society to develop and implement effective measures to tackle it.

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of May 2013. Nevertheless, Transparency International cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

This report is part of a larger, region-wide project, entitled Addressing Corruption Through Information and Organized Networking (ACTION). As part of this project, this report provides an assessment of the legal and regulatory environment in Egypt for accessing information to enhance public accountability across 10 access to information principles, and contains a detailed look at access to information within Egypt's health sector.

Transparency International commissioned and the Center for Development Services (CDS) researched, prepared and wrote this report. CDS is an employee-owned development entrepreneurial venture that uses innovative approaches to mobilise technical and financial support for development endeavours in Egypt and the Middle East.

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Abbreviations and Acronyms

ATI	Access to information
CAPMAS	Central Agency for Public Mobilization and Statistics
CDS	Center for Development Services
EGP	Egyptian Pounds
GDP	Gross Domestic Product
ICT	Information and Communications Technology
NA	National Archives
TES	Treatment at the Expense of the State Programme
UDHR	Universal Declaration of Human Rights
US\$	United States Dollars
WHO	World Health Organization

Executive Summary

Transparency International believes that because corruption takes place in secret, access to information is an essential tool for addressing it effectively. Citizens have a right to access public information, and a general law regulating access to information in all areas is a necessary foundation to fulfil that right. This report analyses access to information provisions in Egyptian laws and finds that while the constitution guarantees access to information, in reality this right is limited in current legislation. No general legislation on the right of access to information exists in Egypt at the time of writing and laws that do exist in specific sectors do not provide enough scope for individuals and civil society to detect and address corruption.

The first section of this report examines legal bases for access to information in Egypt. Article 47 of Egypt's new constitution that President Morsi signed into law on 26 December 2012 guarantees the right of access to information (the validity of the constitution remains uncertain following a 2 June 2013 verdict in which the Supreme Constitutional Court ruled that the procedure to elect the Shura Council, the body that drafted the constitution, had violated existing constitutional provisions).¹ The right remains more of an aspiration than a reality, however, as Egyptian officials frequently treat public information as confidential. In March, the Ministry of Justice published a draft information law, but at the time of writing existing laws only allowed partial access to information and were limited by other laws containing exceptions, including on the grounds of national security. In the absence of a precise legal definition of national security, the government and public authorities retained discretion on what information, if any, to disclose.²

Of the three laws with information provisions none meet all 10 principles for effective access to information set-out by a leading international non-governmental organisation focused on this right, Access Info,³ which Transparency International uses as a baseline for assessing access to information laws in this report. These laws, but not the draft information law:

- do not clearly state who has the right to access information
- do not set limited timeframes for responding to requests
- do not specify in all cases that no fee is charged for providing information
- do not require public officials to justify refusals

Proactive disclosure by public bodies related to these laws is limited and frequently not obligatory.

In the second section, this report looks at access to information in the health sector. Every Egyptian is guaranteed the right to health care, but social health insurance through the Health Insurance Organisation currently only extends to 45 per cent of the population,⁴ and in 2009 a perceptions survey identified health care and public hospitals as the second most corrupt sector in Egypt.⁵ The

¹ Constitution of Egypt 2012, Article 62, http://www.egypt.gov.eg/english/laws/download/Current_Constitution_20121225.pdf [accessed 22 May 2013] (original text in Arabic), Peter Beaumont, 'Mohamed Morsi signs Egypt's new constitution into law', *The Guardian*, 26 December 2012, <http://www.guardian.co.uk/world/2012/dec/26/mohamed-morsi-egypt-constitution-law> [accessed 22 May 2013]. BBC, 'Egypt's Shura Council and constitution panel 'invalid'', *BBC*, 2 June 2013, <http://www.bbc.co.uk/news/world-middle-east-22745568> [accessed 18 June 2013].

² Dr Namira Negm, visiting assistant political science professor, American University in Cairo, interview by Shady M. Salama and Leena S. Azzam, 23 October 2012.

³ Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations* (Madrid: Access Info, November 2011), http://www.accessinfocypus.eu/images/access-info/final_report/Draft_Report_and_Recommendations_for_Consultation_24_Feb_2011_web.pdf [accessed 22 May 2013], p. 37.

⁴ World Health Organization, *Country Cooperation Strategy for Egypt 2010 – 2014* (Cairo: WHO 2010), http://applications.emro.who.int/docs/CCS_Egypt_2010_EN_14481.pdf [accessed 22 May 2013], p.19.

⁵ Centre for International Private Enterprise and Al Ahram Center for Political and Strategic Studies, *Egyptian citizens' perceptions of transparency and corruption: 2009 National Public Opinion Survey*, (Cairo: Centre for International Private Enterprise 2010), <http://www.cipe.org/sites/default/files/publication-docs/2009%20Egypt%20National%20Survey%20Report%20EN.pdf> [accessed 22 May 2013], p.49.

report finds that access to information in the health sector lacks supervisory mechanisms, information technology and effective archiving systems, making it difficult to monitor resource flows and allocation, even where allowed by law. Proactive disclosure by public health authorities is limited and often voluntary rather than obligatory.

The report concludes that including the right of access to information in the 2012 constitution was a positive step in securing the right in Egypt, but to give it meaning Egypt requires a robust and effectively implemented general access to information law. The Ministry of Justice's March 2013 Draft Information Law – also analysed in this report – fulfils some, but not all of the requirements of Access Info's 10 principles. Ambiguities of terms within the law leave space for restrictive application and exceptions to disclosure are overly broad.

Regional perspective

All states in the region, except Oman, have ratified one or more international standards obliging them to implement the right of access to information.⁶ However, only Egypt, Morocco and Sudan have included this right in their constitutions,⁷ and only Jordan, Tunisia⁸ and Yemen have access to information laws. While Yemen's July 2012 law is recognised as particularly strong by the Centre for Law and Democracy and Access Info,⁹ Jordan and Tunisia's laws have both faced criticism for being too restrictive.¹⁰ Civil society and members of parliament have submitted draft laws to the parliaments of Bahrain, Egypt, Kuwait, Lebanon, Morocco, Iraq, Palestine and Sudan.¹¹

⁶ Algeria, Bahrain, Egypt, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Sudan, Syria, Tunisia and Yemen have ratified the International Covenant on Civil and Political Rights. Palestine has said it would abide by the covenant's provisions; Algeria, Bahrain, Jordan, Lebanon, Libya, Palestine, Qatar, Saudi Arabia, Syria, Tunisia, the United Arab Emirates and Yemen have ratified the Arab Charter on Human Rights.

⁷ Egypt: Constitution of Egypt 2012, Article 47; Morocco: Royal Decree on the Implementation of the Provisions of the Constitution 2011, no. 91.11.1, Official Gazette no. 5964 bis, 30 July 2011, Article 27, http://www.sgg.gov.ma/Historique_Bo_ar.aspx?id=762 [accessed 13 May 2013] (original text in Arabic); Sudan: Article 39 (1): 'Every citizen shall have an unrestricted right to the freedom of expression, reception and dissemination of information, publication, and access to the press without prejudice to order, safety or public morals as determined by law'. Interim National Constitution of the Republic of Sudan 2005, <http://www.sudan-embassy.de/INC%20of%20Sudan.pdf> [accessed 22 May 2013].

⁸ Tunisia's law is not due to come into force before May 2013. Freedominfo.org, 'Tunisia issues decree on access to documents', 11 July 2011, <http://www.freedominfo.org/2011/07/tunisia-issues-decree-on-access-to-documents/> [accessed 17 March 2013].

⁹ Centre for Law and Democracy, 'Yemen passes strongest RTI law in the Arab world', 10 June 2012, <http://www.law-democracy.org/live/yemen-passes-strongest-rti-law-in-the-arab-world/> [accessed 22 May 2013].

¹⁰ Business Anti-Corruption Portal, *Jordan Country Profile - Public Anti-Corruption Initiatives*, <http://www.business-anti-corruption.com/country-profiles/middle-east-north-africa/jordan/initiatives/public-anti-corruption-initiatives/> [accessed 22 May 2013]; Freedominfo.org, 11 July 2011; Said Almadhoun, *Access to information in the Middle East and North Africa Region: An overview of recent developments in Jordan, Lebanon, Morocco and Tunisia* (Washington DC: World Bank Institute: 2012), http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-acquia/wbi/Almadhoun-ATI_in_MNA_Region_ENGLISH.pdf [accessed 22 May 2013], pp.2–5.

¹¹ Said Almadhoun, 'Status of freedom of information legislation in the Arab world 2010', *Open Society Justice Initiative*, 6 February 2010, <http://www.right2info.org/resources/publications/Overview%20of%20FOI%20legislation%20in%20the%20Arab%20World%20-%20SA%20-%202002-06-2010.doc/view> [accessed 22 May 2013].

Recommendations

After an analysis of the situation and based on consultation with stakeholders, Transparency International makes the following recommendations for improving access to information in Egypt. A full list of recommendations can be found at the end of the report.

TABLE 1: Key recommendations

KEY RECOMMENDATIONS
The government and parliament should pass and effectively implement an access to information law that complies with international standards and best practice, including on the form of request and access, fees and limited exceptions subject to the harm and public interest tests.
Parliament should remove conflicting laws and overly broad exceptions to disclosure or ensure the access to information law overrides them.
The government should create a public body responsible for proactively disclosing public information, encouraging citizens to use the right of access to information, and providing a remedy for non-disclosure.

About the Report

Objective

This report analyses the current legal status of the right of access to public information from government sources and its implementation in the health sector. Its purpose is to identify weaknesses in Egypt's laws and to propose recommendations for strengthening the right of access to information. Passing and implementing a robust and effective access to information law would be a solid first-step in doing so.

Methodology

Researchers conducted in-person interviews and consulted legal and contextual sources between October 2012 and January 2013. They used international standards on access to information as a reference point. The researchers looked in more depth at access to information issues in the health sector due to the importance in this sector and recent reported cases of misallocation of resources. They drew up a list of recommendations with stakeholders and discussed the report at a stakeholder meeting on 19 November 2012 at CDS premises. Stakeholder recommendations are reflected in the report. All exchange rates are as of 11 March 2013.¹²

Structure

The first section of the report provides an overview summarising key international principles on access to information. The second examines the application of these principles within a selection of Egyptian laws, including the constitution. This legal framework is then measured against 10 principles for realising the right of access to information. The next section discusses the implementation of this right in Egypt's health sector, demonstrating the tangible impact access to information can have on people's lives. Finally, the report concludes with a summary of its findings and recommendations to different actors in society for ensuring access to information in Egypt.

Limitations

The report does not consider aspects of the right of access to information other than those related to corruption. Research for the report itself was limited by the information provided. As a result of limits to accessing information in Egypt, a great deal of the content of this report is the product of interviews and discussions with legal experts, political analysts, academics, and Egyptian civil society activists.

Definitions

Information

All records held by a public body, regardless of the form in which the information is stored, its source (produced by the public body or another body) and the date of production. Classified records should be subject to the same test as other records.¹³

Public body

The term public body focuses on the type of service provided rather than the formal title. It should include all branches and levels of government including local government, elected bodies, bodies that operate under a statutory mandate, nationalised industries and public corporations, non-departmental bodies, judicial bodies, and private bodies which carry out public functions (such as maintaining roads or operating rail lines). Private bodies themselves should also be included if they hold information whose disclosure is likely to diminish the risk of harm to key public interests,

¹² Exchange rates taken from www.oanda.com.

¹³ Article 19, *The public's right to know: Principles on freedom of information legislation* (London: Article 19, 1999), <http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf> [accessed 22 May 2013], pp.2-3.

such as the environment and health. Inter-governmental organisations should also be subject to access to information regimes.¹⁴

10 principles

The 10 principles embody international standards on access to information and were developed by Access Info – a human rights organisation dedicated to promoting and protecting the right of access to information¹⁵ – in consultation with international experts. They draw on international standards, comparative studies on access to information laws in European countries and the European Convention on Access to Official Documents.¹⁶

Exceptions

Exceptions to access to information should be exhaustively listed in the access to information law and subject to a three-part legitimate aim, harm and public interest test.¹⁷

- **Legitimate aim**

The law should provide a complete list of legitimate aims that justify non-disclosure. Exceptions should be narrowly worded, based on content of information and not form, and should be time-limited where appropriate.¹⁸

- **Harm test**

When information falls within a legitimate aim, the public body seeking to exclude the information should show that disclosure would cause substantial harm to the legitimate aim.¹⁹

- **Public interest test**

Even where disclosure would cause substantial harm to the legitimate aim, information should be weighed against the public interest in disclosing the information and where the public interest outweighs the harm, information should be made available.²⁰

Proactive disclosure

As well as acceding to requests for information, public bodies should publish and widely disseminate documents of significant public interest, subject only to reasonable limits based on resources and capacity. Information published depends on the public body concerned, but laws should include a general obligation to publish and should specify key categories of information that must be published. These should include: operational information, information on requests, complaints or other direct actions, guidance for public input into processes, the type and form of information held by the body, and the content, reasons and background to any decision or policy affecting the public.²¹

¹⁴ As above, p.3.

