Proposal for a Constitutional Article for Obtaining and Giving Access to Information And a Proposed Bill to Enforce it
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Part I

Explanatory Notes for the Constitutional Article and the Proposal for the Bill on Obtaining and Giving Access to Information

Introduction:

As the access to the information is an inherent human right, and a standard for all freedoms called for by international conventions on human rights, it was adopted by the international community and considered as the foundation of public freedoms. During the first session of the General Assembly of the United Nations in 1946, the Assembly adopted resolution No. 59 (1), which provided that "freedom of information is a fundamental human right and is a touchstone of all the freedoms to which the United Nations is consecrated."

The international instruments following the resolution regarded this right as part of the fundamental rights, and a necessary part of the right and freedom of expression.

It was reflected in Article 19 of the International Covenant on Civil and Political Rights, under which the article states that “(1) Everyone shall have the right to hold opinions without interference, (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

In Egypt, withholding information led to a state of political corruption. This was demonstrated in the widespread protests that occurred in January 2011 and led to the resignation of President Hosni Mubarak. The national investigations that followed revealed cases of corruption that became the most extensive in the history of modern Egypt.

This secrecy is the foundation set up by the Egyptian legislative structure. This can be inferred from the text of Article X of the Presidential Decree No. 2915 of 1964, which states that "No ministry or department or individual(s) in the government or the
private sector may publish using any means of publication any publications or statistical information except from the Statistics Central Agency for public Mobilization and Statistics. Whoever contravenes that is considered to have violated the law.

Even worst, the Egyptian legal system contains many articles that run counter to the principle of freedom of access to information. For example, Article No. 57 of 1937 of the Egyptian Penal Code punishes the dissemination of information that may threaten the fundamental order of the state. It also penalized revealing ‘secrets’ without giving a clear definition for their meaning. It also prohibited publishing what happens in sessions that are convened to look into crimes of publications and crimes related to libel and slander. It also prohibited publishing litigations and some judicial decisions. It also penalized publishing information relating to strikes, regardless of the truth of the publication.

In addition, under Statute No. 121 of 1975, as amended by Statute No. 22 of 1983, and Presidential Decree No. 472 of 1979 on the preservation of the official documents of the state and organizing the methods of their dissemination, it unconstitutionally restricted the circulation in a way that impedes the public debate.

The following statutes are mere examples of restriction of circulation and disclosure of information:

1. Law No. 356 of 1954, and Law No. 35 of 1960 on Statistics and the Census,
2. Law No. 47 of 1978, regarding civilian employees in the state; and
3. Law No. 313 of 1956 amended by Law 14 of 1967, banning the publication of any news about the armed forces;
4. Law General Intelligence Law 100 for the year 1971;
5. Law No. 87 of 1960 on the general mobilization.
Explanatory Notes for the Constitutional Article:

1. The article makes the right of access exclusive to Egyptians. Foreigners do not enjoy the same right, although they may utilize information that is made public.
2. The article protects the rights of citizens to information and enables them to obtain information. Correspondingly, it makes it the state’s duty to enable its citizens to enjoy this right.
3. The article makes it a constitutional duty to publish the information and documents in the possession of public, private, and mixed sectors.
4. The article gives the holders of information recourse to the Supreme Constitutional Court to holders of information may come to the court to request permission not to publish information that may be detrimental to the supreme interests of the state. The Supreme Court has the limited authority of granting permission not publish the information. It can make such grant for a specified period only.
5. The article does not use expressions such as “national security” and “public order”, but clarifies specifically and exhaustively the information that may be withheld.
6. The constitutional article requires legislators to observe the protection of the right of access of information in their legislations.
Explanatory notes for the proposed bill:

**Philosophy of the Proposal:**

The attached proposal for the law is for combatting corruption on a fundamental level and supporting human rights. The philosophy of the law is as follows:

1. The natural state of being is access and circulation of information
2. Preventing circulation is an exception that should not be expended upon or analogized to
   a. The proposal has limited the scope of the information prohibited from circulation in that it restricted it to matters pertaining to a violation of the right of privacy, national political, economic, or military security.
   b. The right to prohibit circulation relates to the nature of the information, not the nature of the holding entity.
3. Entities bound by the provisions are required to designate an employee who makes the information available. It has to provide him with sufficient authority
4. The proposal gave the addressed entities a reasonable period- 15 days- to respond to information requests, extendable to a maximum of seven days.
5. The proposal took into consideration persons with special needs, as it requested from entities to give the information in alternative forms that suit their specific needs.
6. The proposal required the entities to publish periodic reports and specified the information required to be included.
7. It created a high commission for information that specializes in providing the information. It provided it with complete independence and absolute powers. It created an appeals committee that looks into decisions of holders of information to decline requests. The proposal permitted appealing judgments before the judiciary as well.
8. The proposal took interest in training and spreading awareness. It made it the most important specialty of the commission.
9. It set criminal penalties for violating its rules to deter anyone who wishes to conceal this information or betray the confidentiality of information that should not be published.
The set-up of the proposal:

The proposal consists of 8 sections and 62 articles.

