



IMPLEMENTATION ASSESSMENT TOOL¹

METHODOLOGY MANUAL: PILOT PHASE II

The international trend of passing access to information legislation continues, with approximately 90 countries claiming a statutory right to information. However, many of these countries are failing to fully and effectively implement their law, and at present there is no objective means of analyzing and addressing this critical problem. While there have been a number of initiatives related to model laws and promoting key statutory principles, as well as important studies undertaken to assess government compliance with its law and the extent to which persons who request information can receive it, there remains a dearth of information regarding the middle stage of establishing a right of access to information - the law's implementation.

In this regard, The Carter Center began development of the access to information legislation Implementation Assessment Tool (IAT), which serves the dual purpose of diagnosing the extent to which the public administration is capacitated to respond to requests and to provide information, as well as providing an implementation roadmap for the government. The IAT is designed to assess the specific activities/inputs that the public administration has engaged – or in some cases failed to achieve – in furtherance of a well-implemented law. It is deliberately designed **not** to focus on the sufficiency of the legal framework, the user side of the equation, or the overall effectiveness of the access to information regime. The IAT is constructed to serve as an input for each public agency in which it is applied, and not as a comparative index across countries.

The objectives of the access to information legislation implementation assessment tool (IAT) are to:

1. Establish a comprehensive set of access to information implementation benchmarks;
2. Identify the extent to which a Ministry/agency has implemented its law;
3. Provide a roadmap for improvements, based on the tool's findings; and
4. Contribute to scholarship on implementation and to the understanding of implementation successes and challenges.

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Ultimately, it is our hope that the IAT will serve to encourage and support stakeholders (government, civil society, scholars, donors, etc.) to be more effective at advancing the right of access to information.

Beginning in 2009, the Center's Global Access to Information Initiative developed the IAT methodology, including a set of indicators and a scoring system. In 2011, The Carter Center completed piloting Phase I of the tool in three countries- Bangladesh, Mexico, and South Africa. Through expert meetings and consultations, the IAT is evolving into a tool that we hope will be easily applied to identify implementation progress and areas for additional focus.

For Pilot Phase II, the Center has selected four new pilot countries- Chile, Indonesia, Scotland, and Uganda. The entire set of revised IAT indicators and measurements will be applied in these four new countries, and the researchers from Pilot Phase I will re-apply a number of the key revised indicators. The Center will utilize Global Integrity's Indaba, an online platform for data collection; engage in a series of additional peer reviews; and make all necessary modifications to the tool in advance of the final pilot phase in mid-2013.

This document is a draft instructional manual meant to provide a better understanding of the tool's antecedents and methodology and will be modified from the knowledge gained through the different pilots.

DEVELOPING AND PILOTING THE IAT

Over the past three years, the Center worked to design and create the Implementation Assessment Tool through desk research, consultant support, and periodic peer reviews. As will be discussed below, the methodologies and indicators have undergone extensive validation in advance of their application. Before presenting the tool to the community of practice, the IAT will be piloted in up to ten countries to assure its efficacy and value.

Developing the IAT

As a first step to developing the Implementation Assessment Tool (IAT), The Carter Center engaged in considerable research to identify the breadth of national--and in some cases sub-national--implementation plans and to evaluate the commonalities. Remarkably, we found that there were very few available national or agency specific plans for implementing access to information laws. Of those we found, we developed a draft matrix of similarities and unique/innovative approaches to implementation.

Following the research phase, the Center convened a group of renowned experts to consider the value and efficacy of an implementation assessment instrument and to provide inputs for its basic design. The initial meeting considered the key issues in implementation, prospective indicators, and began identifying the means by which to measure them. It was agreed that a major goal of the IAT was to create a tool that would be useful for governments, allowing them to assess the breadth and quality of their implementation efforts, rather than as a more punitive ranking or "hammer". Moreover, during this initial consultation, we modified our original design of the tool to

eliminate the use of phases in our assessment of the extent of implementation, as there are no universal agreements on sequencing of implementation activities, and the phasing idea was more descriptive than substantive.

