

Access to information law as a mechanism for social control over public policies and fighting corruption

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Abstract: Consolidation of a state's democracy derive from the strengthening of participatory social forces in public management. To this end, in the social and political context of Brazil, aiming to establish a permanent and effective link with the administered society, legal mechanisms have been introduced in recent years that have contributed to bringing State and people closer together: the duty of transparency and the right of access to public information. In this context, the Access to Information Law (LAI) – Law 12,527, of 2011, emerges as a valuable tool for social control over the country's public policies. Social control emerges from the need for direct monitoring of government actions, which aims to curb corrupt practices and contribute to bringing society closer to the State, opening the opportunity for citizens to oversee the actions of governments, as well as their spending, and to demand good public management. Citizens have the right to intervene in public policies, but they also have a duty to monitor the management progress made by their elected representatives. That said, this study sought to discuss the topic of Public Transparency as a citizen's right and as a principle that governs Public Administration, emphasizing the importance of strengthening the active participation of citizens in overseeing public management and resources, and of putting into practice social control actions that reflect on several levels for the improvement of public administration and, consequently, of life in society. LAI was a fundamental historical milestone for strengthening social control, becoming one of the main tools for exercising citizenship today.

Keywords: Access to information. Citizenship. Social Control. Public Policy. Transparency.

INTRODUCTION

A democratic state of law is founded on law and democracy—ideals that guide the entire Brazilian legal system. Aiming to ensure respect for fundamental guarantees and to provide legal security to public acts, the 1988 Federal Constitution expressly enshrined legality, impersonality, morality, publicity, and efficiency as basic principles of Public Administration.

One facet of the constitutional principle of publicity is the right of access to information—a principle that materializes in the legal world under the constitutional obligation of transparency of public management acts. The rule is to make the day-to-day conduct of public administration, and its resulting data, accessible to the public.

Transparency has gained ground as a fundamental right for democratic regimes, whose core aims to bring public entities closer to citizens as transparency effectiveness occurs with greater property. The need to make the relations between administration and citizens visible results from the Rule of Law, a maxim that inspired Article 15 of the Declaration of

the Rights of Man and Citizen: "Society is entitled to require every public servant to give an account of his administration³⁸."

Given the need to consolidate government transparency policies and the establishment of specific procedures and rules to enable society to exercise the right of access to public information, as provided for in the constitution, the Access to Information Law (LAI), Law no. 12,527, of November 18, 2011, came into effect on May 12, 2012, establishing normative guidelines that allowed society to access information in the public domain, via means of communication made possible by information technology and the creation of citizen information services (in person and online), which allow public access objectively, clearly, and in easy-to-understand language. Public information encompasses processed or unprocessed data that can be used for knowledge production and transmission, stored in any medium, support or format under the domain of public authorities.

This standard is a milestone that consolidates the guarantee and legal security that each citizen will have in exercising this right, both for individuals

and legal entities. By sanctioning the Access to Information Law, Brazil became the 89th country to have specific legislation to regulate the matter. In Latin America, the country will be the 19th to adopt this type of law.

Hence, our main focus was based on the principle of publicity as a state duty to promote broad and free access to information as a necessary condition for knowledge, participation and control of the administration, under imposition of the Access to Information Law – LAI, Law no. 12,527, of 2011, highlighting aspects of the aforesaid principle, as an obligation of transparency for Public Administration, to bolster and ensure social control over the implementation and management of public policies, as well as the natural consequences of said control as the main contributor to fighting corruption and improving the management of government acts.

For this purpose, we performed a bibliographic survey, outlined by means of an exploratory and qualitative research of data and Internet papers. In these terms, Antonio Carlos Gil (1999) argues that exploratory research focuses on a greater familiarity with the problem analyzed, while qualitative research seeks in-depth knowledge on the issues associated with the phenomena under study and their interactions.

In this scenario, this study is justified by its effort to highlight the rights and duties of citizens as administered subjects and explain the attributions constitutionally assigned to the public manager, with the purpose of achieving customs that lead to a policy of full transparency of public information and highlighting the importance of social participation in government decision-making processes. We also hope to contribute to the organizational culture of Brazilian public institutions, in social unrest, to rekindle society's critical and interactive attitude towards public affairs, fostering social control and anti-corruption practices.

1. Principle of Publicity as a fundamental right and an element that ensures the exercise in citizenship

Principles are ever present sources in the legal system and have significant importance in their content, as they guide all activities of training, interpretation, and application of legal standards. Within Public Administration, the Federal Constitution established the foundation responsible for organizing its structure, managing its actions, and imposing basic requirements to elaborate a standardized

administration. As Meirelles (2000, p.81) notes, the basic principles of public administration are embodied in twelve rules of permanent and mandatory observance for good administration, namely: legality, morality, impersonality or finality, publicity, efficiency, reasonableness, proportionality, full defense, contradictory, legal security, motivation, and supremacy of the public interest. The first five principles are expressly mentioned in the head provision of Art. 37, of the 1988 Federal Constitution; the remainder, although not mentioned, derive from our political regime, so much so that they were listed by Art. 2 of Federal law 9,784, of January 29, 1999.