Section I is titled “general provisions” and contains six articles.

Article (1) defines expressions used in this law.

Articles (2) and (3) specify the goals and principles of this law. The most important being that access to information is a right for citizens and a duty on the state, and that the natural order is to release the information. The law provides that those who release confidential information without the knowledge and in good faith should not be penalized.

Article 3 stipulated expressly that Egyptians have the right to access any information that would strengthen their rights as stipulated in international conventions, the constitution and the law.

Article (6) is one of the most important articles. It prevents constructing this law in a manner that hinders access to information. It required interpreting the law in light of the principles of the constitution, laws, and international treaties.

Section II is titled” Commitment to Publication and the Protection of Whistleblowers” and contains 5 articles.

Article (7) divided the levels of confidentiality to three degrees according to their importance. The degrees are: top secret, secret, and restricted.

A different restriction period was given to each degree, and that was according to each degree’s importance. The proposal gave the commission the right to extend these periods once. To ensure that there is no untruthful or exaggerated degree of confidentiality conferred on information, the proposal made entities’ decisions for specifying the confidentiality subject to the revision from the commission on freedom of circulation.
Article (8): To better implement the goals of the project, article (8) required relevant public entities to publish annual reports. The reports must include at least the public policies, goals, projects, costs, accomplishments and a list of information the entity holds. It includes as well the decisions that affect those who deal with the entities, the reasons for taking them, the desired goals from the decisions, and any other information that the high commission finds necessary.

Article (9) protected the right for people to attend public meetings. It required the relevant entities to announce the date, place, and purpose of the meeting, and then publish the minutes of such meetings.

Article (10) protected whistleblowers and prohibited the placement of any penalties for anyone who provides information about violations or breaches of the rule of law.

Article (11) gave the right of any person harmed by the withholding of information to receive proportionate damages from the entity that withheld the information and by that caused the damages.

Section III is titled “obtaining information” and includes 12 articles.

Article (12) specifies the department that information requests are given to, and the information that the application must include. It permits making an oral request and requires the designated employee to write it down and give the person making the request a copy of the information. This is to make it easier for people who find challenges in writing and reading.

Article (14) requires entities to respond to the information request in a short period (15 days from the request date). It permits extending the deadline once for no more than 7 other days. The article considers failure to respond to mean an acceptance. This gives the person making the request to follow up with the procedures for obtaining the information. The same article reduces the specified period to 3 days in case of a pressing need to protect the life or liberty of persons.
Article (16) requires the designated employee –after giving the response- to give the information to the person making the request in writing. It does not suffice to enable the person making the request to view it. The article delegated the high commission to give directions and set procedures that would entail providing the applicant with copies from the original forms.

Article (17) makes it easier for people with special abilities. It provides that entities give such applicants suitable alternative formats, whenever possible.

Article (18) makes it easier to reach the source of information since information is branched out and may be in several places, and thus it may be hard for people to identify the source.

article (18) permitted the designated employee to clarify that requested information belongs to another entity, and thus transfer the application to the correct one. The article mentions that when such transfer occurs, the transfer counts as if the information had been submitted directly to the correct entity in the first place.

Article (19) addresses the case of denial of information requests. The article requires the designated employee to notify the applicant of the reasons for denial. The article restricts acceptable reasons for denial to two main ones: (a) that the entity does not possess the information (b) that they are within the exceptions of this law.

Article (20) ensures transparency. Where the entity denies the request because it does not possess the information, the article requires the designated employee to show the applicant the steps taken to find the information and included other similar protective measures.

Article (22) permits delay in submitting the information where the information is being presented to parliament or an official person. However, it restricted the period to 45 days, whether the information was presented or not.
Article (23) where the holder of information finds that its release may endanger the high interests of the state, it permitted the holder of information appeal to the supreme constitutional court. The court may prohibit the release, but for a specified period only.

Section IV is titled “exceptions” and contains 9 articles.

Article (25) enumerates the information excepted from release. It is geared at protecting the state from the dangers of wars and preservations of its unity, integrity, and borders.

Article (26) protects the information gathered for investigating crimes if its release would endanger the process or the reputation of people not yet convicted.

Article (27) protects business competition and economic interests.

Article (29) permits partial release of information were parts of it are excepted and other parts are not. It requires the employee to revise the documents and provide the parts that are not excluded.