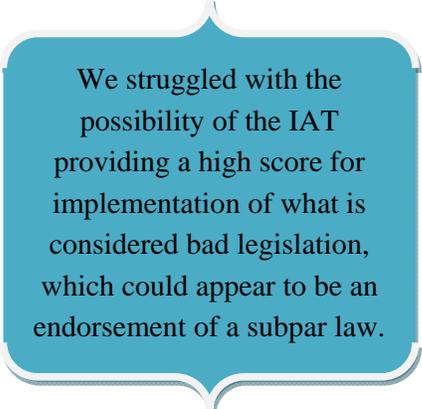
The two days of robust discussion not only established the importance of the IAT, but also highlighted a number of potential problems and risks associated with an implementation assessment that merited additional consideration. Underlying both days of discussion was:

- 1) How to make the study replicable and portable across varying countries; and
- 2) How to insure that the tool also assesses quality of the implementation, rather than just falling into a "check the box" exercise showing that an input/activity occurred but not demonstrating whether it was done well.

In order to assure the tool's portability across countries and diverse legislative contexts and to avoid substantiating a law that does not rise to the international norms, we agreed that the tool could **not** be an assessment of compliance with a specific law and would **not** directly engage the particulars of the national legislation. Rather, by the conclusion of the meeting, we had agreement that the tool's framing question should be **"To what extent is the agency capacitated and prepared to provide information and respond to requests?"**

Perhaps the most challenging aspect in developing the IAT was the lack of clearly agreed upon universal best practices for access to information legislation implementation. As we had anticipated, there are very few national implementation plans from which to draw indicators and no recognized best standards for access to information legislation implementation. This signified an increased emphasis on developing what we considered the key elements for full and effective implementation and best practices, and required spending additional time in vetting these determinations with expert colleagues from government, civil society and academia. We also were cognizant that the tool should work equally well when used in a mature system (where the law has existed and been implemented for years) as well as in a country with a newly passed access to information law. This mandate forced us to verify that each indicator will be valid in a variety of diverse contexts.

Following the initial design of the IAT, The Carter Center convened a broader based group of access to information and transparency experts to peer review the first draft indicators, application methodology, and sampling (country and ministry/agency) determinations. During this review, there was a vibrant debate on whether the tool should more fully capture user-satisfaction (i.e. whether requesters are satisfied) and whether it should extend to the enforcement phase. After long discussions and considerations, the Center decided to retain the initial design to focus on administrative inputs ("the plumbing"), rather than assessing the quality of the outputs, i.e. the satisfaction of demand, and that we would include internal reconsideration but not go further to include judicial or quasi-judicial enforcement in the assessment.



We struggled with the possibility of the IAT providing a high score for implementation of what is considered bad legislation, which could appear to be an endorsement of a subpar law.

With the help of the international experts over the course of the next months, the design of the IAT was modified to allow for assessment on both the "x" and "y" axis and a total of 72 indicators were developed. As described in greater detail below, the x axis of the assessment focuses on government functions necessary for an access to information regime and the y axis details the critical components, such as leadership, rules and resources. Finally, to validate the defined indicators and measurements/scaling, The Carter Center again undertook an extensive analysis of existing implementation plans and practice.

Piloting the IAT

Beginning in August 2011, the Center began the first pilot phase of applying/testing the IAT. Three researchers began their evaluations of the pilot countries Mexico, South Africa, and Bangladesh. Using the 72 indicators, they contacted the six pilot ministries selected - Agriculture, Customs, Education, Finance, Health, and Justice - to conduct interviews and on-site visits as well as desk research to complete their research. After four months of assessment, the researchers input their findings into the data collection system. Once all data was uploaded, The Carter Center Access to Information staff analyzed the findings and determined for which functions and components the ministry had met the pre-determined "good practices" and where improvements were needed. To complete Pilot Phase I, the Center hosted a meeting to review the findings, both in terms of the actual data collection as well as the evaluation of the tool itself.

Participants for the review meeting included international access to information and indicators experts, the three researchers, and experts from each of the pilot countries who could further contextualize the data and potentially utilize the findings to advance access to information implementation in their country. During the meeting, the researchers shared their findings and experiences in piloting the tool

Initially, the Center considered that the IAT would provide a series of "best" practices. However, during the review discussion, it became clear that this would be too prescriptive and not capture the nuances of each country context. Moreover, it would not reflect the terminology utilized by leading oversight practitioners, such as the Scottish Information Commission which issues a "Code of Good Practice." The participants recommended, and the Center concurred, that the implementation assessment tool should serve to develop and measure "**good practice**," and in this way more meaningfully reflect the reality that there may be multiple good practices depending on the country circumstances and administrative dynamics.