¹⁵ Access Info, <http://www.access-info.org/> [accessed 8 March 2013].

¹⁶ Access Info, 2011, p.36.

¹⁷ Article 19, 1999, p.5.

¹⁸ As above, p.6.

¹⁹ As above.

²⁰ As above.

²¹ As above, pp.3-4.

Access to Information

‘Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.’²²

In addition to the Universal Declaration of Human Rights, the right of access to information has been included in major human rights conventions, including in Article 19 of the International Covenant on Civil and Political Rights,²³ Article 9 of the African Convention on Human and Peoples’ Rights,²⁴ and Article 32 (1) of the Arab Charter on Human Rights,²⁵ which states that:

‘The present Charter guarantees the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries.’

Elaborating on Article 19 of the International Covenant on Civil and Political Rights, the United Nations Human Rights Committee, which provides authoritative interpretation of the meaning and application of the covenant, stated in 2011 that the right of access to information held by public bodies requires that state parties should proactively release government information of public interest, ensure easy, prompt, effective and practical access to that information, implement necessary procedures (such as an access to information law), process requests in a timely manner, ensure fees do not constitute an unreasonable impediment to access, provide reasons for refusal, and make available appeals for a refusal.²⁶

Taking measures to enhance transparency in public information, such as adopting and facilitating procedures to allow public access to information relating to the organisation, functioning and decision-making processes of the state, and publishing information,²⁷ is required under the UN Convention Against Corruption, as is promoting the active participation of individuals and groups, which can include enhancing transparency and ensuring the public has effective access to information.²⁸ Access to information is a foundation of democratic governance:²⁹

‘Access to information acts are grounded in the recognition ‘that information in the control of public authorities is a valuable public resource and that public access to such information promotes greater transparency and accountability of those public authorities, and that this information is essential to the democratic process.’ The purpose of these acts, also known as access to information laws, is to make a government more open and accountable to its people. In transitional democracies, laws that give effect to the right to information are part of

²² Universal Declaration on Human Rights 1949, Article 19.

²³ International Covenant on Civil and Political Rights 1966, Article 19 (2): ‘Everyone shall have the right to... receive and impart information.’

²⁴ African Charter on Human and Peoples’ Rights 1981, Article 9 (1): ‘Every individual shall have the right to receive information.’

²⁵ Arab Charter on Human Rights 2004, Article 32.

²⁶ UN Human Rights Committee, *General Comment No. 34 on Article 19*, CCPR/C/GC/34 2011.

²⁷ United Nations Convention Against Corruption 2003, Article 10: ‘[E]ach State Party shall... take such measures as may be necessary to enhance transparency in its public administration... Such measures may include... (a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public.’

²⁸ United Nations Convention Against Corruption 2003, Article 13: ‘Each State Party shall take appropriate measures... to promote the active participation of individuals and groups outside the public sector... This participation should be strengthened by such measures as... (b) Ensuring that the public has effective access to information,’ Transparency International, *United Nations Convention Against Corruption*, http://archive.transparency.org/global_priorities/other_thematic_issues/access_information/conventions/uncac [accessed 22 May 2013].

²⁹ Transparency International, *Using the right to information as an anti-corruption tool*, (Berlin: Transparency International, 2006), p. 5.

the process of transforming a country from one with a closed and authoritarian government to one governed by and for the people.³⁰

Transparency International believes that the effective implementation of an access to information law is essential for addressing corruption. Information is fundamental to making informed decisions. Information is also power. Where it is not freely accessible, corruption can thrive and basic rights may not be realised. Corruption can be hidden behind a veil of secrecy. Those with privileged access to information can demand bribes from others seeking such information. People may be denied basic health or education services if they lack information about their rights. Governments can hide their actions by controlling or censoring the media, preventing essential information in the public interest from being reported.³¹

When the right to know is denied, the public will find it difficult to hold decision-makers or institutions to account for their actions or to make informed electoral choices. Without public information a culture of empowered citizens informed about their rights is hard to imagine.³²

More than 90 countries have passed access to information legislation over the past 15 years but implementation is patchy. Global anti-corruption treaties stress the value of access to information and governments have their work cut out for them to ensure that people can effectively enjoy their right to know.³³

³⁰ As above.

³¹ Transparency International, *Access to information*, <http://www.transparency.org/topic/detail/accesstoinformation> [accessed 22 May 2013].

³² As above.

³³ As above.

Access to Information in Egypt

This section provides an overview on access to information in Egypt by examining the constitution and relevant legislation. The right of access to information is now included in the constitution, but the existing laws that the researchers analysed only provide limited access and the draft information law contains weaknesses. A comprehensive, robust and effectively implemented access to information law is needed to realise this right.

Constitution

The 2012 constitution includes the right of access to information for the first time. The previous 1971 Constitution and 2011 Constitutional Declaration only included limited aspects of this right.³⁴

Article 47 of the 2012 constitution states:

‘Access to information, data, documents and statistics, and the disclosure and circulation thereof, is a right guaranteed by the state, in a manner that does not violate the sanctity of private life or the rights of others, and that does not conflict with national security.

The law regulates the rules for filing and archiving public documents, the means of access to information, the means of complaint when access is refused, and the consequent accountability.’³⁵

A number of articles relate to this right:

- Article 88 requires members of the House of Representatives and Shura Council to disclose their finances to their respective assemblies at the start and end of their terms and annually.
- Article 138 requires the president to disclose his or her finances to the House of Representatives at the start and end of his or her term and annually.
- Article 158 requires cabinet members to disclose their finances to the House of Representatives at the start and end of their terms and annually.
- Article 124 obliges the government to respond to a request for information from a member of the House of Representatives in urgent public matters of importance.

³⁴ Under the 1971 constitution, Article 210 provided the right of access to information for journalists, stating that, ‘journalists have the right to obtain news and information according to regulations established by law. Their activities are not subject to any authority other than the law.’ Article 47 indirectly included the right to information, through freedom of expression, stating that, ‘freedom of opinion is guaranteed. Every individual has the right to express his opinion and to disseminate it verbally or in writing or by photography or by other means within the limits of the law.’ Other articles in the constitution addressed certain aspects of the right to access information by ensuring related rights, but only in discrete areas. Article 48 guaranteed the freedom of press, printing, publication and mass media, within the limits of the law, Article 49 guaranteed freedom of scientific research, as well as literary, artistic and cultural innovation, and Article 169 stipulated that court hearings must be held in public, unless otherwise decided by the court, and mandated the public pronouncement of judgments. A further set of articles in the constitution related to access to information with respect to the parliament and government, including Article 118 requiring the final account of the state budget to be submitted to the People’s Assembly within one year following the end of the fiscal year and Article 115 requiring submission to the People’s Assembly of both the draft state budget at least three months before the beginning of the fiscal year and of the annual report and observations of the Central Agency for Accounting. Under the 2011 constitutional declaration the right of access to information was not included and, except for Articles 47 (Freedom of Opinion) and Articles 48 (Freedom of the Press) all of the other provisions in the 1971 constitution providing some aspect of the right of access to information, were removed.

³⁵ Constitution of Egypt 2012, Article 47.

Access to information law

At the time of writing, no access to information law existed in Egypt. In 2008 the United Group³⁶ of lawyers, legal researchers and human rights advocates drafted a law and organised a conference to introduce their proposal for public discussion.³⁷ The government did not take up this draft law.

In May 2012 Toby Mendel, president of the Centre for Law and Democracy and a World Bank consultant, prepared another draft information law. The Ministry of Telecommunication and Information Technology amended it³⁸ after consultation with the ministries of Mass Communication and Justice, the Journalists Syndicate, and the Egyptian Cabinet Information and Decision Support Centre.³⁹ The government submitted this draft for civil society consultation⁴⁰ before a court ruling ordered parliament to be dissolved in June 2012.⁴¹

Between June 2012 and January 2013 the Ministry of Justice developed a number of draft laws on the right of access to information.⁴² In March 2013 the minister of justice announced the final draft of the access to information law and circulated it for input to the ambassadors of EU states.⁴³

The March 2013 draft covers access to information from public bodies, non-governmental bodies and private entities subject to some degree of government control or oversight (Article 4). It details the methods for requesting and responding to information requests, as well as establishing a National Information Council responsible for promoting transparency and monitoring implementation of the law (Article 14), and requiring entities covered by the law to appoint information commissioners to receive and respond to information requests (Article 18). This draft law is analysed below.

³⁶ The United Group is a law firm providing integrated legal, financial, economic, industrial, commercial, social and strategic consultation services for institutions and legal practitioners all over the world, <http://www.ug-law.com> [accessed 22 May 2013].

³⁷ Jamel Fadel, 'Freedom of Information Act and trading information', *Al Ahrām*, 11 August 2008, <http://digital.ahram.org.eg/articles.aspx?Serial=212098&eid=186> [accessed 22 May 2013] (original text in Arabic).

³⁸ Yosri Al Hawari, 'Al Masri Al Youm publish the access to information law', *Al Masri Al Youm*, 8 May 2012, <http://www.almasryalyoum.com/node/825716> [accessed 22 May 2013] (original text in Arabic).

³⁹ As above.

⁴⁰ Yosri Al Hawari, 'Communication: Dialogue with parliament on an access to information bill', *Al Masri Al Youm*, 10 May 2012, <http://www.almasryalyoum.com/node/830436> [accessed 22 May 2013] (original text in Arabic).

⁴¹ Marwa Awad, Omar Fahmy, Edmund Blair, and Andrew Roche, 'Egypt's military ruler orders parliament dissolved', *Reuters*, 16 June 2012, <http://www.reuters.com/article/2012/06/16/us-egypt-election-parliament-idUSBRE85F0L520120616> [accessed 22 May 2013].

⁴² These include: Draft Access to Information Law, November 2012, copy obtained by Transparency International Secretariat; Ibrahim Qassem, 'We publish the text of the draft Freedom of Information Law before release on March 9th', *Al Youm Al Sabah*, 10 February 2013, <http://www.youm7.com/News.asp?NewsID=939963> [accessed 22 May 2013] (original text in Arabic).

⁴³ El Fagr News, 'We publish the final draft of the access to information law prepared by the Ministry of Justice', *El Fagr News*, 7 March 2013, <http://new.elfagr.org/Detail.aspx?nwslid=297581&secid=1&vid=2#.UUMMuRcqZ8G> [accessed 22 May 2013] (original text in Arabic).

Other relevant laws

TABLE 2: Laws facilitating access to information

LAW	SCOPE
Central Bank and the Banking Sector Law no. 88 (2003)	Under Article 73 the central bank's financial statements must be circulated quarterly in at least two daily newspapers. ⁴⁴
Law no. 95 (1992)	In Article 6 this law requires companies to issue comprehensive overviews of their mid-year reports and circulate their annual financial statements in two widely read daily newspapers, one of which is in Arabic. ⁴⁵
Law no. 89 (1998) on the Regulation of the Tenders and Bids	In Article 2 this law requires that equal opportunity, equality, and freedom of competition govern public bids, whether internally (inside Egypt) or externally (outside Egypt). As such, the public authority holding the bid must circulate the declaration in daily newspapers or other forms of media. ⁴⁶
Environment Law no. 4 (1994)	Under Article 5 this law obliges the Egyptian Environmental Affairs Agency to 'prepare an annual report on the environmental situation, to be submitted to the President and Ministries' Council (cabinet). A copy of this report is to be placed in the People's Assembly (House of Representatives). ⁴⁷
Law 356 (1954) on Regulating the National Archives, as amended	Initially established to preserve documents related to Egypt's history, ⁴⁸ in 1979 the scope of the Archives Law was extended to regulate the preservation, publication and usage of official state documents.

TABLE 3: Draft laws facilitating access to information

LAW	SCOPE
National Archives Draft Law	This 2012 draft law requires state institutions – including the Ministry of Defence and Foreign Affairs – to deposit information in the national archives. ⁴⁹
Telecommunications Draft Law, amending the Telecommunications Regulation Law no.10 (2003)	This draft law ⁵⁰ imposes restrictions on the government's right to restrict and block telecommunication systems in situations governed under the Public Mobilisation Law no. 87 (1960).

⁴⁴ Negad El Borai, *The guillotine and the pit, freedom of expression in Egypt 2003-2004* (Cairo: The United Group, 2004), <http://www.ug-law.com/downloads/the-guillotine-and-the-pit-en.pdf> [accessed 22 May 2013] (original text in Arabic).