Article (30) is significant because it does not permit withholding information for any reason if the purpose of releasing it is to reveal (a) significant violations for the constitution or the law, (b) incidents of financial corruption or (c) human rights violations.

Article (32) protects privacy and provides special procedures to protect third parties.

Section V is titled “The High Commission for Information” and contains 19 articles.

Article 33 makes the commission independent and gave it a legal personality.

Articles 34,35 specifies the number of members, and their manner of appointment.

Article 34 requires advertisement for positions. Candidates nominate themselves according to conditions set forth in the same article.

Article 35 mentions that parliament chooses members through ballots. It restricted the term of membership to two consecutive 5 year terms.
Article (37) specifies enumerated the specialties of the high commission. Examples are: (a) setting a national plan for strengthening and developing the freedom and circulation of information, (b) making suggestions for methods for implementing the plan, (c) issuing regulations and rules that organize the degrees of confidentiality, the basis and methods of using them, the manner of monitoring their abuse, (d) passing judgments to issues related to the release of information, (e) spreading a culture and awareness of freedom and circulation of information; (f) utilizing educational and media facilities; and (g) ensuring the receiving of information to people requesting it.

Article (38) requires state agencies to cooperate with the commission and facilitate its fulfillment of obligations. The article gives the commission the right to invite any state representative to participate in the commission. It did not grant such representative voting rights.

Article (39) requires the commission to appoint a secretary general, a nonmember. It permits the commission to use specialists and experts.

Article (48) gives members of the commission the right to enter the premises of any public entity and search its records and documents and seize any documents connected with requested information. It also gave it the right to interview individually any employee to obtain the information. It made accountable anyone who conceals, destroys, or tinkers with the information to escape submitting it. This shows the proposal seriously supports the independence of the commission, and enables it to do its work.

Section VI is titled “fees and appeals” and contains five articles.

Article (51) gives the commission the right to set information request fees provided that they are no more than 500 L.E., except if the costs are increased for reasons that the article specifies.

Article (52) permits any stakeholder to appeal to the commission from decisions that information holders make. Appeals are directed to the commission’s appeals committee. They must be made within 15 days from the date of declining the request, or the decision
that the appellant seeks to appeal. The article permits appeal from the commission’s
decision directly to the administrative court to ensure a swift process.

Article (45) requires the commission to look into the appeal within 15 days from the date
of appeal. After it hears the sayings of the stakeholders, it passes a judgment. It
considers the ending of the period without having a judgment reached to mean that the
appeal was declined. After the passage of the 15 days, the appellant may have recourse to
the administrative court.

Article (53) gives lots of discretion for the appeals commission, such as calling witnesses
and experts, taking their oath, examining documents regardless of their confidentiality.
The article also permits the commission to provide legal services for those in need.

**Section VII** is titled “penalties and includes 3 articles.

Articles 56 and 57 include penalties that range from prison, jail, detention, from office,
and a fee that reaches 10,000 L.E. For whoever withheld requested information, or
breached the confidentiality of a third, or in bad faith provided false information or
destroyed documents or records. These penalties do not supersede any harsher penalties
in any other law.

**Section VIII** is titled “final provisions” and includes 3 articles.

Article (60) repeals any rule in any law that contradicts the provisions of this law.

Article (61) requires the high commission to issue the executive decree for the law within
6 months from its formation and article (62) requires publishing the law in the official
gazette.
Part II

The Proposed Constitutional Article

The proposed Article:

Information includes data, statistics, and documents. Freedom and right to information is a right guaranteed to all Egyptians. The state is obliged to enable its citizens to exercise this right. The executive authority and other public and private institutions are obliged as well to publish and make information available to the public.

If the entity that holds the information thinks that making it available in whole or in part may adversely affect the supreme interests of the state, the entity may file a petition in court and ask for a permission not to release the information. The court will decide the matter within 60 days from the date of application. The court can decide that the information should be made public or that it should stay protect for a specified period. The court’s decision will have a general binding effect.

It is prohibited to publish or obtain any information that may harm the republic or the integrity of its territories or the unity of its land or make it vulnerable to invasion or diminish its capacity to face such a threat.
Part III

Proposed Bill for Obtaining and Giving Access to Information

Section I

General provisions

Article (1)

For the purposes of this law, the following words shall be given the definitions corresponding to them:

High Commission: the high commission for the freedom and circulation of information.

Private entity: any natural or legal person that the government or any of its institutions does not supply with capital. Such entities do not enjoy any special privileges from the state due to their activities.

Public entity: any entity created by the constitution or according to it, or by the law and/or constitutes a part or branch of the legislative, executive, and judiciary, or any other government agency.

