


ACTIVE CITIZENSHIP IN THE ERA OF TRANSPARENCY: POPULAR PARTICIPATION AND THE RIGHT OF ACCESS TO INFORMATION

 <https://doi.org/10.56238/arev7n1-226>

Submission date: 12/29/2024

Publication date: 01/29/2025

Maria Elizabeth Lins¹, Ana Carolina Gondim de Albuquerque Oliveira², Linaldo de Oliveira Lima³ and Célia Virgínia Almeida da Costa⁴

ABSTRACT

Access to information has always been a strategic instrument of power, often used as a tool for social control by the State and its agents. However, with the establishment of fundamental human rights, access to information has acquired a new status, becoming a guarantee intrinsically related to the exercise of citizenship. In this sense, the present study aimed to discuss the relationship between the right of access to information and the effective exercise of citizenship. To this end, the study was classified as bibliographic, through research in books, articles, and publications on the subject, using digital support as a research source. The findings showed that in addition to representing one of the necessary aspects for the implementation of the principle of publicity in Public Administration, the right to information is also a corollary of the democratic principle, favoring the exercise of citizenship through tools that allow citizens to monitor governments and their actions, lobby for public policies, question unjustified spending and exercise control over administrative morality. In other words, access to information represents one of the prerequisites for the full exercise of citizenship, since effective popular participation in matters of public interest depends on a minimum understanding of the actions of governments and their consequences for the community. Furthermore, the lack of broad and unrestricted circulation of ideas and information makes it impossible for citizens to formulate well-founded opinions on issues such as government action, the performance of elected representatives, the application of public resources, public policies, and other matters of collective interest, the limitation of which directly compromises the full exercise of citizenship and, as a consequence, weakens the pillars of democracy.

¹ Master's student in Law and Sustainable Development at the João Pessoa University Center (PPGD/UNIPÊ)
Specialist in Electoral Law at the Potiguar University.

E-mail: bethlins36@gmail.com

ORCID: 0009-0001-1608-3475

LATTES: <http://lattes.cnpq.br/2169659772651376>

² Doctor in Human Rights and Development from PPGCJ/UFPB. Post-Doctorate in progress at PPGD/UNIPÊ.
CAPES scholarship holder. João Pessoa University Center (UNIPÊ)

E-mail: anacgondim30@gmail.com

ORCID: 0000-0002-1213-5370

LATTES: <http://lattes.cnpq.br/2001302787035835>

³ Master's student in Law and Sustainable Development at the João Pessoa University Center (PPGD/UNIPÊ)
Specialist in Electoral Law at the Potiguar University

E-mail: linaldooliveiralima@gmail.com

⁴ Master's student in Law and Sustainable Development at the João Pessoa University Center (PPGD/UNIPÊ)
Specialist in Electoral Law and Process at the Potiguar University

E-mail: cvacosta@gmail.com

Keywords: Access to Information. Fundamental Human Rights. Social Control. Citizenship.

INTRODUCTION

Throughout history, control over access to information has been one of the most disputed and protected instruments, being widely used by the State and its agents to exercise power and restrict the implementation of fundamental rights, including access to justice. However, with the incorporation of fundamental human rights into legal systems, access to information has gained a new dimension, consolidating itself as an essential guarantee in contemporary legislation and playing a central role in the realization of other fundamental rights. In Brazil, the provision of public information is one of the principles of the Constitution of the Federative Republic of Brazil of 1988 (CRFB/88), which, in article 5, XXXIII, states that “[...] everyone has the right to receive from public bodies information of their particular interest, or of collective or general interest, which shall be provided within the time frame established by law, under penalty of liability [...]” (Brazil, 1988, [s/p]), which information must also be made available in a transparent manner, assuming comprehensibility by all interested parties, under the terms of the Access to Information Law (LAI) (Brazil, 2011).

As a constitutional guarantee expressed in the CRFB/88, the right to information dialogues with other constitutional guarantees, such as access to health, education, housing, and public safety, as well as with the full exercise of citizenship, which, also by constitutional determination, require the action of the public authorities to be achieved. In this scenario, the question that helped guide the development of this study arose: how do transparency and the fundamental right of access to information relate to democracy and the effective exercise of citizenship?

In the search for answers, the general objective of this study was to discuss the relationship between the right of access to information and the effective exercise of citizenship. About the specific objectives, this research sought to address the relevance of exercising popular participation as a guarantee of the exercise of citizenship; to analyze how the right of access to information is being applied in the actions of the Public Administration, by the dictates of democracy; and; to investigate whether, in addition to legislation aimed at access to information, there are also education and awareness programs to promote citizen engagement in the use of transparent government information in political decision-making, given that the basis of active citizenship in the era of transparency is access to information.

With this in mind, this research can contribute to the debate on the conception of access to information as a tool for exercising citizenship. With the advent of the Access to Information Act in the Brazilian legal system, the country finally recognizes this right as a fundamental right, an indispensable premise for the exercise of citizenship, which also involves a critical stance on the use of public resources and the exercise of social control. Nevertheless, information and citizenship are rights that complement each other and both concern the possibility of a person exercising their role as a citizen, to the extent that they are enjoying their civil, political, and social rights (Martins; Presser, 2015).

METHODOLOGY

This article presents bibliographical research on the relationship between citizenship, transparency, and the right of access to information guaranteed to all individuals residing in the country, to provide a critical reflection on the topic under study. To contextualize and analyze the research problem, a bibliographic survey was conducted using scientific sources, from books and articles published in scientific journals indexed in the Scielo databases and the CAPES repository, as well as in legislation and other published sources (magazines, websites, etc.).

