Findings from Select Agencies:
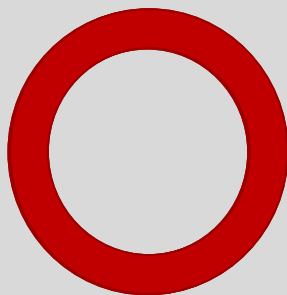# NIGERIA

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

IAT Implementation Assessment Tool

MAKING ALL VOICES COUNT
A GRAND CHALLENGE FOR DEVELOPMENT

Media Rights Agenda

THE CARTER CENTER

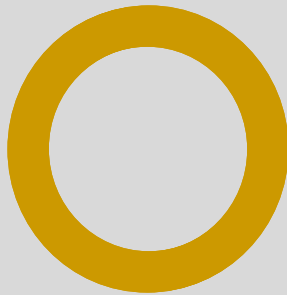# Findings from Select Agencies: Nigeria

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

April 2016

Group of young women in Askoro in Abuja, Nigeria courtesy of Mark Fischer (own work) at Flickr [GFDL.

Contents

Acknowledgments

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 over 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 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 16 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 four 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 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
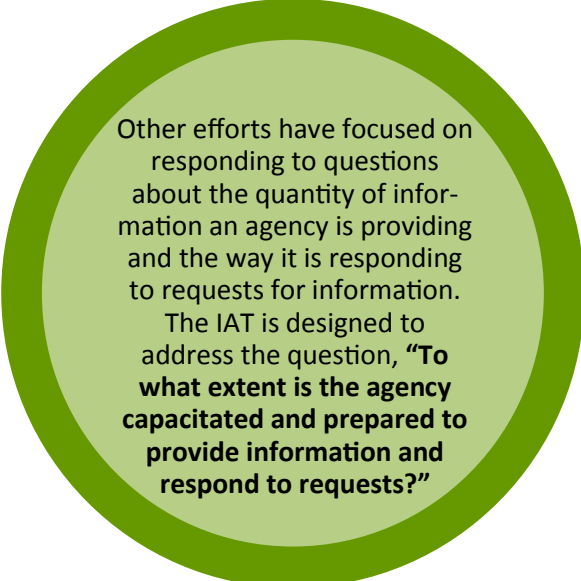
The objectives of the access to information legislation Implementation Assessment Tool are to:

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 bits[1]," 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

Other efforts have focused on responding to questions about the quantity of information an agency is providing and the way it is responding to requests for information. The IAT is designed to address the question, **"To what extent is the agency capacitated and prepared to provide information and respond to requests?"**

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 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.

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

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

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." 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?

From these discussions and considerations emerged the tool's framing question: "**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 absence of consensus signaled the need for an increased emphasis on vetting determinations on good practice 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 is valid in a variety of disperse contexts.

With the initial design of the IAT completed, The Carter Center convened a broader based group of ATI 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 inputs ("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.

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 pilot phases in light of the significant modifications of the indicators following each pilot phase. Thus, 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 (professionalize versus more partisan)
- Contrasting development status/income level
- Availability of social scientists/civil society leaders to undertake the study
- Existing data sets or studies related to access to information
- Political will/interest
- Divergent participation in the Open Government Partnership

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 overall ATI regime
- A mix of ministries and agencies, in particular public agencies of varying size and resources

Ultimately, the ministries/agencies selected for assessment in Uganda's pilot phase II and III were Agriculture, Customs, Education, Finance, Health, Justice, and Statistics.

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 phases I and 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, 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 pilot phase III 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 and presented the IAT to the community of practice.

Overall, during the three phases of piloting, the IAT had been applied in six to seven agencies in eleven countries, with many of the countries assessed more than once, resulting in the review of over 8,000 individual indicators.

For a more comprehensive explanation of the IAT methodology and piloting, please see:

http://www.carter center.org/ peace/ati/IAT/ index.html

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.

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 designed to measure outputs/compliance, its methodology does not include the systematic filling of requests for information.

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 an access to information law, public agencies need a number of verifiable components. These components are assessed by a set of indicators that can be observed through different data-points or sources of information. The components are the bone and marrow of access to information implementation, and include leadership, rules, procedures, resources, and monitoring.

