

Implementation Assessment Tool Summary of the Atlanta Review Meeting

November 4, 2009

To further advance the Carter Center's efforts to create an access to information legislation Implementation Assessment Tool (IAT), the Center hosted a one-day meeting on November 4, 2009, in Atlanta, GA. Participating in the meeting were 15 transparency experts from varying backgrounds and organizations, who provided feedback on the process and architecture of the IAT.

Laura Neuman, Manager of the Center's Global Access to Information Initiative, started the meeting with a brief overview of the IAT, including its background, purpose, and objectives, followed by a more in-depth presentation of the tool's architecture. Richard Calland of the University of Cape Town's International Transparency School then facilitated a group discussion for all participants to provide feedback on the tool and share experiences with implementation practices and other assessment mechanisms. The group offered a wealth of experiences from various country contexts and studies, and confirmed the IAT's usefulness in addition to providing further inputs for its continued development.

I. IN ADVANCE OF THE NOVEMBER MEETING

As an initial step in developing the IAT, a meeting was held in Washington, DC in August 2009 that brought together a small group of experts in the fields of democracy indicators and access to information to consider the key issues in implementation, discuss potential indicators, and begin identifying the best practices by which to measure them. Some key areas of discussion during the August 2009 meeting included:

1. The value of the proposed IAT;
2. The legitimacy of the tool, particularly as there are no standards for implementation; and
3. Design.

Two days of robust discussion established the importance of an implementation-focused study as well as the key elements to assess. However, the dialogue also highlighted a number of potential problems and risks that merited additional consideration. Participants wondered how to make the study replicable and portable across varying countries and how to ensure that the tool assesses quality of the implementation, rather than just creating a "check the box" exercise.

Following this initial meeting and with broad consensus on the pillars and general components of the tool, the Carter Center began further development of the IAT in light of identified risks and potential problems. A national architecture, or matrix, was designed that consisted of six pillars and 5-9 baskets under each pillar (see chart below), with a focus on the components of an access to information regime as well as resources, leadership and training. The Center began drafting several of the indicators that fell under each section of the matrix, as well as considering selection criteria for pilot countries and ministries/agencies to be piloted.

II. OBJECTIVES OF MEETING

As some issues discussed during the DC Meeting did not end in consensus and others required additional consideration, a second meeting was planned for November 2009. The objectives of this meeting were to peer review the IAT architecture and first draft of indicators, methodology and sampling determinations (country and ministry/agency) in order to seek further advice and recommendations on its utility and efficacy from a second, broader based group of access to information and transparency experts.

III. DISCUSSION

The November meeting produced a vibrant exchange focused largely on the tool's legitimacy, lessons learned from other studies, and methods for ensuring data quality. Throughout the meeting participants asked questions and provided input and suggestions in light of their own experiences with various measurement tools and transparency in general, as well as interactions with different governments. By the end of the meeting the group largely had reached consensus on most of the major issues, with a notation that agreement on all issues is not required to begin testing the IAT in order to further refine the tool.

A. INTRODUCTION AND OVERVIEW

During the opening session of the meeting, Laura Neuman, Manager of The Carter Center's Global Access to Information Initiative, provided a brief introduction to the Implementation Assessment Tool, including its purpose and objectives, and a summary of work on the IAT to date. An overview of the August meeting also was provided, as well as the objectives for the November review meeting. Laura encouraged everyone present to share their own experiences and ask questions as needed to help clarify the purpose and key elements of the study.

Laura described the process by which the Center hoped to develop the indicators, including reviewing existing national implementation plans to determine commonalities or potential best practices. However, following this research and conversations with several experts, it became clear that few detailed implementation plans exist and that there are no agreed upon norms/standards for ATI legislation implementation. Moreover, earlier plans to develop the tool in a way that would assesses phases of implementation were jettisoned as it became clear that phasing may be different depending on local context and may unnecessarily complicate the tool.

B. PRESENTATION OF THE IMPLEMENTATION ASSESSMENT TOOL

As part of the IAT's development, The Carter Center and several access to information experts worked to create an implementation plan based on their own experiences and what they consider to be best practices. Essential components for implementation were divided into six pillars as shown below. The November meeting participants supported these elements, noting their importance to implementation and agreeing that they do constitute best practices in the community.