⁴⁵ As above.

⁴⁶ Law no. 89 of 1998 on the Regulation of the Tenders and Bids, Egyptian People Assembly Library, Article 2.

⁴⁷ Environment Law no. 4 (1994) as amended by law no. 9 (2009), <http://www.eeaa.gov.eg/arabic/main/law4.asp> [accessed 22 May 2013] (original text in Arabic).

⁴⁸ Establishment of National Historical Documents Law no. 356 of 1954, Association for Freedom of Thought and Expression <http://right2know.aftegypt.org/index.php?newsid=36> [accessed 22 May 2013], Article 2 (original text in Arabic).

⁴⁹ Egypt Independent, 'Culture Minister: New draft law on national archives submitted to government', *Egypt Independent*, 9 October 2012, <http://www.egyptindependent.com/news/culture-minister-new-draft-law-national-archives-submitted-government> [accessed 22 May 2013].

⁵⁰ Mohammed Mujahid, 'Draft amendments to the telecommunications law', *Al Masri Al Youm*, 19 August 2011, <http://www.almasryalyoum.com/node/487874> [accessed 22 May 2013] (original text in Arabic).

TABLE 4: Laws restricting access to information

LAW	SCOPE
Statistics and Censuses Law no. 35 (1960)	Under Article 3 this law states that personal statistical and census data are confidential and cannot be shared with any individual, public or private entity, ⁵¹ nor can they be used for any purpose other than for statistical reasons or published without written approval by the concerned party. ⁵² 'Personal data' is not defined in the law. In addition, it requires that statistical data is not used to estimate taxes, impose financial burdens, as criminal evidence, or as a basis for any other legal action. ⁵³ The primary objective of this law is to protect the right to privacy.
Law no. 12 Amending Law no. 87 (1960) on Public Mobilisation (1999)	Article 35 imposes imprisonment and/or a fine of no less than EGP2500 (US\$369) and no more than EGP5000 (US\$738) for disclosing information or data related to public mobilisation. ⁵⁴ Public mobilisation involves putting the entire country on standby to address an emergency situation, for example in a war or natural disaster.
Central Body of Public Mobilisation and Statistics Decree no. 2915 (1964)	Article 10 states that no ministry, entity, individual, government individual, public or private actor has the right to publish any statistical data or information unless through the Central Body of Public Mobilisation and Statistics. This law strongly limits the individual's ability to access information since only statistical data approved by the Central Body of Public Mobilisation and Statistics is published. ⁵⁵
Civil Servants Law no. 74 (1978)	Article 77 (7-8) prohibits civil servants from publishing any statement or announcement related to their position unless knowingly approved by the director of the ministry or local government department, or chairperson of the public body. Civil servants are also prohibited from disclosing any other information gained through their position, which ought to be confidential by its nature or by instruction. ⁵⁶
Presidential Decree no. 313 (1956), as amended by Law no. 14 (1967)	This law prohibits the publication of any information about the Egyptian armed forces. ⁵⁷ This includes information that has been already published; as stated by the Military Court in case 7/1990, which prohibited re-publishing information and gave the court the discretionary power to decide whether information is confidential.

⁵¹ Statistics and Census Law no. 35 of 1960, Human Rights Public Library, <http://old.gadaya.net/node/1736> [accessed 22 May 2013].

⁵² As above.

⁵³ As above.

⁵⁴ Association of Freedom of Thought and Expression, Association of Freedom of Thought and Expression, *Crisis production and the circulation of information in Egypt: the Central Agency for Public Mobilisation and Statistics* (Cairo: Association of Freedom of Thought and Expression, 25 March 2012), http://www.afteegypt.org/right_to_know/2012/03/25/588-afteegypt.html [accessed 22 May 2013] (original text in Arabic).

⁵⁵ Establishment and Organisation of the Central Agency for Public Mobilisation and Statistics Law no. 2915 of 1964.

⁵⁶ Association for Freedom of Thought and Expression, *Legal study on freedom of information* (Cairo: Association of Freedom of Thought and Expression, 2010), http://www.afteegypt.org/right_to_know/2011/08/14/358-afteegypt.html [accessed 22 May 2013] (original text in Arabic).

⁵⁷ United Group, *Presidential Decree Law No. 313 of 1956 as amended by Law No. 14 of 1967*, http://www.ug-law.com/index.php?option=com_content&view=article&id=424%3Apresidential-decree-no-3131956-amended-by-law-no-141967-&catid=64%3Amedia-laws&Itemid=89&lang=ar [accessed 22 May 2013] (original text in Arabic).

<p>Law no. 100 (1971), as amended by Law no. 1 (1989)</p>	<p>The publication of any information related to the Egyptian General Intelligence Body is prohibited under this law.⁵⁸</p>
<p>Regulation of the Press Law no 96 (1996)</p>	<p>Articles 9 and 10 of this law restrict journalists from accessing information on the grounds of national security, homeland defence or issues of 'state supreme interest' and where information is classified as confidential by law. Criteria for designating information as confidential are not included in the law.⁵⁹</p>
<p>Preservation, Publication and Usage of State Official Documents Decree no. 472 (1979) issued in compliance with the Banning of Using and Publishing Official Documents law no. 121 (1975)</p>	<p>Under this decree, any publication, circulation, or viewing of state documents, papers, or correspondence related to national security or 'supreme state policies' is prohibited. This goes beyond the necessity for the functioning of the state, because there are no specific criteria to classify what information is related to national security or supreme state policies, and thus considered confidential; each public official has the discretionary power to decide on what documents are to be confidential and thus kept undisclosed for up to 50 years.</p>

⁵⁸ Association for Freedom of Thought and Expression, 2010.

⁵⁹ As above.

Legal analysis of access to information

The following 10 principles on access to information,⁶⁰ developed by Access Info in consultation with international experts, draw on international standards, comparative studies on access to information laws in European countries and the European Convention on Access to Official Documents.⁶¹

TABLE 5: Principles

ACCESS TO INFORMATION PRINCIPLES ⁶²
1. Everyone has a right, without discrimination, to access information held by public bodies.
2. Filing requests should be simple and free. Requests can be sent by post, email or fax, delivered in person, or questions asked verbally.
3. There is no need to justify why information is needed or what will be done with it.
4. Public officials should have the obligation to help requestors prepare the request or identify the public body to send it to.
5. Responses should be fast, within a maximum 15 working day timeframe.
6. Information can be accessed in paper copy or electronically, and originals can be viewed.
7. Viewing originals is always free of charge. The only charges can be for photocopying or copying material onto a CD or DVD or other format.
8. In principle all information is accessible, subject to limited exceptions. Refusals should be justified according to the exceptions.
9. Everyone should have the right of appeal against refusals or against administrative silence to an independent body and to the court.
10. Public bodies should make available automatically the main information about their structure, functions, budget, and activities.

Laws analysed

Below, we analyse three Egyptian laws highly relevant for access to information in the context of fighting corruption, as well as the March 2013 Draft Information Law, against these 10 principles. CDS found that while the three laws allow access to information in discrete areas, compliance is limited and subject to numerous restrictions. The Draft Information Law, while a positive step, fails to match these principles in a number of areas. The government and parliament should revise the law before it is passed to ensure it fully complies with international standards and, once passed, effectively implement its provisions.

⁶⁰ Access Info Cyprus, *Principles for an Open Cyprus*. <http://www.accessinfocyprus.eu/en/principles-for-an-open-cyprus.html> [accessed 22 May 2013].

⁶¹ Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations*, 2011, p.36.

⁶² As above.

TABLE 6: Names of the four laws

FULL NAME	SHORT NAME
Ministry of Justice Draft Information Law, March 2013 ⁶³	Draft Information Law
Law 356 (1954) on Regulating the National Archives, Presidential Decree 472 (1979) on the Preservation, Publication and Usage of State Official Documents, Presidential Decree 176 (1993) on the Establishment of National Archives and the National Library	National Archives Law
Law 89 (1998) on the Regulation of Tenders and Bids.	Tenders and Bids Law
Presidential Decree 627 (1981) on the Establishment of Information and Documentation Centres	Information Centres Decree

Draft Information Law

The March 2013 Draft ATI Law allows persons to make requests for information held by all public authorities, state administrative organisations, public legal persons, private legal persons either owned by the state, in which the state participates or which is overseen or monitored by the state, entities monitored by the Central Auditing Organisation, non-governmental organisations, private media organisations, and any entity receiving or collecting donations (Articles 2 and 4). It establishes a National Information Council responsible, among other areas, for establishing and monitoring policies for transparency and access to information, proposing rules and establishing plans on document preservation, and for training and monitoring information commissioners (Article 14). Each entity governed by this law is required to appoint an information commissioner responsible for applying the access to information law internally, including overseeing information requests and responses (Articles 18 and 19).

National Archives Law

Initially established to preserve documents related to Egypt's history,⁶⁴ in 1979 the scope of the Archives Law was extended to regulate the preservation, publication and usage of official state documents. Official documents are held for 15 years by the relevant government body, which then passes them to the Historical Records Department.⁶⁵ Confidential documents related to national security and state supreme policies are not disclosed for a minimum of 30 and a maximum of 50 years.⁶⁶

Tenders and Bids Law

Under this law, public bodies are obliged to include the principles of transparency, equal opportunity, equality, and freedom of competition, whether internal (inside Egypt) or external (outside Egypt) in public tenders. Tenders must be circulated in daily newspapers or other forms of accessible media.⁶⁷

⁶³ El Fagr News, 7 March 2013.

⁶⁴ Establishment of National Historical Documents Law no. 356 of 1954, Association for Freedom of Thought and Expression, Article 2.

⁶⁵ National Archives, *National Historical Archive*, <http://www.nationalarchives.gov.eg/nae/Content?id= 3.1> [accessed 16 October 2012]. At the time of researching this report, the website was operational. As of 22 May 2013, the website is no longer accessible.

⁶⁶ Presidential Decree no. 627 of 1981 on the Establishment of the Documentation and Information Centres, Egyptian People Assembly's Library.

⁶⁷ Law no. 89 of 1998 on the Regulation of the Tenders and Bids, Egyptian People's Assembly Library, Article 2.

This law was designed to increase transparency and equality relative to the previous Tenders and Bids Law (no. 9 (1983)).⁶⁸ It aims to limit corruption by obliging the government to consider financial and technical proposals, choose the best-value bid and publish justifications for rejections.⁶⁹

Information Centres Decree

This decree requires each ministry, governorate or public body and affiliated administrative bodies to establish a Documentation and Information Centre or similar body.⁷⁰ One of the duties required by these centres is to publish 'periodic bulletins, studies, booklets, research and anything related to the activities of the main units affiliated to the body.'⁷¹ Although the centres' main aim is to collect data and information to help public bodies take the right decision at a reasonable time,⁷² this decree is relevant to fighting corruption through access to information, as the centres are also designed to allow the public access to information about the activities carried by the different public bodies and thus enable them to assess their performance.

⁶⁸ US State Department, *2013 Investment Climate Statement – Egypt* (Washington DC: US State Department, February 2013), <http://www.state.gov/e/eb/rls/othr/ics/2013/204635.htm> [accessed 22 May 2013].

⁶⁹ Law no. 89 of 1998 on the Regulation of the Tenders and Bids, Egyptian People's Assembly Library, Article 40.

⁷⁰ Presidential Decree no. 627 of 1981 on the Establishment of the Documentation and Information Centres, Egyptian People Assembly's Library, Articles 40, 59.

⁷¹ As above, Article 4.

⁷² As above, Article 3.

Principle 1

Everyone has a right, without discrimination, to access information held by public bodies

This principle establishes, in line with international standards, that everyone has the right to access information held by public bodies without discrimination on the grounds of ethnicity, nationality, political opinion, social or professional status, age, gender, disability, or sexual orientation.⁷³

TABLE 7: Principle 1

Who may (●) and may not (—) access information under the 4 laws, also indicated is where it is unclear (○).

WHO MAY ACCESS	DRAFT ATI LAW	NATIONAL ARCHIVES LAW	TENDERS AND BIDS LAW	INFORMATION CENTRES DECREE
ALL (INCLUDING FOREIGNERS)	●	○	○	○
CITIZENS	●	○	○	○
AFFECTED PERSONS/ DATA SUBJECT	●	○	○	○
ANYONE WHO CAN JUSTIFY THEIR INTEREST	●	○	○	○
JOURNALISTS	●	○	○	○
RESEARCHERS	●	●	○	○

Only the Draft ATI Law includes the right of access to information for everyone.