The research was conducted from August to December 2024, and, as for the scientific articles used as references, the studies were selected based on the descriptors “citizenship and access to information”, “public transparency”, and “citizenship and popular participation”, among others. The inclusion criteria used were abstracts and full articles published between 1998 and 2022. The exclusion criteria were bibliographic references that did not answer the guiding question. At the end of the scientific research, the analysis consisted of 31 references. Regarding the ethical aspects of the research, the study guarantees the citations of the authors and bibliographic sources used to prepare this article.

UNVEILING THE FUNDAMENTAL RIGHT TO INFORMATION

The right of access to information represents the right of citizens to access information produced by the Public Administration or that is in its possession, based on the premise that the public authorities do not produce or store information only for their interest, but to meet collective interests. Therefore, all information that is under state control must be accessible to any citizen unless there is a legal justification or

administrative obstacle for denying such access (Valim, 2015). In this sense, the Inter-American Juridical Committee of the Organization of American States (OAS) prescribes that:

Access to information is a fundamental human right that establishes that everyone can access information held by public bodies, subject only to limited exceptions, by a democratic society, and proportional to the interest that justifies them. States must ensure respect for the right access to information by adopting appropriate legislation and putting in place the necessary means for its implementation (OAS, 2008, p. 1) (Our translation).

According to Heinen (2023), the right of access to public information is part of a set of founding rights of modern societies related to the dissemination of knowledge and information. Consequently, it is also essential for the exercise of citizenship, the development of society as a whole, and the proper functioning of democracies, because unless citizens have access to appropriate and accurate information, they will not be able to exercise their rights and freedoms. In other words, without information, none of the other fundamental rights will be complete.

The right of access to public information, also called the right to know, is a fundamental right for the realization of democracy, as it allows citizens to participate in the affairs of society by monitoring government actions. In reality, the creation of an open and transparent democracy is based on a way of thinking in which the government appears as an agent at the service of the population. In other words, since it is the people who pay for public activity, including the production of information, the people themselves should be the owners of this information, as well as of other public assets. Silva (2016, p. 233) takes the same view when he states that:

The right to access information enables the development of society as a whole, thus protecting the will of what Esping-Andersen calls the third model of the Welfare State (social-democratic); it is a state that does not seek to promote only the minimum existential conditions of social emancipation, meeting the existential minimum, but also aims at what could be called the existential maximum, and should tend to be able to provide broad conditions for personal development. It is a model that seeks to neutralize the effects of market imbalances and establish global solidarity around the Welfare State.

In short, it is understood that the right to access information represents the right to be aware of the actions and performance of the government, which is imperative for the maintenance of a democratic society. It should be seen as the possibility of accessing

government records, even when access to this information is not a condition for guaranteeing the protection of another right. Therefore, it is not a question of legitimizing the unconditional opening of databases linked to public authorities, but of ensuring access to information, in line with other guarantees and fundamental rights (Sarlet; Molinaro, 2014).

Based on the concepts described above, it is clear that the recognition of the right to information as an autonomous human right that demands protection is relatively recent. Historically speaking, the first country to establish a legal framework aimed at guaranteeing citizens' access to public information was Sweden, in 1766. Approximately two hundred years later, the United States approved the Freedom of Information Act, which remains in force, although it has received different amendments, adapting to new social demands (Canhadas, 2018).

However, specialized doctrine recognizes that the great international milestone for the enshrinement of the right of access to information was the Universal Declaration of Human Rights (UDHR) of 1948, which, in its article 19, binds all States to guarantee freedom of expression and information, stating that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers (UN, 1948, [s/p]).

According to Heinen (2023), the UDHR marked the overcoming of the paradigm that only States would be holders of rights and obligations under international law, opening space for all people, regardless of nationality or ethnicity, to be enshrined as holders of rights that need to be observed and protected by all States. Therefore, although it is not an international pact and does not have the force of law, the aforementioned Declaration action is essential as a guide for the construction of legal systems in all nations.

Another international diploma that deals with the protection of the right of access to information is the American Convention on Human Rights, also known as the Pact of San José de Costa Rica, of November 22, 1969, to which Brazil adhered in November 1992. The aforementioned Convention, in its article 13, establishes that “[...] everyone has the right to seek and receive information, to express opinions and to disseminate them freely. No one may restrict or deny these rights” (OAS, 1969, [s/p]). It also prescribes that “[...] authorities must be required by law to make information generated by the public sector available in a timely and reasonable manner” (OAS, 1969, [s/p]). Later, the OAS reaffirmed

this understanding in the Declaration of Principles on Freedom of Expression, approved in October 2000, establishing that:

Access to information held by the State is a fundamental right of the individual. States are obliged to guarantee the exercise of this right. This principle only allows for exceptional limitations that must be previously established by law in the case of a real and imminent danger that threatens national security in democratic societies (OAS, 2000, p. 178).

In Brazil, the mechanisms for accessing public information are also relatively recent, which is evident from the fact that, in the Constitutions before the CRFB/88, the right to information was treated almost exclusively from an individual perspective, that is, based on the freedoms of expression and communication. The 1891 Constitution, for example, was the first drafted in the republican period and made no mention of the possibility of ordinary citizens having access to information produced by public bodies and entities (Valim, 2015). The 1934 Constitution of the Republic, in turn, ensured, under item 35 of article 113, “[...] the rapid progress of proceedings in public departments, communication to interested parties of the rulings issued, as well as the information to which they refer”. It also established “[...] the issuance of certificates required for the defense of individual rights, or for the clarification of citizens about public affairs, with the exception, about the latter, of cases in which the public interest requires secrecy or confidentiality” (Brazil, 1937, [s/p]).

