



Comparative analysis of international legal regulation and practice of foreign countries in providing access to information: integration of regulatory and practical approaches

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Abstract. The article presents a comparative analysis of the international legal regulations and practices of foreign countries regarding access to information. Its aim is to explore how normative and practical approaches combine in guaranteeing access rights both internationally and across different nations. Key areas of analysis include regulations, their application in practice, and mechanisms for monitoring the implementation of such norms.

This work is of great scientific and practical significance, helping us to gain a greater understanding of differences and similarities in approaches taken towards regulating access to information. This can serve as the basis for developing recommendations to strengthen legislation in this area. Comparative analysis, legal dogmatics, and analysis of law enforcement practice were utilized during this research project.

The main findings demonstrate that, despite global standards, implementation of accessing information varies considerably according to national context. As a result, our findings highlight the necessity of considering international experience when developing national regulatory frameworks and practices.

This study offers a great value by offering a systematic analysis of international and national regulatory and practical mechanisms in relation to access to information. Furthermore, its practical significance lies in being used by regulators and practitioners across different nations in improving access to information rules and practices.

Keywords: information, access to information, ensuring access to information, freedom of expression, dissemination of information, digitalization.

Introduction

Access to information is an integral component of modern society, leading to greater governance transparency and increased civic participation. International legal regulations and national practices regarding access to information vary depending on legal traditions, political will and technological developments within each country. A comparative analysis of these areas allows us to identify common trends and individual features as well as determine effective approaches for incorporating regulatory mechanisms and practical mechanisms into systems for providing access to information.

Internationally, the right to information access is recognized in several documents, including the Universal Declaration of Human Rights [1], International Covenant on Civil and Political Rights (Articles 19) [2] and UN Convention against Corruption (Articles 10 and 13) [3]. These foundational documents serve as the basis for national legislation regarding access to information; emphasizing its role in democracy and transparency of public administration.

Access to information can be defined as the right to seek, receive and disseminate information held by public authorities. It forms an essential component of freedom of expression as recognized in Article 19 of the Universal Declaration of Human Rights (1948), which states that fundamental right includes "to seek, receive and impart information and ideas through any means and regardless of State borders" [1].

Laws to regulate access to information have been adopted in various nations of the world. For instance, in the USA there exists the Freedom of Information Act (FOIA) [4]. While in Europe there exists the Regulation on public access documents of European Parliament Council and Commission [5]. In Scandinavian countries accessing information is an integral component of public policy and culture.

Analysis has demonstrated that national information access systems largely rely on an integrated approach, including detailed regulations, creation of control and supervision mechanisms, training civil servants in compliance management strategies and informing citizens about their rights.

To enhance access to information effectively, it is imperative that we integrate both regulatory and practical approaches closely together. This means enacting relevant legislative acts while creating user-friendly electronic platforms for accessing data; providing training to specialists charged with handling requests for information processing and active involvement from civil society in monitoring legislation implementation.

Materials and methods

Scientific article presents normative legal acts regulating access to information at an international level, such as conventions, declarations and recommendations by international organizations like UN, OSCE and Council of Europe as well as legislative or regulatory acts from different jurisdictions concerning access. All this data has been extensively analysed in order to provide various approaches and models.

At the same time, this scientific article draws upon analytical and scientific works on access to information - articles, monographs and reports from international and national research

organizations as well as practical examples involving norms related to access such as court cases demonstrating legislation across countries - in its analysis and presentation of norms associated with access.

At various stages throughout this research project, various research methodologies such as comparative analysis, content analysis, case study method (case analysis) and legal dogmatics were utilized.

Comparative analysis involves the comparison of international legal norms and national legislation across countries to identify features and principles underlying access regulation. Content analysis refers to studying normative acts, scientific papers and practical materials in order to pinpoint key aspects and approaches related to access assurance. Case Study Method (or Case Analysis) involves in-depth investigation of specific examples from actual practice across many nations allowing you to assess actual implementation. Finally Legal Dogmatics serves to study legal rules underlying access regulation.

This research offers an in-depth examination of international and national approaches to regulating access to information, highlighting both successful practices as well as any areas needing improvement and correction. As such, its outcomes provide a basis for further improving legal regulation in this domain.