The initial methodology for reviewing the findings with civil society experts and key stakeholders was largely driven by the preference of the researcher, i.e. whether they used individual interviews or focal group sessions. While this provided flexibility, it also created a lack of uniformity and formalism in the review process. Therefore, the Center is adding an additional blind peer review to the interviews/focal groups. The multiple reviews, both independent blind peer reviews and the focus groups/interviews, will help assure the reliability of the tool and its findings.

Another methodological refinement will be including the Pilot Phase I researchers/countries in Pilot Phase II. In this way, the original researchers will apply refined/modified indicators to their ministries. This will help validate the amendments

to those indicators, as well as provide a more accurate and comprehensive picture of the extent and quality of implementation. For Pilot Phase III, we plan to include the four Pilot Phase II researchers for the same process. Those researchers will apply the new and refined indicators; while in the last three new countries the researchers will utilize the fully modified set of indicators.

Implementation Assessment Tool Parameters

The IAT is designed to assess only the specific activities/inputs that the public administration has engaged (or in some cases failed to achieve) in furtherance of a well-implemented access to information regime. Through a set of key elements and necessary components identified by international experts as crucial for achieving success, the IAT will measure government capacity to fulfill all duties and responsibilities demanded by the implementation of a vibrant access to information regime.

A series of indicators based on these key inputs/activities are used, which assesses the extent to which the agency is capacitated and prepared to provide information and respond to requests; proactively disclose information; and assure quality records-management. These inputs/activities are similar to what others might call “good practices.” As stated above, and which bears repeating, **at present, there is no**

universal consensus or norm on what constitutes access to information implementation “best/good practices”. This fact is useful in understanding the limitations and capacities of the tool.

This instrument will not tell how much time public agencies take to respond to requests for information or whether or not they comply with the timeframes established in the access to information laws. It will not tell you if public agencies mistreat requestors on the basis of race, gender, social or ethnic differences. It will not allow you to know if specific documents are disclosed or withheld. What it will tell you, is whether or not public agencies have the necessary components and key elements to successfully implement a vibrant access to information regime.

The tool is deliberately designed **not** to focus on the sufficiency of the legal framework, the user side of the equation or the overall effectiveness of the access to information regime. Because the IAT is not a tool designed to measure outputs, its methodology does not include the systematic filling of requests for information.

The IAT looks at “the boring bits²,” the necessary ingredients to ensure the effectiveness of implementation and the desired outcomes. The findings from the assessment will provide key stakeholders the data necessary to easily identify the extent and quality of ATI implementation in each government agency. It also will signal where there is a need for additional inputs or focus, so that the government may overcome challenges and positively advance in their implementation efforts.

Experience has demonstrated that governments are not monolithic and not all parts of government are as successful (or unsuccessful) as others. Thus, it is misleading to characterize a government as succeeding or failing in

² Professor Alan Doig coined this term in his paper “Getting the Boring Bits Right First” when discussing capacity building for anti-corruption agencies.

implementation. Therefore, the IAT will target assessments to specific public administrative bodies rather than the government as a whole.

For the IAT to be accepted and used by governments, and this is critical as they will be the primary data source and the main target audience, and to meet its stated goals we have chosen not to develop the findings to be made into an index or ranking of countries. Our methodologies, including selection of measurement and weighting, were established with this philosophy in mind. Moreover, the IAT is constructed as an “open instrument,” carried out with the collaboration of public authorities. Its success does not depend on the level of confidentiality held during its application. On the contrary, it is crucial for governments to welcome the tool’s application as to gather many of the key data points requires access to documents/information in the Ministries’/agencies’ possession.

During Pilot Phase I, in hopes of facilitating ministry engagement, the Carter Center sent a letter of explanation of the IAT (including its objectives) and introduced the country experts/social scientist who will be collecting the data. While this was successful in opening doors in some countries, in others it raised the profile of the assessment causing concerns and the need for additional bureaucratic approvals/oversight, which incurred some delays. For Pilot Phase II, the Center will work with the researchers to determine the usefulness of the introduction letters.

As feasible, the researchers will meet with the agency official with authority over policy/ procedures to describe the IAT. Following the compilation of the data points, but in advance of finalizing the assessment, the researcher should return to the agency official to allow him/her to inform or supplement the data collection.

In Pilot Phase II and III, we also will more actively engage the Information Commission(ers) and oversight bodies to help facilitate public agency support. These supervisory bodies, who often are tasked with supporting and monitoring implementation, also serve as end-users for the findings and recommendations.