- The Draft ATI Law's aim, under Article 2, is to permit access to information for all, in order to ensure the right to knowledge and to facilitate citizen oversight of the state. This implies access is possible for all, but no article specifically details who has the legal standing to make an access to information request.
- The National Archives Law requires the National Archives Administration to 'prepare its collectibles for examination and use by scientists, researchers and the public at the archives and its affiliated libraries.'⁷⁴ Collectibles include manuscripts, publications, periodicals, records, and documents relating to national history. According to regulations stated on the National Archives website 'an official letter signed by the authority supervising the research, clarifying the research title and the historical period it covers' should be submitted to access the archives.⁷⁵ The National Archives Vice-Chairperson stated to researchers for this report that all Egyptian citizens are guaranteed access to the archives' declassified documents.⁷⁶ The National Archives' administration retains the power to approve or reject this access, however, based on security concerns.⁷⁷ The right to access

⁷³ Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations*, 2011, p.43.

⁷⁴ Presidential Decree no. 167 of 1993 on the Establishment of National Archives and the National Library, Egyptian People's Assembly Library.

⁷⁵ National Archives, *Plan your visit*, <http://www.nationalarchives.gov.eg/nae/home.jsp> [accessed 5 November 2012]. At the time of researching this report, the website was operational. As of 22 May 2013, the website is no longer accessible.

⁷⁶ Dr Abdel Wahed El-Nabawy, vice chairperson, National Library Archives of Egypt, interviewed by A'laa El-Sherbiny, 30 October 2012.

⁷⁷ As above.

thus remains unclear; while the law seems to provide access for everyone, the regulations limit access to researchers alone.

- The Tenders and Bids Law and Information Centres Decree are both silent on the issue of who has the right to access information. However, several employees at the Egyptian Cabinet Information and Support Centre emphasised that filing requests for information should be undertaken by addressing an official letter to the National Library president explaining the reasons behind requesting the information.⁷⁸ This implies access under the Information Centres Decree is limited to those who can justify their interest.

⁷⁸ Reception and library staff of the Cabinet Information and Support Centre, interviewed by A'laa El-Sherbiny, CDS 29 October 2012 (information provided on an unofficial basis).

Principle 2

Filing requests should be simple and free. Requests can be sent by post, email or fax, delivered in person, or questions asked verbally

This principle establishes that the formalities of a request should not exceed what is essential for processing the request, the procedure should be as simple as possible and that a variety of methods for accessing information should be permitted.⁷⁹

TABLE 8: Principle 2

Included forms of access (●) and non-included forms of access (—) under the 4 laws, and where it is unclear (○).

FORM OF ACCESS	DRAFT ATI LAW	NATIONAL ARCHIVES LAW	TENDERS AND BIDS LAW	INFORMATION CENTRES DECREE
POST	○	—	○	○
E-MAIL	○	●	○	○
FAX	○	●	○	○
IN PERSON	●	●	○	○
VERBALLY	—	—	○	○
IS FILING FREE OF CHARGE?	○	●	○	○

Application procedures vary across the three laws and one draft law examined. None of the laws meet international standards on filing requests.

- Article 22 of the Draft ATI Law requires access to information requests be made in writing. Requests can be made in person or remotely, but the draft law does not state acceptable methods of remote request, nor does it mention fees for making a request.
- The National Archives Law states that all matters related to the National Archives' administration and policies are to be determined by its board of directors.⁸⁰ Regulations on the National Archives' website specify that filing a request can be made by email, fax or in person, that an application should be filled-out and attached to an 'official letter signed by the authority supervising the research, clarifying the research title and the historical period it covers.' The website indicates no charge is required.⁸¹
- The Tenders and Bids Law does not address the means of filing requests for information. It requires the public body holding the tender to disclose certain categories of information, including public tenders and reasoned decisions. Consequently, each public body provides for its own internal request procedures.⁸²

⁷⁹ Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations*, 2011, p.47.

⁸⁰ Presidential Decree no. 167 of 1993 on the Establishment of National Archives and National Library, Egyptian People's Assembly Library.

⁸¹ National Archives, *Plan your visit*, <http://www.nationalarchives.gov.eg/nae/home.jsp> [accessed 5 November 2012]. At the time of researching this report, the website was operational. As of 22 May 2013, the website is no longer accessible.

⁸² An administrative prosecutor, interviewed by A'laa El-Sherbiny, CDS, 5 November 2012 (information provided on an unofficial basis).

- The Information Centres Degree states that one of the centres' objectives is to 'provide researchers and library visitors with the requested materials and guide them according to the internal and external borrowing systems.'⁸³ A number of public employees at the Egyptian Cabinet Information and Support Centre stated that requesting information is free but should be done by submitting a letter explaining the reasons behind requesting the information.⁸⁴ Whether this is a legal requirement or unofficial policy is unclear.

⁸³ Presidential Decree no. 627 of 1981 on the Establishment of the Documentation and Information Centres, Egyptian People Assembly's Library, Article 4.

⁸⁴ Reception and library staff of the Cabinet Information and Support Centre, interviewed by A'laa El-Sherbiny, CDS, 29 October 2012 (information provided on an unofficial basis).

Principle 3

There is no need to justify why information is requested or what will be done with it

This principle establishes that the petitioner should not be required to show any personal interest or be required to give a reason or justification for asking for the information, or give an account of what he or she will do with the information, in exercising the right of access to information.⁸⁵

TABLE 9: Principle 3

No duty to justify (●) and justifications required (◐) under the 4 laws, and where it is unclear (○).

	DRAFT ATI LAW	NATIONAL ARCHIVES LAW	TENDERS AND BIDS LAW	INFORMATION CENTRES DECREE
NO DUTY TO JUSTIFY REQUESTS	●	○	●	○

Only the Tenders and Bids Law and Draft ATI Law explicitly do not require justification for requests.

- Article 7 of the Draft ATI Law states that there is no duty to justify requests.
- The National Archives Law does not address the issue of justification leaving it is unclear as to whether public bodies can require petitioners to justify access to information requests.
- The Tenders and Bids Law states that a 'request for proposal document' should be given to 'whoever requests it according to the rules and fee decided by the administrative entity announcing the tender.'⁸⁶
- The Information Centres Decree does not explicitly require justification; however a number of public employees at the Egyptian Cabinet Information and Support Centre stated that information requests require an official letter explaining the reasons behind requesting the information.⁸⁷ It therefore remains unclear if there is an official duty to justify requests.

⁸⁵ Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations*, 2011, p.50.

⁸⁶ Law no. 89 of 1998 on the Regulation of Tenders and Bids, Egyptian People's Assembly Library, Article 7.

⁸⁷ Reception and library staff of the Cabinet Information and Support Centre, interviewed by A'aa El-Sherbiny, 29 October 2012 (information provided on an unofficial basis).

Principle 4

Public officials should have the obligation to help petitioners prepare the request or identify the public body to send it to

This principle establishes that public authorities must help applicants as far as is reasonably possible to identify the requested official document and that if the public authority requested does not hold the document or is not authorised to process the request, it must refer the applicant to the competent public authority.⁸⁸

TABLE 10: Principle 4

Duty to assist petitioners (●) and no duty to assist (—) under the 4 laws, and where it is unclear (○).

	DRAFT ATI LAW	NATIONAL ARCHIVES LAW	TENDERS AND BIDS LAW	INFORMATION CENTRES DECREE
DUTY TO ASSIST PETITIONERS	●	○	—	●

Only the Information Centres Decree specifically requires public authorities to assist petitioners:

- Article 23 of the Draft ATI Law requires information commissioners employed in each public body covered by the law to facilitate access to information, in particular for older, illiterate and disabled petitioners. Article 25 requires information commissioners to refer incorrectly filed requests to the appropriate public body and inform the petitioner of this within five working days of the referral. If the information commissioner cannot identify the correct public body, he or she is obliged to refer the request to the chair of the National Information Council.
- The National Archives Law requires that the archive administration should prepare its collection to be placed at the disposal of scientists, researchers and the public to examine and use them at the archives and its affiliated libraries.⁸⁹ It is unclear the extent to which this imposes a duty to assist petitioners.
- The Tenders and Bids Law does not include a duty to assist petitioners.⁹⁰
- The Information Centres Decree directly states that the administration has a duty to assist petitioners, listing one of the centres' objectives as to 'provide researchers and library visitors with the requested materials and guide them according to the internal and external borrowing systems.'⁹¹

⁸⁸ Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations*, 2011, p.52.

⁸⁹ Presidential Decree no. 167 of 1993 on the Establishment of National Archives and National Library, Egyptian People's Assembly Library.

⁹⁰ Law no. 89 of 1998 on the Regulation of the Tenders and Bids, Egyptian People's Assembly Library.

⁹¹ Presidential Decree no. 627 of 1981 on the Establishment of the Documentation and Information Centres, Egyptian People's Assembly's Library, Article 4.

Principle 5

Responses should be fast, within a maximum 15 working day timeframe

The principle comes from the Council of Europe’s Convention on Access to Official Documents that states that ‘a request for access to information shall be dealt with promptly’ and from European states’ practice of responding to requests, on average, in under 15 days.⁹²

TABLE 11: Principle 5

Information must be provided within the specified timeframe (●) and no timeframe (—) under the 4 laws, and where it is unclear (○).

TYPE OF RESPONSE	DRAFT ATI LAW	NATIONAL ARCHIVES LAW	TENDERS AND BIDS LAW	INFORMATION CENTRES DECREE
INITIAL RESPONSE (MAX. 15 WORKING DAYS RECOMMENDED)	●	—	—	—
EXTENSION (MAX. 20 WORKING DAYS RECOMMENDED)	●	—	—	—

Only the Draft ATI Law sets a maximum response time for responding to requests.

- Article 26 of the Draft ATI Law requires information commissioners to respond to a request within 15 days. This can be extended for a further 15 days after notifying the petitioner if the request involves a large number of documents or if it requires the information commissioner to contact other entities. A failure to respond after these time periods is considered a refusal. The law does not specify if these are working days.
- None of the other laws analysed include a response time for responding to requests.

The State Civil Servants Law⁹³ obliges public employees to address people’s requests within an ‘appropriate time period.’⁹⁴ This period is not set in law.

⁹² Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations*, 2011, p.54.

⁹³ Civil Servants Law no. 74 of 1978.

⁹⁴ As above, Article 76.

Principle 6

Information can be accessed in paper copy or electronically, and originals can be viewed

This principle states that petitioners should both have access to original versions of documents and that copies must always be provided, either on paper or electronically. The Council of Europe Convention on Access to Official Documents additionally states that the information must be provided in the format (electronically or on paper) the petitioner asks for.⁹⁵

TABLE 12: Principle 6

Information is available (●) and not available (—) in the specified formats under the 4 laws, and where it is unclear (○).

SPECIFIED FORMAT	DRAFT ATI LAW	NATIONAL ARCHIVES LAW	TENDERS AND BIDS LAW	INFORMATION CENTRES DECREE
VIEWING	●	●	—	○
PAPER COPIES	○	●	●	○
ELECTRONIC ACCESS	○	●	—	○

Formats of access to information vary in the three laws and one draft law analysed. Only the National Archives Law is clear in allowing viewing of originals, paper copies and electronic access.

- The Draft ATI Law does not include a specific article on formats of access. Articles 8 and 22 both include the options of viewing originals and accessing information, implying that viewing originals is allowed and that paper and electronic access may be allowed. Article 24 states that where information is not accessible in the format of a petitioner's request, information commissioners are required to provide the information in an alternative, available format acceptable to the petitioner.
- The National Archives Law explicitly states that permission can be given for a photocopy of the archive documents, as specified in rules decided by the minister of national guidance on the proposal of the Supreme Council of the House of National Historic Documents. Viewing originals and electronic access is not mentioned.⁹⁶ The National Archives vice-chairperson explained on 30 October 2012 that documents are accessed through the archives' electronic database and photocopies are allowed unless the documents are related to national security issues.⁹⁷ He added that they plan to introduce a system – the timeline has not yet been set – which would enable applicants to select and request documents online, to be ready for them when they visit the library.⁹⁸
- According to the Tenders and Bids Law, announcements for public tenders are to be published twice in one or two daily and widespread newspapers.⁹⁹ Request for proposal documents – which include the bid specifications and conditions – are to be printed on paper and sold,¹⁰⁰ as well as published on the Government E-Procurement Portal.¹⁰¹ Finally, reasoned decisions for selection of the bid should be announced on a board

⁹⁵ Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations*, 2011, pp.56–57.

⁹⁶ Establishment of National Historical Documents Law no. 356 of 1954, Association for Freedom of Thought and Expression, Article 9.

⁹⁷ Dr Abdel Wahed El-Nabawy, vice chairman, National Library Archives of Egypt, interviewed by A'laa El-Sherbiny, CDS, 30 October 2012.

