

## Herausgegeben von

Jürgen Bast  
Brun-Otto Bryde  
Philipp Dann  
James Fowkes  
Michaela Hailbronner  
Karl-Andreas Hernekamp  
Thilo Marauhn  
Michael Riegner  
Axel Tschentscher

50  
Jahre

4 2017

50. Jahrgang  
Seite 329 – 476  
ISSN 0506-7286

## Special Issue

### The Right to Information

*Michael Riegner*

**Access to Information as a Human Right and  
Constitutional Guarantee.  
A Comparative Perspective**

*Richard Calland*

**Access to Information and Constitutional  
Accountability: Ruffling Feathers in South Africa**

*Aradhana Sharma*

**State Transparency after the Neoliberal Turn:  
The Politics, Limits, and Paradoxes of India's  
Right to Information Law.**

*Marcio Camargo Cunha Filho*

**The Right to Information System in Brazil:  
Tensions between Transparency and Control  
of Information**

## Berichte / Reports

*Jean-Claude N. Ashukem*

**Access to Environmental Information in the  
Context of Development Activities in the Legal  
Framework of Cameroon**



Nomos

[www.vrue.nomos.de](http://www.vrue.nomos.de)

Begründet von Prof. Dr. **Herbert Krüger** (†)

**Herausgegeben von**

Prof. Dr. **Brun-Otto Bryde** (em.), Justus-Liebig-Universität Gießen, Prof. Dr. Dr. h.c. (Univ. Athen) Dr. h.c. (Univ. Istanbul) **Thilo Marauhn**, Justus-Liebig-Universität Gießen, Prof. Dr. **Philipp Dann**, Humboldt-Universität zu Berlin, Prof. Dr. **Jürgen Bast**, Justus-Liebig-Universität Gießen, Prof. Dr. **Axel Tschentscher**, Universität Bern, Dr. **Karl-Andreas Hernekamp**, Universität Hamburg im Institut für Internationale Angelegenheiten der Universität Hamburg durch die Hamburger Gesellschaft für Völkerrecht und Auswärtige Politik in Verbindung mit den Regional-Instituten des German Institute of Global and Area Studies (GIGA), Dr. **Michael Riegner**, Humboldt Universität zu Berlin, Dr. **Michaela Hailbronner**, Universität Münster, Prof. **James Fowkes**, Universität Münster

**Beirat:** Prof. Dr. **Rodolfo Arango**, Bogota, Prof. Dr. **Moritz Bälz**, Frankfurt, Prof. Dr. **Ece Göztepe**, Ankara, Prof. **Heinz Klug**, Madison, Prof. Dr. **Kittisak Prokati**, Bangkok/Fukuoka, Prof. Dr. **Atsushi Takada**, Osaka.

**Schriftleitung:** Prof. Dr. Philipp Dann, E-mail: Philipp.Dann@rewi.hu-berlin.de

**INHALT**

**EDITORIAL: Special Issue „The Right to Information“ ..... 331**

**Abhandlungen / Articles**

*Michael Riegner*

Access to Information as a Human Right and Constitutional Guarantee.  
A Comparative Perspective ..... 332

*Richard Calland*

Access to Information and Constitutional Accountability: Ruffling Feathers in  
South Africa ..... 367

*Aradhana Sharma*

State Transparency after the Neoliberal Turn: The Politics, Limits, and Paradoxes  
of India’s Right to Information Law ..... 390

*Marcio Camargo Cunha Filho*

The Right to Information System in Brazil: Tensions between Transparency and  
Control of Information ..... 412

**Berichte / Reports**

*Jean-Claude N. Ashukem*

Access to Environmental Information in the Context of Development Activities  
in the Legal Framework of Cameroon ..... 435

## **Buchbesprechungen / Book Reviews**

*Shawkat Alam, Sumundu Atapattu, Carmen G. Gonzalez, Jona Razzaque (eds), International Environmental Law and the Global South (Birgit Peters)* ..... 451

*Vanja Hamzić: Sexual and Gender Diversity in the Muslim World: History, Law and Vernacular Knowledge (Mohammed Subhan Hussain)* ..... 456

*Constanze Schimmel: Transitional Justice im Kontext: Zur Genese eines Forschungsgebietes im Spannungsfeld von Wissenschaft, Praxis und Rechtsprechung (Raphael Oidtmann)* ..... 461

**Bibliographie / Bibliography** ..... 465

## EDITORIAL: SPECIAL ISSUE „THE RIGHT TO INFORMATION“

This journal special issue results from the collaboration of a diverse group of scholars interested in access to information and comparative law. All contributors have been researching the right of access to official information in specific legal orders for some time. This special issue now combines their perspectives into a comparative panorama that ranges from Brazil, India, South Africa and Cameroon to the United States and Europe and reaches even further to international human rights law and international institutions.

What emerges from this panorama is a right that has rapidly gained global recognition and importance in national legislation, constitutions and international law since the 1990s, as new waves of democratization, the rise of the administrative state and the information society have transformed informational relationships between citizens and the state. While this transformation has occurred globally, it seems that recognition of a *fundamental* right to state-held information in constitutional law and international law has been particularly pronounced in the Global South. From there, it has spread across the North-South divide that traditionally characterized much of comparative law scholarship. This makes the right to information not only an important object of study in its own right, but also an important field of research for the discipline of comparative law that seeks to globalize its horizon beyond Europe and North America.

Comparing a complex right like access to information across vastly differing jurisdictions and levels of governance requires a mix of methods that combines doctrinal analysis, theoretical reflection and empirical approaches. The authors in this special issue use a variety of these methods, including interpretation of legal provisions, systematization of case law and theories of rights as well as qualitative interviews, ethnographic observation and statistical data. Besides, this comparative endeavor was complemented by a process of collaboration among the authors, starting with a thematic concept note and unfolding in several rounds of mutual comments on the draft manuscripts over a one-year period. We hope to convey some of the insights gained in this lengthy but rewarding collaboration process to our readers in this special issue.

Berlin, December 2017

Michael Riegner