Discussion and results

The legislation of Kazakhstan regarding access to information is grounded on its Constitution and encompasses this Law as well as other regulatory legal acts issued by Kazakhstan.

At the conclusion of their comparative examination of international legal regulations and foreign states' practices in providing access to information, key aspects, general trends, and significant variations were identified with respect to implementation approaches for access rights. This research study underscores the necessity of integrating regulatory with practical approaches in order to effectively guarantee access to data.

According to paragraph two of Article one of Law of the Republic of Kazakhstan No 401-V ZRK of November 16, 2015 "On Access to information", accessing information is an inalienable state-backed right of all individuals enshrined within our Constitution and laws that enables people to receive and disseminate it freely within any law-compliant means [6].

Artificial intelligence and digitization of management processes are vital for expanding access to information in this age of digitalization. These technologies reduce digital inequality by giving users personalized and easily accessible information that meets their individual needs; further, these promises to enhance service delivery by making information and public services readily available, real time; digital transformation furthers transparency and ease of access for citizens.

However, advances in this area raise several important concerns relating to fundamental rights protection as well as ethical implications of using AI/DG tools within government agency activities.

The International Day of Access to Information offers a great opportunity for dialogue on the effects of e-government and artificial intelligence on realizing one's right to information. Furthermore, this day provides a forum in which to debate both advantages and drawbacks of using artificial intelligence technologies in management practices.

In 2015, this day was established by the UNESCO General Conference following adoption of Resolution 38C/Resolution 57 [7]. Recognizing its significance and following suit with many civil society organizations and government bodies around the globe that celebrate it annually, UN General Assembly in 2019 also designated September 28 as International Day for Universal Access to Information [8].

As part of their activities, several regulatory legal acts related to access to information were adopted as part of United Nations Economic Commission for Europe work. The Aarhus Convention [9], one of the more well-known environmental treaties, requires participating countries to adopt national norms ensuring citizens access to environmental data stored by government bodies as well as nongovernmental organizations; furthermore, societies should participate actively in making significant environmental decisions, with an effective mechanism in place for enforcement of related rights.

The European Union has many binding agreements governing transparency, State accountability, public procurement, environmental protection and human rights. Both its Treaty on European Union and Charter of Fundamental Rights contain provisions which enumerate that every EU citizen or resident residing or having legal address within any member state has access to documents produced by European Parliament, Council and Commission; additionally, it has issued several directives mandating member states adopt access legislation regarding various areas.

Freedom of information is protected as an essential right in roughly 80 nations, including Australia. An analysis of foreign experience demonstrates that, at national level, the first mention of the right to information can be found in Sweden's Freedom of Information Law which also served as "Freedom of Press and Access to Public Acts Law". The Swedish Press Law of 1766 is widely considered as the world's pioneering piece of legislation on freedom of information. Some older constitutions have since been amended with provisions regarding receiving information. Many newly emerging democracies in Central and Eastern Europe and Latin America have included provisions ensuring access to information in their new constitutions. But even without explicit provisions in their constitutions to address accessing information, several national constitutional courts - notably South Korea, Japan and Israel have recognized that freedom of speech or press necessarily includes access to it. More than 70 other nations have passed freedom of information laws. While this right has more solid traction in Europe and America than elsewhere (Asia, Africa or Middle East), its influence continues to expand globally [10].

The Republic of Kazakhstan legislation on access to information adheres to several principles that ensure access to it:

- legality;
- openness and transparency in activities of information holders;
- reliability, completeness, relevance and timeliness as well as equal access.
- Nondisclosure of State Secrets or other legally protected information;
- Privacy, personal and family secrets as well as respecting rights and legitimate interests of both individuals and legal entities is crucial in today's increasingly connected society.

Noteworthy is the fact that Kazakhstani legislation on access to information has specifically identified information as not subject to restriction – specifically:

1) emergency situations and catastrophes endangering citizens' health and wellbeing as well as natural disasters' official forecasts and results.

2) on health, sanitation, demography, migration, education culture social protection economy agriculture as well as crime.

