



## **Limitation on Access to Information in Afghanistan**

On February 4, 2019, some 30 Afghan media outlets released a signed statement protesting “severe limitations in access to information. The letter says that “Afghanistan has gone backwards when it comes to access to information in recent years.” (1) It also adds that “government has a double standard when it comes to implementing the access to information law, and supporting free media. There cannot be a simpler or clearer example than a censored photo coming out of an event where the government had joined the coalition to support the free press.” (2)

The letter points out that “all government institutions have shortcomings when it comes to providing access to information, but the worst ones are: The Supreme Court, the Attorney General’s Office, the National Directorate of Security, the Office of the President and its procurement unit, the Ministry of Foreign Affairs, the Ministry of Finance, the Central Bank, the Ministry of Defense, the Ministry of Interior and the Ministry of Public Health”. (3)

Wahid Omar, the President's senior adviser on public relations and strategic affairs, said in response to a media outcry that the government is ready to address the protest. He also called on the protesting media to determine when and where they were in trouble. He added that only the Presidential Spokespersons shared 10387 cases of information to the media. (4)

A number of media outlets have protested about lack of access to information while former and current Afghan officials have taken freedom of expression as one of their achievements and have frequently pledged their support it. The analysis seeks to address the problem of access to information and provide solutions in accordance with the Constitution and the Mass Media Law.

## **Right to Access Information Within National Regulations Framework**

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Citizens of the country have the right to access information, as enshrined by the provisions of the Afghan Constitution and Mass Media Law, unless the entreated information poses a threat to national interests, territorial integrity and the rights of others. Article 4 of the Access to Information Law states that "Information applicant is entitled to access information from institutions according the provisions mentioned in this law". (5) Ensuring the right to access information and absence of its limitation is also enshrined in paragraphs 1 and 4 of Article 4 of the Mass Media Law as follows:

“Every person has the right to freedom of thought and speech, which includes the right to seek, obtain and disseminate information and views within the limit of law without any abuse or restriction by the government or officials. The right also includes free activity of means of publication, distribution, and reception of information.”

“Government shall support, strengthen, and guarantee the freedom of mass media. No real or legal person including government and government offices may ban, prohibit, censor or limit the free operation of informational and news media or otherwise interfere in their affairs.” (6)

The right to seek information from government institutions and its approachability is enshrined in Article 5 of the Mass Media Law: “Every person has the right to request and receive information from the state.” (7) However, the right is conditioned as stated in remaining part of the article: “Government shall provide the information sought by the citizens, unless the information sought is confidential and its disclosure endangers the security, national interests and territorial integrity of the country, or damages the rights of other people.” (8) Article 5 of the Afghan Construction also states that: This right shall have no limit except when harming rights of others as well as public security.” (9)

### **Reservation Culture**

Since many previous times, any information and statistics stored in various departments are considered a state secret; and thus, the relevant authorities, including officials and employees, are obliged to protect it.

After the formation of new government led by former Afghan President Hamid Karzai in 1382, the media has significantly developed in the country. There are, however, hundreds of visual, audio, print and other media operating in every corner of Afghanistan today. Despite the rapid growth of media in the country, the Afghan media community is still struggling with many quality-related problems, including one that has been limitation of access to information by Afghan government agencies.

While Afghanistan is said to have the best law on media, complaints are often raised by the media that the government agencies are limiting access to information, the most recent of which is the letter of protest by some 30 private visuals, audio and print media in the country.

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The media acts as a bridge between the government and the people; in other words, the media shares the demands and requests of the people and, in return, informs the people about the state of affairs. If access to government information that is legally permitted to be broadcasted is restricted, then the media cannot properly do a part of its job, which is delivering government information to the masses.

Unfortunately, media problems are not the only constraints to access to information, and lack of security, and violence against journalists is another serious challenge facing the media in Afghanistan.

The Cabinet recently adopted a regulation that seeks to ensure the safety of media persons, expedite the process of violence against them, and protect the career and professional rights of media persons. Let's see to what extent this regulation can be really effective in reducing the challenges that journalists and reporters are faced with in the country.

### Solutions

There are many countries in the world whose access to information is restricted or limited. In Afghanistan, access to government information has sometimes been forbidden and sometimes been limited every now and then. Fortunately, it has been nearly two decades since freedom of expression has been established in Afghanistan and the media can access government information to some extent. But, at this time, the media every so often protests over limitation of access to information.

1- The first solution is to comply with the uncontained constitution and the Afghan Mass Media Law firstly by the government and then by the country's media. It is because of the inconsistency of media laws that make the government to limit access to information, the government not only has no right to impose restrictions on access to information under the constitution and the country's media law, but it must also take the necessary measures and provide facilities in this regard.

2. The second solution is that the media should continue its protest peacefully, and persist in accordance with the constitution and the Mass Media Law of the country as long as the restrictions on access to information are lifted and it must get tired of it.

3. But most importantly, it is to get the public and private departments out of reservation culture, and to promote access to information as a right as well as a value. Now is the time for everyone to agree that access to information is effective in enhancing the quality of the media, and developing the country as a whole. Indubitably, it is time-consuming. To begin with, the government must address this culture from inside within its own institutions in order to have its officials and employees to truly collaborate with the media when it comes to the provision of information. What is more, the media needs to make a positive contribution to this cause by proper utilization the obtained information.



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