



## IMPLEMENTATION ASSESSMENT TOOL<sup>1</sup> METHODOLOGY MANUAL

The international trend of passing access to information legislation continues, with approximately 110 countries claiming a statutory right to information. However, many of these countries are failing to fully and effectively implement their law, and until now there has been 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 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.

Therefore, The Carter Center developed 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/agencies assessed. 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 a contribution for each public agency in which it is applied, and not as a comparative index across countries.

The IAT looks at “the boring bits<sup>2</sup>,” the necessary ingredients 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 ATI implementation in each government agency. It also signals where there is a need for additional inputs or focus, so that the public administration may overcome challenges and positively advance in their implementation efforts.

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

Thus, 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 and in some cases quality 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.

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

Beginning in 2009/2010, the Center's Rule of Law Program 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. In the spring of 2013, the Center finalized Pilot Phase II, including four new pilot countries- Chile, Indonesia, Scotland, and Uganda. Pilot Phase III completed in 2014, and included all of the previous countries plus Georgia, Jordan, Guatemala and the United States. Following each pilot phase, the Center conducted review meetings to refine the tool and methodology. Through these expert meetings and consultations, the IAT has evolved into a tool that benefits from great legitimacy and that can be widely used to identify implementation progress and areas for additional focus.

Since the methodology and indicators were finalized in 2014, the IAT has been applied to six additional countries, most recently in Honduras and Bermuda. Around the world, the IAT has been the basis for discussion of access to information legislation implementation, including the debate over indicators for the Sustainable Development Goal 16.10.

This document is a draft instructional manual meant to provide a better understanding of the tool's antecedents and methodology.

## **DEVELOPING AND PILOTING THE IAT**

For over four years, the Center created the Implementation Assessment Tool through desk research, consultant support, application in pilot countries, and peer reviews. The methodologies and indicators have undergone extensive validation in advance of their application. Before finalizing

## Developing the IAT

As a first step in 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. Additionally, we did an extensive literature review related to FOI implementation as well as around issues of public policy and administration. Again, there were few articles or studies related to these issues of implementation. Based on the research, we developed a preliminary 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 inaugural 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, which had included considering implementation in a series of phases<sup>3</sup>.

The initial two days of robust discussion established the importance of the IAT; but also highlighted a number of potential problems and risks associated with an

legislation implementation. As we had anticipated, there are very few national implementation plans from which to draw indicators and no recognized best standards for implementation. This signified an increased emphasis on developing what we considered the key elements for full and effective implementation and good practices, and required spending additional time in vetting those 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 more recently passed access to information law. This mandate forced us to verify that each indicator is valid in a variety of diverse contexts. Finally, without additional research and knowledge, there was no way to determine which implementation activities are the most critical, and thus no objective means for weighting the indicators. Therefore, each of the IAT indicators is weighted equally; although for some areas there is more than one indicator thus incidentally apportioning some factors greater relevance.

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.

With the help of many 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 series of indicators were developed. As described in greater detail below, the x



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 Information Commissioner(s), which use the term “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 in-country review of 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 added a blind peer review for Pilot Phase II. The multiple reviews, both independent blind peer reviews and the focus groups/interviews, helped to assure the reliability of the tool and its findings.

## **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<sup>4</sup>. The local researchers tested the tool in the original six Ministries, as well as a seventh agency, which was included in order to assure the efficacy of the tool in smaller less resourced public agencies.

For Pilot Phase II, we engaged the \_\_\_\_\_ platform, developed by Global Integrity, for data collection and project management. \_\_\_\_\_ allowed the researchers and blind peer reviewers to input their findings online and for the Carter Center to review each of the findings and commentary, and to pose additional clarifying questions. Once the data was submitted by the researcher and reviewed by the Center and the blind peer reviewer, the Carter Center analyzed the findings and created presentations for researchers to share with the focal groups, the second in-country level of review. The researchers completed their work with the submission of four narratives, including country context, summary of findings, reflections on the indicators and IAT methodology, and focal group discussions. Pilot Phase II culminated

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<sup>4</sup> The original researchers from Pilot Phase I agreed to continue into Pilot Phase II and to apply the revised indicators, thus identifying whether the amendments to the indicators provided for a more accurate and comprehensive picture of the extent and quality of implementation.



necessary components identified by international experts as crucial for achieving success, the IAT measures government capacity to fulfill all duties and responsibilities demanded by the implementation of a vibrant ATI 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. As stated above, and which bears repeating, **in developing the indicators, there was no universal consensus or norm on what constitutes access to information implementation “good practices”**. This fact is useful in understanding the limitations and capacities of the tool.

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.

Experience has demonstrated that governments are not monolithic and not all parts of government are as successful (or unsuccessful) as others. It is misleading to characterize a government as succeeding or failing in implementation. Therefore, the IAT will target assessments to individual 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 chose not to develop the findings as 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





applied. Moreover, when leadership identifies access to information implementation as a priority, it sends a posit

## i) **ATI Policies, Regulations, and Guidelines**

Every public agency establishes its goals and prioritizes its objectives regarding specific issues by setting what is defined as policies. Those policies are distinguishable from 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, priorities, and activities. Often includes such criteria as:

- identify principles or objectives

- implications for resource allocation (human and financial)

- Actionable; it must be written in a way that orients course of action/activity

- High-level, adopted by senior management, strategy oriented

**Regulations:**





**The Carter Center  
 Access to Information Legislation Implementation Assessment Tool (IAT)<sup>™</sup>  
 Indicators Framework**

	Fundamental functions	Receive and Respond to Requests	Proactive Disclosure	Records management
Leadership (directs)	Engagement Strategic planning			Engagement Policy
Rules (guide)	Guidelines Instructions/plans	Guidelines for receiving/processing Guidelines for responding Guidelines for internal review	Guidelines	Guidelines Instructions/plans

## METHODOLOGY

The indicators engage both quantitative and qualitative assessments of the comprehensiveness and quality of the ministries/agencies' access to information implementation.

The indicators are scored on a "stoplight method," with a scale including green, yellow, red, and black and white (for those rare cases where the indicator will not apply). In using the stoplight methodology, we 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

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

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relevant public officers. As these indicators have the greatest potential for bias, we have tried to limit their use in the IAT and will rarely serve as the preferred data point; and 2) Document based indicators, which