Private entity associated with the state: an entity owned or controlled by, or financed to a large extent by funds from the executive branch, either directly or indirectly. And/or any other entity that performs a function specified by law, or performs a public function but only to the extent required by the law or necessitated by the public function.

Designated employee: the employee who is appointed by the holder of information to look into the requests for information.

Information: the data or information in any of the records and documents that are written, or stored electronically, and any graphs or charts, tables, images, movies, microfilm, sound recordings, videos, diagrams, any data read on special hardware, or any other forms that the National Committee for Freedom of Circulation of Information considers to count as information in accordance with this law.
Alternative format: the format that enables people with special needs to access the requested information.

Excluded Information: information excluded from the right of access in consistence with the provisions of the law and the Constitution

Holder of information: any public or private entity or private entity associated with the state or any other entity that possesses information and receives information requests.

Publication: making the information available in a format and manner that is easily accessible to the public. It includes print, radio and electronic means of communication and any other format that is known or will be known in the future.

Information extraction fee: the fee that must be paid by the person requesting the information to the holder of the information in order to provide this information. The fee is determined by the holder of information.

Third party: any party other than the holder of the information and the party requesting it.

Specific information relating to a third party: private, personal, or business information belonging to a third party.

Article (2)

Access to information is a right for every Egyptian citizen. The State commits itself to enable its citizens to use this right and facilitate their ability to enjoy it.

All information held by the holders of information is available for viewing and circulation, except for what parts excluded in this law.

Release of information is a duty incumbent upon all those who are subject to the provisions of this law. Withholding information is only permissible in the scope of information excluded by the constitution or the law.

No person should be penalized for releasing information as long as the person believes on reasonable grounds that the release was sanctioned by law.

Article (3)
This law aims to enable citizens to access information that may help protect or enhance any of the rights guaranteed in the International Covenant on Civil and Political Rights, the International Covenant on Economic and social rights, any other international multilateral treaty that the Egyptian government has ratified, the Egyptian constitution and the laws in force in Egypt. Access entails information held by public and private entities, or private entities associated with the state or any other entity.

**Article (4)**

Relevant entities that hold information must keep the information at their disposal in an orderly and easily accessible manner to make it easier for the officer in charge to extract. Entities must save the information electronically whenever possible. They should appoint one or more competent officer to consider requests for access to information, and should give the officer(s) necessary authority that enables them to search and access the required information and submit it to whoever requests it.

**Article (5)**

Relevant entities that hold information must work on promoting a culture of freedom of information among their employees, organize training courses on the importance of the right to access, and enable citizens to exercise this right. Training courses must include efficient mechanisms for saving and extracting information. The entities must also organize a system that promotes publication and making available of the information.

**Article (6)**

The provisions of this law should not be interpreted in any way that may lead to the withholding of information or narrowing the scope of their availability. Interpretation of this law’s articles must be in the light of articles (2) and (3) of this law, the Constitution and international conventions.
Section II

Commitment to Publication and the Protection of Whistleblowers

Article (7)

Classified information that is prohibited from publication according to any other law must be released as follows:

(a) After 15 years for top secret information;
(b) After 10 years for secret information;
(c) After 5 years for restricted information;

The high commission is responsible for setting the criteria for classification and must notify the relevant holders of information. The high commission monitors the entities’ adherence to the above rules.

The high commission may grant extensions for the above mentioned periods upon the request of the holder of the information. It must attach reasons for such extensions. The extension decision is appealable by an action to revoke submitted to the administrative court according to conditions set by the State Council.

Article (8)

Relevant entities that are holders of information must publish whatever information they possess. In all circumstances, they must publish annual periodical reports that include at a minimum:

(a) The general policies, goals, projects, accomplishments, and problems that they have encountered. Also, any price changes for their services or products, decisions that affect those who deal with them, the reasons for taking them, and the extent they adhere to legislation that governs their work; and
(b) Correspondences, internal memos, and meeting minutes that result in making decisions or issuing executive decrees;
(c) The budget, its details, actual and projected revenues and expenses. Included are details of the budget allocated for public relations and the press;
(d) Details of privileges and licenses that the entity provides, tenders, auctions, direct purchasing orders, and any other program it provides that includes privileges for its beneficiaries;
(e) The contracts that the entity entered to with natural or legal persons. The internal memos and correspondences, meeting minutes, and advice that preceded the conclusion of the contracts;
(f) A list of information held by the entity;
(g) A list of information that the entity published or made available, especially the number of information requests that it granted and the ones declined;
(h) Any other information that the national committee deems necessary to publish.