Principles are the key and essence of all law and give identity to the Constitution. Systematic understanding of constitutional principles outlines each principle that, together with the others, determine society's (normative) mode of existence (Eneida Salgado, 2017), since the supremacy and unavailability of the public interest are understood in line with constitutional values and should guide public administration. Hence, our main analysis will focus on the principle of publicity as a fundamental right of transparency and an element that ensures the exercise in citizenship

For Eneida Salgado (2017), the principle of publicity is one of the keys to Brazilian Public Law and informs the structuring principles of the State, as described in Article 37 of the Magna Carta. Publicity is a dimension of citizenship since it allows social control of the Public Authority by citizens. Within the State, information is truly a duty of public administration and an enshrined right of citizens. In fact, in a Democratic State of Law, all the Administration's activities must be subjected to a broad process of justification and reasoning before society, so that society, as the main interested party, is aware of the public manager's actions.

According to Salgado (2017), one facet of the constitutional principle of publicity is the right of access to information. It is by recognizing (and, eventually, affirming) this right that citizens can exercise social control. Public officials cannot be monitored without transparency and information.

Consequently, LAI is the express manifestation of the principle of publicity, as it regulates citizen's access to information of interest; which, in summary, gains prominence in the legal system because its primary objective is to ensure the fundamental right of access to information, establishing as basic guidelines: publicity as a general principle, secrecy as an exception, disclosure of information of public interest

regardless of request, the culture of transparency, and social control of public administration.

The principle of publicity is essential to ensure that public administration information is accessible to any interested citizen, regardless of the reason for such a request since it is of a public nature. Public interest supremacy must guide all the Administration's actions, including before citizens. For José dos Santos Carvalho Filho (2015, p. 26), "the principle of publicity indicates that the Administration's actions require the widest possible dissemination among the administered," and this because the principle is based on providing them with the possibility of controlling the legitimacy of the administrative agents' conduct. Only through the transparency of such conduct can individuals assess the legality or otherwise of actions and their degree of efficiency.

The right of access to information thus allows other fundamental rights to be preserved, since citizens participate in political life by controlling public spending and verifying whether resources are being allocated in favor of health, education, and social rights. Active citizen participation in social control presupposes the transparency of government actions. For citizens to influence the decision-making process, the government must give them the possibility of understanding management tools. Citizen access to simple and understandable information is the starting point for greater transparency and consolidation of citizens' rights.

It is clear, therefore, that broad access to public information is the prologue to society's active and constant presence in exercising social control over public policies and, consequently, constitute, together with the institutional bodies, an essential tool to fight corruption, realizing the principle of transparency in public management and improving the quality of our democracies (Manzano Filho, 2012).

The use of public control mechanisms, including the right to public information, undoubtedly serves to bring citizens closer to governmental acts, ensuring greater transparency (Medeiros; Magellan; Pereira, 2014). The authors point out the need to raise awareness about the contemporary trend of seeking partnerships between government and citizens with their active participation in decision making and public policy formulation. In this scenario, social participation is a fundamental element for public

management, serving society's common good and helping to consolidate our democracy. As Dahl (2001, p. 110) puts it, "silent citizens may be perfect subjects for an authoritarian ruler; they would be a disaster for a democracy." Practices of this nature favor government transparency and reduce abuses committed by the authorities.

Access to public information and the resulting social participation are the main tools in the fight against corruption and other forms of public irregularities. The right to information is thus an essential tool for promoting good governance, as well as favoring other social benefits (Article 19, 2009).

Hence, Cássio Alves (2016) states that "the social control expressed by the diligent action of society on the State's actions positively influences the behavior of political agents," since it favors maintaining public order and reducing corruption levels, thus understanding that democratic mechanisms, including access to information and social participation, are indispensable to promote greater transparency and, consequently, less corruption (Medeiros; Magellan; Pereira; 2014).

1.1. National Policy for Social Participation³⁹

Emerging from popular outcry after 21 years of dictatorship, the 1988 Federal Constitution marked Brazil's democratic process of consolidating society's social struggles for freedom and citizenship. Drafted during the state re-democratization after the military dictatorship, our Magna Carta was concerned with sweeping away the remnants that were reminiscent of the dictatorial period and strengthening the participation of social groups once removed from the decisions of state bodies, reshaping public institutions, and establishing effective guidelines to include and ensure the participation of civil society groups. Such a democratic advance was only possible due to the great social mobilization that involved the direct and active participation of Brazilians who, tired of the state tyranny, pleaded for change and for the needs of the people to be considered when drafting the new Constitution—which was undoubtedly observed in the elaboration of the 1988 Federal Constitution, also known as the Citizen Constitution. From then on, social participation was highlighted not only to integrate people and State, but also as an efficient and essential mechanism to control public management and defend rights.

39 Booklet National Policy for Social Participation. Initiative from the General Secretary of the Presidency of the Republic to publicize the concepts and guidelines for social participation established by the National Policy for Social Participation to all Brazilians. Available at: < https://www.mdr.gov.br/images/stories/ArquivosConselho/ArquivosPDF/cartilha_pmps.pdf >

Importantly, the integration of the population in the government's decision-making processes also aims to develop the spirit of society and, especially, to enable public administration to understand the reality and needs of those affected before making its choices. For, if state management focuses on people, then social demands should guide the elaboration and implementation of policies aimed at them. Consequently, the multiple actions developed by different social forces to influence the elaboration, implementation, supervision, and evaluation of public policies and/or basic social services (health, education, housing, transportation, basic sanitation, etc.), are part of a concrete positive political process that takes place in the dynamics of society, by the daily and conscious intervention of individual citizens considered or organized in groups or associations for developing, implementing, or overseeing public authority (Dias, 2007), as occurred in the elaboration of the CRFB/88.

