

## **The Story of El Salvador's Access Law**

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I think that is important to share the Salvadorean experience in the approval of the Access to Public Information Law, where civil society played an important role raising awareness about the importance of the law.

The approval of the Access to Public Information Law (ATPIL) in El Salvador is considered as an achievement of Civil Society, which marks this as an innovative experience in Salvadoran policy making. After the “Peace Agreements” that ended a long civil war in 1992, during many years free elections were taken as a sign that we had finally evolved into a real democracy and that citizens could be satisfied by that accomplishment. More recently, however, we are witnessing a change in the role of civil society, and one of the great examples is the work of a network of civil society organizations that brought about the momentum required for the ATPIL to become a reality.

Early in 2009 different organizations approached FUSADES in order to join in the effort of promoting the approval of the ATPIL and so the Promoter Group was created. The presidential elections of 2009 were of historical significance as the first time that the left came into power. This also helped the ATPIL as in June 2009 members of congress of the defeated political party formally backed the civil society ATPIL draft law.

The Grupo Promotor de la Ley de Acceso a la Información Pública (Access to Information Law Promoter Group), created in 2009 played a key role in the approval of the ATPIL in 2011. The Grupo Promotor, as it is known, is constituted by 10 members that represent various sectors of Salvadoran society, these are: Asociación Nacional de la Empresa Privada (ANEP), Asociación de Periodistas de El Salvador (APES), Asociación Salvadoreña de Radiodifusores (ASDER), Centro de Estudios Jurídicos (CEJ), Fundación Nacional para el Desarrollo (FUNDE), Fundación Democracia

Transparencia y Justicia (Fundación DTJ), Fundación Salvadoreña para el Desarrollo Económico y Social (FUSADES), Instituto Iberoamericano de Derecho Constitucional (IIDC), Universidad Centroamericana “José Simeón Cañas” (UCA) and the Universidad “Dr. José Matías Delgado” (UJMD). From 2009-2013, El Faro, an online newspaper, was also a member. The strength of the Promoter Group lies in the diversity of its members, their capabilities and public recognition as a leader in the area of transparency and access to public information.

In December 2007, FUSADES and IIDC agreed to work together in writing a draft law that would protect the right to information and establish the principle of maximum disclosure so that access to public information could be the rule and secrecy the exception. The process included studying international standards, best practices and comparative law, particularly the 2006 federal law enacted by Mexico. A first version of the project was shared with different sectors and 10 focus groups were organized in order to validate and improve on the text. In this process, the technical support of the Alianza Regional por la Libre Expresión e Información (Regional Alliance for Freedom of Expression and Information) in the drafting process was invaluable. The 29<sup>th</sup> of October 2007, the two institutions presented the Draft Law on Transparency and Access to Public Information to Legislative Assembly. The upcoming presidential elections meant that congress members gave little attention to the project, regardless that a member of congress of the leftist opposition party had also presented a project in 2008.

The Grupo Promotor raised awareness on the importance of legislating in order to protect a basic human right by organizing public events with different sectors, holding press conferences and publishing press releases. The group also worked with building support from key stakeholders, having one on one meetings. It was very important that the Grupo Promotor gave the Legislative Assembly Technical assistance to the committee studying the two bills, in addition helping to combine the two projects into a single Bill. Also of great significance was the support of the Alianza Regional, which sent two open letters in key moments where the process had stalled. The law was approved by majority in December 2010 and President Funes presented observations to the project which were solved by minor modifications and the ATPIL came into force in May 2011.

Since that milestone, the GP has continued its work in monitoring the implementation of the law and has continued to play an important part in denouncing the infringement of the ATPIL, holding press conferences or publishing press releases in crucial moments when Government actions have seriously compromised the successful application of the law, for example: members of the GP presented and won an unconstitutionality claim that prevented regulations passed by President Funes in 2011 to setback to the protection of the right to know; again the GP played an important role in generating public rejection of reforms to the ATPIL passed in February 2013 and motivating President Funes to veto them.

To assure the continuation of the GP's work after the passing of the ATPIL, the Open Society Foundations financed a strategic planning workshop that took place the 6th and 7th of September, 2012. The Alianza Regional para la Libertad de Expresión e Información shared its experience as a regional network that promoted freedom of expression and information in Latin America. The main output of this workshop was the approval of foundational documents that created an institutional framework for the GP: a Secretariat General, a Steering Committee and the Plenary. FUSADES was elected in September 2012 as Secretary General and in June 2014 was reelected for the period 2014-2016.

The implementation of the ATPIL is an ongoing process that has met several obstacles. The IAIP, the law's regulatory agency, was established until February 2013, 15 months after the date that the law determined. This enabled for divergent standards of implementation of the ATPIL in the different public entities and there was no active campaign that informed people on the right to public information. Moreover, the preparation of local governments lagged behind. There has been progress, information requests have steadily increased over the last two years, and more information has been disclosed proactively, however, much needs to be improved. The effective implementation of the ATPIL will require preparation of government institutions and public officials and the empowerment of the population that will benefit from this law. Civil Society can have a positive impact on those two fundamental necessities.