The 1937 Constitution, however, suspended several political rights and abolished parties and civil organizations. The National Congress was closed, as were the Legislative Assemblies and Municipal Chambers. Article 122, institutionalized prior censorship of the press, theater, radio, and cinema, allowing the competent authorities to prohibit the circulation or dissemination of information. This prior censorship ended up becoming a kind of ‘backdrop’ to hinder and even prevent access to information by ordinary citizens (Solci, 2020).

In turn, the 1946 Constitution became known for its liberal and democratic nature, although with some limitations, including the right of access to information. Among the provisions contained in its text, those contained in article 141 deserve to be highlighted, which ensure the free expression of thought, without any censorship, as well as the right of reply. In addition, the 1946 Constitution established in Article 175 that works, monuments, and documents of historical and artistic value should be under the protection of the public

authorities, but it did not mention citizens' access to this information (Sarlet; Molinaro, 2014).

Surprisingly, it was in the 1967 Constitution, enacted during the dictatorial regime, that the right to information gained constitutional status, as can be seen in § 8, article 150 of the aforementioned text, reproduced below:

The expression of thought, political or philosophical conviction, and the provision of information are free, without being subject to censorship, except in the case of public entertainment, and each person shall be held liable, by the law, for any abuses committed. The right of reply is guaranteed. The publication of books, newspapers, and periodicals does not require a license from the authorities. However, propaganda for war, subversion of order, or racial or class prejudices shall not be tolerated (Brazil, 1967, [s/p]) (Our emphasis).

From then on, the provision of information to citizens assumed the status of a central element in the Brazilian constitutional order, from the perspective of freedom of information in the strict sense, although censorship was widely practiced during the military regime. Some authors even understand that this provision of information provided for in the 1967 constitutional text constituted a 'dead letter' legally created by the military regime, since the supposed freedom almost always ran into censorship, under the justification of maintaining order in the country (Solci, 2020).

With the democratization movement With the establishment of the country and the advent of the CRFB/88, citizens regain full freedom of expression, whether in the exercise of opinion, expression of ideas, or access to information. In practice, there was still no policy aimed at the treatment of public documents or information. Thus, the principle of the right of access to information began to be governed by several constitutional regulations, among which the most notable are Article 5, in its sections XIV, XXXIII, XXXIV, LXXII, and Articles 37 and 216. Section XIV of Article 5 of the current Federal Constitution guarantees all citizens the right of access to information, safeguarding the confidentiality of the source, when such access is necessary for the exercise of their profession. Section XXXIII establishes that everyone has the right to receive information from public bodies of their personal or collective interest, except information whose confidentiality is essential to the security of the State. Section XXXIV, in turn, guarantees everyone the right to petition and obtain a certificate, while section LXXII guarantees knowledge of information related to the person, contained in public databases (Brazil, 1988).

The CRFB/88 also included publicity within the scope of the guiding principles of Public Administration, as can be seen in the texts of article 37, caput, 37, § 3º, II and art. 216, by guaranteeing the right to information held by the public authorities, as well as the duty of transparency and sharing of information held by the Administration, with some exceptions.

TRANSPARENCY IN PUBLIC ADMINISTRATION

Although it is not explicitly stated among the principles described in Article 37 of the constitutional text, transparency is a binding norm, constituting a duty of whoever is in charge of Public Administration. In general, transparency encompasses several strategies that must be employed by managers so that citizens have access to and understanding of the expenditures and activities carried out by the Public Authorities (Canhadas, 2018).

According to Messa (2019), in the context of Public Administration, the main objective of transparency is to guarantee all citizens, using different tools, access to information about the actions carried out by managers, even if they are in progress. As an example, the author mentions the disclosure of information in public hearings, periodic reports, and the accountability issued by the responsible bodies, including by electronic means, as is the case of transparency portals that have been widely adopted at all levels of Administration. On the other hand, it is not only the quantity of information available to citizens that is important in meeting the principle of transparency (publicity), but also its quality and diversification, given that the information made available by the Administration must be sufficient for citizens to know where public resources were allocated, as well as to discern whether this allocation served the collective interests (Polízio Júnior, 2015).

According to Heinen (2023), transparency also needs to meet certain criteria, such as the need for free, understandable information, provided in full by all means and directly accessible to all those who are directly or indirectly affected by the decisions resulting from the information. In addition, mechanisms must be created so that citizens have access to information on acts carried out in previous periods, allowing a comparative character to be established about the performance of managers.

In practice, transparency in Public Administration must contemplate an active and a passive bias. Active transparency occurs when the provision of information by the public authorities occurs proactively, as is the case with the transparency portals mentioned above. Passive transparency, in turn, depends on the citizen's request, which normally

occurs through requests for access to information, allowing the agency or entity to mobilize itself to offer a response to that demand.

However, it is important to highlight that transparency is not an absolute right, that is, there are constitutional limits imposed on the achievement of the aforementioned principle, some of which are listed in the constitutional text itself. One of the examples is taken from article 5, X, and article 37, § 3, II, of the CRFB/88, in the sense that the principle of publicity and, consequently, transparency in the acts of the Public Administration, can never violate the intimacy, privacy, honor, and image of people (Brasil, 1988).

The transparency of administrative acts cannot be confused with the propaganda of the acts of public power, through mass media such as radio and television. According to Messa (2019), transparency arising from the principle of publicity is a constitutional duty, without which the acts will not be effective, while advertising in the media is a mere faculty of the Public Administration, exercised within legal limitations, especially about indispensability. In this regard, Rodrigues (2014, p. 93) points out that:

The terms “publicity” and “transparency” are normally treated as synonyms. But there is a difference that is not only morphological, but also political and historical. Advertising dates back to political discussions and decision-making in public, as happened in the Athenian agora and the Roman forum. Transparency is a modern term that requires a diaphanous public administration, guaranteeing public access to information and allowing control by the public. Transparency is legitimized by the rule of law, while advertising has its source in democracy.