Pilots and Phases

To assure the efficacy and value of the IAT before a universal launch, the Center decided to apply the tool in a phased approach in a select number of pilot countries.

Pilot Phase I assessed three countries, Pilot Phases II and III will assess seven additional countries (four in Phase II and three in Phase III). The researchers in Pilot Phase I will retest the revised indicators during Phase II to help validate the amendments to those indicators, as well as provide a more accurate and comprehensive picture of the extent and quality of implementation in their assessed agencies. In preparation for selecting the pilot countries to operationalize the IAT, the Center created a list of criteria and variables. For the pilot selection, we considered the following conditions:

- Regional diversity
- Variety in length of time that the FOI law/regulation has been in effect
- Distinct legal system/framework (common law vs. civil)

- Types of civil service (professionalized vs. more partisan)
- Contrasting development status/income level
- Availability of social scientists/civil society leaders to undertake the study
- Existing data sets or studies related to access to information
- Political will/interest

As mentioned above, Bangladesh, Mexico, and South Africa were chosen as Pilot Phase I countries. Chile, Indonesia, Scotland, and Uganda will serve as the Pilot Phase II countries.

The IAT will be applied in seven ministries and/or agencies in each country, as selected by the Carter Center, engaging the respective officials with authority over policy and procedures. For uniformity, we decided to engage the same Ministries/agencies in each of the pilot countries. Criteria used in determining the specific Ministries/agencies included:

- Those agencies that held information critical for fundamental human and socio-economic rights;
- Agencies that play a role in poverty reduction and in fulfillment of the MDGs;
- Agencies that are key in the overseeing or promoting the overall ATI regime; and
- A mix of Ministries and agencies.

The Ministries/agencies include:

1. Finance;
2. Education;
3. Health;
4. Justice;
5. Agriculture;
6. Customs; and
7. Statistics

Following each series of pilot studies, The Carter Center and IAT pilot country researchers will assess, through focal groups, blind peer reviews, and against existing data sets and relevant studies, the substantive findings as well as the efficacy of the IAT, and make any necessary adjustments to the tool. The Center will document the findings, both from the pilot countries as well as the changes in the IAT, and will disseminate broadly its full methodology and all of the IAT findings in the final year of the project.

THE ARCHITECTURE

The Implementation Assessment Tool is designed as a matrix, with indicators related to government functions/responsibilities (such as receiving and responding to requests, automatic publication or proactive disclosure of information, record management and other crosscutting functions) on the “x” axis and baskets of components/elements (such as leadership, rules, systems, resources and monitoring) on the “y” axis. Regardless of the type of information that the agency possesses, there are a series of universal components that allow public officials to fulfill their functions of managing information properly, handling requests for information adequately, and making information

available to the public efficiently. These functions and elements were identified and serve as the framework for the IAT.

Functions

All access to information regimes rely on the public agencies' capacity to fulfill three main functions: 1) receiving and responding to requests; 2) automatically publishing certain information; and 3) records management. There are a number of initiatives/efforts that are specific to these functions, such as creating storage for archives, while others apply to more than one of these functions. For those initiatives/efforts that apply more broadly, for example the designation of an information officer, we have created the category "cross-cutting functions."

Components

There are a number of verifiable components that government needs to have in order to successfully implement a comprehensive access to information law. These elements are assessed by a set of indicators which can be observed through different data-points or sources of information. The following elements are the bone and marrow of successful access to information implementation:

i) Leadership

Engagement of agency official with authority over policy/ procedures in the development and oversight of implementation is critical for its overall success. Motivated leaders committed to the implementation of the access to information legislation will assure that necessary policies and procedures are in place, systems developed and resources applied.

ii) Rules

Rules serve to ordain or lay out the way in which public officials will handle their various access to information regime functions. They may provide binding instructions, or proposed/recommended actions to advance implementation of the access to information law.

iii) Systems

Systems are the processes, both formal and informal, by which an agency functions. They are a crucial component when talking about improving access to information implementation because they determine the way the agency acts and reacts on every action or aspect related to ATI. Systems are the application of rules and procedures.

iv) Resources

It is no secret to anyone that implementing access to information legislation requires considerable resources: human, financial and infrastructure. These resources are often found within government's pre-existing structure, but in some cases they need to be acquired or specially allocated in order to ensure ATI implementation. Trained personnel, infrastructure, technology and responsible officers are some of the resources

that an agency needs to fully and effectively implement access to information legislation.

v) Monitoring

Monitoring the agency's access to information functions is a critical, but often overlooked, component of the access to information implementation plumbing. Monitoring allows agencies to identify advances and deficits and to make necessary modifications or corrections. Moreover, monitoring also provides leaders with the necessary information to make better decisions pertaining to the establishment of rules, the allocation of resources and the system adjustments required to improve the implementation of the access to information legislation.

