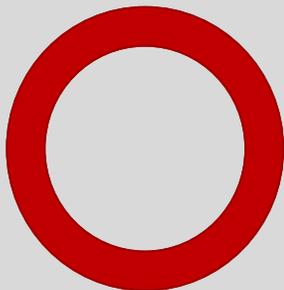
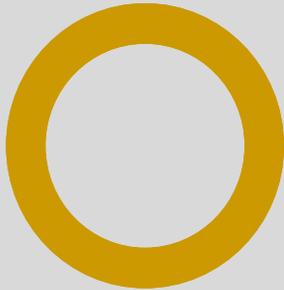


THE
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Pilot Findings from Select Agencies: **BANGLADESH**

The Carter Center's
Access to Information Legislation
Implementation Assessment Tool



Pilot Findings in Select Agencies: Bangladesh

The Carter Center's Access to Information Legislation
Implementation Assessment Tool

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Buses in the streets of Dhaka, the capital city of Bangladesh. Photo courtesy of PronabDU (own work) [CC BY-SA 4.0 (<http://creativecommons.org/licenses/by-sa/4.0/>)], via Wikimedia Commons.

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Contents

Acknowledgments	5
Introduction	7
Methodology	11
Piloting the IAT	13
Country Context	15
Pilot Phase III Findings for Bangladesh	19
Focal Group Narrative	33
Summary of Findings	35

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findings of the IAT serve to identify areas in which access to information implementation has been insufficient or is faltering and that it can focus efforts and resources to ensure full and effective implementation, thus advancing the ability of the Bangladeshi people to enjoy the myriad benefits of the right of access to information.

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Introduction

The right of access to information is a powerful tool in the fight against corruption and in achieving good governance and development. It serves both government and its citizens by increasing citizen confidence as governments become more transparent and accountable. It enables citizens to participate more fully in public life, understand public policies, and help determine public priorities. Citizens also can use the information to exercise their fundamental human rights and to hold their government accountable for responding to their needs and providing high-quality service delivery.

With approximately 100 countries with statutory legislation, more than 5 billion people around the globe are afforded some legal rights to information. However, many of these countries are failing to fully implement their access to information laws, and there remains a dearth of information about the extent and quality of legislative implementation. Furthermore, there are few evaluative tools by which to measure implementation progress. With an insufficient focus on implementation, the community of practice is failing to adequately identify and analyze the structures and procedures that produce successful transparency regimes; governments lack the necessary diagnostic information to improve their practices in order to meet citizen demands and to promote greater transparency and accountability.

Since 1999, The Carter Center has been a leader on the issue of passage, implementation, enforcement, and use of access to information regimes. Over the past 15 years, we have witnessed firsthand the difficulties that governments face in fully and effectively implementing access to information laws and the negative effects of a lack of standardized measures for developing implementation plans and evaluating their efforts. To fill this gap, The Carter Center's Global Access to Information Program developed

and piloted the access to information legislation Implementation Assessment Tool.

The IAT is the first diagnostic tool of its kind 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, but rather to look at the internal “plumbing” of the administration's implementation. The IAT does not serve as a comparative index across countries but rather is constructed as an input for each public agency in which it is applied. It provides a more surgical tool for civil society to monitor government's implementation practice and progress.

Beginning in 2009/2010, The Carter Center's Global Access to Information Program developed the IAT methodology, including a set of indicators and a scoring system. Over the course of almost 4 years, the IAT was tested in three pilot phases in 11 countries (Mexico, South Africa, Bangladesh, Chile, Indonesia, Uganda, Scotland, Jordan, Georgia, Guatemala, and the United States) and 65 agencies. These pilot phases consisted of the application and review of more than 8,000 indicators. Each pilot phase concluded with a review meeting of the researchers as well as some of the blind-peer reviewers, government representatives, and access to information experts. The final piloting concluded in April 2014, and the IAT was shared with the community of practice.

Objectives and Considerations

The objectives of the access to information legislation Implementation Assessment Tool are to:

-
1. Establish a comprehensive set of access to information implementation benchmarks
 2. Identify the extent (and in some cases quality) to which a ministry/agency has implemented its law
 3. Provide a road map for improvements, based on the tool's findings
 4. Contribute to scholarship on implementation and to the understanding of implementation successes and challenges

The IAT looks at “the boring bits¹,” the ingredients necessary to ensure the effectiveness of implementation and the desired outcomes. The findings from the assessment provide key stakeholders the data necessary to easily identify the extent and quality of access to information (ATI) implementation in each government agency. It also signals places there is a need for additional input or focus, so that the public administration may overcome challenges and positively advance in their implementation efforts.

Experience has demonstrated that governments are not monolithic and that 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 implementation. The IAT targets assessments to individual public administrative bodies rather than to the government as a whole. Moreover, for the IAT to meet its stated goals and be accepted and used by governments – critical as they are the primary data source and the main target audience – we have chosen not to develop the findings for an index or ranking of countries. Our methodologies were established with this philosophy in mind.

While there have been a number of important studies undertaken to review access to information laws and to assess government compliance with its law, the focus has been on the outcome of implementation, i.e. whether people are able to receive the information requested consistent with the statutory provisions. The Carter Center's IAT focuses



The IAT assesses individual public administration bodies. It is not designed as an index or ranking of countries.

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.

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 can be described as a medical tool diagnosing the extent to which the governmental body is prepared to provide information. The IAT provides government agencies with specifics on where and how to improve their capacity to implement access to information legislation.

¹ Professor Alan Doig coined this term in his paper “Getting the Boring Bits Right First” when discussing capacity building for anti-corruption agencies.

Developing the IAT

The Carter Center designed and created the IAT through desk research, consultant support, and periodic peer reviews. As a first step, the Center engaged in considerable research to identify the breadth of national and subnational implementation plans and to evaluate the commonalities. Remarkably, we found very few available national or agency-specific access to information implementation plans. Additionally, we did an extensive literature review related to access to information implementation and public policy and administration; again, there were relatively few articles or studies. Based on the initial research and our experience, we developed a preliminary draft matrix of similarities and unique/innovative approaches to implementation.

Following the research phase, The Carter Center convened a group of renowned experts to consider the value and efficacy of an implementation assessment instrument and to provide input into its basic design. This first meeting considered both the key issues in implementation and prospective indicators and 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.”

During this initial consultation, we modified our original design, in which we had considered implementation in a series of phases.² The two days of robust discussion established the importance of the IAT but also highlighted a number of potential problems and risks associated with an implementation assessment. Underlying both days of discussion were the following questions:

1. How do we make the study replicable and portable across varying countries?

2. How do we ensure that the tool also assesses quality of the implementation rather than simply 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 national legislation. Rather, the tool’s framing question should be, “**To what extent is the agency capacitated and prepared to provide information and respond to requests?**”

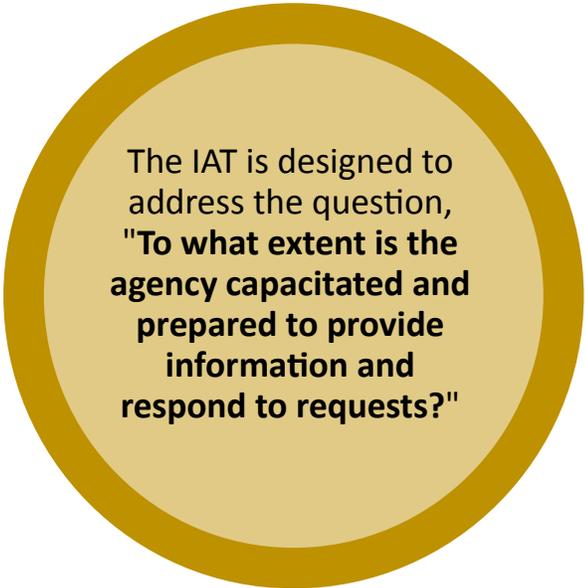
Perhaps the most challenging aspect in developing the IAT was the lack of clearly agreed-upon universal best practices for access to information legislation implementation. This concern signaled the need for an increased emphasis on developing key elements for full and effective implementation and good practices and required additional time to vet these determinations with expert colleagues from government, civil society, and academia. We also were aware that the tool should work equally well when used in a mature system (where the law has existed 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 be valid in a variety of disperse contexts.