In addition to capturing community standards, Laura noted that the IAT is meant to be targeted and limited in scope; easy to use by all stakeholders including government and civil society;

quick to apply so that it can be used a number of times within a year if necessary; cost effective; and include qualitative and quantitative indicators of government implementation efforts. The IAT is not meant to assess quality of legislation; compliance with the law; personal data provisions; enforcement practices; or outputs like whether requested information is received or if users are satisfied. Additionally, the tool is not designed to rank countries, but rather aid governments in developing better implementation practices. Participants agreed that country comparisons would compromise the tool's intended purpose. Additionally, it would not be fair for the assessment to indicate failure by an entire government (i.e. nationalized output) when in reality, several ministries or agencies may have succeeded while others are failing. For this reason, the assessment is intended to be applied to individual ministries and agencies.

To answer one participant's inquiry about the intended audience for the tool, Laura indicated that the development of the tool was in response to requests from governments to assess how well they are doing with implementation. Given the problem of oversight by existing systems and the need to know how to better direct resources, the Center believes that there is genuine interest from governments to have this tool. For civil society, the tool can provide more refined information. Additionally, the tool can be useful for those working on law reform since we have learned that implementation cannot be disassociated from the law. One participant noted the importance and difficulty of engaging governments and civil society in the development process and to create demand for tools like the IAT.

In conclusion to her opening remarks and in recognition that the tool needs further refinement, Laura highlighted the remaining questions yet to be addressed:

- Are the indicators legitimate given the lack of clear best practices?
- Will researchers be able to gather data?
- Can the IAT be disassociated from compliance and user satisfaction?
- Is it worth the cost?
- How will it be used in practice? And what should follow-up be?

C. STRATEGIC QUESTIONS, RISKS AND LESSONS LEARNED ELSEWHERE

Following the introductory presentation on the IAT's purpose, architecture, and history, Richard Calland led a group discussion, with the aim of addressing the lingering questions noted above as well as those raised organically by the group. Additionally, the group worked to identify any gaps and consider relevant lessons learned in the field. Richard reminded participants of the Center's need for guidance and advice on more strategic and tactical questions around the design and usage of the tool, rather than detailed input on each potential indicator.

- **Are the indicators legitimate given the lack of clear best practices?**
- **Can the IAT be disassociated from compliance and user satisfaction?**
- **Is it worth the cost?**

The experts generally agreed on the value of the tool and the importance of establishing best practices, but some participants questioned whether it was possible to divorce implementation from the outputs or the law itself. One participant asked if the tool should account for user perspective given that users will be most interested in the outcome of implemented legislation.

Another participant expressed a real desire to see the tool more fully assess quality, such as of the policies and the instruction and training of public officials.

As in the earlier experts meeting, questions and issues about how to avoid the check-the-box syndrome came up throughout the day. Using qualitative data, interviews, and/or an accompanying narrative was noted as a solution to the possible validation of governments that have learned how to “check the right boxes” in lieu of effectively implementing the law. Additionally, it is hoped that results from the IAT will be used in conjunction with other information and studies to provide a more complete picture of access to information in a given country or ministry/agency context. By remaining more focused, the IAT can offer more detailed insight about implementation of the law--the one specific aspect of the right of access to information that is often overlooked.

➤ **What relevant lessons learned need to be applied to the IAT?**

In an effort to better understand and account for lessons gathered from other studies, participants shared their experiences with various diagnostic tools. One example that proved closely related to the IAT came from the Open Democracy Advice Center’s (ODAC) Access to Information in Government Index which assesses the levels of implementation of South Africa’s Promotion of Access to Information Act (PAIA). Mukelani Dimba, ODAC’s Deputy Executive Director, noted that their assessment examines implementation issues including recording, tracking, and monitoring requests; internal rules for regular publication of information, resources necessary for ensuring a functioning system; as well as procedures for assisting disadvantaged requesters. Mukelani noted the difficulty in separating performance and compliance from implementation while building these types of tools as there is overlap among the three areas. For example, the ODAC tool considers records organization as a compliance issue.

With regard to gathering data, Mukelani explained the difficult that they had experiences in obtaining responses to surveys. To overcome this obstacles, ODAC began filing PAIA requests for the relevant information (such as budgets for implementation), which also enabled compliance testing.