Key Elements

This section describes some of the key elements, identified through years of experience and through expert consultation, necessary for supporting successful implementation. When properly combined, these elements provide government with the necessary capacity to successfully perform all access to information duties and obligations.

i) ATI Policies, Regulations and Rules/Guidelines

Every public agency establishes its goals and prioritizes its objectives regarding specific issues by setting what is defined as policies. Those policies are different from what one will call regulations, which provide the procedures to operate within the scope of action dictated by the legal system for the public administration. On a different level, one can also find a set of rules or guidelines that are created within each agency to orientate public officials on specific programmatic action. When developing the indicators and for the purpose of avoiding any confusion, we use the following definitions:

- **Policy:** Formal statement of intention establishing goals and priorities.
- **Regulations:** Formal set of legally binding operating procedures.
- **Rules/Guidelines:** Specific written set of criteria to guide public officials on programmatic action.
- **Procedures:** A mode of operation; a series of steps taken to accomplish an end/fulfill a responsibility or task.

For example, the Ministry of Housing might have a policy to provide the public with online and in site access to complete information pertaining to all housing projects being developed in the country. To comply with this policy, the Ministry will develop binding regulations, including regulations on how often they will post information on the projects, means for providing the information, and costs for accessing the information. But in order for the public official to apply these regulations, detailed guidelines and procedures will need to be developed, such as the need to track requests, how request may be made, and how to collect fees.

ii) Implementation Plan

The implementation plan serves as a general management tool on access to information and is designed to assist agencies in detailing necessary activities/efforts, identifying responsible persons and setting timelines. The implementation plan provides a roadmap and work frame for each agency to address all issues pertaining to the fulfillment of access to information duties and obligations. Implementation plans vary from agency to agency and from government to government, and are not always in formal documents or self-contained (i.e. components of implementation plans may exist in numerous different documents).

iii) Public official tasked in charge of ATI functions and duties

The public official tasked in charge of ATI functions and duties should promote good access to information practices amongst public officials and should be responsible for overseeing the application of the access to information law in each public agency. Although not all access to information laws provide for a formal designated information officer, there should be a public official tasked in charge of ATI functions and duties, and a designated information officer is recognized in the IAT as a good practice. It is not necessary that this be the public officer's **only** responsibility, but some official should be clearly identified as the responsible agent. The public official may just be responsible to overseeing the agency's access to information obligations and can delegate responsibilities to others. Formally designating an experienced information officer is of the outmost importance, as it promotes accountability and a liaison for the public. To be able to fulfill all responsibilities pertaining to the job, this public official needs to be provided with the necessary human and physical resources, which will vary depending on the needs of the Ministry/agency.

iv) Capacity Building

In order to increase the public administration's capacity to receive and respond to requests for information, to proactively disclose information to the public and to manage and protect all public records, each ministry or agency needs to conduct trainings for all personnel with access to information responsibilities, as well as improve its infrastructure and monitor its performance to allow for improvements in all related processes.

v) Budget

Access to information legislation represents a considerable cost for government, as it demands personnel, resources and actions in order to properly fulfill all ATI obligations and duties. Every agency needs to assess its specific budgetary needs to fulfill all ATI obligations and duties determining the cost of personnel, infrastructure, equipment, training, internal and external awareness raising campaigns, etc. Such allocation needs to be done systematically in order to ensure that all costs and amounts associated with meeting access to information obligations are covered within the agency's annual budget.

vi) Infrastructure

In an age of technology the benefits of systems in handling information is undisputed, as they allow for central access, easy backup, central distribution of information, easy record-keeping, easy cost tracking and budgetary allocation, as well as better customer trait identification. They also decrease the chances of losing information and help balance the risk of human mistakes or negligence. They provide space for effective planning, which helps minimize other problems by allowing public officials to think ahead about how to address access to information challenges and allow for changes to be made in order to improve record management. Infrastructure represents other physical assets that allow the agency to fully perform its work, which in terms of access to information, demands physical space for receiving and responding to requests, record keeping facilities, archives, equipment, etc.

vii) Internal and external dissemination

Access to information is not only about fulfilling requests for information, but more importantly it implies an effort on the part of government to generate general awareness among public officials and within its society of the right of access to information. There are two types of awareness raising campaigns that need to be developed for improving access to information implementation: 1) Internal dissemination, which focuses on making sure that all public officials are aware of their obligations and duties derived from the access to information legislation; and 2) External awareness raising campaign focusing on the public.