Article (9)

When the relevant entities hold a public meeting, they must announce the date, place, and purpose of the meeting. The public must not be prevented from attending such meetings except with a permit that includes justifications from the high commission for information. Stakeholders may appeal the permit by an action to revoke before the administrative court according to the rules set forth by the State Council. In all cases, the entities must publish the minutes of such meetings.

Article (10)

Whistleblowers who report violations or breaches of this law shall not be held accountable, interrogated, or subject to any kind of penalty or disciplinary action.

Article (11)

If the holder of information wrongly withheld information that should have been provided under article (8) of this law, the entity must compensate persons for any resultant damages that could have been avoided had the information been published in compliance with this law.
Section III

Obtaining Information

Article (12)

Requests to obtain information must be submitted in writing to the entity that holds the information. Requests must include sufficient details to enable the administration or the designated employee to identify and extract the information.

In special circumstances, requests may be made orally to the designated employee. In this situation, the employee must write down the request and re-read it to the person making the request to ensure that it matches the person’s wishes, and hand the person a copy.

Article (13)

As soon as a request is made, the designated employee must give a receipt to the person making the request. The receipt must include the date of the request, type of information requested, and the period necessary for responding to the request. If it is possible to submit the information momentarily, the designated employee must do so with the highest degree of good faith.

Article (14)

The designated employee must release the requested information within 15 days from the request date. A single seven day extension is permitted if (a) the request includes a large number of information, or (b) if the information necessitates communication with other parties. Failure to respond during the specified periods will mean that the request is accepted.

If the information is necessary to protect the life or freedom of a person, the period for releasing the information is reduced to 3 days from the request date. A single 3 day extension is permitted if (a) the request includes a large number of information, or (b) if the information necessitates communication with other parties. Failure to respond during the specified periods will mean that the request is accepted.
Article (15)

If the information request was granted, the designated employee has to enable the person making the request to receive such information, and must specify the costs for making them available. The costs are limited to the direct costs that the holder of information incurs plus a 10% for administrative expenses dedicated to the high commission.
Article (16)

After acceptance, the administration or designated employee must submit the information in a written format. The information must include an authentication from the entity and a copy of the original form of the requested information. If giving copy is not feasible, the entity must provide a suitable place for the person making the request to read and extract desired information.

Article (17)

Notwithstanding the previous article, whenever possible, the entity must provide a suitable format if the person making the request is a person with special needs.

Article (18)

If the designated employee finds that the information requested is with another entity and it being the source of information, the entity that the information was requested from may refer the request to the right entity and notify the correct entity of the transfer. The request will is considered to have originally been submitted to the correct entity.

Article (19)

Decision declining access to information must be explained. The designated employee must notify the person making the request of the reasons of declining. It is only permissible to decline when (a) the information cannot be found (or does not exist) or (b) is part of the excluded information in this law. The decline must include thorough explanation of the steps for appeal. Any deficiency or inadequacy in explanation or infraction of this law invalidates the decision.

Article (20)

If declining the request is because the information does not exist/cannot be found, the designated employee must attach with the declining decision an explanatory note that explains:
(a) All the steps taken to find the information, or to verify its existence; and
(b) All the locations that were searched;
(c) The person(s) that participated in this search;
(d) The details of any correspondences that were made searching for this
information or verifying their existence;
(e) If the information was destroyed, then the note must include the decision
ordering the destruction, and proof that they have been actually destroyed.
Article (22)

The designated employee must notify the person making the request of a delay in making the information available in the following conditions if:

(a) The information was prepared for presenting to parliament. However, the information may not be withheld after 45 of the convention of parliament or of making the request- whichever is sooner; or

(b) The information requested is in itself a report or included in a report prepared for presenting to an official entity or a person in his/her official capacity. The delay is only permissible until the report is presented to the entity or person. In all cases the information may not be withheld after the presentation of the information to the person or entity or the passage of 45 days- whichever is sooner.

The designated employee must notify in writing the person making the request in the decision for delay for the period specified in article (14) of this law.

Article (23)

Excepting from the above mentioned ways for appeal, if the holder of the information finds that making the information available may adversely affect the supreme interest of the state, then the holder of information must present the question to the relevant minister or his/her agent.

If the minister or representative approved, the matter must be presented to the constitutional court to issue a decision whether to publish or withhold the information. The court has 60 days to decide whether to publish or withhold for a specified period. The decision will be binding on all.
Section IV

Exceptions

Article (24)

Information is not considered excluded from availability except if it was deemed classified as in article (7) of this law, and for the periods specified therein.