In this context, years later, the National Policy for Social Participation (PNPS), together with the National System for Social Participation (SNPS), emerges through Decree no. 8,243 of the Presidency, in an attempt to establish a Brazilian public policy, setting up the creation, operation and strengthening of permanent (such as councils, committees, conferences, public ombudsman) and temporary (dialogue table, forum, assembly of councils, public hearing and public consultation, etc.) bodies, aiming to articulate democratic mechanisms and instances of dialogue and joint action between the federal public administration and civil society. This device brought a range of channels for society to speak up and contribute directly to the elaboration, implementation, and monitoring of public policies with the federal government. All this contributed to create a process of trust in the authorities regarding policy development and implementation, given the greater communication and integration with the people, since the role performed by civil society in the elaboration and monitoring of the Administration's actions before, during and after policy implementation, exercised control over state actions.

PNPS-developed actions were extremely relevant to the Brazilian population, essential for the exercise of citizenship and necessary for the substantial progress of democracy. Considering that the civil groups that took part in it played a key role in influencing the results of public policies, having as a parameter not only technical criteria, but also social justice criteria

adhering to documents such as the Universal Declaration of Human Rights and the foundations of the 1988 Federal Constitution.

Despite its good initiative, the PNPS did not last long. Five years later, in 2019, the Presidency issued Decree no. 9,759, which replaced Decree no. 8,243/14 in its entirety and established new guidelines, rules and limitations for collegiate bodies in the federal public administration. In summary, the new decree abolished all collegiate bodies in the federal public administration—about 700—, including public policy councils, except those created after January 1, 2019, and those listed in the statute or bylaws of federal educational institutions, arguing that it would reduce costs for the public coffers and disregarding their important social role.

This decree was badly received by Brazilian organizations and entities, resulting in numerous outcries and even the filing of the direct action for unconstitutionality no. 6121, proposed by the Workers' Party (PT), where the Supreme Federal Court held that the effects of Decree no. 9,759/2019 should be suspended, thus granting, at least in part, the precautionary request made by the petitioner political party. Hence, in an act of protest, professors from the Federal University of Espírito Santo (UFES)⁴⁰ issued a Declaration of Repudiation, recognizing the need to maintain the Councils in the federal public administration, highlighting the key role they play:

[...]

The importance of councils for public administration lies in their management function, whereby council members act in the administrative management by participating in the elaboration and planning of public policies. In practice, this means the democratization of public management, given the role of civil society in elaborating and monitoring the Administration's actions, before, during, and after policy implementation. It also lies in its function of social control, that is, society's control over the actions of the State. Social control translates into transparency of the governments' decisions and acts and their consequent accountability. The councils thus act by overseeing and evaluating public policy implementation, contributing to the transparency of the services provided and increasing the State's accountability in the use

40 UFES – Universidade Federal do Espírito Santos. Declaration of Repudiation to Decree nº 9,759/2019. Available at: < <https://cienciassociais.ufes.br/pt-br/conteudo/nota-de-repudio-ao-decreto-97592019-que-extingue-e-limita-criacao-de-orgaos-colegiados-no>>. Accessed February 11, 2022.

of public resources or in improving the living conditions of the population, as is the case of CONSEA (National Council for Food and Nutritional Security), abolished by Provisional Measure 870, January 1, 2019.

Finally, we highlight the key role of councils in influencing the results of public policies, having as a parameter not only technical, but also social justice criteria. Councils play a key role in guaranteeing citizenship rights. Through them many of society's demands, projects and ideals can be transformed into citizenship rights.

As such, Raquel Passolo and Almir Megali (2019) state that despite the relevance of public policy councils in serving society's interests, they were severely hit by Decree no. 9,759/2019, with the argument of rationalizing public administration and with the proposal to control the "spread" of unnecessary collegiates, which according to the creators of the decree, brought no positive practical results. Conversely, it is worth remembering that Brazil is a founder of the Open Government Partnership (OGP) and, through the CGU, leads other programs related to public transparency, such as Time Brasil and Brasil Transparente, whose strong appeal lies in their public participation and social control.

Well, then, how can we promote social participation and control by drastically reducing the spaces for public participation, such as committees, councils, working groups, among others? If on the one hand we have initiatives that allow and promote citizen participation, on the other, there are limiting mechanisms for popular action—and both stem from the same executive power. The discourse is incoherent and harmful to the country's democracy, as it jeopardizes and ignores years of social struggles in search of freedom and a popular government.

What we observe, therefore, is that Decree no. 9,759/2019 is more of a closed government measure, through which the State expresses total disinterest in meeting society's demands and in an effective social control of public actions (Rodrigues, 2020).

It is thus clear that the social setback resulting from the previously mentioned standard directly violated the Constitution, which establishes social participation as an imperative for implementing

public policies in several areas, and that prohibiting citizen participation and oversight removes one of people's most powerful weapon against tyranny and corruption.

For this reason, we reinforce that popular participation is crucial for strengthening the broad democratization of citizens in society's decision-making processes, and that this cannot be limited by authoritarian governments with pretexts disguised as debureaucratization and economy for the country. As Lilian Rodrigues (2020) states, it is unquestionable that social participation in political decision-making is a mechanism that can bring better results to public administration management and an important instrument for the deepening and maturation of democracy, for democracy translates, *ipsis verbis*, into deliberation, dialogue, and participation of civil society in political institutions.