⁹⁸ As above.

⁹⁹ Law no. 89 of 1998 on the Regulation of the Tenders and Bids, Egyptian People's Assembly Library, Article 12

¹⁰⁰ As above, Article 7.

¹⁰¹ Prime Ministerial Decree no. 33 of 2010, <http://etenders.gov.eg> [accessed 22 May 2013] (original text in Arabic), Article 1.

specified for such announcements, at a place suitable for viewing by the public in the entity undertaking the action.¹⁰²

- The Information Centres' Decree does not address the issue of how documents are accessed; as detailed above the Information Centres' Decree only stipulates providing access to materials as one of the centres' objectives.¹⁰³

¹⁰² Law no. 89 of 1998 on the Regulation of Tenders and Bids, Egyptian People's Assembly Library, Article 40.

¹⁰³ Presidential Decree no. 627 of 1981 on the Establishment of the Documentation and Information Centres, Egyptian People's Assembly Library, Article 4.

Principle 7

Viewing originals is always free of charge. The only charges can be for photocopying or copying material onto a CD or DVD or other format

This principle states that on-site inspection of official documents must be free of charge (except for minor charges to enter public archives and museums) and that charges for copies must be reasonable and not to make a profit.¹⁰⁴

TABLE 13: Principle 7

A fee is not charged (●) and is charged (—) for the specified formats under the 4 laws, and where it is unclear (○).

NO FEE CHARGED	DRAFT ATI LAW	NATIONAL ARCHIVES LAW	TENDERS AND BIDS LAW	INFORMATION CENTRES DECREE
VIEWING	○	○	●	○
PAPER COPIES	○	—	—	○
ELECTRONIC ACCESS	○	●	●	○

None of the laws explicitly require public bodies to provide information without charge.

- Article 8 of the Draft ATI Law prohibits entities covered by the law from charging a fee in excess of the actual cost of providing the service that is the subject of the request. It is unclear whether this permits entities to charge for staff and other costs associated with responding to a request. The international standard states that charges for copies must be reasonable.
- The National Archives Law states clearly that copies of archive documents are official copies of documents and as such are subject to a fee at the rate specified for an official copy, unless the laws prevailing at the public body from which the document is transferred impose a special charge for obtaining copies.¹⁰⁵ Furthermore, this charge can be doubled, reduced or exempted according to rules set out by the Supreme Council of the House of National Historic Documents.¹⁰⁶ The National Archives' vice-chairperson clarified that, in practice, viewing documents on the archive's electronic database is free and that charges are only imposed on photocopies.¹⁰⁷
- The Tenders and Bids Law states that 'Request for Proposal' documents, including specifications and conditions, will be charged for according to the actual cost of the documents in addition to 20 per cent of the actual cost for administration costs.¹⁰⁸ Specifications and conditions must be published on the Government E-Procurement Portal,¹⁰⁹ and the final, reasoned decisions are to be announced on a publically accessible board specified for such announcements in the entity holding the action,¹¹⁰ and are therefore free to view.

¹⁰⁴ Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations*, 2011, p.59.

¹⁰⁵ Establishment of National Historical Documents Law no. 356 of 1954, Association for Freedom of Thought and Expression.

¹⁰⁶ As above, Article 9.

¹⁰⁷ Dr Abdel Wahed El-Nabawy, vice-chairman, National Library Archives of Egypt, interviewed by A'laa El-Sherbiny, CDS, 30 October 2012.

¹⁰⁸ As above.

¹⁰⁹ Law no. 89 of 1998 on the Regulation of the Tenders and Bids, Egyptian People's Assembly Library.

¹⁰⁹ Prime Ministerial Decree no. 33 of 2010, <http://etenders.gov.eg> [accessed 22 May 2013] (original text in Arabic), Article 1.

¹¹⁰ Law no. 89 of 1998 on the Regulation of Tenders and Bids, Egyptian People's Assembly Library, Article 40.

- The Information Centres Decree does not address the issue of charging fees; rather the imposition of fees is decided by the internal regulations of each public body.¹¹¹

¹¹¹ Reception and library personnel at the Cabinet Information and Support Centre, the Parliament Library, the National Archives, and the Environment Affairs Ministry, interviewed by A'laa El-Sherbiny, CDS, 29–30 October 2012 (information provided on an unofficial basis).

Principle 8

In principle, all information is accessible, subject to limited exceptions. Refusals should be justified according to exceptions

TABLE 14: Principle 8

Exceptions in compliance with international standards (●) and not in compliance (—) under the 4 laws, and where it is unclear (○).

	DRAFT ATI LAW	NATIONAL ARCHIVES LAW	TENDERS AND BIDS LAW	INFORMATION CENTRES DECREE
EXCEPTIONS LIMITED	●	—	—	—
REFUSALS JUSTIFIED	●	—	—	—
HARM TEST	—	—	—	—
PUBLIC INTEREST TEST	—	—	—	—

Currently in the Egyptian legal system, limitations on the disclosure of public information are covered primarily by the following presidential decrees:

- *Central Body of Public Mobilisation and Statistics Decree 2915 (1964)*: Under Article 10 this decree gives the Central Body of Public Mobilisation and Statistics (CAPMAS) sole jurisdiction to publish data and statistics and prohibits ministries, entities, individuals, and public and private sector workers from doing so.¹¹²
- *Preservation, Publication and Usage of State Official Documents Decree 472 (1979)*:¹¹³ This decree prohibits any publication, circulation, or viewing of state documents, papers, or correspondence related to national security or supreme state policies, unless otherwise specified in law.¹¹⁴

Under the Draft ATI Law exceptions are limited and refusals must be justified. Article 30 states that information *may* be excluded if it relates to national security, international relations, or military matters if the relevant authority issues a decree classifying it as such. It *requires* information to be excluded if a) it relates to the right to a private life; b) information is protected under a non-disclosure agreement or relating to a professional or commercial secret; c) if it would harm commercial and financial interests; d) if an international agreement prevents disclosure; e) if information relates to policies and resolutions at an early stage of development and if disclosure would damage the document's efficacy; f) if disclosure would prejudice the judicial process; and g) if disclosure would harm the national economy or state commercial interests. Article 27 requires information commissioners to refuse requests in whole or in part in writing and with reasons. Article 31, allows any exception to be overridden on the grounds that disclosure would uncover human rights violations, corruption or grave environmental danger, or if the information is over 25 years old. However, it also allows the Ministry of Defence or National Information Council to annul the override and prevent disclosure for up to 75 years if it is in the public interest to do so.

None of the other laws analysed provide for a more specific explanation about how the broad exceptions to disclosure mentioned in Decree 472 (1979) are applied.¹¹⁵ According to a number of employees at the National Archives, Cabinet Information and Support Centre, and the Parliament

¹¹² Establishment and Organisation of the Central Agency for Public Mobilisation and Statistics Law no. 2915 of 1964.

¹¹³ Issued in compliance with the Banning of Using and Publishing Official Documents Law no. 121 of 1975.

¹¹⁴ Preservation, Publication and Usage of State Official Documents Decree no. 472 of 1979, <http://www.uq-law.com/downloads/pd472-79.pdf> [accessed 22 May 2013] (original text in Arabic).

¹¹⁵ Preservation, Publication and Usage of State Official Documents Decree no. 472 of 1979, Article 5.

Library, access to information requests are only granted following national security approval.¹¹⁶
None of the laws require refusals to be reasoned or include the harm and public interest tests.

¹¹⁶ Interviewees requested anonymity.

Principle 9

Everyone should have the right of appeal against refusals or against administrative silence to an independent body and to the court

The right to appeal if a petitioner is refused his or her right of access to information or when information is not published proactively is in line with the principle that all human rights should benefit from the protection of the judicial system. This right to appeal should be accessible to all members of the public; it should not be overly complex or costly. Additionally, it should be rapid to be effective, as information can lose its value with the passing of time.¹¹⁷

TABLE 15: Principle 9

Forms of appeal allowed (●) and not allowed (—) under the 4 laws, and where it is unclear (○).

MECHANISM	DRAFT ATI LAW	NATIONAL ARCHIVES LAW	TENDERS AND BIDS LAW	INFORMATION CENTRES DECREE
ADMINISTRATIVE APPEAL ALLOWED	○	●	●	●
APPEAL TO INDEPENDENT BODY ALLOWED (E.G. INFORMATION COMMISSIONER)	●	—	—	—
APPEAL TO THE COURTS ALLOWED	●	●	●	●

Administrative appeal and appeal to the courts is allowed under all three laws analysed. Appeal to an independent body is envisioned under the Draft ATI Law.

As a rule individuals have the right to complain to the competent authority at the administrative bodies for violations conducted by public employees and the authorities have the right to decide on these complaints according to the rules set out in the State Civil Servants Law.¹¹⁸

In cases of refusal, administrative decrees can be appealed at the administrative court.¹¹⁹ In reality, however, appeals to the court are slow and the judiciary is subject to corruption.¹²⁰

- Under Article 28 of the Draft ATI Law petitioners have the right to appeal a refusal to a grievance committee established under the National Information Committee. Silence is treated as a refusal under Article 26. Appeals must be made to the grievance committee within 15 days of the date of receipt of the refusal and grievances must be settled within the following 15 days under Article 28. Appeal from the grievance committee can be made to the administrative court. No deadline is specifically set for this under the Draft ATI Law. The Draft ATI Law does not define the relationship with the right of administrative appeal under the State Civil Servants Law nor does it state whether the time limits are working days or calendar days.
- The National Archives Law does not include specific methods to appeal administrative rejection or silence under this law.

¹¹⁷ Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations*, 2011, p. 72.

¹¹⁸ Civil Servants Law no. 74 of 1978, Arts. 78, 79, 80, 81, 82, 83 and 84.

¹¹⁹ State Council Law no. 47 of 1972, <http://www.f-law.net/law/threads/21878-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D9%85%D8%AC%D9%84%D8%B3-%D8%A7%D9%84%D8%AF%D9%88%D9%84%D8%A9-%D8%B1%D9%82%D9%85-47-%D9%84%D8%B3%D9%86%D8%A9-1972-%D8%B7%D8%A8%D9%82%D8%A7%D9%8B-%D9%84%D8%A3%D8%AD%D8%AF%D8%AB-%D8%A7%D9%84%D8%AA%D8%B9%D8%AF%D9%8A%D9%84%D8%A7%D8%AA> [accessed 22 May 2013], Article 10.

¹²⁰ US State Department, *2012 Investment Climate Statement – Egypt* (Washington DC: US State Department, June 2012), <http://www.state.gov/e/eb/rls/othr/ics/2012/191142.htm> [accessed 22 May 2013]; Business Anti-Corruption Portal, 'Egypt Country Profile: Judicial system', October 2012, <http://www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/corruption-levels/judicial-system/> [accessed 22 May 2013].

- The Tenders and Bids Law requires an administrative appeal office to be established at the Ministry of Finance specialised in receiving complaints related to violations of its provisions.¹²¹
- The Information Centres Decree does not specify methods to appeal administrative rejection or silence.

¹²¹ Law no. 89 of 1998 on the Regulation of the Tenders and Bids, Egyptian People's Assembly Library.

Principle 10

Public bodies should make available automatically the main information about their structures, functions, budget and activities

Under international standards, public bodies have the duty to proactively make information public.

CDS selected these three public agencies due to their relevance to the analysed laws. The National Archives are regulated by the National Archive Law, the Government E-Procurement Portal operates within the framework of the Tenders and Bids Law and the Egyptian Cabinet Information and Support Centre relates to the Information Centres Decree.

TABLE 16: Principle 10

Information provided (●) and not provided (—) proactively under ministries most closely associated with the 4 laws, and where it is unclear (○). Bodies addressed in this comparison are those governed by the laws addressed in this analysis. Only the Draft ATI Law is not addressed; according to the draft law a body will be established to manage the data and information circulation when the law is issued.

CLASSES OF INFORMATION	NATIONAL ARCHIVES ¹²²	GOVERNMENT E-PROCUREMENT PORTAL ¹²³	EGYPTIAN CABINET INFORMATION AND SUPPORT CENTRE ¹²⁴
IS THERE A WEBSITE?	●	●	●
ARE THERE INTERNAL REGULATIONS ON PUBLISHING INFORMATION?	—	●	—
IS THE ORGANISATIONAL STRUCTURE PUBLISHED?	●	—	●
IS CONTACT INFORMATION PUBLISHED?	●	●	●
IS OPERATIONAL INFORMATION PUBLISHED?	—	—	—
ARE DECISIONS AND POLICIES PUBLISHED?	●	—	●
IS DECISION-MAKING INFORMATION PUBLISHED?	—	—	—
ARE EVALUATIONS (E.G. SITUATION EVALUATIONS) PUBLISHED?	—	—	●
ARE MEETING MINUTES PUBLISHED?	—	—	—

¹²² National Archives, *Plan your visit*, <http://www.nationalarchives.gov.eg/nae/home.jsp> [accessed 5 November 2012]. At the time of researching this report, the website was operational. As of 22 May 2013, the website is no longer accessible.