Article (25)

The designated employee must decline releasing any information if it was proven that it will have a serious adverse effect on the state, its borders, the integrity of its territory, or if it may expose it to danger of war or weaken its ability to face this danger. This especially includes information related to:

(a) War strategies, plans and tactics, weapons and combat missions, organizations of the armed forces, and military operations and maneuvers in all their forms and manifestations; and
(b) Intelligence information relating to the internal and external security of the state according to the present laws;
(c) International correspondences that relate to issues of defense and military alliances or coalitions;
(d) Any information that relates to the state or a foreign organization where it was agreed to keep the information secret;
(e) Information that relates to racial or ethnic issues, or anything that adversely affects the national unity.

Article (26)

In entities that engage in crime investigation, gathering of evidence, and detecting violations, the designated employee may choose to withhold the information if releasing it would hinder the completion of tasks or affect the reputations of individuals not yet convicted.
Article (27)

The administration or designated employee may decline to release information that contains:

(a) Trade and business secrets that relate to the holder of information or other parties protected by other legislations; or

(b) Information related to future events were releasing them may cause clear and specific financial losses to the state’s economy, or its ability to administer the national economy, or that result in private gains for a person or entity, and this includes:

i. Decisions relating to change in the value of the currency used in the Arab Republic of Egypt; or

ii. Expected changes in custom duties, taxes, fees, and any other source of revenue;

iii. Expected changes in interest rates;

iv. Expected changes in the prices of government property, this includes stocks, real and personal property;

v. Deals and tenders that the holder of information plans to enter to relating to a commodity, were releasing the information may affect the price of the commodity in the market;

vi. Information that relates to expectation of natural disasters or contagious diseases;

vii. Information that if released may compromise the safety of people;

viii. Any information that may affect intellectual property or rules or fair business dealing or commercial competition.

In all cases, the entity must immediately release the information once the reason for withholding has been removed. It must justify such withholding.

Article (28)

The designated employee must decline to release information relating to a third party except where:
(a) The consent of the owner of the information, representative, or agent was granted; or
(b) The information was already made public;
(c) The request was based on a judicial injunction;
(d) The passage of a minimum of 30 years after the death of a person, and that is with the consent of the heirs.

**Article (29)**

If a part of the information is within the exceptions excluded from this law and the other part is available for release, then the designated employee must examine the document and remove the excepted parts, then make the rest available and submit it to the person making the request.

**Article (30)**

Withholding information for any reason is not permissible if the purpose of releasing it is to reveal material violations of the constitution, the law, or occurrences of financial corruption or human rights violations.

**Article (31)**

The burden of proof is on the designated employee that the information is within the exceptions enumerated in the constitution and in this statute.

**Article (32)**

If the designated employee receives a request relating to:

(a) Personal information of a natural third person; or
(b) Commercial or classified information relating a legal third person.

The employee must take the necessary steps to notify in writing the third party or their legal representatives of the request and the details thereof. Within 5 business days, the third party must provide his/her acceptance or denial to the employee, and the reasons thereof.
Within 5 days of receiving the response from the third party or the expiration of the period specified in the previous paragraph the employee must make the decision as to whether to provide the information or withhold it.

Any stakeholder may appeal the decision in an action to revoke before the administrative court in accordance with the usual procedures specified in the law of the State Council.
Section V

The High Commission for Information

Article (33)

This article calls for the creation of a commission called the high commission for freedom and circulation of information, for the purpose of strengthening and improving the freedom of information and promoting awareness thereof, and contributing to its guaranteeing access to information. The commission has a legal personality, and is headquartered in Greater Cairo with branches in provinces. It has the right to create other branches in municipalities or create other offices according to work necessities. The high commission enjoys complete independence.

Article (34)

The high commission will consist of 15 members. The bureau of People’s Assembly issues the decision for the commission’s formations. It selects the members through voting by name in a plenary session. The term of the commission is five years.

Article (35)

Members of the high commission must:

(a) Have obtained Master’s degree at a minimum in any branch of law, political science, media, economy, etc. They must have a minimum of 10 years’ experience in the field of national security, legal affairs, media, or judiciary; and

(b) Have credible record in defending human rights, freedom of expression, right of access to information, or any other aspect of human rights and public freedoms;

(c) Not occupy or have occupied in the past 5 years of the time of their candidacy any political position or position in a political party;
(d) Have a good reputation. They must not have been accused of any crimes related to honor or been connected to any violations of human rights and public liberties or defended such violations.

**Article (36)**

The People’s Assembly declares in two daily widely published journals the start and close of the date for running for membership in the commission. It specifies a date for receiving the applications for candidacy from individuals who satisfy the conditions set forth in article (35). The applicant sends the application with a detailed resume, and supporting documents.

After the end of election period the bureau sifts through the applications and removes the ones that do not satisfy the stipulated conditions, and presents the rest of applications to the members of parliament to vote on.

The president of the people’s assembly appoints the member in accordance with election results. Selected candidates must be notified within 15 days from the decision date.