2. Access to information: a universal and fundamental right

Drafted in 1948, after World War II, the Universal Declaration of Human Rights outlines basic human rights aiming to protect and guarantee the inherent rights of human beings. One of these rights is access to public information, with article 19⁴¹ assuring that everyone, in summary, has the right to receive and impart information. For Mafra (2012), "besides being an essential right that every human being possesses, there is also the imperative freedom to seek, receive, and impart information that is related to the exercise of citizenship."

This conversion of the right of access to information into a universal right must be justified by and based on the different human rights or universal legislative documents. In this context, Bernades (2015) states that information presents itself as a component of fundamental importance in all fields of life in society, whether in the personal scope or in state action—"in its most elementary sense, information is part of all human experience." All organizations are information systems. Information is the basis of life⁴².

In Brazil, according to Bertazzi (2011), with the democratic reopening and enactment of the 1988 Federal Constitution, access to public information became a fundamental right provided for in Article 5, XIV, XXXIII, XXXIV, LXXII, as well as Article 37.

41 Article 19 – 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.

42 GONÇALVES, Maria Eduarda. *Direito da informação: Novos direitos e formas de regulação na sociedade da informação*. Coimbra: Almedina, 2003, p. 17.

When discussing the matter, Bucci (2009) stressed that access to public information in documents, archives and statistics is fundamental to consolidate democracy, as it strengthens the individuals' ability to participate effectively in decision-making that affects them.

The right of access to public information also acts to materialize other fundamental rights. It is through knowledge that individuals can exercise social rights that are enforced by the State and represent the guarantee of human emancipation, helping citizens to exercise their citizenship. "The enlightened citizen is undoubtedly an uncomfortable, claimant piece. Without them, however, our own future as a nation is compromised" (Carvalho, 1998, p. 287-288).

Social participation is a key element for public management to serve the common good of society.

Moreover, access to public information, as an essential right to exercise other rights, acts as a valuable tool in preventing corruption. The United Nations Convention against Corruption (UNCCF⁴³), aiming at promoting and strengthening measures to prevent and fight corruption more effectively, ordered its Member States, in line with the fundamental principles of its domestic law, to take measures as may be necessary to enhance transparency in its public administration, including those concerning its organization, functioning and decision-making processes, when applicable. Hence, we see a global concern with defining policies and mechanisms that act efficiently in fighting corruption, among them the right of access to information and more popular participation for a better functioning of democracy and public management.

Access to Information, therefore, has a much greater purpose than just achieving concreteness, for it is not an autonomous right, but a necessary instrument for the effective participation of civil society, freedom of expression, and, finally, an effective means for demanding the social rights provided for and protected by the Magna Carta. It thus becomes a prerequisite for the free exercise of citizenship, enveloped by the political participation of the State, and to demand rights inherent to the human being—being not only a fundamental constitutional right, but a universal human right, which aims to achieve other equally constitutional fundamental and human rights throughout the global sphere.

For Bucci (2009), "access to public information is not only a right protected by the Federal Constitution, but also a fundamental individual and collective right used to instrumentalize the exercise of citizenship," a pillar of our democracy, so essential that it deserved special attention from Human Rights laws and regulations at the international level.

3. Developing of a culture of transparency

As a result of the innovations Brazil has been implementing in the areas of accountability, transparency, and access to public information, we are migrating from public management where a culture of secrecy has always prevailed to an emphasis on a culture of transparency.

In fact, we see a lack of works and dissemination material on the subject. This shows a doctrinal timidity in discussing the content, which forces us to ponder the issue using the few existing resources, considering the historical context of public administration, and the legal and social advances embedded in this area. And our critical sense, given the obscurantism of the public service.

On the subject, Leonardo Serra Aguiar (2018) states that despite the behavior conditioning character that the Access to Information Law presents us with, the normative brings to light the challenge of modifying and modernizing the culture of Brazilian public institutions, aiming to produce customs that lead to a policy of full transparency of public information.

The Access to Information Law establishes as a guideline the advancement of a culture of public transparency, as advocated in Article 3, item IV:

"Article 3 The procedures provided for in this Law aim to ensure the fundamental right of access to information and shall be implemented in accordance with the basic principles of public administration and the following guidelines:

[...]

IV – promoting the development of a culture of transparency in public administration; [...]"

Despite observing a more consistent implementation of the Access to Information Law, "one still sees, as a rule in several governmental organizations, the lack of transparency of public information, as well as the

43 United Nations Convention against Corruption (Articles 10 and 13): "Each State Party shall (...) take such measures as may be necessary to enhance transparency in its public administration (...) procedures or regulations allowing members of the general public to obtain (...) information on the organization, functioning and decision-making processes of its public administration (...)."

maintenance of a culture of secrecy” (Aguiar, 2018). This cultural change, so necessary for the maturing of our democracy and citizenship, is accelerated by the provocation of important social actors. In fact, building a new culture where secrecy is an exception and access the rule emerges as a great challenge for the Brazilian State.

LAI came to prompt the development of a culture of transparency in public administration, as well as the development of social control, encouraging active citizen participation to monitor and oversee public management. This cultural change, however, involves altering behaviors and values, therefore requiring structural and normative interventions and awareness-raising among public servants and society. The norm alone is not capable of changing the current scenario and offering an immediate solution for ingrained human behaviors.