**The Carter Center
Access to Information Legislation Implementation Assessment Tool (IAT)
Indicators Framework**

	ATI crosscutting functions	Receive and Respond to Requests	Proactive Disclosure	Records management
Leadership (directs)	<ul style="list-style-type: none"> • Engagement • Strategic planning 	<ul style="list-style-type: none"> • Engagement 	<ul style="list-style-type: none"> • Engagement 	<ul style="list-style-type: none"> • Engagement
Rules (guide)	<ul style="list-style-type: none"> • Regulations and Policies • Guidelines • Plans 	<ul style="list-style-type: none"> • Guidelines • Plans 	<ul style="list-style-type: none"> • Guidelines • Plans 	<ul style="list-style-type: none"> • Guidelines • Plans
Systems (order)	<ul style="list-style-type: none"> • Public awareness raising 	<ul style="list-style-type: none"> • System for receiving • System for responding 	<ul style="list-style-type: none"> • System for proactive disclosure 	<ul style="list-style-type: none"> • Classification • Manage records • Retrieve records
Resources (enable)	<ul style="list-style-type: none"> • Responsible officers • Staffing • Training • Infrastructure • Budget 	<ul style="list-style-type: none"> • Responsible officers • Staffing • Training • Infrastructure 	<ul style="list-style-type: none"> • Responsible officers • Training • Infrastructure 	<ul style="list-style-type: none"> • Responsible officers • Staffing • Training • Infrastructure
Monitoring (adjust)	<ul style="list-style-type: none"> • Internal Oversight • Reporting • Performance monitoring 	<ul style="list-style-type: none"> • Capturing of statistics 	<ul style="list-style-type: none"> • Capturing of statistics 	<ul style="list-style-type: none"> • Performance monitoring

METHODOLOGY

The proposed set of indicators engages both quantitative and qualitative assessments of the comprehensiveness of a Ministries/agencies access to information implementation.

The indicators will be scored on the "stoplight method," with a scale including green, yellow, and red. In using the stoplight method, we hope to easily demonstrate the extent and quality of implementation while dissuading the potential for indexing/ranking countries. The stoplight colors will signify the following:

Green: Indicates that the administration has done well and has met the defined good practice;

Yellow: Demonstrates that there has been some activity/engagement, but does not meet the defined good practice; and

Red: Shows that the administration has either not engaged or done very little to advance on this part of its implementation.

Black and white stripes: Means indicator was not applicable in the agency tested.

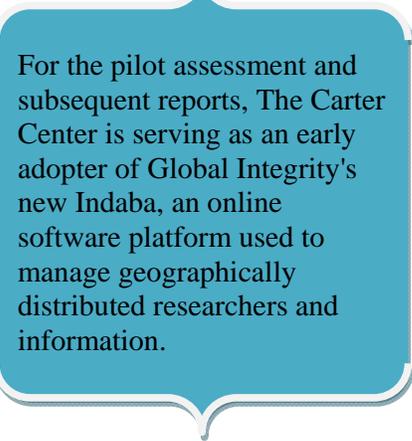
Data will be drawn through desk research and interviews, and all findings will go through a validation process via a blind peer review, and focal group review. An instrument has been designed to input the data and these will be analyzed to signal in which functions and components the agency has met good practices and where improvements may be needed.

In addition to quantitative data, we will include a narrative that provides supplementary qualitative information and accompanying explanations for the measurements. The overall findings from the IAT will, by their nature, be agency- and country-specific, and they will not be presented as a ranking against other countries' achievements or as a comparative index.

The application of the tool implies cooperation from the respective public agency or ministry and will be developed mainly through interviews (questionnaires) and on site visits (desk research).

Types of Indicators

The tool's indicators have been designed to obtain all the necessary information on the activities and components that each agency should engage in order to fulfill all responsibilities pertaining to the implementation of the access to information legislation, as well as to assess whether or not they have the necessary human and physical resources to do so successfully.