Any stakeholder may appeal the appointment decision in an action to revoke before the administrative court, within 15 days from the decision date.

The court must issue a verdict within 15 days from the date of its knowledge of the appeal. This decision is in turn appealable to the supreme administrative court within 7 days from the date of the verdict. The supreme administrative court issues its verdict within 15 days from the date of the application.

No member can occupy the position for more than two consecutive periods.

**Article (37)**

The eldest member of the commission presides the first meeting, and in this meeting the president and his or her deputy get selected. The president holds the title of commissioner general, and the deputy holds the title of the deputy commissioner general.

**Article (38)**
The high commission must:

(a) Place a national action plan to strengthen and develop the freedom of information and circulation in Egypt, and to propose ways to facilitate the implementation of the plan; and

(b) Pass judgments related to appeals related to entities’ withholding information and delaying in their making them available; and

(c) Promote a culture of freedom and circulation of information, raise awareness, and enlist the aid of entities such as educational institutions and the media;

(d) Convene conferences, symposia, and seminars for discussions related to the freedom and circulation of information, or incidents that occurred in relation thereof;

(e) Prepare proposals that are necessary to enhance institutional and technical capabilities in the field of freedom and circulation of information;

(f) Contribute to training the administration or employees and people with authority in the relevant entities on the importance and mechanism of enabling people to obtain the information;

(g) Issue publications and journals relating to the objectives of the committee and its terms of reference;

(h) Issue reports that monitor the level of Egypt’s commitment and advancement in the freedom of information field on the governmental and civil level. Reports must include violations and hurdles in this field;

(i) Cooperate with international and national organization interested in the freedom and circulation of information to better promote the goals of the commission;

(j) Participate with Egyptian delegations in forums and meetings of international and regional organizations interested in freedom and circulation of information.

Article (39)

State agencies must cooperate with the commission and facilitate its fulfillment of its duties, and provide it with any information or data that it requests.
The commission may invite any state representative to participate in its works and meetings. The representative will not have any votes.

Article (40)

The commission must have a secretary general. The secretary general’s duties include (a) executing the decisions, (b) general supervision of the employees and the financial and administrative affairs of the commission.

The high commission appoints the secretary general. The secretary general must not be a member of the commission, and his or her term in office is the same term as that of the commission.

The commission must consult a sufficient number of experts and specialists to better help it perform its duties.

Article (41)

The commission meets:

(a) When the president calls at least once every month;
(b) Whenever necessary;
(c) Upon the request of 1/3 of the members.

The quorum is 2/3 of the members. Decisions are made by a simple majority. In case of a tie the side with the president presides.

The president of the commission may invite to attend whoever he/she deems necessary to consult in an issue relating to research or deliberation. The invitee will not have the right to vote.
Article (42)

The “high commissioner” represents the commission before the judiciary and other parties.

Article (43)

The commission has an independent budget that counts as number one in the general budget for the state. The fiscal year begins and ends with the beginning and end of the fiscal year for the state.

The commission’s resources consist of the following:

(a) Appropriations from the general budget of the state; and
(b) The fees that the commission charges for the services it provides;
(c) Money collected as administrative expenses provided that it is paid by checks;
(d) Donations, grants, and subsidies that the commission decides to accept with a 2/3 majority;
(e) Whatever the state specifies for the commission from grants and subsidies according to international conventions;

A special bank account must be established for the proceeds from these resources. The bank must be under the supervision of the Egyptian central bank. Any surplus will be transferred to the following year’s budget. The commission’s money counts as public money and the persons responsible for it are considered those responsible for public money.

Article (44)

The commission issues a regulation that organizes job specifics and the relation between the main commission and its branches in the provinces. It issues another regulation for organizing the technical secretariat, employee affairs, and financial and administrative affairs. The regulations must not adhere to those of the governmental systems.

Article (45)
The general commissioner receives the same salary and privileges as the prime minister, the deputy receives the same salary and privileges as the deputy prime minister, and all other members receive the same salary and privileges of ministers.

**Article (46)**

Members of the commission are not subject to removal. Except for the cases of flagrante delicto, no criminal procedures may be taken against them except with the commission’s prior consent.

Members must take an oath before a special session for parliament to perform their duties with honesty and integrity, and to respect the constitution and the law.
Article (47)

Members of the commission are accountable to it, and must act in accordance with a special regulation that the commission sets forth. A special committee looks into violations and issues, reports them, and makes a final judgment. If the final judgment was to remove the member, the general commissioner for information delivers the decision to the president of the People’s Assembly. The president must present it to the assembly in the first meeting. This announces the vacancy of a position. The commission requests from the People’s Assembly to take the necessary legal measures to choose the replacement. The same measures are taken in the case of death or resignation of a member, or the removal of membership for a non-disciplinary measure.