Organization incentives and culture are more effective in achieving results than a normative in force on the subject. Denial of access to information is not analyzed by just one servant, but by the institutional context and its beliefs. After all, “organizational culture exerts more influence on management decisions than norms and must be given the attention it needs to change” (Bertazzi, 2011).

Consequently, we note that the organizational culture of the public service is based on basic assumptions born from the experience of a given group that develops solutions to the issues faced, and these are perpetuated to new members as the correct way to always act. The behavior sometimes adopted by those is thus, even unconsciously, repeated for several generations—a pattern that is unfavorable to society and that must be thoroughly fought.

That said and focusing on the objectives of the Access to Information Law, the Comptroller General of the Union has been concerned with establishing and imparting guiding procedures to combat the “culture of secrecy,” pointing at it as a major obstacle to fostering openness and expanding government data publicity, to contribute to enhanced government transparency, creating better possibilities for social control of government actions. It thus seeks to broaden the focus of transparency so that it is not limited to fighting corruption and controlling public spending, but also achieving the quality of spending as well as obtaining information to monitor and evaluate public policies⁴⁴.

Moreover, during a virtual event organized by the National Confederation of Municipalities (CNM) and the Comptroller General of the Union (CGU) in June 2020, CNM’s legal adviser Elena Garrido (2020) highlighted the extreme importance of creating a culture of transparency, integrity, and compliance, to contribute to good governance, administration of social and economic resources, aiming at development, and the ability of governments to plan, formulate and program policies, and fulfill functions.

Likewise, Aguiar (2018) warns that “the change in culture does not happen through the imposition of high-ranking bosses, but, quite the contrary, it is born from the evolution of thoughts and procedures of all employees.” The legislator’s equivocation in crediting the promulgation of norms as the sole mechanism for changing the attitude of the bureaucratic body is thus unveiled.

Conversely, Bresser Pereira (2005) states that for the phenomenon of formalization of an open and transparent culture to happen, there must be, besides to the imperative of leadership and gradual change in human behavior, a clear and specific legislation for environmental modification, which, as the author puts it, must “highlight the importance of practices inherent to management, especially the accountability of public servants to the State and citizens.” Such a mechanism will be enshrined with the auditing of control and monitoring bodies by civil society, in addition to a policy of administrative transparency, to meet the real needs of the population. This cultural change, so necessary for the maturing of our democracy and citizenship, can also be accelerated by the provocation of important social actors, such as the media. Social participation is therefore indispensable for engaging with public management, to encourage and prompt managers to act in good faith when meeting social demands.

In this sense, it is worth stating that democratic states of law are expected to have a culture of access, in which public officials are aware that public information belongs to citizens and that it is up to the State to provide it in a clear and timely manner to effectively meet the demands of society, which has the right to know the information held by public authorities, except those that pose real danger if disclosed (CGU, 2011, p. 14).

Besides, more consistent results from the cultural change of public transparency will be observed only in the long run, once all public servants have

internalized the transparency of information as their duty (Aguiar, 2018).

Making possible a transparent management based on social demands, with society as the protagonist in the search for transparency, is thus a fundamental factor for strengthening democracy and, consequently, in reducing corruptive factors.

4. ACCESS TO INFORMATION LAW - a mechanism of social control over public policies, fight against corruption and exercise of citizenship

The 1980s are an important milestone in the stabilization of Brazilian democracy; a tendency to expand participatory spaces and greater influence of society's interests in public policies and other governmental actions is clear, as it was characterized by an intense movement of struggle for expanding institutional mechanisms of dialogue between the State and citizens. The 1988 Constitution, elaborated under the strong influence of civil society via popular amendments, defined decentralization and popular participation as milestones in the process of drafting public policies, especially in the areas of social and urban policies⁴⁵.

Article 5 of the Magna Carta ensured access to information, stating that "access to information of public interest is ensured to everyone," which adds to the principle of "publicity" in Article 37, setting a new paradigm for Brazilian public administration. Citizens now have their right to inform themselves about everything of interest, including before the State, guaranteed. Public resources and government decisions are now available to citizens, who can also actively participate in these processes. The constitutional text, as well as other principles and legal frameworks, allowed information on public administration to be accessible to interested parties.

The right to information is the basis for the social and political development of any State. In Brazil, this right is legally supported by the Federal Constitution and other regulations, such as the Access to Information Law (LAI). Aiming to regulate access to public information, the LAI was instrumental in consolidating the right to access state public information, a right that, as Bataglia and Farranha (2018) argue, "is a fundamental ingredient for democracy, as it allows

the population to gain knowledge on the actions of rulers."

Promoting transparency and access to information is an indispensable measure to strengthen modern democracies, since it allows public power to be exercised openly and in full view of the citizens, who can thus oversee, evaluate, and assist in controlling the management of what is public⁴⁶.

Citizen participation in public administration management is the solidification of a democratic state of law, whose purpose is "to seek the realization of the common good and strive for formal and material equality, social justice, individual freedom, and the dignity of its citizens" (Xavier, 2014). Access to documents and information guaranteed in Law 12,527/2011, came to expand popular participation, and strengthen public management control. "Greater transparency of government actions expands the means of social control, which results in better accountability from rulers" (Diniz, 2015).