With the initial design of the IAT completed, 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. After long discussions and considerations, the Center decided to retain the initial design to focus on administrative input

² As there is no agreement on sequencing implementation efforts, and this would be more descriptive than substantive, we removed sequencing from the IAT methodology.

("the plumbing"), rather than assessing the quality of the outputs, i.e., compliance with the law/user satisfaction. We also made the decision to include internal reconsideration but not go further to include indicators related to judicial or quasi-judicial enforcement in the assessment.

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 series of indicators was developed. Finally, to validate the defined indicators and measurements/scaling, The Carter Center again undertook an extensive analysis of existing implementation plans and practice.



The IAT is designed to address the question, **"To what extent is the agency capacitated and prepared to provide information and respond to requests?"**

Methodology

The IAT is intended to assess the specific activities/inputs that the public administration has engaged in furtherance of a well-implemented access to information regime. A series of indicators is used to assess 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.” 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 of the tool.

The tool is designed not to focus on the sufficiency of the legal framework, the user side of the equation or the overall effectiveness of the country’s access to information regime. Because the IAT is not designed to measure outputs/compliance, its methodology does not include the systematic filling of information requests.

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 gathering many of the key data points requires access to documents and information in the ministries’/agencies’ possession.

The Architecture

The IAT is designed as a matrix, with indicators related to government functions/responsibilities on the x-axis and baskets of components/elements on the y-axis. Regardless of the type of information an agency possesses, there are 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) managing records. There are a number of initiatives/efforts specific to these functions while others apply to more than one of the functions. For those initiatives/efforts that apply more broadly—for example, the designation of a responsible officer or the agency’s strategic plan—we have created the category “fundamental functions.”

Components

In order to successfully implement a comprehensive access to information law, government needs a number of verifiable components. These elements are assessed by a set of indicators that can be observed through different data-points or sources of information. The elements are the bone and marrow of access to information implementation, and include leadership, rules, systems, resources, and monitoring.

Key Elements

The components are comprised of key elements that have been identified as necessary for supporting successful implementation. When properly combined, these elements provide government with the capacity to successfully perform all access to information duties and obligations. The elements that comprise the assessment, among others, included whether the agency has established, reviewed, and revised access to information policies, regulations,



This instrument **will not** tell whether public agencies are in compliance with established laws. It **will** tell you if the agencies have the necessary components to implement a vibrant access to information regime.

and guidelines; the issuance of plans/instructions for the implementation and institutionalization of the access to information regime; the identification of responsible officers for overseeing the application of the law; sufficient training and capacity-building; determination of necessary financial resources; infrastructure; and, awareness-raising within the agency and for the public.

Assessment Results and Output

The IAT indicators engage both quantitative and qualitative assessments of the comprehensiveness and quality of a ministries'/agencies' access to information implementation. The indicators are scored on the "stoplight method," with a scale that includes green, yellow, red, and black and white stripes (for those rare cases in which the indicator will not apply). In using the stoplight method, we easily display the extent and quality of implementation while dissuading the potential for indexing/ranking countries. The stoplight colors signify the following:

- **Green:** The administration has done well and has met the defined good practice.

- **Yellow:** There has been some activity/engagement, but the administration does not meet the defined good practice.
- **Red:** The administration has either not engaged or done very little to advance on this part of its implementation.
- **Black and white stripes:** The indicator is not applicable.

Data are acquired through both desk research and interviews and then input into Indaba, an online software platform that allows The Carter Center to manage the researchers and data and review the inputs. The data is then reviewed by a blind-peer reviewer and, subsequently, the preliminary findings are validated through focal group review. In addition to quantitative data, we include a narrative that provides supplementary qualitative information and accompanying explanations for the measurements.

Types of Indicators

The IAT utilizes two types of indicators: 1) self-reporting indicators that are addressed through an interview (questionnaire) with the head of the agency/ministry, general director, public officials tasked to oversee ATI functions and duties, or other relevant public officers;³ and 2) document-based indicators that require desk research or onsite verification of different documents and/or sources of information.

³ As these indicators have the greatest potential for bias, we have limited their use in the IAT and they will rarely serve as the preferred data point.

Piloting the IAT

To assure the efficacy and value of the IAT, the Center decided to apply the tool in a phased approach in more than 10 countries. Pilot phase I assessed three countries, pilot phase II assessed four countries and pilot phase III assessed an additional four countries. While the initial intent was to assess each country once, we decided to include the initial countries in the subsequent phases in light of the modifications of the indicators following each phase. In pilot phase III, we applied the revised indicators in all 11 countries.

Selection of Countries/Agencies

In preparation for selecting the pilot countries to test the IAT, The Carter 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 ATI law/regulation has been in effect
- Distinct legal system/framework (common law versus civil);
- Types of civil service (professionalized versus more partisan)
- 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
- Divergent participation in the Open Government Partnership

Bangladesh, Mexico, and South Africa were chosen as pilot phase I countries, while Chile, Indonesia, Scotland, and Uganda served as the pilot phase II countries. Pilot phase III included all of the above countries as well as Georgia, Jordan, Guatemala, and the United States.

The IAT was applied in seven ministries and/or agencies in each country. For uniformity, we decided to engage the same ministries/agencies in each of the countries. Criteria used in determining the specific ministries/agencies included:

- Those agencies that held information critical for fundamental human and socioeconomic rights
- Ministries and agencies that play a role in poverty reduction and in fulfillment of the Millennium Development Goals
- Ministries and agencies that are key in the overseeing or promoting the ATI regime
- A mix of ministries and agencies, in particular public agencies of varying size and resources

Ultimately, the ministries/agencies selected were: Finance, Education, Health, Justice, Agriculture, Customs, and, Statistics (or another small/less-resourced agency). In some cases, the specified ministry did not exist or was combined with another ministry or agency. In those cases, we substituted an equivalent ministry/agency.

Pilot Phases

In 2011, The Carter Center completed pilot phase I of the tool in three countries – Bangladesh, Mexico, and South Africa, followed by an expert review and extensive modifications to the methodology and indicators. Pilot phase II was completed in the spring of 2013 and included application of the indicators in the original three countries as well as Chile, Indonesia, Scotland, and Uganda. Once again, The Carter Center conducted a review meeting to refine the tool and methodology. In the fall of 2013, pilot phase III commenced and included four new countries: Georgia, Jordan, Guatemala, and the United States. The researchers in these

countries applied all revised IAT indicators and were joined by the researchers from pilot phase I and pilot phase II who applied all new or modified indicators in their respective countries.

Pilot Phase I

Pilot phase I included 72 indicators. During this phase, we were still considering whether we could identify universally applicable 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, who use the term “good practice.” The participants recommended, and we 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 country circumstances and administrative dynamics. Methodological changes were made following this phase, including adding a blind-peer review in addition to the focus group, assessing a smaller, less-resourced agency, and using the Indaba platform for data collection.