In this sense, there are some ordinary rules that regulate the transparency of public power acts, among which we highlight Complementary Law No. 101, of May 4, 2000, known as the Fiscal Responsibility Law (LRF), and Law No. 12,527, of November 18, 2011, also known as the Access to Information Law.

The LRF was formulated to meet the Federal Government's fiscal stabilization project and is based on the principles of planning, control and transparency of public acts. It clarifies the fiscal guidelines for the three entities of the federation, including the Executive, Legislative and Judiciary branches, in addition to the Courts of Auditors. This is one of the devices that has contributed to economic and social development, since it encourages and deepens effective actions in favor of balanced fiscal management, effective transparency and popular participation in the allocation of public resources (Polízio Júnior, 2015). According to Messa (2019), the LRF establishes postulates for the

Public Power, such as the development of planned and transparent actions, risk prevention, correction of possible deviations that affect public accounts and the guarantee of the balance between revenues and expenses through the fulfillment of goals inherent to personnel expenses, debts, security, granting of guarantees, credit operations, among others.

Another provision that contemplates the principle of transparency in Public Administration is Complementary Law No. 131, of May 27, 2009, which changed the wording of the LRF with regard to the transparency of fiscal management. Complementary Law No. 131/09 ensures the transparency of the acts of the Public Administration by encouraging popular participation in public hearings, real-time release of budgetary and financial execution, in addition to the adoption of an integrated resource management system, which meets a minimum quality standard established by the Executive Branch (Brazil, 2009).

The Transparency Law, as it became known, determines that all entities must disclose the acts carried out by the management units during the course of expenditure, with information regarding the process number, identification of the individual or legal entity benefiting from the payment and data on the bidding process, when applicable. It is also mandatory to record all revenues and expenses of the management units, including any extraordinary resources (Rodrigues, 2014).

However, the doctrine is unanimous in recognizing that the main regulatory framework for transparency in Public Administration was, in fact, the LAI. According to Rodrigues (2014), the main objective of the LAI is to democratize the relationship between the administered and the public authorities, treating information as public goods that can be made available to the community. As can be seen from its article 3, the LAI promotes an open Administration, based on fostering the development of a culture of transparency and social control of Public Administration. This is also recognized by the Office of the Comptroller General of the Union (CGU) when it states that:

The Access to Information Act crowned and consolidated the transparency process conducted by the Federal Government in recent years. It advances the concept of transparency to consider it not only as a way to inhibit the practice of misconduct and prevent corruption, but also as a powerful tool for improving public management and the quality of services provided to citizens (CGU, 2013, p. 9).

It is worth noting that, despite having been published in 2011, the Access to Information Act was only regulated through Decree No. 7,224/12 and came into force on May 16 of that year, regulating the provisions contained in article 37, § 3, item II, of the CRFB/88, and establishing that: “[...] the law shall regulate the forms of participation of users of the Public Administration, regulating especially the access of these users to administrative records and information on government acts” (Brazil, 1988, [s/p]).

The LAI also provided in paragraph 2 of article 216 of the CRFB/88 that “[...] it is up to the Public Administration to public, in accordance with the law, the management of government documentation and the measures to make it available for consultation to those who need it” (Brazil, 1988, [s/p]), strengthening the fundamental right to transparency of public information and removing citizens from their previously passive position. Furthermore, in addition to prescribing the proactive need to disclose public information, the LAI also establishes a minimum list of information that is of collective interest, according to article 8, § 1, which states:

Art. 8 It is the duty of public bodies and entities to promote, regardless of requests, the disclosure in an easily accessible location, within the scope of their competences, of information of collective or general interest produced or held by them.

§ 1 The disclosure of the information referred to in the caput must include, at a minimum:

I - Record of the competences and organizational structure, addresses and telephone numbers of the respective units and hours of service to the public; II - Records of any transfers or transfers of financial resources; III - records of expenses; IV - Information concerning bidding procedures, including the respective notices and results, as well as all contracts entered into; V - General data for monitoring programs, actions, projects and works of agencies and entities; and VI - Answers to frequently asked questions from society (Brazil, 2011, [s/p]).

Such information must be made available through all legitimate means available to the Administration, but must be made available on official websites, which must contain requirements such as content search tools, the possibility of saving or downloading documents in different formats, indicating electronic addresses for possible requests and adopting all necessary measures to ensure accessibility for interested parties (Messa, 2019). Only municipalities with a population of less than 10,000 inhabitants are exempt from the obligation to make information available on websites, maintaining only the normative provisions contained in the LRF and the Transparency Law, regarding the need to make information related to revenues and expenses available in real time on their official websites (Brazil, 2011).

Another important aspect of the LAI is the exemption from justification for the request for information made by the citizen, that is, the request for information produced or held by the government can be made without the need for justification. According to Heinen (2023), this exemption from justification can cause the right of access to information to become an instrument of political rivalry or disrupt administrative routines. Even so, these issues cannot be considered more important than the citizen's access to information, especially because transparency is a duty of the manager and a right based on the democratic regime adopted by the Brazilian State. In addition to being an unnecessary obstacle, the requirement for justification to access any information from the government also allows the manager to make a value judgment regarding the interest of the applicant, which may result in deliberate omissions or selection of the information made available, going against the ultimate purpose of the right in question. Therefore, the exemption from justification for the request for access to information is also presented as an important instrument of transparency and exercise of citizenship (Araújo; Bussinguer, 2020).