Article (48)

Membership in the high commission terminates where:

(a) The member resigns; or
(b) The member is convicted of a felony or misdemeanor related to honor;
(c) The member is placed under conservatorship;
(d) The member declares bankruptcy;
(e) The member stops meeting one of the appointment prerequisites;
(f) The committee decides to terminate the membership due to an investigation it carried.

Article (49)

To facilitate the fulfillment of their duties, members may:

(a) Enter any public institution and search its records and any sources that relate to the requested information; and
(b) Investigate any violations in order to reach the requested information;
(c) Report any concealment or destruction of information, or modification in a manner that contravenes the truth for the sake of evading full submission of information.

Article (50)
The commission creates special committees to look into appeals from the holder of information’s (a) refusal, (b) abstention, (c) or delay in making available the information. The commission makes decisions related to the founding of the special committee and designates the geographical scope and the methodology for reaching judgments, etc. Such matters are decided by simple majority.

Article (51)

The high commission must provide semi-annual periodic reports to:

(a) The president of the republic; and  
(b) The prime minister;  
(c) The president of the people’s assembly.

The reports must include:

(a) Cases of unjustified withholding of information; and  
(b) Executive problems that the commission faces;  
(c) Any other recommendations.
Section VI

Fees and Appeals

Article (52)

The commission specifies the fees for receiving the information. The fee must not exceed 500 L.E. except in the following cases:

(a) To cover the cost of copies according to market prices; and
(b) To cover alternative formats according to market prices;
(c) If the request includes a large number of information.

Article (53)

Any stakeholder may appeal the judgment of the holders of information to the principal or local appeals committee, and especially for the holder of information:

(a) Declines the information request, and
(b) Asks for high fees for the request;
(c) Denies the request to receive the information in alternative format, although an alternative format is feasible;
(d) Delays answering the request in violation of article (14) of this statute;
(e) Transfers or refers the request to various entities without granting the request;

Appeals must be made within 15 days from the date of refusal to release the information or the decision that the applicant wishes to appeal. The committee specifies the appeals fees, provided that it does not exceed 100 L.E.

Applicants may also appeal directly to the administrative court in the State Council in the procedures specified in an action to revoke.

Article (54)

The appeals committee has the powers and duties to:
(a) Summon witnesses and presidents of state agencies or any necessary persons; and
(b) Summon expert witnesses;
(c) Permit stakeholders to join as adversaries in the appeal;
(d) Offer legal advice;
(e) Require any witness to present evidence that the commission finds necessary pass judgments in the matter before it;
(f) Require witnesses and experts to take an oath, and require affidavits or that evidence be presented under oath;
(g) View all kinds of information regardless of its confidentiality, when such information constitutes the basis of a legal claim;
(h) Order in writing entities to release information;
(i) Reissue information, select parts to release, or retain the information as long as is necessary;
(j) Limit the publication of information
(k) Enter to any place, search, and seize if necessary;
(l) Take any other measure or issue any order that is necessary reach a judgment.

Article (55)

The appeals committee issues a judgment within 15 days from the date of appeal. If the set period ends and no judgment passes, the appeal is considered declined.

The appeals committee judgments must be published in the official gazette and in two daily journals at a minimum.

Article (56)

Any stakeholder may appeal the committee’s judgments within 15 days from the date of his or her knowledge of the decision, or the ending of 15 days from the date of appeal and non-passing of a judgment. Such appeals must be made directly to the supreme administrative court. The court must decide the matter promptly.
Section VII

Penalties

Article (57)

Notwithstanding more severe penalties in any other law, whoever,

(a) Received an official notification, and after 8 days from such notification still failed to submit the requested information, or submitted it incomplete; or
(b) Released confidential information relating to a third party in situations other than the one provided in this law:
Shall be removed from his or her position and fined no less than 1,000 L.E. and no more than 10,000 L.E., or both.

Article (58)

Notwithstanding more severe penalties in any other law, whoever,

(a) Intentionally submits false information; or
(b) Intentionally destroys records;
(c) Releases in bad faith information that is excepted from the constitution and the law:
Shall be subject to imprisonment.

Article (59)

Notwithstanding more severe penalties in any other law, whoever violates any other rule from this law shall be detained for no more than a month, or fined no less than 200 L.E. and no more than 1,000 LE, or both.
Section VIII

Final Provisions

Article (60)

Any rule or law that contradicts the provisions of this law is invalid, regardless of its source.

Article (61)

The high commission issues an executive decree for this law within 6 months from the date of the first meeting it convenes.

Article (62)

This law must be published in the official gazette, and it takes effect from the day following its publication.