Pilot Phase II

With the revisions and refinements based on the pilot phase I review, the IAT now included 75 indicators to test in pilot phase I and II countries: Chile, Indonesia, Scotland, and Uganda joined South Africa, Bangladesh, and Mexico. The local researchers tested the tool in the original six ministries as well as in the seventh smaller agency, and in this phase we engaged the Indaba platform. During the two-day review meeting following data collection, analysis, findings, and validations, the experts actively revised the indicators, removing any indicator deemed repetitive and making necessary language changes to accommodate a variety of government contexts. One of the main modifications made for the final pilot phase was to

include indicators that looked more specifically at implementation in practice, which was accomplished through the use of four “wild cards.” We also reduced the indicators to a more manageable 65, and strengthened the indicators related to records management.

Pilot Phase III

Pilot phase III was the final testing of the indicators. For this phase, we retained the same methodology and workflow, including the blind peer reviewer and the focal groups. As with the other phases, Carter Center staff reviewed each finding, submitted questions to both the researchers and the blind peer reviewers, and assured the quality and consistency of each finding. At the conclusion of pilot phase III, we held the final expert review to make any necessary last adjustments to the indicators (researchers felt there were still too many) and presented the IAT to the community of practice.



For a more comprehensive explanation of the IAT methodology and piloting, please see:
<http://www.cartercenter.org/peace/ati/IAT/index.html>

Country Context⁴

The Constitution of Bangladesh (1972) recognizes freedom of thought, conscience, and speech as fundamental rights (Article 39). The right of access to information is an inalienable part of these rights, but it was not until October 2008 that Bangladesh approved a statute specifically recognizing a citizen's right to information and providing a procedure for its implementation.

In 1975, Bangladesh's short-lived experience with democracy – following its independence in 1971 – ended as nationwide famine resulted in instability. Ultimately, the government fell into military rule – which would continue until 1990 when the country reverted back to parliamentary democracy. During the 1990s several prominent figures in civil society and the media began a conversation about the right of access to information, citing its importance in good government and sound development, but no substantive progress was made.⁵ In 2006, the government was again facing challenges. The national elections had been canceled following the resignation of the Bangladesh Nationalist Party (BNP) and the subsequent withdrawal of the Awami League from the mandated election to be held within 90 days. Again, the military felt compelled to intervene and it installed a continuing, neutral, caretaker government to prosecute acts of corruption and usher in anti-corruption reform in preparation for the reinstallation of competent, transparent, and effective democratic government.

With this intention, the right of access to information was first specifically established as an ordinance during the 2006-2008 interim caretaker government. In March of 2009, the newly elected government ratified the ordinance in the National Parliament, thus transforming the ordinance into a legislative act. The Right to Information Law (RTI) came into effect on July 1, 2009, and granted the right of access to information in the hands of government

and government-funded NGOs to all citizens. Government, media, and civil society organizations jointly worked for the enactment of this law.

The RTI Act was given legal supremacy over all existing laws regarding disclosure of public information. Nevertheless, competing laws may still impact the decision-making calculus of government officials in charge of information. For example, *The Official Secrets Act of 1923*, the *Government Servants Conduct Rules of 1979*, and the *Rules of Business of 1996* – none of which have been amended or revoked – conceivably create uncertainty and insecurity among public officials about the consequences of information disclosure. Moreover, the constitutional text of the ministerial oath specifically bars cabinet members from divulging public information.

Despite these contradictions, there also are many laws that support the rights acknowledged in the RTI Act. The earliest of these laws is the *Records Manual of 1943* – a law that gave citizens access to records regarding 'land-related matters.' Other complementary laws include the *Public Procurement Act of 2006* (meant to increase transparency and equal consideration for government procurement of goods and services), the *Union Parishad Law of 2009* (which codified access to information for citizens at the local level of government), and the *Public Interest-related Information Disclosure Protection Act of 2011* (which importantly provides legal whistleblower protections for any citizen who relinquishes any information in the public-interest to the proper authorities).

⁴ The country context was largely drawn from the narrative drafted by researchers Mohammed Sirajul Islam and Rizwan Khair.

⁵ Citizens' access to information in South Asia: Diagnostic analysis - Bangladesh Chapter. Management and Resources Development Initiative (MRDI), 2013. Print. <http://sartian.org/media/k2/attachments/RTI_MRDI_Country_Diagnostic.pdf>.

The RTI Act provides citizens with a clear process for exercising the right of access to information, and it calls for public agencies to proactively disclose and publicize certain classes of information. These provisions promote people's access to information held by any public agency including the judicial and legislative branches of the government. The provision to designate an officer at every unit of public and private office and to assist handicapped people in formulating requests provides necessary supports to the demand-side of RTI.

The law provides a wide regime of information exemptions. Nevertheless, it does not impose a bar on public bodies for *suo motu* (of one's own accord) disclosures in these exceptional cases. Although the law stipulates its inapplicability in organizations responsible for state security and intelligence, a progressive provision in the law states that these organizations do not retain exemption privileges in cases of corruption or human rights violations.

The RTI law stipulates the formation of a three-member Information Commission, which must have at least one female member. The Information Commission has the power to call for the disclosure of information. Its functions include assisting public and private agencies for better implementation of the law and receiving appeals from citizens whose requests for information have been denied.

The Bangladeshi RTI Act is well received by international access to information advocates. Access Info and the Centre for Law and Democracy give the law a relatively good total score of 109/150 on their Global Right to Information Database, which examines the quality of all global RTI legislation. The main reasons the law lost points in the calculation was for a lack of specificity in some areas and for exemptions that are considered overly vague and have the potential for broad application.⁶

Implementation

Many analyses of Bangladesh's RTI law have found that implementation has been slow. According to the Management and Resources Development Initiative (MRDI), while the Information Commission "has the mandate to ensure implementation of the rules under the RTI law," their mandate has sometimes been ignored by agencies subject to the law. The Commission may lack the resources or full capacity necessary to carry out their many responsibilities; however, it is notable that as of April 2014, the Commission has hired only 39 staff despite having the resources to hire 76.⁷

Under the RTI law, agencies are required to designate an Information Officer. This aspect of the law has been very well implemented. As of April 2014, over 12,000 such officers had been appointed and their contact information made available to the public. Training of these officers, however, has been insufficient, according to the MRDI report. While agencies have complied with the law's requirement to appoint information officers, they have not allocated funds to train them. As a result, many of these officers do not understand their role under the law and lack the motivation to carry out their responsibilities.⁸

Since its implementation in 2009 the Information Commission has held several training sessions and has employed modern tools in its mission to promote awareness of the RTI law — including a contract with two mobile service companies (Grameen Phone and Robi) to send billions of text messages with information on the RTI Act

⁶Bari, Shamsul, and Michael Karanicolas . "Bangladesh: The Right to Information Act." *Global Right to Information Rating*. (2013). http://rti-rating.org/view_country.php?country_name=Bangladesh (accessed August 7, 2014).

⁷http://sartian.org/media/k2/attachments/RTI_MRDI_Country_Diagonistic.pdf

⁸http://sartian.org/media/k2/attachments/RTI_MRDI_Country_Diagonistic.pdf

of 2009.⁹ Several NGOs also have held training sessions on RTI that help people connect information their own lives. The RTI-focused NGO, Article 19, has even developed several songs that explain the RTI Act to the tune of local folk tunes.¹⁰

Unfortunately, as has been the case elsewhere, a major barrier to establishing the necessary political will to effectively implement the law has been the ongoing culture of secrecy, which is further reinforced by the continued existence of the Official Secrets Act and the Government Services Conduct Rule of 1979.