For the pilot assessment and subsequent reports, The Carter Center is serving as an early adopter of Global Integrity's new Indaba, an online software platform used to manage geographically distributed researchers and information.

There are two sets of indicators: 1) Self-reporting indicators which are addressed through an interview (questionnaire) with the head of the agency/ministry, general director, public official tasked in charge of ATI functions and duties, or other relevant public officer. As these indicators have the greatest potential for bias, we have limited their use in the IAT and will rarely serve as the preferred data point; and 2) Document based indicators, which requires desk-research or on-site verification of different documents and/or sources of information.

To facilitate the tool's application, the preferred data-points or sources of information are included in the "hint box" on the Indaba platform. While this signals what we consider the best evidence, we also recognize that it may not be the most feasible. As such, we also will provide a list of illustrative documents etc. that can be used as data points to complete each indicators measurement.

Qualitative Assessment

The implementation assessment tool is based on a qualitative assessment, focusing on questions of agencies' capacity and preparedness to provide information and to respond to requests. Assessments will be made through desk research, interviews, and review of key documents. In this respect, the tool also differs from past monitoring exercises on access to information which usually consist of making a number of requests and observing the different number of replies received from each agency. Those exercises then analyze quantitative data and obtain a percentage of compliance regarding access to information obligations. On the contrary, this tool is not meant to produce any type of percentage or numerical score.

The fact that the tool is a qualitative assessment and not a quantitative exercise, does not undermine its capacity to produce precise recommendations for public agencies on how to acquire and prepare any missing components required to obtain optimum capability to implement access to information legislation. Emphasis is made on what it takes to be able to properly implement access to information legislation, rather than on the actual performance of replying to requests for information, allowing for agencies to improve their capability without feeling that they are being measured or compared in the development of ATI functions and duties.

ADDED VALUE

There have been a number of important studies undertaken to review access to information laws and to assess government compliance with its law and the extent to which persons who request information can receive it. For example, Open Society Justice Initiative's "Transparency and Silence" provided a comparative study of 14 countries, based on almost 1900 requests, with the goal of identifying whether government agencies responded to requests. The Organization of Economic Cooperation and Development (OECD) is presently preparing "Open Government: Beyond static measures" to track compliance, and the World Bank has been developing an Access to Information Monitoring Initiative, focused on in-law and compliance related in-practice indicators.

However, in many of these and other studies, the focus has been on the outcome of implementation, i.e. are persons able to receive the information requested consistent with the statutory provisions. The Carter Center's IAT focuses exclusively on the central theme of government's efforts toward implementation – the “plumbing” - providing critical data and knowledge, as well as spurring additional areas for research.

... while those efforts have been orientated at responding to the questions of “how much information is the agency providing and how is it responding to requests for information?” the IAT is designed to address the question of **“to what extent is the agency capacitated and prepared to provide information and respond to requests?”**

There is a very important difference between addressing the outcome of an agency performing ATI duties and assessing the input required for the agency to fulfill such obligations. If we look at the agency as a patient, and the lack of capacity as a virus within the system of access to information implementation, the IAT will be a medical tool diagnosing the extent to which the governmental body is prepared to provide information.

After applying the tool, instead of receiving a test result signaling poor system performance, the patient will receive information on what is needed to actually improve the body's capacity to protect the right of access to information. The tool is therefore designed to inform the

agency whether it has all that it takes to fully develop functions demanded by access to information legislation.

The added value of the Implementation Assessment Tool is that it provides government agencies with specifics on how to improve their capacity to implement access to information legislation, rather than focusing on “outputs”/ performance.

ABRIDGED BIBLIOGRAPHY

The Access Initiative, World Resource Initiative

Access to Information Monitoring Initiative, World Bank

The Access to Information Monitoring Tool, OSI

The Assessment Indicator System for FOI Work in Shanghai, Webing & Snell

The Development of Instruments to Measure Democratic Governance: Central Tasks and Basic Problems, Gerardo L. Munck

The Global Integrity Report: 2008, Methodology White Paper, Global Integrity

Open Democracy Advice Centre: Openness & Responsiveness Awards 2008 and Indicators, ODAC

a. ODAC GKA Indicators 2008

b. ODAC Information Officer Questionnaire

Open Government: beyond static measures, Involve for the OECD

Safeguarding the Right to Information, RaaG & NCPRI