3) the facts surrounding acts of terrorism;

4) environmental conditions, fire safety measures and food safety issues;

5) on privileges, compensations and benefits provided by the State to individuals and legal entities;

6) facts regarding violations to human and civil rights and freedoms;

7) on the size and composition of Kazakhstan National Bank's gold and foreign exchange reserves;

8) contains regulatory legal acts of Kazakhstan with the exception of state secrets or other legally protected material as well as their drafts;

9) Formation and expenditure of funds from republican and local budgets with exception to information that contains state secrets

10) Controls over expenditure of funds from republican and local budgets with exception of information containing state secrets;

11) On violations of law committed by holders or officials who possess information.

12) on mass repression for political, social and other purposes - with exceptions being information related to state secrets within Kazakhstan archives - as reported.

As digital government continues to transform governance functions, it becomes harder and harder to identify any non-digitized function [11]. Early proponents of "e-government" argued [12], that adopting digital technologies in public service environments enables more effective, democratic, participatory bureaucratic processes while simultaneously challenging traditional notions of administration, management, organization accountability engagement in ways not fully examined or understood by academic researchers.

Civic tech advocacy is leading innovation in government transparency. Volunteer "data activists" and nonprofit organizations are filling gaps where governments cannot or won't provide services that fulfill citizens' demand for information [13, p. 60]. Alivateli, created by UK non-profit mySociety, serves as an intermediary between people and governments by fulfilling requests for information. Alivateli's platform first made its debut as WhatDoTheyKnow.com in the UK but has since spread throughout 25 different jurisdictions around the globe. Anyone searching or downloading can search or view past requests made using it, with all communications between requesters and governments archived publicly for anyone to search and download at will.

Data activists across the world are creating public interest datasets (usually maps) designed to give access to information that otherwise wouldn't be accessible. Data for Black Lives in the US aggregated state-level public health information to publish race-based disparities for COVID-19 cases and deaths [14]. Maria Salguero, an engineer and activist from Mexico, conducted an ambitious media monitoring effort for Femicide cases (the killings of women or girls by violence against them), since government figures vastly undercount such acts [15]. Government figures tend to undercount this form of sexual violence against women. It's conducted her project

alongside female engineers of her nation-state for greater international representation of such violence. Policing the Pandemic Project utilized a "counter-mapping" strategy similar to media coverage and information requests to track instances of COVID-19 mandates and restrictions enforcement. Canadian police did not actively release such details [16].

These activist-generated datasets may have various purposes and contexts of creation; their methods of construction may also vary in terms of transparency. Unfortunately, not always possible to validate them properly.

Data activism should take account of values such as transparency and accountability as models for open government rather than alternatives to it. An open-source mentality has many advantages; as demonstrated by successful software projects such as Linux or R, open-source initiatives encourage active communities. Projects with multiple and engaged stakeholders often create more reliable systems than proprietary alternatives.

Although often designed for specific users (like government transparency experts), such projects frequently act as sources of innovation with widespread effects that reach far beyond its initial stakeholders. Relying solely on data activists' unselfish efforts alone will prove unsustainable in the long run. While our examples in this article feature many promising ideas, few prove as impactful and many quickly fade as their creators and communities pursue different pursuits. Data activism initiatives exist to expose gaps in official information systems; their existence should not simply serve as supplementaries to open government initiatives but should serve to provide citizens access to services they could otherwise not gain access to through government resources.

Conclusion

As always, please read and follow all applicable safety precautions when travelling near any body of water. Within the context of the scientific research, an in-depth examination was performed of mechanisms and strategies utilized on both an international and national scale to secure right to information access. Analysis revealed that while international standards and recommendations play a central role in shaping access to information principles, their implementation varies considerably across jurisdictions due to cultural, political, economic, technological development and infrastructure factors.

The main conclusions of this work stress the need to harmonize international standards with national legislation in order to create effective and sustainable information access systems. Special care must also be given in strengthening legislative frameworks, developing institutional mechanisms and employing technological solutions in order to guarantee access to information by all segments of society.

The study also highlighted the key role played by artificial intelligence and digitalization in improving information availability and quality, leading to greater transparency and responsibility among public administration bodies. Unfortunately, technological development creates new risks related to data protection that require additional attention and regulation from regulators.

The conclusion underscores the significance of continued international cooperation and exchange of best practices between nations to foster global progress in access to information.

However, to achieve significant improvements at national levels it must take into account specifics and needs of each country as well as involve all stakeholders such as government agencies, private sector firms, non-government organizations and general public in this process.