¹²³ See: <http://etenders.gov.eg> [accessed 22 May 2013] (original text in Arabic).

¹²⁴ See: <http://www.idsc.gov.eg/default.aspx> [accessed 22 May 2013] (original text in Arabic).

IS INFORMATION ON SERVICES PUBLISHED?	●	●	●
IS THERE E-ACCESS TO SERVICES?	●	●	●
IS THE PROJECTED BUDGET PUBLISHED?	—	—	—
IS SALARY INFORMATION PUBLISHED?	—	—	—
IS INCOME AND EXPENDITURE PUBLISHED?	—	—	—
ARE SUBSIDIES INFORMATION PUBLISHED?	—	●	●
IS INFORMATION ON OPEN MEETINGS PUBLISHED?	—	—	—
ARE GUIDELINES ON PUBLIC PARTICIPATION PUBLISHED?	—	—	—
IS INFORMATION ON PUBLIC PROCUREMENT PUBLISHED?	—	●	—
IS CONTRACTS INFORMATION PUBLISHED?	—	—	—
ARE REGISTERS AND DATABASES PUBLISHED?	●	—	●
IS INFORMATION ON INFORMATION HELD BY THE PUBLIC BODY PUBLISHED?	●	●	●
DOES THE PUBLIC BODY PUBLICALLY STATE THERE IS RIGHT TO INFORMATION?	—	—	●
IS ENVIRONMENTAL INFORMATION PUBLISHED?	●	—	—

All three bodies analysed publish contact details and information on their structure, subsidies, services, and general policies on their websites. Information on budgets, salaries, income and expenditures are not published. Other information differs from one website to another; information on the bodies' activities is published on all the websites addressed in this analysis, while information on performance evaluations is only published on the Egyptian Cabinet Information and Support Centre website.

Only the Draft ATI Law includes detailed provisions on proactive disclosure:

- Article 6 of the Draft ATI Law requires all entities covered by the law to proactively publish their contact details; the legal framework governing them; their competences and functions; their administrative and organisational structure; their allocated budget, actual and anticipated expenditure and revenues; an organigramme and competences of senior officials; regulations, rules and instructions regarding their work; information on contracts and agreements made; policies and resolutions they plan to adopt within the framework of their public plan, unless their nature dictates otherwise; classification of the information held by them; all services they provide to the public; mechanisms for submitting complaints and full details of the authority that receives complaints; a simplified guide to procedures for the submission of requests; and any other details required by the National Information Council.
- The National Archives Law does not oblige the National Archives to proactively disclose information.
- The Tenders and Bids Law requires the announcement of public tenders to be issued in daily newspapers¹²⁵ and on the Government E-Procurement Portal.¹²⁶ The Government E-Procurement Portal, established according to Ministerial Decree 33/2010, is designed to assist in publishing government tenders and bids, and to facilitate the submission process of electronic proposals.¹²⁷ It publishes information about tenders and bids, specifications, conditions, bid status and final decisions.
- The Information Centres Decree requires Information Centres to produce a monthly publication on their holdings, whether in Arabic or in another language, and whether an article, booklet or a document. It also requires them to issue periodical bulletins, studies, booklets, research and anything related to the activities of the main units affiliated to the centres.¹²⁸

¹²⁵ Law no. 89 of 1998 on the Regulation of the Tenders and Bids, Egyptian People's Assembly Library, Article 2.

¹²⁶ Prime Ministerial Decree no. 33 of 2010, <http://etenders.gov.eg> [accessed 22 May 2013] (original text in Arabic), Article 1.

¹²⁷ e-Tenders, *Portal introduction*, <http://etenders.gov.eg/en/index.php> [accessed 22 May 2013].

¹²⁸ Presidential Decree no. 627 of 1981 on the Establishment of the Documentation and Information Centres, Egyptian People Assembly's Library, Art. 4.

Overall compliance with the 10 principles

The three laws or decrees (henceforth: the laws) analysed on the whole do not comply with the 10 principles on access to information. None of the laws are clear about who has the right of access (Principle 1), nor do they set a timeframe for responding to requests (Principle 5) or have a specific and simple appeal route (Principle 9). Where the laws establish a right to request information, enforcement remains difficult. Except for the Archives Law, the laws do not clearly define how to request information (Principle 2), and, except for the Tenders and Bids Law, if petitioners need to justify requests (Principle 3). Only the Information Centres Decree is explicit in requiring public authorities to assist petitioners (Principle 4), but is unclear on the format for information (Principle 6). Under all three laws, it remains unclear what fees, if any, official bodies impose for providing information (Principle 7), although requests for paper copies incur charges under both the Archives and Tenders and Bids Laws, while electronic access is free under the Archives Law. None of the three laws clearly specifies exceptions to information requests or include the harm and public interest tests (Principle 8). Proactive disclosure (Principle 10) is limited in both law and practice.

A general access to information law would have the potential to address the limited and variable scope of access to information in Egypt. The March 2013 Draft ATI Law represents a first step in this direction. However, lawmakers should strengthen the Draft ATI Law in several respects. While the Draft ATI Law states its aim as the realisation of the right of access to information for everyone, it does not specifically state who has legal standing to make an access to information request (Principle 1). Similarly, while the law specifies that requests must be in writing and can be in person, it is unclear on other methods for making a request (Principle 2). Also unclear is in what form entities should provide information (Principle 6) and whether fees covering only the cost of the copy can be charged (Principle 7). Under the Draft ATI Law, official bodies need to justify exempting information from a request as falling within the exceptions the law allows; even if there appears to be a legitimate aim for an exemption, the Draft ATI Law automatically overrides such withholding if the requested information relates to human rights violations, corruption or a major environmental risk; however, the Ministry of Defence or National Information Council can remove this override when it is in the public interest (Principle 8).

Addressing these deficiencies in the Draft ATI Law, and removing legal impediments to access under other laws would be a strong, first-step in giving effect to the human and constitutional right of access to information.

Access to Information in Egypt's Health Sector

'Corruption reduces the resources effectively available for health, lowers the quality, equity and effectiveness of health care services, decreases the volume and increases the cost of provided services. It discourages people to use and pay for health services and ultimately has a corrosive impact on the population's level of health. [C]ountries with high indices of corruption systematically have higher rates of infant mortality ... Preventing abuse and reducing corruption therefore is important to increase resources available for health, to make more efficient use of existing resources and, ultimately, to improve the general health status of the population.'¹²⁹

Background to the sector

Under both Article 62 of the 2012 constitution and international commitments,¹³⁰ Egypt has an obligation to ensure its citizens' right to health care. Article 62 states that:

'Every citizen has a right to health care and the state shall reserve a sufficient percentage of the national revenue. The state shall provide health care services and health insurance in accordance with just and high standards, free of charge to those who are unable pay.

All health facilities shall provide various forms of medical treatment to every citizen in cases of emergency or where life is in danger.

The state shall supervise all health facilities, inspect them for quality of services, and monitor all materials, products and means of health-related publicity. Legislation to regulate such supervision shall be drafted.'¹³¹

Despite the constitutional guarantee social health insurance covers less than a half of the population. This insurance has existed in Egypt since 1964, through the Health Insurance Organisation, but coverage only extends to 45 per cent of the population, primarily civil servants, government retirees, students and pre-school children.¹³²

Egypt spends approximately five per cent of GDP or US\$123 (EGP829) per capita on health care;¹³³ this is low compared to other countries in the region.¹³⁴ Government expenditure towards health care only accounts for just under 40 per cent of total health spending, or US\$46 (EGP310) per capita, with users paying the bulk of health expenditure out of their own pocket.¹³⁵ The public budget funds Ministry of Health facilities, university hospitals, defence ministry hospitals and some Health Insurance Organisation services.¹³⁶

The government, quasi-governmental organisations and private agents all provide health care.¹³⁷ Mechanisms to regulate these systems are underdeveloped.¹³⁸

¹²⁹ Taryn Vian and Carin Nordberg, *Corruption in the health sector* (Bergen: U4 2008),

<http://www.u4.no/publications/corruption-in-the-health-sector-2/> [accessed 22 May 2013], pp.4–5.

¹³⁰ International Covenant on Economic, Social and Cultural Rights 1966, Article 12. Ratified by Egypt on 14 January 1982, UN Treaty Collection, http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en [accessed 22 May 2013].

¹³¹ Constitution of Egypt 2012, Article 62.

¹³² World Health Organization, *Country cooperation strategy for Egypt 2010–2014* (Cairo: WHO, 2010), http://www.who.int/countryfocus/cooperation_strategy/ccs_egy_en.pdf, pp.19, 24.

¹³³ World Health Organization, *Country statistical profiles* (2011), http://applications.emro.who.int/docs/RD_Annual_Report_2011_country_statistics_EN_14587.pdf [accessed 22 May 2013], p.106.

¹³⁴ World Health Organization, *Country cooperation strategy for Egypt 2010–2014*, 2010, p.24.

¹³⁵ World Health Organization, *Country statistical profiles*, 2011, p.106.

¹³⁶ World Health Organization, *Country cooperation strategy for Egypt 2010–2014*, 2010, p.24.

¹³⁷ Ministry of Health and Population, *Egypt service provision assessment survey* (Cairo: MOHP, ORC Macro & USAID 2002), <http://www.measuredhs.com/pubs/pdf/SPA5/SPA5.pdf> [accessed 22 May 2013], p.13.

¹³⁸ World Health Organization, *Country cooperation strategy for Egypt 2010–2014*, 2010, p.25.

- The Ministry of Health and Population has overall responsibility for health, provides primary health services and is the largest provider of in-patient, curative treatment. The Ministry of Higher Education is responsible for health education and service delivery.¹³⁹ Government providers are able to generate their own income, including through charging user-fees in specified departments.¹⁴⁰
- Quasi-governmental organisations include the Health Insurance Organisation, the Curative Care Organisation, and the Teaching Hospitals and Institutes Organisation. These organisations have their own set of rules and regulations, control their own budgets and possess more autonomy than government providers.¹⁴¹ The Ministry of Health and Population has a ‘controlling share of decision-making’ in all quasi-governmental organisations.¹⁴²
- Private (non-state) agents include for-profit and non-profit institutions, such as traditional midwives; private pharmacies, hospitals and doctors; and non-governmental organisations including religiously affiliated clinics and charitable organisations.¹⁴³

A 2009 perceptions survey identified health care and public hospitals as the second-most corrupt sector in Egypt, after the category ‘government and public enterprises’.¹⁴⁴ Respondents perceived corruption to be due to low salaries (90 per cent), poor performance of regulatory bodies (89 per cent), a lack of parliamentary supervision (85 per cent), a lack of information (75 per cent), overlapping laws (74 per cent) and weak political participation (71 per cent).¹⁴⁵

In 2010, Egyptian and regional media highlighted the lack of transparency within the health care system, and in particular the possible misuse of funds in the Treatment at the Expense of the State (TES) programme.¹⁴⁶ Developed in 1959, TES’s original aim was to provide all Egyptians with the opportunity to receive state funded treatment abroad for ‘catastrophic’ conditions, but was reformed in 1975 to provide ordinary medical treatment for the most vulnerable and uninsured Egyptians.¹⁴⁷ The prosecutor-general decided to drop charges in January 2013 for lack of evidence.¹⁴⁸ Proactive disclosure of information and the permission of information requests about the TES programme would form a strong preventive measure against any claims of corruption.

Key laws

Despite 75 per cent of respondents identifying a lack of information as a reason for corruption, health care laws do not allow access to information requests and the Statistics Law acts to prevent disclosure of information.

Hospital and medical centre administration is governed by Decree no. 689 (1965). Hospital and medical centre finance is governed by Decree no. 2444 (1956). Article 4 requires that each hospital

¹³⁹ As above, p.19.

¹⁴⁰ Ministry of Health and Population, *Egypt service provision assessment survey*, 2002, p.13.

¹⁴¹ As above.

¹⁴² As above, pp.13-14.

¹⁴³ As above, p.14.

¹⁴⁴ Centre for International Private Enterprise and Al Ahram Center for Political and Strategic Studies, 2010, p.49, ‘Governments and Public Enterprises’ here was listed as ‘Government in General – Public Enterprises’ in the survey, see p. 29.

¹⁴⁵ As above, p.49.