The participation of citizens and organized society in the control of public spending, permanently monitoring government actions and demanding the proper use of resources collected, is essential for the entire community. Monitoring public spending and implementing public policies is essential to improve the quality of public services. It is the citizen's duty to stop being a passive subject regarding the State and demand, in progressive levels, better services, respect for citizenship and more transparency, honesty, economicity, and effectiveness in the use of public resources.

Following this line of reasoning, Silva and Rospa (2016) add that:

Having broad and transparent knowledge about the allocation of public money is the first step so that corrupt practices can be combated, reason why access to information is not welcome in governments where corruptive acts are commonly practiced. It is necessary, then, to defend the expansion of a culture of access over a culture of secrecy.

Citizen participation in government decision-making processes aims to develop the spirit of society and specially to enable decision makers (managers)

45 Course Tool for Social control and Citizenship: how to exercise your rights – Controladoria-Geral da União. Course held in August 2020.

46 Course LAIve – a live about the LAI. Continuing Training Program in Ombudsmanship. Ouvidoria-Geral da União/Controladoria-Geral da União. Course held in June 2020.

to understand the reality of those affected before making their choices⁴⁷.

In Brazil, the concern with establish a strong and active social control becomes even greater due to the country's territorial extension and the geographical decentralization of public agencies that make up the various federative levels—the Union, states, Federal District, and municipalities. For the latter, we must also consider their substantial number. Hence, oversight over the allocation of public resources needs to be exercised with the support of society. Social control is, then, indispensable to the institutional control performed by the bodies that supervise public management. This participation is important because it contributes to the good and correct application of public resources, so that the needs of society are efficiently met. Within public management, participation stands out because it refers to the possibility that citizens have of influencing public policies, government decisions, and public services. It is about including the wishes expressed by society in decisions that should not be restricted to government bodies.

We can thus assert that social control, understood as the participation of citizens and their associations in public management, is a tool to prevent corruption, strengthen citizenship and consolidate democracy.

In a way, such an assertion proves that social control is an effective mechanism in combating the spread of corruption. Combating corrupt acts only becomes effective when effected based on the principles established on ethical values and citizen participation, which only happens when there is awareness, will, freedom, and individual responsibility⁴⁸. As we know, the greater the transparency adopted by the Public Administration, the lower the corruption rate, since citizens will supervise all acts performed by the rulers, reducing the chances of practices that affect society's needs (Vieira and Oliveira, 2017).

In this scenario, LAI presents itself as a valuable resource allied to social interests. The rules brought by LAI are true "weapons" that citizens have in obtaining useful information about public institutions and their (mis)governments. Via this mechanism, the administered society can oversee and demand results and positive conducts from rulers, making them act based on constitutional principles and contribute to the free exercise of citizenship and materialization of fundamental rights.

As a result, we will have better and more effective institutions and public policies. These are essential elements if we are to achieve a more robust democracy.

Undeniably, the exercise of social control over public policies, whether performed by an individual or by a group, has a collective impact, for its benefits are distributed across the public space. The strengthening of social participation through access to information aims to force new conducts for a more efficient and transparent public administration. Citizen participation has become not only possible, but necessary for the proper functioning of the public apparatus.

FINAL CONSIDERATIONS

In recent years, Brazil has advanced significantly in Public Transparency laws, norms, policies, and actions⁴⁹, making substantial progress towards a more just and egalitarian society.

The challenges, however, are plentiful and involve developing actions to sensitize public agents to the adoption and implementation of open government policies; making transparency, citizen participation, and accountability a standard in public management; establishing permanent dialogue mechanisms of between government and society; promoting the opening of data, and making transparency turn into effective social participation. On the other hand, we have an urgency of initiative on the part of the population that, while it must be encouraged, must be diligent. As we know, the greater the participation and engagement of all, the more efficient, effective, and positively impacting are the services provided by the public authorities.

In this scenario, social participation is an instrument for realizing essential values of human coexistence. It is also a legal attribute that citizens can use to demand the fulfillment of their needs and equality in the exercise of civil, political, economic, social, and cultural rights.

The social control exercised via active citizen participation is an important mechanism to prevent corruption and strengthen citizenship, as it contributes to bringing society and State close together, enabling citizens to monitor government actions and demand good public management. Citizens have the right

47 Course Social Participation and performance of public managers. Course held in August 2020.

48 Course Citizen Education: ethics, citizenship, and the anti-corruption fight. Course held in September 2020.

49 Course Open Government. Course held in May 2020.

to intervene in public policies, but they also have a duty to monitor the management progress made by their elected representatives. Every legal normative apparatus is necessary for the proper functioning of public administration; however, without social participation, they may not achieve the expected effectiveness. Only the actions of interested citizens who can perform social control are able to give public management a legitimacy based on collective interest. The performance of managers, with society following closely, is the most appropriate way to ensure that the principles of public administration will be fulfilled, and citizens' demands guaranteed.

Democracy is a social practice that creates institutions geared towards certain purposes and values—and in the Brazilian case, geared towards realizing the Democratic State of Law. It must be a process of social coexistence in a free, just, and solidary society. Democracy is also the process of affirming the people and the guarantees of fundamental rights.

Hence, as already pointed out by Bucci (2005), the only efficient control of the State is the one stemming from organized civil society, which is the main and only stakeholder interested in the legality of the practiced facts and acts. This right must be made effective for the exercise of citizenship, which does not stop at voting for representatives. Popular opinion can only be formed based on information, via free access to res publica information that stems from state transparency, which is inversely proportional to the practice of personal interests in the Public Administration.