This research affirms that combining normative and practical approaches is key to providing efficient access to information, which requires coordinated efforts on all levels - international, national, and local.

The contribution of authors.

Digai Damir – annotation, keywords, introduction, methodology, conclusion, results and discussion.

Nurmukhankyzy Daniya – transliteration, information about the authors.

Taubayev Baurzhan Ryspekovich – list of references.

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Сравнительный анализ международно-правового регулирования и практики зарубежных стран в области обеспечения доступа к информации: интеграция нормативных и практических подходов

Аннотация. В статье представлен сравнительный анализ международно-правового регулирования и практики зарубежных стран в области доступа к информации. Его цель состоит в том, чтобы изучить, как сочетаются нормативные и практические подходы в обеспечении прав доступа как на международном уровне, так и в разных странах, с ключевыми направлениями, включающими анализ нормативных правовых актов, практики их применения и механизмов мониторинга реализации таких норм.

Эта работа имеет большое научное и практическое значение, помогая нам лучше понять различия и сходства в подходах, применяемых к регулированию доступа к информации, что может послужить основой для разработки рекомендаций по усилению этого аспекта законодательства. В ходе этого исследования были использованы сравнительный анализ, правовая догматика и анализ правоприменительной практики.

Основные выводы демонстрируют, что, несмотря на глобальные стандарты, реализация доступа к информации значительно варьируется в зависимости от национального контекста. В результате наши выводы подчеркивают необходимость учета международного опыта при разработке национальной нормативно-правовой базы и практики.

Это исследование представляет большую ценность, поскольку предлагает систематический анализ международных и национальных нормативных и практических механизмов в отношении доступа к информации. Кроме того, его практическая значимость заключается в том, что оно

используется регулирующими органами и практиками в разных странах для улучшения правил и практики доступа к информации.

Ключевые слова: информация, доступ к информации, обеспечение доступа к информации, свобода выражения мнений, распространение информации, цифровизация.

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Ақпаратқа қол жеткізуді қамтамасыз етуде халықаралық-құқықтық реттеу мен шет елдердің практикасын салыстырмалы талдау: нормативтік және практикалық тәсілдерді интеграциялау

Андатпа. Мақалада ақпаратқа қол жеткізу саласындағы халықаралық-құқықтық реттеу мен шет елдердің тәжірибесін салыстырмалы талдау мәселесі қарастырылған. Оның мақсаты халықаралық деңгейде де, әртүрлі елдерде де қол жеткізу құқықтарын қамтамасыз етудегі нормативтік және практикалық тәсілдердің нормативтік құқықтық актілерін талдау, оларды қолдану практикасын және ондағы нормалардың іске асырылуын мониторингілеу тетіктерін қамтитын негізгі бағыттармен қалай үйлесетінін зерттеу болып табылады.

Зерттеу ақпаратқа қол жеткізуді реттеуге қолданылатын тәсілдердегі айырмашылықтар мен ұқсастықтарды айқын түсінуге көмектесетін ғылыми және практикалық мәнге ие әрі заңнаманың осы аспектісін күшейту бойынша ұсыныстарды әзірлеуге негіз бола алады. Зерттеу барысында салыстырмалы талдау, құқықтық догматика және құқық қолдану практикасын талдау қолданылды.

Мақала барысындағы негізгі тұжырымдар жаһандық стандарттарға қарамастан, ақпаратқа қол жеткізуді жүзеге асыру ұлттық контекске байланысты айтарлықтай өзгертінін көрсетті. Нәтижесінде біздің қорытындыларымыз ұлттық нормативтік-құқықтық база мен практиканы әзірлеу кезінде халықаралық тәжірибені есепке алуға басымдық берілу керектігін дәлелдеді.

Аталмыш мақала ақпаратқа қол жеткізуге қатысты халықаралық, ұлттық нормативтік және практикалық механизмдерді жүйелі талдауды ұсынуымен бағалы. Сонымен қатар, зерттеудің практикалық нәтижесін мамандар әртүрлі елдердегі ақпаратқа қол жеткізу ережелері мен тәжірибесін жақсарту үшін пайдалана алады.

Түйін сөздер: ақпарат, ақпаратқа қол жеткізу, ақпаратты қамтамасыз ету, сөз бостандығы, ақпаратты тарату, цифрландыру.

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