It is important to emphasize that other countries also have legislation that guarantees access to information, such as France, Germany and England, helping to further reduce corruption rates through social participation in public acts. However, Brazilian law is considered one of the most comprehensive and modern, which makes Brazil a world reference when it comes to the disclosure of administrative information through transparency portals, reflecting the importance of the right of access to information as a key element for the full exercise of citizenship.

ACCESS TO INFORMATION AS AN EXERCISE OF CITIZENSHIP

According to article 1 of the CRFB/88, Brazil is a Democratic State of Law, which guarantees individuals a series of fundamental rights, including the right to property and a set of freedoms. This was the way found by the legislator to enshrine the human and fundamental values of individuals, outlined from individual freedoms, political and social rights, which require legal protection to ensure coexistence in society, as they are rights that can be enforced against the State.

According to Vasconcelos (2012), citizenship emerges as an instrument that guides the political rights of individuals, which is why it has become a determining factor in achieving the sovereignty and autonomy of the nation. In fact, despite being derived from the word 'city', the city citizenship not only indicates the quality of the person who lives

there, but is also associated with the effectiveness of this residence and the political rights granted to the citizen so that he or she can participate in society. In the words of Dallari (2004, p. 22):

Citizenship expresses a set of rights that give a person the possibility of actively participating in the life and government of his or her people. The expression "citizenship" has its origins in ancient Rome and was used to designate the social, political and legal status of a person, implying the possibility of full participation in social life, including in government. However, the status *civitas* was discriminatory and served to indicate that the person belonged to the upper class of society. In France, in the mid-18th century, during the French Revolution, when social injustices were being fought, the expression "citizen" began to be used to indicate that there would no longer be nobles and that all people could fully participate in social life and influence the government on equal terms.

Thus, it is understood that citizenship qualifies individuals for life in society, that is, it is an attribute of people integrated into the social environment. This also means that the functioning of the State is conditioned by the will of the people, connecting the concept of sovereignty, described in article 1, with the political rights provided for in article 14 of the CRFB/88, as an essential basis of the democratic regime.

For Vasconcelos (2012), citizenship can be seen as a social process in which individuals and groups are occupied with claiming and expanding their rights. It is the quality that every citizen has of exercising a set of political and socioeconomic rights and freedoms, as long as the duties imposed by the State itself are observed. Therefore, it is also closely related to the conscious and responsible participation of the individual in society, ensuring that their rights are respected.

This is the so-called active citizenship, which occurs "[...] when citizens form their opinions and criticize those who hold power; their public and free expression of ideas is the condition for the elaboration of changes in all decisions" (Urbinati, 2013, p. 6). In other words, active citizenship allows individuals to actively participate in the control of the State, especially with regard to the formulation of public policies, given that this would be the most appropriate sphere for sharing decision-making power in relation to State actions. For Martins and Presser (2015, p. 141):

[...] it should be understood as a status that is achieved and not simply granted. The passivity suggested in the classic concepts of citizenship must be overcome by the proactivity required of the globalized citizen, who sovereignly can and should question the power of the State to assume their duties and guarantee their rights, including the Right of Access to Information (DAI).

Based on this observation, it is understood that access to information is an essential condition for the exercise of citizenship, as it is a prerequisite for awareness of basic rights and duties. According to Heinen (2023), information is a common good that can act as a factor of democratization, equality, citizenship and liberation. Thus, there is no need to talk about exercising citizenship without information, since even in order to fulfill their duties and demand the corresponding rights, citizens need to know them, an act that presupposes the appropriation of information.

In the sense of Castells (2003, p. 128), “[...] easy access to political information allows citizens to be almost as well informed as their leaders”. This means that the level of democracy in a society depends on the level of information and social participation in spheres of debate and political decision-making that it holds, being a way of legitimizing the citizen as a protagonist in the democratic process. More succinctly, citizens need to have broad access to information to exercise their republican function of monitoring and controlling government actions, in addition to influencing and participating in all choices of collective interest. Thus, in addition to being a right of all citizens, access to information also plays a decisive role in the exercise of citizenship, through the so-called social control of Public Administration, imposing limits on the actions of public managers. In Brazil, especially, social control is a highly relevant tool, considering that traces of previous administrative models still persist, characterized by aspects such as corruption and abuse of power (Marques; Oliveira, 2022). In the same line of thought, Bonavides (2008, p. 65) adds:

Taken as an image of citizenship, and advocated with virtue and loyalty, participatory democracy will always improve the purity of its master and conceptual lines, and, through the correctness of its features, it will never belong to that fascicle of empty words that do not form ideas or concepts, because they are completely sterile and empty. But they form icons of the exploitative elite, which hinders the restoration of democracy to the original truth of the Greek formula, in which “demos” is the vocation of the people to achieve self-determination of their destinies.

In this vein, it is clear from the aforementioned passage that democracy requires the exercise of citizenship, which ultimately belongs to the individuals themselves and not to the State. Therefore, when citizens exercise social control to monitor and control the actions of the Public Administration, they will also be able to demand a correct and transparent government, in addition to exercising their right to participate.

Without access to information and transparency, citizens are prevented from exercising governmental power in a representative or participatory manner. In the first case, the people need information to freely form their convictions and responsibly choose their representatives, while in the second case, they need information to monitor and define public policies. This is a two-dimensional model of democracy, in which citizens participate positively and negatively in the political conduct of a country.

This model presupposes at least two dimensions: electoral and contestatory. In the first, citizens participate through the choice of representatives, with the right to access information being essential for the performance of the function called 'knowledge-authorization', since it is through this that citizens can be informed about the actions taken by elected representatives, and can choose those who they believe have a true commitment to the public interest, strengthening their ties with democracy (Araújo; Bussinguer, 2020).