Use of the Law

Some stakeholders have lamented that as the Bangladeshi RTI was not produced through grassroots movements, but rather the passage of the law was supported by well-intentioned elites in government and civil society, that many citizens do not feel ownership of the right. Yet, without a doubt, the RTI Act has had concretely positive influences in the lives of many Bangladeshis.

For example, in January 2011, Ekota Youth Network, a group focused on participatory local government became aware that several severely impoverished women in their community had been left off of the list of Vulnerable Group Development (VGD) beneficiaries for the fiscal year 2011-2012. The youth group used RTI to request the list of individuals slated to receive VGD funds so that they could verify that the criteria for eligibility had been followed when the beneficiaries were selected. The group's request met with resistance from the local government official and they did not initially receive a satisfactory answer to their request. However, when the chief officer of the local upazila (sub-district government unit) learned of their request, he formed an investigation team and found several people on the list that should not have qualified for VGD benefits. Four

poor women from the local community were also moved onto the list. A month and a half after submitting their request, the youths received the full list – with the four impoverished women now included – and were able to verify that all recipients were chosen according to the established criteria.¹¹

The RTI Act in Bangladesh has empowered citizens to learn about the country's social safety nets and to provide a check on whether they are being distributed properly. Nevertheless, many access to information advocates still stress that awareness of the RTI Act remains very limited.

There are also disparities among Bangladeshis in terms of accessing proactively published information. About five percent of the population has access to the internet, meaning that the vast majority of Bangladeshis must visit the offices for proactively published information and/or make requests in person. Approximately 31.5 percent of the population lives in poverty, and women in particular are less likely to be literate.¹² These problems have become less severe over time but continue to impose substantial barriers for many Bangladeshis to employing their right of access to information.

⁹"Annual Report 2011." Infocom.gov.bd. January 1, 2013. Accessed August 6, 2014. http://www.infocom.gov.bd/ic/images/stories/annual_report_2011_english.pdf.

¹⁰"Folk Songs Explain the RTI Law in Bangladesh." *Freedominfo.org: A Global Network of Freedom of Information Advocates*. (2012). <http://www.freedominfo.org/2012/05/folk-songs-explain-the-rti-law-in-bangladesh/> (accessed August 6, 2014). (accessed August 6, 2014).

¹¹"Shamima Akter Uses the RTI Act to Help Vulnerable Women to Access Government Programs in Her Village." *Intercooperation*. (2013): 6. [http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-acquia/wbi/Final version - The Benefits of Using the RTI Act in Bangladesh.pdf](http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-acquia/wbi/Final%20version%20-%20The%20Benefits%20of%20Using%20the%20RTI%20Act%20in%20Bangladesh.pdf) (accessed August 6, 2014).

¹²http://sartian.org/media/k2/attachments/RTI_MRDI_Country_Diagnostic.pdf

Enforcement of the Law

A common critique of Bangladesh's RTI law is that it lacks a strong internal, proactive enforcement mechanism to push for adherence to regulations and automatic publication requirements. However, the Information Commission, as a binding appellate body, has consistently upheld the right of access to information for citizens.

In August 2010, for instance, Mr. Saud Khan, a leader from a nomadic Bede community, learned of a government program meant to provide financial assistance for impoverished farmers. Mr. Khan feared that the reason he had not heard of the program sooner was because the Bede community is often ostracized in Bangladesh. Mr. Khan filed an information request to learn the criteria for qualifying for the program as well as a list of individuals benefiting from it. He did not receive the information within the allotted time frame, so he submitted a complaint to the Information Commission. A few days before the Information Commission hearing was scheduled to take place, Mr. Khan was called back to the Upazila Agricultural Office, given the information he sought, and learned that his information request had resulted in his case being reexamined and his name being added to the list of beneficiaries. The hearing still took place, and the agency was publicly chastised for failing to provide Mr. Khan with such easily available information in a timely manner.¹³ Information Commission hearings appear to be taken seriously by government authorities and even the threat of a hearing can cause agencies to reevaluate their position.

Notably, the Information Commission has imposed sanctions on government employees who wrongfully withhold information from – or create needless barriers for – Bangladeshi citizens exercising their right to information. A common criticism of the sanctions, though, is that the fines are not high enough to have a deterrent effect (the penalty is approximately \$0.65/day USD for each day past the information disclosure deadline up to a maximum of

approximately \$65 USD) and may need to be recalculated for maximum impact.

Critically, the Information Commission appears to have the support of the Bangladeshi courts. In 2012, the High Court of Bangladesh upheld a fine (of approximately \$12 USD) imposed by the Commission on a government official found to have improperly withheld information on a suspect in a murder case.¹⁴ This verification from the High Court is important for cementing a precedent for the Information Commission as a strong enforcement mechanism whose decisions are legally binding.

¹³The Power of Using the Right to Information Act in Bangladesh: Experiences from the Ground. "Canadian International Development Agency. (2013). The Benefits of Using the RTI Act in Bangladesh.pdf (accessed August 6, 2014).

¹⁴Bangladesh Court Upholds Penalty for Impeding Access. "Freedominfo.org: A Global Network of Freedom of Information Advocates. (2012). <http://www.freedominfo.org/2012/02/bangladesh-court-upholds-penalty-for-impeding-access/> (accessed August 7, 2014).

Pilot III Findings for Bangladesh

Aggregated Findings by Indicator

Table 1. Key for Findings

Key:	
color	significance:
	Green: administration has done well and has met the defined good practice
	Yellow: there has been some activity/engagement, but does not meet the defined good practice
	Red: administration has either not engaged or done very little to advance on this part of its implementation
	Black and white stripes: indicator is not applicable (n/a) in this agency

Table 2. Bangladesh Pilot Phase III Findings

Fundamental functions, Leadership													
#	Indicator question:	Bangladesh Agriculture		Bangladesh Customs		Bangladesh Education		Bangladesh Finance		Bangladesh Health		Bangladesh Justice	
1	Does an agency official with authority over policy actively participate in the creation, adoption, or review of ATI specific policy?	Finding: n/a		Finding: n/a		Finding: n/a		Finding: n/a		Finding: n/a		Finding: n/a	
		C		C		C		C		C		C	
2	How often does agency official with authority over policy participate in meetings with public officials responsible for ATI activities?	Finding: red		Finding: red		Finding: green		Finding: red		Finding: red		Finding: yellow	
		C		C		A		C		C		B	
3	Does the agency's strategic plan incorporate ATI, such as by including principles of access to information in goals, objectives, and/or outcomes?	Finding: red		Finding: green		Finding: red		Finding: red		Finding: red		Finding: red	
		B		A		B		B		B		B	