¹⁴⁶ Ahmed Chalabi, ‘Prosecution investigations: VIP treatment abroad at the expense of the state’, *Al Masri Al Youm*, 15 August 2010, <http://www.almasryalyoum.com/node/65374> [accessed 23 May 2013], Matt Bradley, ‘Egyptian medical system is mired in patronage’, *The National*, 17 May 2010, <http://www.thenational.ae/news/world/africa/egyptian-medical-system-is-mired-in-patronage#full> [accessed 22 May 2013].

¹⁴⁷ Matt Bradley, ‘Egyptian medical system is mired in patronage’, *The National*, 17 May 2010, <http://www.thenational.ae/news/world/africa/egyptian-medical-system-is-mired-in-patronage#full> [accessed 22 May 2013].

¹⁴⁸ Ahmad Abd al-Latif, ‘Investigation into ‘Parliamentarians and Treatment at the Expense of the State’ Closed after Two Years’ *Almasryalyoum.com*, 5 January 2013, <http://www.almasryalyoum.com/node/1363526> [accessed 19 June 2013] (original text in Arabic).

and specified medical centre has its own budget and financial account. The budget and account include the municipality's contribution to the hospital or medical centre, which is determined based on number of beds and quality of service.¹⁴⁹ Neither decree allows information requests into health care providers' budgets and accounts, which could allow citizens and civil society organisations to identify possible instances of corruption in health care providers.

The Public Health Sector Law regulates treatment and public medical insurance for civil servants and public employees of local government units, public bodies and public institutions, as well as rates payable by the employer and employee.¹⁵⁰ The Health Insurance Organisation, covering 35 million citizens, is regulated by Law no. 75 (1964), Law no. 63 (1964) and Law no. 32 (1975). Insured patients can seek treatment in 41 Health Insurance Organisation hospitals, in private hospitals and in clinics.¹⁵¹ The Health Insurance Organisation budget is about US\$120 million (EGP809 million) annually and provides approximately 530 different categories of medication at a nominal price.¹⁵² None of these laws mandate authorities to provide information upon request regarding their incomes and expenditures, which could allow citizens and civil society organisations to identify possible instances of corruption in the health care administration.

The Statistics Law¹⁵³ regulates publishing statistics and the Central Agency for Public Mobilization and Statistics (CAPMAS) is the sole authorised agency for publishing statistics. Publishing statistics in the health sector is prohibited without CAPMAS' permission.¹⁵⁴

¹⁴⁹ Decree no. 2444 of 1956, Article 4. Hassouna and Abou Ali, *Legal analysis of the health sector policy reform program assistance in Egypt*, (Bethesda, MD: Partnerships for Health Reform, August 1996) <http://www.phrplus.org/Pubs/te5v4fin.pdf> [accessed 23 May 2013].

¹⁵⁰ Morad Ahmed and Tarek Mohamed Adel, 'Health care in Egypt', *Meyer-Reumann & Partners – Lex Arabiae*, January 2010, <http://lexarabiae.meyer-reumann.com/blog/2010-2/healthcare-in-egypt/> [accessed 23 May 2013].

¹⁵¹ Dr Mohamed Hamed, Director of Central Administration for Medical Specialities and the Curative Center, the Director of General Administration of Hospitals, and the Technical Office Manager at the Assistant Ministry of Health Curative Care Center, interview by Leena S. Azzam, CDS, 7 November 2012.

¹⁵² Morad Ahmed and Tarek Mohamed Adel, 'Health care in Egypt', 2010.

¹⁵³ Statistics and Censuses Law no. 35 of 1960.

¹⁵⁴ Establishment and Organisation of the Central Agency for Public Mobilisation and Statistics Law no. 2915 of 1964.

Access to information and health sector integrity

Patients have a right to make informed choices about their health services, both in terms of price and quality. To do so, they need information about prices and conditions of access. Such public information also tends to encourage scrutiny of providers by their peers, thus making it more difficult to conceal dishonourable activities.¹⁵⁵

Drawing on lessons about preventing corruption in the health sector from around the world, Karen Hussman found that government monopolies in health increase opportunities for corruption:

'Where officials have discretion without adequate control of this decision-making authority; where there is not enough accountability for decisions or results (including measurement of results and punishment for non-performance or corruption); where transparency (active disclosure of and access to information) is lacking and citizen voice (means for active participation) does not allow for external control; and where abuse or corruption is not detected or punished (enforcement).'¹⁵⁶

To strengthen good governance and to help expose abusive practices, including fraud and patronage, transparency in the health sector should encompass:

- Disclosure of information, both proactively and upon request
- Targeted release of information to those affected by the action of a health authority
- Information providers acting visibly, predictably and understandably vis-à-vis stakeholders and information recipients
- Information provided in an acceptable format

Information disclosed by the health sector should include facts and figures related to the sector, information on mechanisms and processes, and details on:

- Budgets
- Medicines
- Human resources
- Quality of care and patient satisfaction¹⁵⁷

¹⁵⁵ Taryn Vian and Carin Nordberg, *Corruption in the health sector* (Bergen: U4, November 2010), <http://www.u4.no/publications/corruption-in-the-health-sector-2/> [accessed 22 May 2013], p.29.

¹⁵⁶ Karen Hussman, *Addressing corruption in the health sector: securing equitable access to healthcare for everyone* (Bergen: U4, January 2011), <http://www.u4.no/publications/addressing-corruption-in-the-health-sector-securing-equitable-access-to-health-care-for-everyone/> [accessed 23 May 2013].

¹⁵⁷ Taryn Vian, *Transparency in health programs* (Bergen: U4, May 2008), <http://www.u4.no/publications/transparency-in-health-programmes/> [accessed 23 May 2013].

Accessing information in Egypt's health sector

Two key challenges prevent access to information in the health sector: structural, technical and legal limits to civil society and citizen monitoring, and restricted or incomplete proactive disclosure by public authorities.

- **Monitoring**

The ability of citizens and civil society to monitor health care resources is limited due to the absence of mechanisms enabling citizen access and restrictions on who can disclose information.

The Ministry of Health and Population and the Directorate of Medical Affairs at the governorate level channel direct state funding to public health care providers.¹⁵⁸ Employers deduct insurance premiums from the salaries of public employees. The Health Insurance Organisation channels these funds to health care providers.¹⁵⁹ Health care providers also receive funds from the TES programme and from direct user payment.¹⁶⁰

Individuals and civil society organisations cannot determine funding and resources channelled to health care providers and cross-check these against their spending and resource allocation due to a lack of supervisory mechanisms, information technology systems and effective archiving systems.¹⁶¹ Health care laws do not allow access to information requests.

Within the Ministry of Health and Population, only high-ranking officials, including the minister of health, assistant-ministers and department directors have the authority to authorise the disclosure of information regarding both the ministry's activities and finances. In a number of cases researchers and journalists have only been given access to original documents within the ministry's premises and could only take copies of the conclusions.¹⁶² The Statistics Law¹⁶³ regulates publishing statistics in the health sector and the Central Agency for Public Mobilization and Statistics (CAPMAS) is the sole authorised agency for publishing statistics. Publishing information in the health sector is prohibited without CAPMAS' permission.¹⁶⁴

- **Proactive disclosure**

Proactive disclosure by the authorities is also limited and information provided is at times contradictory.

None of the health sector laws require public authorities to disclose information. The Public Statistics Law prevents disclosure of statistical information, unless published by CAPMAS.¹⁶⁵ This allows the state to determine both when and what to proactively disclose.

While the Ministry of Finance issues general information and line items within the health budget, budgetary information cannot be accessed electronically or in person through the Ministry of Health and Population.¹⁶⁶ The accuracy and completeness of information published voluntarily by health sector actors has been challenged.¹⁶⁷

¹⁵⁸ Dr Mohamed Hamed, interview by Leena S. Azzam, CDS, 10 December 2012.

¹⁵⁹ As above.

¹⁶⁰ As above.

¹⁶¹ As above.

¹⁶² Dr Mohamed Hamed, interviewed by Leena S. Azzam, CDS, 7 November 2012.

¹⁶³ Statistics and Censuses Law no. 35 of 1960.

¹⁶⁴ Establishment and Organisation of the Central Agency for Public Mobilisation and Statistics Law no. 2915 of 1964.

¹⁶⁵ Ministry of Health and Population, 'Law on Treatment at the Expense of the State Programme', 1978.

¹⁶⁶ Dr Mohamed Hamed, interviewed by Leena S. Azzam, CDS, 7 November 2012.

¹⁶⁷ As above.

For example, the 2009 National Health Accounts¹⁶⁸ did not include data from the TES programme, the use of which was at the time a subject of intense public debate. It also failed to take into account the different costs of treatment in the public and private sector to the individual.¹⁶⁹ The Ministries of Health and Population, Finance, Higher Education and Defence jointly carried out the survey to determine complete health care expenditure, including public, insurance and private (out of pocket, insurance premium, insurance co-payments and user fees) spending.¹⁷⁰

¹⁶⁸ Egyptian Initiative for Personal Rights, *Challenges facing health expenditure in Egypt* (Cairo: EIPR, 2009), www.ejpr.org/sites/default/files/reports/pdf/Health_Expenditure_in_Egypt.pdf [accessed 23 May 2013], p.9.

¹⁶⁹ Dr Mohamed Hamed, interviewed by Leena S. Azzam, CDS, 7 November 2012.

¹⁷⁰ As above.

Conclusions

Access to information is a human right that Egypt's 2012 constitution includes for the first time. Current legislation only allows very limited access to information. No legislation on a general right of access to information exists in Egypt at the time of writing this report and laws covering specific sectors do not provide sufficient access to information for corruption to be detected, addressed and ultimately prevented.

The three laws examined in this report only provide limited access to information, and compliance with the 10 principles against which they were assessed varies greatly. None of the laws are clear on who has the right of access to information or on fees for providing information, nor do they set a clear timeframe for responding to requests or have a specific appeal route. None of the three laws include specific definitions of exceptions to information requests or incorporate the harm and the public interest tests necessary to justify any exceptions. Proactive disclosure is limited both in law and practice.

The March 2013 Draft ATI Law has the potential to rectify several of the challenges identified in accessing information in Egypt. However, the scope of public bodies to make exceptions to the right to access information and the power of the Ministry of Defence and the National Information Council to override claims to information on grounds of national security, threaten to undermine improvements in this area. More clarification is also needed in the law over who has legal standing to make an information request, the form this request can take, methods of disclosure, and fees for providing information.

The health sector case study illustrates the impact of limitations to access to information under current legislation, which prohibits disclosing information without permission from high-ranking officials. Health sector agencies do not or only in a very limited fashion proactively disclose information.

This analysis shows that to give effect to the new constitutional right of access to information in Egypt, parliament needs to pass a general access to information law. As long as citizens, the media and civil society cannot access the information needed to identify corruption, efforts at prevention and accountability will remain hampered. The current redrafting process of the access to information law constitutes a first step towards realising the right of access to information. Legislators should consult with civil society to strengthen the draft in line with international access to information principles. The government should prepare the necessary measures, including financial, to ensure the law is effectively implemented across Egypt, which includes establishing effective institutions and building the capacity of the public sector to disclose information and respond to requests.

Recommendations

Based on the findings of this report, Transparency International makes recommendations to the Egyptian government, parliament, and civil society to address corruption through access to information.

To the government and parliament

- The process of redrafting the access to information law should be inclusive and strengthen the draft law in line with international principles. The government should assess existing legislation and parliament should remove obstacles to access to information.¹⁷¹
- In line with Principles 2, 6 and 7, the government and parliament should ensure that people can make information requests through a variety of channels, that people can access originals for free and receive at a minimum paper and electronic copies at no more than the cost of the copy.
- In line with Principle 8, drafters of the law should establish clear parameters for the term 'national security' to avoid misusing the term to prevent disclosure.¹⁷² The draft information law should encompass equilibrium between the right to access information and national security limitations; especially when dealing with bodies providing public services.¹⁷³ The harm and public interest tests should be included in all exceptions to access to information.
- In line with Principle 10:
 - The government should ensure that public bodies implementing the access to information law upgrade the state information and communication infrastructure; organise the flow of information between the various authorities; and issue a directory that encompasses the name, role, and purpose of each of the different departments, the documents needed for each service that governmental authorities carry out, and the duration needed to provide this service for the citizen.¹⁷⁴ Such information should be disclosed on a wide scale, in order to ensure the efficacy of these transactions.¹⁷⁵
 - Each public body and ministry should ensure that descriptions of responsibilities are provided for each public position; this will enable the authorities to assign responsibility in case of failure to disclose information.¹⁷⁶ Senior officials should also be held responsible for failure to disclose information.¹⁷⁷
 - The government should regularly publish full and accurate financial data to ensure useful allocation of resources.¹⁷⁸ Such transparency could be achieved through introducing regulations and the institutionalisation of the responsibility to publish information and ensure its legitimacy.¹⁷⁹
 - The government should provide clear and simple guidelines for each agency the law addresses; rights and duties incorporated in the different laws should be made

¹⁷¹ Center for International Private Enterprise, *Freedom of information and transparency in Egypt* (Cairo: CIPE 2009), <http://www.right2info.org/resources/publications/egypt-foi-and-transparency> [accessed 23 May 2013], p.27.