On the other hand, for citizens to be able to choose the representatives who will occupy the Executive seats, they must be aware of all the circumstances and consequences of their choice, which is only possible if they have reliable and impartial information about the actions of public agents running for elected office or re-election. Through access to information, citizens can learn about the actions taken by public officials, both through official documents, such as administrative contracts, bills, executive vetoes and parliamentary activities, and through the direct transmission of this information on public channels such as television stations, which provide statements by parliamentarians and, in some cases, even broadcast sessions in real time (Marques; Oliveira, 2022).

Notwithstanding the provisions contained in the LAI, Law No. 9,504/97 establishes that all candidates for executive positions must present their platform or government plan to the Electoral Court when requesting registration as a candidate. In theory, access to these documents would allow citizens to analyze each candidate's proposals regarding issues such as education, health and public safety, when choosing who to vote for. These documents are normally available on the Electoral Court's website, but can also be obtained by requesting them under the LAI.

In the contestatory dimension of democracy, the right to access information is even more closely related to the citizen dimension, since it allows citizens to be aware of the content of political acts, public budgets, public policies and the law itself, even when it is

still in the drafting phase, as is the case with a bill, and to be able to contest those that may go against the interests of the community (Araújo; Bussinguer, 2020).

In the same way, with access to public information, citizens will be able to monitor the actions taken by representatives after the contestation in order to verify whether or not their challenges were considered, which will allow the adoption of other measures, both in the electoral field, with the reappointment of the public agent, and in the judicial sphere, when faced with some irregularity or violation of a legal norm.

It is worth noting that social control is not limited to consulting the State or citizens' access to public information, but mainly to their effective participation in the destiny of public policies, which will only be possible if their considerations and challenges are taken into account. It is in this context that the importance of communication channels is revealed, especially Information and Communication Technology (ICT) provided for in the LAI, with emphasis on social networks, which have currently been widely used as a direct channel of communication between citizens and their representatives, including as an instrument of political pressure and contestation in the face of measures that may oppose the collective interest (Araújo; Bussinguer, 2020).

Also worthy of note are transparency portals, which became mandatory with the advent of the LAI. According to Cardoso et al. (2018), such portals are public channels that are intended to disseminate government information, the main purpose of which is to The goal is to meet the specifications of the LFR and LAI, allowing citizens to access them and monitor the entire process involved in the application of public resources and assist in oversight, including with regard to ongoing works and investments.

The use of transparency portals ensures simplified access to information on administrative activities. Dias et al. (2019) add that these channels usually have a computer language accessible to all citizens, who can consult the information or even formally request it from the competent body if they cannot find it, without having to leave home.

It is through transparency portals that the Municipal, State and Federal Governments have made most of the information on administrative acts available to the population, reducing the possibility of asymmetry in these. In the aforementioned portals, it is possible to easily identify information on subjects such as health, education, public safety, planning, public campaigns, government purchases, management performance, among others (Cardoso et al., 2018).

According to the 2022 Transparency and Public Governance Index, prepared by Transparency International, Brazil has made progress in accessing government data, but still faces challenges in terms of updating and clarifying information. A notable example of the positive impact of access to information occurred with the reports of irregularities identified in the public procurement process during the COVID-19 pandemic, when citizens and organizations used data from transparency portals to expose possible cases of corruption (Transparency International Brazil, 2022).

In addition, initiatives such as the Social Observatory of Brazil (2024) illustrate how citizen monitoring can generate significant savings for the public coffers, avoiding waste and promoting greater administrative efficiency. These examples show that access to information is more than a right; it is a tool that empowers society to evaluate the performance of public authorities and demand effective results.

Therefore, ensuring transparency by strengthening the Access to Information Law and modernizing government portals not only fosters civic education, but also expands social participation and strengthens democracy. Thus, citizens are not just spectators, but active agents in the construction of a more responsible government aligned with the principles of collective interest.

Finally, Araújo and Bussinguer (2020) emphasize that civil society itself has organized itself to create private entities, which are generally non-profit organizations (NGOs), with the purpose of promoting control over activities carried out within the scope of public power and whose function can range from assisting in accessing public information and decoding it so that it becomes easy to understand to opening spaces for public debates related to the actions of governments and rulers.

According to Sorj (2010), NGOs play fundamental roles by influencing public opinion with values and public policies or through social interventions, integrating a diverse spectrum of civil society, which includes unions, social movements, religious institutions and other forms of collective organization (Érostegui, 2009). This diversity reflects the growing engagement of social actors in the search for more ethical and participatory public management. Furthermore, Salamon (1998) highlights that the significant increase in private non-profit organizations has driven a 'global associative revolution', leveraging the construction of practices and concepts of social control over the State, reinforcing the democratic nature of institutions and consolidating the role of NGOs as mediators between society and government.

CONCLUSION

The right to information was listed in the 1988 Federal Constitution as one of the fundamental rights guaranteed to the human person. Its exercise is intrinsically related to the realization of other equally fundamental rights, such as democracy itself, human dignity, social rights, freedom of expression and expression of thought, among others.

Despite the constitutional provision, the right of access to public information was only regulated in 2011, with the advent of the Access to Information Law, which, in addition to reaffirming the need for transparency in the acts of the Public Administration, regulated simple procedures for requests for information. The LAI also innovated by determining that the public authorities must make information of general interest available on the internet, with the aim of further facilitating access by citizens, including through the use of clear and easy-to-understand language.