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Fundamental functions, Rules													
4	Does the agency create or adopt specific guidelines on ATI?	Finding: red	B	Finding: red	B	Finding: green	A	Finding: red	B	Finding: green	A	Finding: green	A
5	How often are ATI guidelines reviewed by an agency official with authority over policy?	Finding: red	C	Finding: n/a	D	Finding: n/a	D	Finding: n/a	D	Finding: n/a	D	Finding: n/a	D
6	How often are ATI guidelines revised by an agency official with authority over policy?	Finding: n/a	C	Finding: n/a	C	Finding: n/a	C	Finding: n/a	C	Finding: n/a	C	Finding: n/a	C
#	Indicator question:	Bangladesh Agriculture		Bangladesh Customs		Bangladesh Education		Bangladesh Finance		Bangladesh Health		Bangladesh Justice	
7	Does the agency make all guidelines available for reference?	Finding: red	C	Finding: red	C	Finding: yellow	B	Finding: red	C	Finding: red	C	Finding: red	C
8	Does the agency have a document(s) that establishes instructions for ATI implementation and/or operation?	Finding: red	C	Finding: red	C	Finding: red	C	Finding: yellow	B	Finding: red	C	Finding: red	C
9	Does the document(s) detailing instructions for ATI implementation and/or operation currently reflect the agency's ATI policy?	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B
10	Has the agency internally disseminated the document(s) detailing instructions for ATI implementation and/or operation?	Finding: red	C	Finding: red	C	Finding: red	C	Finding: green	A	Finding: red	C	Finding: red	C

Fundamental functions, Systems													
11	Does the agency's public outreach specifically include a component regarding ATI?	Finding: red	B										
12	Does the agency's public outreach specifically include information on ATI procedures?	Finding: red	B										

Fundamental functions, Resources													
13	Has one or more public official been formally tasked/appointed responsible for ATI functions and duties?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
14	Has the name of the public official(s) tasked/appointed responsible for ATI functions and duties been made known to the public?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
15	Does the public official(s) tasked/appointed responsible for ATI functions and duties have the authority needed to comply with ATI mandate?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
16	Does the public official(s) tasked/appointed responsible for ATI functions and duties have the time and staff needed to fulfill his/her ATI responsibilities?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: yellow	B	Finding: yellow	B
17	Does the public official(s) tasked/appointed responsible for ATI functions and duties and his/her staff receive specialized training on ATI?	Finding: yellow	B	Finding: red	C	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B
18	Are all public officials made aware of basic ATI principles?	Finding: red	D	Finding: red	D	Finding: yellow	C	Finding: red	D	Finding: red	D	Finding: red	D
#	Indicator question:	Bangladesh Agriculture		Bangladesh Customs		Bangladesh Education		Bangladesh Finance		Bangladesh Health		Bangladesh Justice	
19	Are training materials related to ATI created and maintained for future reference by public officials?	Finding: yellow	B	Finding: red	C	Finding: yellow	B	Finding: red	C	Finding: yellow	B	Finding: yellow	B
20	Does the public official(s) tasked/appointed responsible for ATI functions and duties have regular access to necessary equipment?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
21	Does the agency specifically allocate the financial resources necessary for fulfilling its ATI functions and duties?	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B	Finding: red	B

Fundamental functions, Monitoring													
22	Does the agency monitor its ATI functions and duties?	Finding: green	A										
23	Is an agency report on its ATI functions and duties prepared and released annually to the public?	Finding: green	A										
24	Does the agency's internal oversight body/auditing mechanism take into account ATI functions and duties?	Finding: green	A										
25	Does the agency's performance review take into account ATI?	Finding: green	A										

Fundamental functions, Wild Card													
26	In your expert opinion, in practice does the agency effectively fulfill its fundamental function related to access to information?	Finding: yellow	B										

Receive and Respond to Requests, Rules													
27	Has the agency created or adopted written guidelines for receiving requests?	Finding: red	C	Finding: red	C	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
28	Has the agency created or adopted written guidelines for processing requests?	Finding: red	C	Finding: red	C	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
29	Has the agency created or adopted written guidelines for responding (release or deny) to requests?	Finding: red	C	Finding: red	C	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
30	Has the agency created or adopted written guidelines for internal review?	Finding: red	C	Finding: red	C	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
#	Indicator question:	Bangladesh Agriculture		Bangladesh Customs		Bangladesh Education		Bangladesh Finance		Bangladesh Health		Bangladesh Justice	
31	Does the document(s) detailing instructions for implementation and/or operations have the necessary components for receiving and responding to requests?	Finding: red	C	Finding: red	C	Finding: red	C	Finding: yellow	B	Finding: red	C	Finding: red	C

Receive and Respond to Requests, Systems													
32	Has the agency created or adopted a system for logging and tracking requests and responses?	Finding: green	A										
33	Has the agency created or adopted a system for processing a request?	Finding: green	A										
34	Has the agency created or adopted a system for transferring requests to other agencies?	Finding: n/a	D										
35	Has the agency created or adopted a system for issuing and serving responses?	Finding: green	A										

Receive and Respond to Requests, Resources													
36	Is there a designated space, physical or virtual, for receiving and responding to requests?	Finding: green	A										

Receive and Respond to Requests, Monitoring													
37	Does the agency capture statistics related to receiving and responding to requests?	Finding: yellow	B										

Receive and Respond to Requests, Wild Card													
38	In your expert opinion, in practice does the agency effectively fulfill its function related to receiving and responding to requests?	Finding: yellow	B	Finding: yellow	B	Finding: green	A	Finding: yellow	B	Finding: yellow	B	Finding: yellow	B

Proactive Disclosure, Rules													
39	Has the agency created or adopted written guidelines for proactive disclosure?	Finding: red	C	Finding: red	C	Finding: red	C	Finding: red	C	Finding: red	C	Finding: red	C
40	Does the document(s) detailing instructions for implementation and/or operations have the components necessary for proactive disclosure?	Finding: red	C	Finding: green	A	Finding: red	C	Finding: green	A	Finding: yellow	B	Finding: red	C

Proactive Disclosure, Systems													
#	Indicator question:	Bangladesh Agriculture		Bangladesh Customs		Bangladesh Education		Bangladesh Finance		Bangladesh Health		Bangladesh Justice	
41	Has the agency created or adopted a system for proactive disclosure?	Finding: yellow		Finding: yellow		Finding: yellow		Finding: green		Finding: yellow		Finding: yellow	
			B		B		B		A		B		B

Proactive Disclosure, Resources													
42	Has one or more public official been formally tasked/appointed responsible for proactive disclosure functions and duties?	Finding: green		Finding: green									
			A		A		A		A		A		A
43	Does the public official(s) tasked/appointed responsible for proactive disclosure have the time and staff necessary to effectively fulfill his/her functions and duties?	Finding: green		Finding: green		Finding: yellow		Finding: yellow		Finding: green		Finding: green	
			A		A		B		B		A		A
44	Is the public official(s) responsible for proactive disclosure trained to comply with their duties?	Finding: yellow		Finding: red									
			B		B		B		B		B		C
45	Has the agency established space, physical or virtual, for public viewing of information proactively disclosed?	Finding: green		Finding: green									
			A		A		A		A		A		A

Proactive Disclosure, Monitoring													
46	Does the agency capture statistics related to proactive disclosure?	Finding: red											
			C		C		C		C		C		C
47	Does the agency monitor its proactive disclosure?	Finding: yellow											
			B		B		B		B		B		B

Proactive Disclosure, Wild Card													
48	In your expert opinion, in practice does the agency effectively fulfill its function related to proactive disclosure?	Finding: yellow		Finding: yellow		Finding: yellow		Finding: green		Finding: yellow		Finding: yellow	
			B		B		B		A		B		B

Records Management, Leadership													
#	Indicator question:	Bangladesh Agriculture		Bangladesh Customs		Bangladesh Education		Bangladesh Finance		Bangladesh Health		Bangladesh Justice	
49	Does an agency official with authority over policy actively participate in creation, adoption, or review of records management policy?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
50	Has the agency created or adopted an information policy for managing paper based and electronic information?	Finding: green	A	Finding: red	B	Finding: green	A	Finding: green	A	Finding: red	B	Finding: red	B