¹⁷² Dr Namira Negm, 19 November 2012.

¹⁷³ Center for International Private Enterprise, *Freedom of information and transparency in Egypt*, 2009 p.27.

¹⁷⁴ As above.

¹⁷⁵ As above.

¹⁷⁶ Dr Namira Negm, 19 November 2012.

¹⁷⁷ As above.

¹⁷⁸ Center for International Private Enterprise, *Freedom of information and transparency in Egypt*, 2009, p.28.

¹⁷⁹ As above.

available in plain and understandable language. This includes for public employees, citizens, journalists and civil society members.

- The government should provide training on access to information for public sector employees.

To civil society actors involved in anticorruption work

- Work to help instil a culture of rights and duties among public, governmental and administrative authorities when it comes to disseminating information, and enlighten the public on their rights and duties when it comes to accessing information.¹⁸⁰
- Work to request and disclose information that is difficult for the average citizen to obtain on his or her own.¹⁸¹
- Advocate against any further laws that might jeopardise the right of access to information, including laws that introduce secrecy provisions or restrict the application of access to information legislation.
- Support petitioners' appeals against silence or refusal of information requests.
- Monitor public bodies' performances by filing trial requests, undertaking surveys of compliance with access to information provisions and encouraging the public to file requests.
- Advocate for improving the current Draft ATI Law in line with the international principles on access to information.
- Use requested information for media and other high profile outreach activities on the importance of access to information.

¹⁸⁰ Tarek Alam El-Din, legal officer, Population Council, interviewed by Khalid Kamal and Leena S. Azzam, 18 October 2012.

¹⁸¹ Mr Mohamed El Agati, executive director, Arab Forum for Alternatives, interviewed by Khalid Kamal and Leena S. Azzam, 24 October 2012.

References

Reports and studies

- Access Info Europe, KAB and IKME, *Access Info Cyprus Report & Recommendations* (Madrid: Access Info, November 2011).
- Article 19, *The public's right to know: Principles on freedom of information legislation* (London: Article 19, 1999).
- Association for Freedom of Thought and Expression, *Legal study on freedom of information* (Cairo: Association of Freedom of Thought and Expression, 2010).
- Association of Freedom of Thought and Expression, *Crisis production and the circulation of information in Egypt: the Central Agency for Public Mobilisation and Statistics* (Cairo: Association of Freedom of Thought and Expression, 2012).
- Center for International Private Enterprise, *Freedom of information and transparency in Egypt*, (Cairo: CIPE 2009).
- Centre for International Private Enterprise and Al Ahram Center for Political and Strategic Studies, *Egyptian Citizens' Perceptions of transparency and corruption: 2009 National Public Opinion Survey*, (Cairo: CIPE 2010).
- Egyptian Initiative for Personal Rights, *Challenges facing health expenditure in Egypt* (Cairo: EIPR, 2009).
- Hassouna and Abou Ali, *Legal analysis of the health sector policy reform program assistance in Egypt* (Bethesda, MD: Partnerships for Health Reform, August 1996).
- Karen Hussman, *Addressing corruption in the health sector: Securing equitable access to healthcare for everyone*, (Bergen: U4, January 2011).
- Ministry of Health and Population, *Egypt service provision assessment survey* (Cairo: MOHP, ORC Macro & USAID, 2002).
- Negad El Borai, *The guillotine and the pit, freedom of expression in Egypt 2003-2004*, (Cairo: The United Group, 2004).
- Said Almadhoun, *Access to Information in the Middle East and North Africa Region: An overview of recent developments in Jordan, Lebanon, Morocco and Tunisia* (Washington DC: World Bank Institute: 2012).
- Taryn Vian and Carin Nordberg, *Corruption in the health sector* (Bergen: U4 2008).
- Taryn Vian, *Transparency in health programs* (Bergen: U4, May 2008).
- Transparency International, *Using the right to information as an anti-corruption tool*, (Berlin: Transparency International, 2006).
- US State Department, *2012 Investment Climate Statement – Egypt* (Washington DC: US State Department, 2012).
- US State Department, *2013 Investment Climate Statement – Egypt* (Washington DC: US State Department, 2013).
- World Health Organization, *Country cooperation strategy for WHO and Egypt 2010–2014* (Cairo: WHO, 2010).

- World Health Organization, *Country statistical profiles* (2011).

Periodicals and press releases

- Ahmad Abd al-Latif, 'Investigation into 'Parliamentarians and Treatment at the Expense of the State' Closed after Two Years' *Almasryalyoum.com*, 5 January 2013.
- Ahmed Chalabi, 'Prosecution investigations: VIP treatment abroad at the expense of the state', *Al Masri Al Youm*, 15 August 2010.
- BBC, 'Egypt's Shura Council and constitution panel 'invalid'', *BBC*, 2 June 2013.
- Centre for Law and Democracy, 'Yemen Passes Strongest RTI Law in the Arab World', 10 June 2012.
- Egypt Independent, 'Culture Minister: New draft law on National Archives submitted to government,' 9 October 2012.
- El Fagr News, 'We publish the final draft of the access to information law prepared by the Ministry of Justice', *El Fagr News*, 7 March 2013.
- Freedominfo.org, 'Tunisia Issues Decree on Access to Documents', 11 July 2011.
- Ibrahim Qassem, 'We publish the text of the draft Freedom of Information law before release on March 9th', *Al Youm Al Sabah*, 10 February 2013.
- Jamel Fadel, 'Freedom of Information Act and trading information,' *Al Ahram*, 11 August 2008.
- Marwa Awad, Omar Fahmy, Edmund Blair, and Andrew Roche, 'Egypt's military ruler orders parliament dissolved,' *Reuters*, 16 July 2012.
- Matt Bradley, 'Egyptian medical system is mired in patronage', *The National*, 17 May 2010.
- Mohammed Mujahid, 'Draft amendments to the telecommunications law', *Al Masri Al Youm*, 19 August 2011.
- Morad Ahmed and Tarek Mohamed Adel, 'Health care in Egypt', *Meyer-Reumann & Partners – Lex Arabiae*, January 2010.
- Muhammad Gharib, 'Egypt: 'Corruption' in the Treatment at the Expense of the State Leaves Patients without Treatment' *CNN Arabic*, 4 September 2010.
- Peter Beaumont, 'Mohamed Morsi signs Egypt's new constitution into law', *The Guardian*, 26 December 2012.
- Said Almadhoun, 'Status of freedom of information legislation in the Arab world 2010', *Open Society Justice Initiative*, 6 February 2010.
- Yosri Al Hawari, 'Al Masri Al Youm publish the text of the access to information law', *Al Masri Al Youm*, 8 May 2012.
- Yosri Al Hawari, 'Communication: Dialogue with parliament on an access to information bill', *Al Masri Al Youm*, 10 May 2012.

Websites

- Access Info, *Principles for an Open Cyprus*, <http://www.accessinfocyprus.eu/en/principles-for-an-open-cyprus.html>.
- Business Anti-Corruption Portal, 'Egypt Country Profile: Judicial system', October 2012, <http://www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/corruption-levels/judicial-system/>.
- Business Anti-Corruption Portal, *Egypt Country Profile*, <http://www.business-anti-corruption.com/country-profiles/middle-east-north-africa/egypt/>.
- Egyptian Cabinet Information and Support Centre, <http://www.idsc.gov.eg/default.aspx>.
- Government e-tenders portal, <http://etenders.gov.eg/>.
- National Archives, *National Historical Archive*, <http://www.nationalarchives.gov.eg/nae/Content?id= 3.1>.
- National Archives, *Plan your visit*, <http://www.nationalarchives.gov.eg/nae/home.jsp>.
- OANDA, <http://www.oanda.com/>.
- The United Group, <http://www.ug-law.com>.
- Transparency International, *Access to information*, <http://www.transparency.org/topic/detail/accesstoinformation>.
- Transparency International, *United Nations Convention Against Corruption*, http://archive.transparency.org/global_priorities/other_thematic_issues/access_information/conventions/uncac.

Annex 1: Overall Compliance

Overall compliance

Table providing narrative information on overall compliance with each principle.

PRINCIPLE	NARRATIVE
Principle One: <i>Non-discrimination in accessing public information</i>	No law directly discriminates between people in accessing public information, but the internal regulations of the National Archives require an official letter to be filed, proving that the applicant is a researcher. The Draft ATI Law appears to allow access for everyone.
Principle Two: <i>Free requests, by post, e-mail, fax, post or verbally</i>	Form of access and fees for making a request are mostly unclear under the laws and the Draft ATI Law.
Principle Three: <i>No need to justify requests</i>	The Draft ATI and Tender and Bids Laws do not require justification. Other laws are unclear.
Principle Four: <i>Obligation to help petitioners</i>	None of the laws surveyed in this report explicitly address the issue of assistance for petitioners. The Draft ATI Law includes an obligation to assist petitioners.
Principle Five: <i>Timely responses</i>	Of the laws surveyed in this report, only the Draft ATI Law addresses the issue of a timely response; 15 working days.
Principle Six: <i>Paper or electronic copies available, access to originals</i>	Existing laws either do not address the issue, or specify only one possible method of access. Viewing the originals is not addressed by any of the laws. The Draft ATI Law is unclear on forms of access, although appears to allow access to originals.
Principle Seven: <i>Viewing originals free of charge, charges for cost of copies only</i>	None of the laws explicitly require public bodies to provide information without charge.
Principle Eight: <i>Limited exceptions, refusals only for these exceptions</i>	The Draft ATI Law alone contains detailed exceptions, which can be overridden by human rights, corruption and environmental concerns. However, the override can be annulled under certain circumstances.
Principle Nine: <i>Effective right of appeal against refusals or silence</i>	Except the Draft ATI Law, none of the laws address the right to appeal. General Egyptian law, however, allows for appeal against administrative silence and refusals.
Principle Ten: <i>Proactive disclosure</i>	Laws analysed only contain limited proactive disclosure obligations on public bodies. In practice, other information about their structure, subsidies, services, general policies and accessible databases is normally published on their websites, but financial issues are rarely proactively disclosed. The Draft ATI Law would oblige entities to publish proactively a range of information.

Annex II: Interviews

- Dr Abdel Wahed El- Nabawy, Vice-Chairman of the National Library Archives of Egypt, interview by A'laa El Sherbiny, Cairo, 30 October 2012.
- Dr Alaa Saber, President of the Near East Foundation, interview by Leena S. Azzam, Cairo, 21 November 2012.
- Mr Ali Rashed, Data Analyst, Population Council, interview by Khaled Kamal and Leena S. Azzam, 23 October 2012.
- Dr Amr Shalakany, Associate Professor, Department of Law, School of Global Affairs and Public Policy, American University in Cairo, interview by Shady Salama and Leena S. Azzam, Cairo, 22 October 2012.
- Mr Essam El Sayed, Deputy Manager of the Community Development Department at the Social Fund for Development, interview by Leena S. Azzam, Giza, 22 November 2012.
- Mr Gamal Mosalam, Non-Financial Services Director at the Social Fund for Development, interview by Leena S. Azzam, Giza, 21 November 2012.
- Mr Mohamed El Agati, Executive Director of the Arab Forum for Alternatives, interview by Shady Salama and Leena Azzam, Cairo, 24 October 2012.
- Dr Mohamed Hamed, Director of the Central Administration for Medical Specialities and the Curative Center, Director of the General Administration of Hospitals, and Technical Office Assistant Manager at the Ministry of Health Curative Care Center, interview by Leena S. Azzam, Cairo, 18 October 2012, 7 November 2012 and 10 December 2012.
- Mr Mohamed Mounir, Media Company, interview by Shady Salama and Leena S. Azzam, Cairo, 17 October 2012.
- Dr Namira Negm, Visiting Assistant Political Science Professor, American University in Cairo, interview by Shady Salama and Leena S. Azzam, Cairo, 23 October 2012 and 19 November 2012.
- Mr Tarek Alam El- Din, Legal Officer, Population Council, interview by Khaled Kamal and Leena S. Azzam, Cairo, 18 October 2012.

Transparency International
Alt-Moabit 96
10559 Berlin
Germany

Phone: + 49 30 3438 200
Fax: +49 30 3470 3912

ti@transparency.org
www.transparency.org

blog.transparency.org
facebook.com/transparencyinternational
twitter.com/anticorruption