The access to information regime has not only provided citizens with instruments to exercise this right but has also transformed Brazilian Public Administration towards consolidating democracy in the country. But for such instruments to be equally effective, the population, as the main interested party, must act in the collective interest and actively participate in the decision-making processes of public management.

REFERENCES

AGUIAR, Leonardo Serra. *Lei de Acesso à Informação e o desenvolvimento da Cultura de Transparência*. Trabalho de Conclusão de Curso - Abril/2018. Disponível em: < <https://repositorio.enap.gov.br/handle/1/3367> > Acesso em: 06 ago 2020.

ALVES, Cássio Guilherme. *O papel do controle social no combate ao fenômeno da corrupção*. Disponível em: < <https://online.unisc.br/acadnet/anais/index.php/snpp/article/view/14671/3096> >. Acesso em: 09 dez 2020.

BATAGLIA, Murilo Borsio; FARANHA, Ana Claudia. *A Lei de Acesso à Informação: prevenção e controle da corrupção*. Disponível em: < <https://naoaceitocorrupcao.org.br/a-lei-de-acesso-a-informacao-ferramenta-de-prevencao-e-controle-da-corrupcao-murilo-borsio-bataglia-e-ana-claudia-farranha-2/> >. Acesso em: 04 jan 2021.

BERNADES, Camila Fernandes Santos. *O direito fundamental de acesso à informação: uma análise sob a ótica do princípio da transparência*. Camila Fernandes Santos Bernades - 2015. Disponível em: < <https://repositorio.ufu.br/bitstream/123456789/13238/3/DireitoFundamentalAcesso.pdf> >. Acesso em: 10 ago 2020.

BERTAZZI, Danilo Marasca. *O projeto de lei de acesso à informação e seu impacto sobre os servidores públicos*. Estudos em Liberdade de Informação: dilemas da implementação, [S.l.], 2011, p. 25-38. Disponível em: < <http://artigo19.org/wpcontent/blogs.dir/24/files/2011/10/estudos-em-liberdade-de-informaccca7acc83o-1-web.pdf> >. Acesso em: 06 ago 2020.

BRASIL. *Constituição Federal de 1988*. Promulgada em 5 de outubro de 1988. Disponível em: < http://www.planalto.gov.br/ccivil_03/constituicao/constituicaocompilado.htm >. Acesso em 20 de mai de 2020.

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. Disponível em: < http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2011/lei/12527.htm >. Acesso em: 15 mai 2020.

BRASIL. Decreto-lei 7.724, de 16 de maio de 2012. Regulamenta a Lei nº 12.527, de 18 de novembro de 2011, que dispõe sobre o acesso a informações previsto no inciso XXXIII do caput do art. 5º, no inciso II do § 3º do art. 37 e no § 2º do art. 216 da Constituição. Disponível em: < http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/Decreto/D7724.htm>. Acesso em: 02 jun 2020.

BRASIL. Decreto-lei 8.214, de 23 de maio de 2014. Institui a Política Nacional de Participação Social - PNPS e o Sistema Nacional de Participação Social - SNPS, e dá outras providências. Disponível em: < http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/decreto/d8243.htm>. Acesso em: 10 fev 2022.

BRASIL. Decreto-lei 9.759, de 11 de abril de 2019. Extingue e estabelece diretrizes, regras e limitações para colegiados da administração pública federal. Disponível em: < http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9759.htm>. Acesso em: 10 fev 2022.

BUCCI, Eduardo Sadalla. *O acesso à informação pública como direito fundamental à cidadania*. Âmbito Jurídico, 2009. Disponível em: < https://ambitojuridico.com.br/cadernos/direito-constitucional/o-acesso-a-informacao-publica-como-direito-fundamental-a-cidadania/#_ftn28>. Acesso em: 11 jul 2020.

CANELA, Guilherme; NASCIMENTO, Solano (Coord.). *Acesso à informação e controle social das políticas públicas*. Brasília: Artigo 19, 2009. Disponível em: < <https://static.poder360.com.br/2020/10/Acesso-a-informacao-e-politicas-publicas-de-controle-social-Guilherme-Canela.pdf>>. Acesso em: 07 dez 2020.

CONVENÇÃO das Nações Unidas contra a Corrupção. 31 out 2003. Disponível em: < https://www.unodc.org/documents/lpo-brazil/Topics_corruption/Publicacoes/2007_UNCAC_Port.pdf>. Acesso em: 11 jul 2020.

CGU, Controladoria-Geral da União. Curso *Controle Social e Cidadania*. Laboratório de Tecnologia da Informação e Mídias Educacionais da Universidade Federal de Goiás (LabTIME/UFG). Realizado em: 26 mai 2020.

CGU, Controladoria-Geral da União. Curso *Dados Abertos*. Laboratório de Tecnologia da Informação e Mídias Educacionais da Universidade Federal de Goiás (LabTIME/UFG). Realizado em: 14 mai 2020.

CGU, Controladoria-Geral da União. Curso *Educação Cidadã: ética, cidadania e o combate à corrupção*. Laboratório de Tecnologia da Informação e Mídias Educacionais da Universidade Federal de Goiás (LabTIME/UFG). Realizado em: 14 set 2020.

CGU, Controladoria-Geral da União. Curso *Governo Aberto*. Laboratório de Tecnologia da Informação e Mídias Educacionais da Universidade Federal de Goiás (LabTIME/UFG). Realizado em: 7 mai 2020.