Records Management, Rules													
51	Has the agency created or adopted written guidelines for records management, regardless of format (including electronic records, maps etc.)?	Finding: green	A										
52	Has the agency created or adopted written guidelines for classification of documents?	Finding: green	A										
53	Does the document(s) detailing instructions for implementation and/or operations for a records-management system have the necessary components?	Finding: green	A										

Records Management, Systems													
54	Has the agency created or adopted a system for classifying documents?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
55	Has the agency created or adopted a system to manage its paper records?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
56	Has the agency created or adopted a system to manage its electronic records?	Finding: red	C	Finding: red	C	Finding: red	C	Finding: yellow	B	Finding: green	A	Finding: red	C
57	Has the agency created or adopted a system to retrieve and access paper records?	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A	Finding: green	A
58	Has the agency created or adopted a system to retrieve and access electronic records?	Finding: red	C	Finding: red	C	Finding: red	C	Finding: yellow	B	Finding: yellow	B	Finding: red	C

Records Management, Resources													
#	Indicator question:	Bangladesh Agriculture		Bangladesh Customs		Bangladesh Education		Bangladesh Finance		Bangladesh Health		Bangladesh Justice	
59	Has one or more public official been formally tasked/appointed responsible for records management?	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A
60	Does the public official(s) tasked/appointed responsible for records management functions and duties have the time and staff needed to fulfill his/her responsibilities?	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A
61	Does the public official(s) tasked/appointed responsible for records management and his/her staff receive specialized training on records management?	Finding: yellow	 B	Finding: yellow	 B	Finding: yellow	 B	Finding: yellow	 B	Finding: yellow	 B	Finding: yellow	 B
62	Are all public officials made aware of basic records management procedures?	Finding: yellow	 B	Finding: yellow	 B	Finding: yellow	 B	Finding: yellow	 B	Finding: yellow	 B	Finding: yellow	 B
63	Has the agency created space for storage (including electronic records) and archives of records?	Finding: yellow	 B	Finding: green	 A	Finding: yellow	 B	Finding: green	 A	Finding: yellow	 B	Finding: yellow	 B

Records Management, Monitoring													
64	Does the agency monitor its records management system?	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A

Records Management, Wild Card													
65	In your expert opinion, in practice does the agency effectively fulfill its function related to records management?	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A	Finding: green	 A

Ministry/Agency Summary of Findings

Table 3. Ministry of Agriculture

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement  Strategic Planning 			Engagement 
Rules (guide)	Guidelines  Instructions/plans 	Guidelines for receiving/processing  Guidelines for responding  Guidelines for internal review  Instructions/plans 	Guidelines  Instructions/plans 	Guidelines  Instructions/plans 
Systems (order)	Public awareness raising 	System for receiving/processing  System for transfer/responding 	System for proactive disclosure 	Classification  Manage Records  Retrieve Records 
Resources (enable)	Staffing  Training  Infrastructure  Budget 	Infrastructure 	Staffing  Training  Infrastructure 	Staffing  Training  Infrastructure 
Monitoring (adjust)	Internal oversight  Reporting  Performance monitoring 	Capturing of statistics 	Capturing of statistics  Reporting 	Reporting 
Wildcard	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 

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Table 4. Customs Agency

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement Strategic Planning			Engagement
Rules (guide)	Guidelines Instructions/plans	Guidelines for receiving/processing Guidelines for responding Guidelines for internal review Instructions/plans	Guidelines Instructions/plans	Guidelines Instructions/plans
Systems (order)	Public awareness raising	System for receiving/processing System for transfer/responding	System for proactive disclosure	Classification Manage Records Retrieve Records
Resources (enable)	Staffing Training Infrastructure Budget	Infrastructure	Staffing Training Infrastructure	Staffing Training Infrastructure
Monitoring (adjust)	Internal oversight Reporting Performance monitoring	Capturing of statistics	Capturing of statistics Reporting	Reporting
Wildcard	Researcher Blind Peer Reviewer	Researcher Blind Peer Reviewer	Researcher Blind Peer Reviewer	Researcher Blind Peer Reviewer

Table 5. Ministry of Education

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement  Strategic Planning 			Engagement 
Rules (guide)	Guidelines  Instructions/plans 	Guidelines for receiving/processing  Guidelines for responding  Guidelines for internal review  Instructions/plans 	Guidelines  Instructions/plans 	Guidelines  Instructions/plans 
Systems (order)	Public awareness raising 	System for receiving/processing  System for transfer/responding 	System for proactive disclosure 	Classification  Manage Records  Retrieve Records 
Resources (enable)	Staffing  Training  Infrastructure  Budget 	Infrastructure 	Staffing  Training  Infrastructure 	Staffing  Training  Infrastructure 
Monitoring (adjust)	Internal oversight  Reporting  Performance monitoring 	Capturing of statistics 	Capturing of statistics  Reporting 	Reporting 
Wildcard	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 

Table 6. Ministry of Finance

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement   Strategic Planning 			Engagement  
Rules (guide)	Guidelines    Instructions/plans   	Guidelines for receiving/processing   Guidelines for responding  Guidelines for internal review  Instructions/plans 	Guidelines  Instructions/plans 	Guidelines   Instructions/plans 
Systems (order)	Public awareness raising  	System for receiving/processing   System for transfer/responding  	System for proactive disclosure 	Classification  Manage Records   Retrieve Records  
Resources (enable)	Staffing     Training    Infrastructure  Budget 	Infrastructure 	Staffing   Training  Infrastructure 	Staffing   Training   Infrastructure 
Monitoring (adjust)	Internal oversight  Reporting   Performance monitoring 	Capturing of statistics 	Capturing of statistics  Reporting 	Reporting 
Wildcard	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 

Table 7. Ministry of Health

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement  Strategic Planning 			Engagement 
Rules (guide)	Guidelines  Instructions/plans 	Guidelines for receiving/processing  Guidelines for responding  Guidelines for internal review  Instructions/plans 	Guidelines  Instructions/plans 	Guidelines  Instructions/plans 
Systems (order)	Public awareness raising 	System for receiving/processing  System for transfer/responding 	System for proactive disclosure 	Classification  Manage Records  Retrieve Records 
Resources (enable)	Staffing  Training  Infrastructure  Budget 	Infrastructure 	Staffing  Training  Infrastructure 	Staffing  Training  Infrastructure 
Monitoring (adjust)	Internal oversight  Reporting  Performance monitoring 	Capturing of statistics 	Capturing of statistics  Reporting 	Reporting 
Wildcard	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 	Researcher  Blind Peer Reviewer 

Table 8. Ministry of Justice

	Fundamental Functions	Receive and Respond to Requests	Proactive Disclosure	Records Management
Leadership (directs)	Engagement Strategic Planning 			Engagement
Rules (guide)	Guidelines Instructions/plans 	Guidelines for receiving/processing Guidelines for responding Guidelines for internal review Instructions/plans 	Guidelines Instructions/plans 	Guidelines Instructions/plans
Systems (order)	Public awareness raising 	System for receiving/processing System for transfer/responding 	System for proactive disclosure 	Classification Manage Records Retrieve Records
Resources (enable)	Staffing Training Infrastructure Budget 	Infrastructure 	Staffing Training Infrastructure 	Staffing Training Infrastructure
Monitoring (adjust)	Internal oversight Reporting Performance monitoring 	Capturing of statistics 	Capturing of statistics Reporting 	Reporting
Wildcard	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer 	Researcher Blind Peer Reviewer