The ODAC assessment of approximately 50-80 government institutions usually takes six months to complete with three researchers (2 full time, one half time) and \$10,000 (unclear whether USD or ZAR). While the study once assessed 105 institutions, ODAC has learned that a smaller number is more doable. Furthermore, scoring the indicators has been simplified. Whereas ODAC once used a 1-5 scale, they now use binary indicators (0 or 1) to ensure objectivity and to circumvent the need to justify measurements. As agencies faring better are highlighted and applauded, there has been interest expressed among these agencies to better collaborate and engage with one another.

- **Will researchers be able to gather data?**
- **How will the IAT and findings be used in practice?**

In discussing the application of the IAT, Laura sought input from the experts as to when the tool should be applied, inquiring whether or not it should be applicable to all access to information regimes or merely new ones, ie would the indicators make sense for older laws/more mature systems. In response to her inquiry, participants believed the tool should be applied broadly,

including countries without laws. Laura explained our need to develop selection criteria and our decision to start with countries that have existing statutory mandates.

Drawing on the South African experience of gathering data noted above, the discussion regarding data collection ensued. Many suggestions were made to include interviews with selected informants in order to receive more detailed information. Others noted the importance of being able to gather data from existing research and then follow up with interviews in addition to peer reviews. Mukelani agreed that with more resources, ODAC would conduct more interviews throughout the process enabling the study to benefit from robust dialogue. Interviews also can be used to engage high-level officials, in addition to surveys and/or focal groups, since without their engagement and support the tool cannot easily be applied.

The importance of accounting for cultural differences also was noted. For example, Global Integrity’s Senior Researcher Raymond June highlighted the cases of Tonga and the Solomon Islands in which information circulates more informally due to smaller populations causing formal data gathering processes to be less successful. Raymond agreed with Commonwealth Human Rights Initiative Executive Director Maja Daruwala’s recommendation to apply the tool to sub-national levels indicating that local contexts may vary.

In order to ensure proper application of the tool and to give guidance to governments and civil society actors wishing to use the tool, the Carter Center will need to create a comprehensive researcher’s guide or manual. To do this, the Center will review existing manuals for commonalities and ensure our manual is standardized and presents best practices, community standards, etc. One expert shared their organization’s strategy to provide technical training to civil society to ensure correct usage of their tool and understanding of the issues and information collected. It was suggested that the Center avoid “getting lost in the weeds with detail” and instead capture the bigger picture to ensure usability.

IV. NEXT STEPS

While coming to agreement on all aspects of the tool was not possible during the brief meeting, the experts in attendance confirmed the implementation assessment tool’s value and general design. Richard summarized the session as a “clear endorsement” from the group to advance the tool, while many experts noted the Center’s need to make final decisions on outstanding issues and then proceed with testing the tool. Following this meeting, The Carter Center will:

- Summarize our discussion and findings;
- Refine the methodology manual;
- Finalize the indicators and scaling;
- Create the researcher’s guide;
- Select pilot countries and ministries/agencies; and
- Begin the first phase of pilots in three countries.

Once the tool is finalized, the Center hopes to collaborate with Global Integrity during the pilot phases to use its Indaba platform—an online data gathering system. The Center also is considering partnerships with the Organization for Economic Cooperation and Development (OECD) and The World Bank as both organizations are currently designing tools that assess different pieces of the larger puzzle and may add value to our findings.

IAT – National Architecture

Procedures for dealing with requests	Proactive disclosure	Record management	Infrastructure (resources)	Leadership functions – monitor, oversight and strategy/Monitor and oversight	Training
Rules/instructions (internal guidelines)	Publication scheme	Record-making rules/procedures	Budget	Engagement of high-level officials	Senior-level staff aware of obligations
Responsible agents designated	Sufficient classes of information	Retention rules/procedures	Machinery	Implementation plan	Manuals/reference materials
Tracking system	Website/reading room created	Classification (application)	I.T.	Verification of proactive disclosure	Information officers trained sufficiently
Awareness of how to make request (communication with users)	Scheme/documents available?	Records survey	People (% of time)	Monitoring requests/system	Basic training for relevant civil servants
Recognized as request	Scheme/documents free (when online or in office)	Electronic document management system	Qualification of staff (skills, seniority)	Make sure requested information gets out	Records management training
Cost determination	Made available automatically once requested	Qualified staff (%)		Statistics including number of requests and complaints	
Decision (analytic)	Updated (how often)	Search mechanisms		Performance management	
Response		Recovery		Annual reports	
				Integration into strategic planning	