CGU, Controladoria-Geral da União. Curso *LAlve - a live da LAI*. Ouvidoria-Geral da União. Finalizado em: 10 jun 2020.

DAHL, Robert A. *Sobre a democracia*. Brasília: Ed. UnB, 2001.

DECLARAÇÃO de direitos dos homens e do cidadão. 26 ago 1789. Disponível em: < <http://www.direitoshumanos.usp.br/index.php/Documentos-antiores-%C3%A0-cria%C3%A7%C3%A3o-da-Sociedade-das-Na%C3%A7%C3%B5es-at%C3%A9-1919/declaracao-de-direitos-do-homem-e-do-cidadao-1789.html>>. Acesso em: 11 jul 2020.

DECLARAÇÃO Universal do Direitos dos Homens. 10 dez 1948. Disponível em: < http://pfdc.pgr.mpf.mp.br/atuacao-e-conteudos-de-apoio/legislacao/direitos-humanos/declar_dir_homem.pdf>. Acesso em: 11 jul 2020.

DINIZ, Gleison Mendonça. *O estado da transparência digital de portais eletrônicos: um estudo nos municípios do Ceará*. Revista do TCEMG. Belo Horizonte, v. 33, n. 4, p. 91-116, out./dez. 2015.

ENAP, Escola de Administração Pública. Curso *Acesso à Informação*. Realizado em: 13 jun 2020.

GARRIDO, Elena. *Seminário virtual organizado pela Confederação Nacional dos Municípios (CNM) e pela Controladoria-Geral da União (CGU)*. Disponível em: < <https://agenciabrasil.ebc.com.br/geral/>>

[noticia/2020-06/municipios-e-cgu-destacam-transparencia-para-boa-governanca](#)>. Acesso em: 28 dez 2020.

GIL, Antonio Carlos. *Métodos e técnicas de pesquisa social*. 5.ed. São Paulo: Atlas, 1999.

MAFRA, Francisco. *A Lei de Acesso à Informação no Brasil e no Mundo: princípios e direito de acesso*. Âmbito Jurídico. 2012. Disponível em: <<https://ambitojuridico.com.br/cadernos/direito-administrativo/a-lei-de-acesso-a-informacao-no-brasil-e-no-mundo-principios-e-direito-de-acesso/>>. Acesso em: 11 jul 2020.

MANZANO FILHO, Gabriel. *OEA defende o direito à informação*. 2012. Disponível em: <http://www.mndh.org.br/index.php?option=com_content&task=view&id=113&Itemid=45>. Acesso em: 04 dez 2020.

PASSOLO, R; MEGALI NETO, A. *Democracia participativa brasileira: uma construção sob ataque*. Revista Eletrônica de Ciências Sociais, n. 30, 201, pp. 117-140. Disponível em: <file:/Users/PROGPE/Downloads/27622-Texto%20do%20artigo-117791-1-10-20200301%20(1).pdf>. Acesso em: 13 fev 2022.

RODRIGUES, Lilian Segnini. *INSTITUIÇÕES PARTICIPATIVAS EM CRISE: UMA ANÁLISE DA DEMOCRACIA BRASILEIRA PÓS A VIGÊNCIA DO DECRETO Nº 9.759/2019*. I Seminário Discente de Ciência Política (SDCP). Disponível em: <<https://eventos.ufpr.br/SDCP/SDCP2020/paper/viewFile/3120/924>>. Acesso em: 11 fev 2022.

SALGADO, Eneida Desiree. *Princípio da publicidade*. *Enciclopédia jurídica da PUC-SP*. Celso Fernandes Campilongo, Alvaro de Azevedo Gonzaga e André Luiz Freire (coords.). Tomo: Direito Administrativo e Constitucional. Vidal Serrano Nunes Jr., Maurício Zockun, Carolina Zancaner Zockun, André Luiz Freire (coord. de tomo). 1. ed. São Paulo: Pontifícia Universidade Católica de São Paulo, 2017. Disponível em: <<https://enciclopediajuridica.pucsp.br/verbete/37/edicao-1/principio-da-publicidade>>. Acesso em: 01 dez 2020.

SILVA, Rosane Leal da; ROSPA, Aline Martins. *A relevância da Lei de Acesso à Informação no combate à corrupção*. Disponível em: <<https://online.unisc.br/acadnet/anais/index.php/sidspp/article/view/16048/3938>>. Acesso em: 04 jan 2021.

SOARES, Fabiana de Menezes; JARDIM, Tarcisio Dal Maso; HERMONT, Thiago Brasileiro Vilar. *ACESSO À INFORMAÇÃO PÚBLICA: Uma leitura da lei nº 12.527, de 18 de novembro de 2011*. SEEP/Senado Federal. Brasília, 2013.

VIEIRA, Priscilane Maximiano; OLIVEIRA, Douglas Luis de. *Direito, transparência (Lei 12.527/2011) e participação popular: benefícios para uma gestão pública eficiente*. Revista Jus Navigandi, ISSN 1518-4862, Teresina, ano 22, n. 5237, 2 nov. 2017. Disponível em: <https://jus.com.br/artigos/60562>. Acesso em: 6 ago 2020.

XAVIER, Gabriela Costa. *Novos rumos da administração pública eficiente: participação administrativa, procedimentalização, consensualismo e as decisões colegiadas*. Revista do TCEMG. Belo Horizonte, maio/2014.