Focal Group Narrative¹⁵

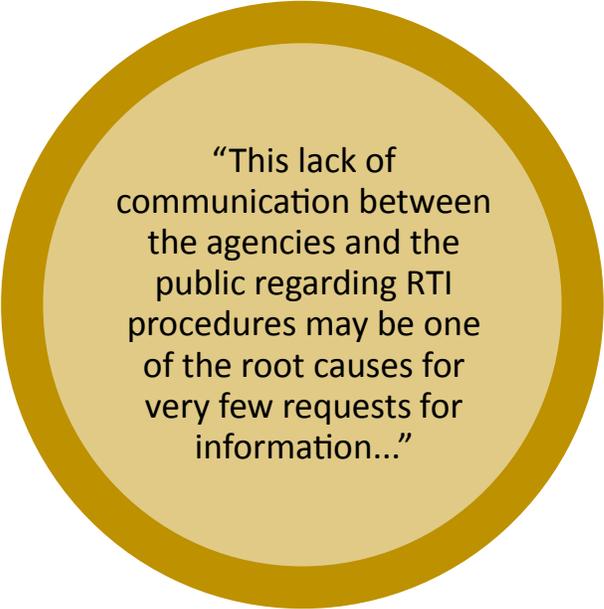
Researcher Mohammed Sirajul Islam met with six civil society members in order to validate the preliminary findings and to assure that these findings accurately reflected the realities of RTI implementation in Bangladesh. Overall, the focal group participants agreed with the findings of the Implementation Assessment Tool, as well as identifying important issues beyond implementation that have important impacts on RTI in Bangladesh. For example, while civil society leaders described both positive and negative experiences in requesting and receiving information, they opined that the decision to disclose information or not commonly depends on the type of information sought. Focal group participants noted that agencies have refrained from disclosure of sensitive information, without even issuing denial notices to the applicants. “Such avoidance of public agencies is quite intentional,” said one journalist.

Although the Designated Information Officer (DIO) is legally empowered to disclose information, ultimately the decision-making power regarding disclosure seems to emanate from his/her hierarchical superiors. This reality stems from long-held practices under The Official Secrets Act of 1923. Moreover, steps undertaken by public agencies to fulfill RTI mandates are not wide-ranging. Firstly, while they have appointed DIOs to respond to requests, efforts to publicize their contact information have been limited. None of the piloted agencies have posted the contact information of their DIO on their website. Instead, information seekers must either call a ministry official or visit the Information Commission’s website. This lack of communication between the agencies and the public regarding RTI procedures may be one of the root causes for very few requests for

information, and because of the insignificant number of requests, it is difficult to assess the ministries’ disclosures in response to requests.

Secondly, the focal group members concurred stating that DIOs do not appear to have a clear understanding of the RTI legislation. As noted in the IAT findings, the training provided to DIOs is inadequate and those who are well-trained are often transferred. However, the Bangladesh Public Administration Training Center has incorporated RTI into existing training modules, which is expected to enhance public officials’ familiarity with information transparency.

There also are problems associated with the cooperation of officials who retain information and



“This lack of communication between the agencies and the public regarding RTI procedures may be one of the root causes for very few requests for information...”

¹⁵The focal group findings were drawn from the narrative drafted by researchers Mohammed Sirajul Islam and Rizwan Khair, and the views are based on interviews of six civil society members, including journalists and NGO leaders.

data readiness. Very few public officials are aware about RTI and records are managed manually. As a result, at least one activist received inconsistent information on the same issue from two government agencies. Moreover, local agencies are facing logistical constraints to preserve records in traditional manner.

Focal group participants indicated that implementation of RTI legislation has fallen short of its goal to break the culture of secrecy in the Bangladeshi government. Therefore, CSO members provided a number of relevant suggestions to support the government in fulfilling its RTI mandates effectively and comprehensively. The participants recommended that the government identify a select number of ministries as models for RTI implementation; establish advanced and repeated trainings for DIOs, proactive disclosure officials and authorities to focus their mindset on information transparency; and, provide financial support to agencies to help them collect information with the purpose of disclosure. In terms of raising awareness about the right to information, it was suggested that more emphasis be placed on informing citizens about RTI by having ministries display their DIO's name and contacts on their website; take advantage of the promotional role of center executive agencies such as Cabinet Division and Ministry of Public Administration; and, engage the media to publish stories related to non-response.



“Focal group participants indicated that implementation of RTI legislation has fallen short of its goal to break the culture of secrecy in the Bangladeshi government.”

Summary of Findings¹⁶

Despite the passage of five years since the enactment of right to information legislation, public agencies in Bangladesh do not appear to consider its implementation as part of their mainstream functions. Based on the findings from the IAT application in six public agencies in Bangladesh, including the Ministry of Agriculture, Ministry of Education, Finance Division, Ministry of Health, Law and Justice Division and the Customs Agency, it appears that the agencies have not made significant progress in implementing and operationalizing the Act. Their preparedness in terms of demonstrating policy commitment, formulating detailed operational procedures, creating public awareness within and outside the agencies, setting internal mechanisms and mainstreaming records management procedures is insufficient for the effective fulfillment of its RTI mandates. As a result, in many agencies their current practices seem to closely resemble those from before the enactment of RTI legislation.

Leadership and Guidance

Information policy is necessary in order for governments to demonstrate their commitment to transparency. However, these agencies do not have the authority to issue such policy. As per the Rules of Business, 1996 – a policy document which distributes functions among ministries – this authority lies only with the Ministry of Information, which has not issued any information policy. Nonetheless, the agencies could show their commitment to RTI implementation by including transparency provisions and/or RTI in respective strategic planning documents and guiding RTI related officials through the process of disclosing information. Unfortunately, of all the agencies assessed, only Customs has set any strategic goal on information disclosure. Its strategic planning document titled “Outline of Modernization Plan

(2011–16)” proposed an efficient, integrated national tax accounting network that will correctly account for, reconcile, and record tax payment information . . . and make visible this information in real time basis to taxpayers and to all stakeholders. The Plan also incorporated disclosure under the title of 'Strategic Communication and Taxpayer Outreach, Education and Assistance.' This type of strategic declaration helps the agency to promote information transparency in the public sector.

Since administrative set-up within ministries is hierarchical, the guidance of high-level officials encourages RTI officials to fulfill their designated functions effectively. Information disclosures ultimately depend on the willingness of these officials. Among the agencies assessed, only the Ministry of Education organized briefing sessions on RTI for its officials and its Secretary frequently met with Ministry’s designated information and pro-active disclosure officials in order to promote implementation of RTI law. High-level officials in other ministries rarely sat with RTI officials, unless special circumstances had arisen regarding disclosures in response to requests. Furthermore, the piloted agencies did not develop any periodic calendar for meeting between policy level officials and RTI operative personnel.

Unlike other FOI functions, with regard to records management, the piloted agencies actively participated in the development of new policies and/or review of old policies within the auspices of inter-ministerial consultations. More importantly, the policy level officials within piloted agencies have undertaken steps to adopt records

¹⁶The summary of findings was largely drawn from the narrative drafted by researchers Mohammed Sirajul Islam and Rizwan Khair.

management policies and guidelines properly in their respective agencies.

Rules and Guidelines

Together, the 2009 Right to Information Act, the RTI Rules framed by the Ministry of Information, and a set of regulations promulgated by the Information Commission dictate the mandates and procedures of information disclosures. As such, agencies are obliged to adopt, rather than create rules in the case of receiving, processing and responding to requests. All of the assessed agencies have adopted these general rules, and most have at least partially implemented RTI regulations regarding pro-active disclosures.