Therefore, the right to information not only materializes the principle of publicity in the Public Administration, but also the principle of publicity in the Public Administration. a, but directly reflects the democratic principle, by allowing citizens to monitor and oversee government actions. Through the aforementioned right, it is possible to demand transparency, pressure for appropriate public policies, question the application of resources and ensure administrative morality. Thus, access to information represents an essential element for the realization of citizenship, since popular participation in public affairs can only occur fully when there is a clear understanding of government actions and their impacts on society. In addition, it constitutes an indispensable tool for promoting civic education, ensuring the development of a society that is aware and capable of exercising its rights and duties in a full and critical manner.

Failure to observe the right of access to information, on the other hand, in addition to violating a fundamental right, contributes to the generation of a state of ignorance of public affairs, preventing the realization of other equally fundamental rights. Without the free flow of ideas and information, citizens are prevented from expressing informed opinions about their government, elected representatives, government spending and public policies, and other issues of social interest, which clearly harms the exercise of citizenship and, consequently, democracy itself.

In other words, by restricting the right to access information, the State ends up preventing or making it difficult for citizens to be in an equal position to contest their interests, which ends up distancing the theoretical discourse on the full effectiveness of

fundamental rights, as well as respect for human dignity, distancing itself from the real implementation of the rights established in the CRFB/88 and the human rights treaties to which Brazil is a signatory.

In fact, the analyses carried out show that, despite the legislative advances provided by the Access to Information Law (LAI), the implementation of the fundamental right to information still faces significant challenges in Brazil. Barriers such as bureaucracy, the lack of updates on transparency portals, and the absence of a culture of transparency make access to public information difficult, especially in small municipalities. These obstacles are compounded by the lack of technical training and financial resources of local governments, in addition to the mistaken perception that the right to information is a threat to governability, which demonstrates the need for ongoing efforts to overcome institutional and cultural resistance.

In this sense, it is essential to raise awareness among the population about the right to information, expanding their knowledge of existing legal mechanisms, such as the LAI. In addition, priority should be given to investments in technology and training of public servants, especially in small municipalities, so that information is disseminated in a clear, accessible and up-to-date manner. Only by adopting concrete measures and strengthening a culture of transparency will it be possible to consolidate the right to information as an essential pillar of Brazilian democracy, enabling efficient, participatory public management focused on the collective interest.

REFERENCES

1. ARAÚJO, Hellen N.; BUSSINGUER, Elda Coelho A. Direito de acesso à informação: um instrumento de liberdade política dos cidadãos. Espaço Jurídico, Joaçaba, v. 21, n. 1, p. 217-244, 2020. Disponível em: <https://periodicos.unoesc.edu.br/espacojuridico/article/view/21608/14486>. Acesso em: 10 ago. 2024.
2. BONAVIDES, Paulo. Teoria constitucional da democracia participativa: por um Direito Constitucional de luta e resistência por uma nova hermenêutica por uma repolitização da legitimidade. 3. ed. São Paulo: Malheiros, 2008.
3. BRASIL. Constituição da República Federativa do Brasil, de 05 de outubro, 1988. Brasília, DF: Congresso Nacional, [2024]. Disponível em: https://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm. Acesso em: 2 out. 2024.
4. BRASIL. Constituição da República Federativa do Brasil, de 24 de janeiro de 1967. Brasília, DF: Congresso Nacional, [1967]. Disponível em: https://www.planalto.gov.br/ccivil_03/constituicao/constituicao67.htm. Acesso em: 23 out. 2024.
5. BRASIL. Lei nº. 12.527, de 18 de novembro de 2011. Regula o acesso a informações previsto no inciso XXXIII do art. 5º, no inciso II do § 3º do art. 37 e no § 2º do art. 216 da Constituição Federal; altera a Lei nº 8.112, de 11 de dezembro de 1990; revoga a Lei nº 11.111, de 5 de maio de 2005, e dispositivos da Lei nº 8.159, de 8 de janeiro de 1991; e dá outras providências. Brasília, DF: Presidência da República, [2011]. Disponível em: https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2011/lei/l12527.htm. Acesso em: 6 set. 2024.
6. CANHADAS, F. A. M. O direito de acesso à informação pública – o princípio da transparência administrativa. Curitiba: Appris, 2018.
7. CARDOSO, Luan; PFITSCHER, Elisete Dahmer; ROSA, Fabrícia Silva da; CARDOSO, Thuine Lopes. Transparência pública: análise em portais de transparência do Poder Executivo municipal do Brasil. Revista Meta: Avaliação, Rio de Janeiro, v. 10, n. 29, p. 443-472, 2018. Disponível em: https://www.researchgate.net/publication/327064653_Transparencia_Publica_Analise_Em_Portais_De_Transparencia_Do_Poder_Executivo_Municipal_Do_Brasil. Acesso em: 10 set. 2024.
8. CASTELLS, M. A galáxia da internet - reflexões sobre a internet, os negócios e a sociedade. Rio de Janeiro: Jorge Zahar, 2003.
9. CONTROLADORIA GERAL DA UNIÃO (CGU). Lei de Acesso à Informação 2011-2012 - 1º Relatório sobre a implementação da Lei nº 12.527/2011. Brasília: CGU, 2013. Disponível em: <https://repositorio.cgu.gov.br/handle/1/46414>. Acesso em: 20 set. 2024.
10. DALLARI, D. A. Direitos humanos e cidadania. 2 ed. São Paulo: Moderna, 2004.