While the agencies do not have authority to revisit these rules or regulations, they can issue separate disclosure guidelines by contextualizing the RTI Act, rules and regulations. RTI law, rules and regulations have generally outlined information disclosures and do not take into consideration the variations found in agencies. DIOs would benefit from the development of agency-specific guidelines that explain what type of requests should be approved and rejected. To date, no such initiatives have been undertaken by the piloted agencies; notably, the Anti-Corruption Commission (an agency not assessed) has prepared its own unique RTI guidelines.

Most of the assessed agencies did not incorporate RTI in their operational plans, namely, 'Job description of the Ministry,' 'List of work distribution,' and 'citizen charter.' The only exception is the Finance Division, which added request-driven provision of information in its 'List of Work Distribution' document. This agency also distributed this document internally and posted it to their website, which resulted in easier identification of the official(s) responsible for RTI implementation by the other agency officials and the general population.

In contrast, responsibility for publication schemes and website management has been specified in work distribution planning documents. For example, System Managers/Analysts are delegated to look after website maintenance.

Systems

Systems for RTI legislation implementation include three main components: the agency's public outreach regarding RTI procedures, methods of responding to requests and making pro-active disclosures, and tracking the agency's rate of response. Despite the fact that each agency has systems for public outreach including periodic publications and a website, none include a RTI component.

In response to requests for information, the relevant DIO collects requested information/documents and delivers them in the applicant's preferred method (email or hard copy), or sends the applicant a denial notice. Bangladeshi RTI law does not allow the transfer of requests. The agencies appear to have sufficient systems in place for organizing and tracking requests, with all FOI-related activities recorded in files and compiled by each agency's RTI unit. Each file has a specific number with which anyone can track requests and responses.

With respect to proactive disclosures, the ministries place their documents and decisions in the public domain through their websites, newspaper notifications and issue-based publications. For example, on the Ministry of Health's website, new documents and decisions are added and previously disclosed documents are archived. Among the piloted agencies, the Finance Division's website is the most updated and has the richest and most varied information. Proactive disclosure has improved in many of the assessed agencies. For example, ministry

websites now contain a list of all public officers with contact details, which facilitates communication between citizens and public officials. The websites provide sufficient proactive disclosure for urban, educated people, but are less effective in getting proactively published information to the rest of Bangladeshis. Many of the ministries assessed as part of the IAT pilot also organize information in a systematic manner in libraries, but since these have restricted access, citizen's seeking information in the libraries must secure permission from the agency in question.

The piloted agencies have established systems to classify documents and manage paper-based records with a retrieval system. After a decision is made regarding an information request, the Section Officer classifies it into a particular class and it is sent to the Administrative Officer for recording and indexing. Each ministry prepares an annual index of files, which the Secretariat Record Room compiles into a consolidated index of the whole secretariat.

This records management system is primarily paper-based in all piloted agencies. Except for the allocation of a digital number to every agency, little progress has been made towards the establishment of an electronic records management system. The Finance Division has established digital filing software that is in beginning stages of development and the Ministry of Health introduced an e-application for medical doctors.

Resources

The piloted agencies formally conferred responsibility to receive and respond to requests upon civil servants, in addition to their regular duties. The Law and Justice Division appointed a junior civil servant as DIO and other agencies assigned mid to senior level officials for demand driven disclosures. Moreover, each agency has formed an internal appellate authority with a secretary responsible for receiving appeals from information seekers. Other than the DIO and the appellate authority,

there is no staff officially appointed to undertake and discharge RTI duties in the ministries assessed. According to the DIOs, it is not urgent to hire RTI staff given the low volume of requests at the present time. As the number of requests for information increases, however, there may be a need for the appointment of staff dedicated to RTI duties. RTI legislation also compels the authority within each agency to make proactive disclosures. The agencies designate ICT officials to maintain their websites and issue-based publications.

Formal designations of DIOs and appellate authorities are shared internally within agencies. In addition, their names are forwarded to the Information Commission, which uploads their names along with contact details on its website. But the names and contact details are not effectively shared with the general public. While information seekers can identify DIOs by calling the pertinent agency or browsing the Information Commission's website, the agencies should also publicize the contact details of their DIO on their respective website.

The agency's DIO is vested with the authority to respond to requests for information. They can obtain information from any official in their agency, but in light of the hierarchical structures of the agencies, DIOs are required to consult with their functional supervisor before any final response to a request is delivered. Given that information disclosure is a radical change from the culture of secrecy that previously existed, DIOs need to be familiarized with information disclosure techniques and procedures. Training on communication and outreach skills and annual reporting is non-existent and website management capacity enhancement is very infrequent, relying on web courses taken at University. Therefore, it can be said that ministries' capacity are insufficient to fulfill RTI functions effectively.

Moreover, to comprehensively implement RTI legislation, there needs to be a change in mindset and cooperation of all employees. Training and sensitization workshops are supporting of the shift from a culture of secrecy to openness. Accordingly, the Ministry of Education organized two sensitization workshops for its Secretariat and field level officials in 2012, other agencies assessed have not undertaken any initiatives aimed at changing its officials' mindsets regarding information disclosures.

The human resource planning for records management is well-established in all piloted agencies. They received training on records management from public training institutes, and learned through on-the-job training. The Law and Justice Division has formed a committee for office automation and the Customs Agency is implementing an Integrated Tax Administration Software Project and an Integrated Revenue Management Program to automate certain office activities. The transformation from a paper-based records management system into an electronic one will require additional equipment and IT training for existing officials.

The agencies have ensured the availability of other infrastructure, namely websites, computers with internet capacity, and scanners and photocopiers to be used for the sake of information disclosure. While the agencies have not included RTI expenditures in their budgets, it appears that the existing personnel, infrastructure and equipment are used to serve the purposes of RTI and to date the general budget of each Ministry has covered the costs for these components.

Monitoring

According to the findings of the IAT, the agencies have conducted inspections to scrutinize performance of its activities only very periodically. Positively, these inspections, which were carried out by supervising officials of the concerned sections, produced reports including findings and recommendations for

better performance. Such reports were discussed in each ministry's coordination meeting. RTI duties also are accounted for in the annual evaluation of civil servants, the Annual Confidential Report.

None of the agencies have systematically captured statistics related to proactive disclosures. On the other hand, each ministry has prepared a report on the number of requests and denials made each year, which is then compiled into a comprehensive annual report by the Information Commission. While the agency could issue its own annual RTI report, none have done so to date.

With regard to their records management units, agencies have conducted regular monitoring (even though less frequently than stipulated in the *Secretariat Instructions, 2008*). Components under review include the classification of records, record entry and indexing procedures, proportional rate of unclassified files, and weeding out unnecessary files. Findings along with recommendations are compiled in reports and are discussed in coordination meetings of the ministry. Negligence of records management officials, if highlighted in an inspection report, leads to poor marks in their annual performance assessment.

Conclusion

The piloted agencies lack the critical capacity infrastructure – training, publicity, guiding documents, and commitment – to fulfill RTI mandates. Their willingness to enhance capacity is not always apparent. Since RTI functions are performed by Designated Officers who also have other duties, their RTI responsibilities are often not prioritized; and with the agencies, other than the Customs Agency, located in publicly restricted areas they do not communicate with

citizens about information disclosure procedures. Thus, without awareness or support, citizens do not take advantage of their right to information. In addition, the agencies' current web-based proactive disclosures do not reach the vast majority of citizens given the low rate of Internet access (approximately 4 percent). Therefore, the agencies need to undertake specific steps on the basis of the above findings in order to facilitate the effective implementation of RTI.

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