11. DIAS, Thiago F.; SANO, Hinorobu; MEDEIROS, Marcos Fernando M. Inovação e tecnologia da comunicação e informação na Administração Pública. Coleção Gestão Pública, v. 8. Brasília: ENAP, 2019. Disponível em: <https://repositorio.enap.gov.br/handle/1/4284>. Acesso em: 20 set. 2024.
12. ÉROSTEGUI, Susana. Sociedade civil, participação cidadã e democracia no novo contexto político da América Latina. *In*: SERAFIN, Lizandra; MORONI, José Antônio (Orgs.). Sociedade Civil e novas institucionalidades democráticas na América Latina: dilemas e perspectivas. São Paulo: Semeiar, 2009.
13. HEINEN, J. Comentários à Lei de Acesso à Informação: Lei nº. 12.527/2011. 3. ed. Belo Horizonte: Fórum, 2023.
14. MARQUES, Rodolfo S.; OLIVEIRA, André Silva de. Lei de acesso à informação, os atores políticos, o direito e a luta contra a corrupção. Caderno Eletrônico de Ciências Sociais, Vitória, v. 10, n. 2, p. 101-119, 2022. Disponível em: <https://periodicos.ufes.br/cadecs/article/view/39694>. Acesso em: 10 set. 2024.
15. MARTINS, Carine Jansen. B. N.; PRESSER, Nadi Helena. A promoção da cidadania por meio do acesso à informação. Pesquisa Brasileira em Ciência da Informação. e Biblioteconomia, João Pessoa, v. 10, n. 1, p. 133-150, 2015. Disponível em: <https://cip.brapci.inf.br/download/27734>. Acesso em: 10 set. 2024.
16. MESSA, A. F. Transparência, compliance e práticas anticorrupção na Administração. São Paulo: Almedina Brasil, 2019.
17. OBSERVATÓRIO SOCIAL DO BRASIL. Sobre o OSB. Disponível em: <https://osbrasil.org.br>. Acesso em: 21 dez. 2024.
18. ORGANIZAÇÃO DAS NAÇÕES UNIDAS (ONU). Declaração Universal dos Direitos Humanos, de 10 de dezembro de 1948. Disponível em: <https://www.unicef.org/brazil/declaracao-universal-dos-direitos-humanos>. Acesso em: 22 dez. 2024.
19. ORGANIZAÇÃO DOS ESTADOS AMERICANOS (OEA). Convenção Americana de Direitos Humanos (Pacto de São José da Costa Rica), de 22 de novembro de 1969. Disponível em: https://www.cidh.oas.org/basicos/portugues/c.convencao_americana.htm. Acesso em: 15 dez. 2024.
20. ORGANIZAÇÃO DOS ESTADOS AMERICANOS (OEA). Principles on the right of access to information approved by the Inter-American Judicial Committee, de 11 de setembro de 2008. Disponível em: https://www.oas.org/en/media_center/press_release.asp?sCodigo=IJC_9-11. Acesso em: 20 dez. 2024.
21. POLÍZIO JÚNIOR, V. Lei de acesso à informação: manual teórico e prático. Curitiba: Juruá, 2015.

22. RODRIGUES, João Gaspar. Publicidade, transparência e abertura na Administração Pública. *Revista de Direito Administrativo*, Rio de Janeiro, v. 266, p. 89-123, 2014. Disponível em: <https://periodicos.fgv.br/rda/article/view/32142>. Acesso em: 20 dez. 2024.
23. SALAMON, Lester. A emergência do Terceiro Setor: uma revolução associativa global. *Revista de Administração*, São Paulo, v. 33, n. 1, p. 5-11, jan./mar. 1998. Disponível em: <http://biblioteca.ijsn.es.gov.br/Record/5868/Details>. Acesso em: 10 set. 2024.
24. SARLET, Ingo W.; MOLINARO, Carlos Alberto. Direito à informação e o direito de acesso à informação como direitos fundamentais na Constituição Brasileira. *Revista da Advocacia Geral da União*, Brasília, v. 13, n. 42, p. 9-38, 2014. Disponível em: https://repositorio.pucrs.br/dspace/bitstream/10923/11403/2/Direito_a_768_Informac_807_a_771_o_e_Direito_d_e_Acesso_a_768_Informac_807_a_771_o_como_Direitos_Fundamentais_na.pdf. Acesso em: 10 set. 2024.
25. SILVA, José Afonso. *Curso de Direito Constitucional Positivo*. 39 ed. São Paulo: Malheiros, 2016.
26. SOLCI, Lúcia Helena C. Acesso à informação pública no Brasil: do império à república. *Ágora: arquivologia em debate*, Florianópolis, v. 30, n. 60, p. 75-100, 2020. Disponível em: <https://agora.emnuvens.com.br/ra/article/view/823>. Acesso em: 10 set. 2024.
27. SORJ, Bernardo. (Des)Construindo a sociedade civil na América Latina (p. 7-16). In: SORJ, Bernardo (Org.). *Usos, abusos e desafios da sociedade civil na América Latina*. São Paulo: Paz e Terra, 2010. p. 7-16.
28. TRANSPARÊNCIA INTERNACIONAL BRASIL. Índice de Transparência e Governança Pública 2022. Disponível em: <https://indice.transparenciainternacional.org.br/>. Acesso em: 21 dez. 2024.
29. URBINATI, Nadia. Crise e metamorfoses da democracia. *Revista Brasileira de Ciências Sociais*, v. 28, n. 82, p. 05-16, 2013. Disponível em: <https://www.ipea.gov.br/participacao/images/pdfs/nadia%20urbinati.pdf>. Acesso em: 21 dez. 2024.
30. VALIM, R. O direito fundamental de acesso à informação pública. In: VALIR, R.; MALHEIROS, A. C.; BACARIÇA, J. (Coords.). *Acesso à informação pública*. Belo Horizonte: Fórum, 2015.
31. VASCONCELOS, E. A. *Direito fundamental de cidadania ou direito a ter direitos*. Curitiba: CRV, 2012.