Key Elements

The key elements are those actions that have been identified as necessary for supporting successful implementation, and each element is accompanied by an indicator. 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, include whether the agency has established, reviewed, and revised access to information policies and guidelines; the issuance of plans/instructions for the implementation and institutionalization of the access to information regime; the identification of

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.

- **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;[2] and 2) document-based indicators that require desk research or onsite verification of different documents and/or sources of information. While we tried to limit the number of questions that relied solely on interviews, as they have the greatest potential for bias, in practice the researchers often used interviews (sometimes coupled with secondary data) as their primary data source.

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.

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[2] 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.

Country Context[4]

The Nigerian Freedom of Information Act will be five years old on May 28, 2016, having been signed into Law by then President Goodluck Jonathan in 2011. The Act guarantees "the right of any person to access or request information" in the custody of any public institution, notwithstanding anything contained in any other Act, law or regulation and regardless of the form in which the information may be stored.

The Freedom of Information Act (FOI) defines public institutions to include all agencies if the state as well as private bodies which perform public functions, provide public services or utilize public funds. Thus, the Act is quite broad and ensures that private entities meeting the definition above fall within its scope. While it is clear that the law applies to all arms of government, namely the Executive, Legislature and Judiciary as well as to all government agencies and companies or corporations wholly or partially owned by government or in which government has controlling shares, a huge controversy has raged since the adoption of the Law on whether it applies to public institutions outside the Federal Government, namely states and local governments.

This issue has been heavily litigated and, at the moment, six different courts of coordinate jurisdiction have given their verdict on the matter, with three of them deciding that the Act applies to public institutions at Federal, State and Local Government levels while three other courts have ruled that it is only applicable to public institutions at the Federal level. At least three separate appeals are pending on the matter.

The Act continues to face other challenges, including non-compliance by virtually all public institutions with their proactive disclosure obligations; the failure of most public institutions to submit annual implementation reports to the Attorney-General of the Federation, as required by the Act; and the widespread low level of responsiveness across public institutions to requests for information from the public.

Clearly, the law has not achieved the expected level of implementation both in terms of the number of citizens using the law to make requests for information from public institutions and how well public officials are responding to the applications for information. Although the level of implementation has improved progressively over the years, the status of implementation and enforcement remains unsatisfactory. In addition, the bulk of the requests for information continue to be made more by civil society organisations than ordinary citizens or even the media.

Discerning the level of implementation and compliance has been difficult, as the agencies have largely failed to meet their mandatory reporting requirements. Section 29 of the Act requires all public institutions to which the Act applies to submit annual reports on their implementation of the Act to the Attorney-General of the Federation no later than February 1 of each year, and the Attorney-General in turn has to submit a consolidated report to the National Assembly on or before April 1 of every year. The reports that the Attorney-General has submitted to the National Assembly each year since 2012 reveal a worrying level of non-compliance.

Assuming that the Act applies only to Federal public institutions alone, there are over 800 public institutions at the Federal level in Nigeria to which the FOI Act applies. At the State level, the number runs into thousands. However, in his 2012 report covering the implementation of the Act in

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[3] The country context was largely drawn from the narrative drafted by researcher Edet Ojo and the MRA team.

2011, the Attorney-General indicated that only public institutions submitted their annual reports.

In the 2013 report covering 2012, 32 public institutions turned in their reports. The situation improved in his 2014 report covering the year 2013 with 51 public institutions reported to have submitted their reports. The 2015 report covering the year 2014 recorded 60 public institutions as having submitted their reports, still less than 10% of all mandated agencies.

Public institutions are more likely to deny requests for information than release information to requesters. This attitude is due to a number of factors, including the entrenched culture of secrecy in public service and the bureaucratic nature of the nation's civil service that requires officers to divulge information only after being expressly permitted to do so by a higher authority.

In 2015, Mr. Mohammed Bello Adoke, a senior advocate of Nigeria and then Attorney General of the Federation, listed in his 2014 report to the National Assembly, a number of additional challenges confronting the full and effective implementation of the law. These include the general lack of funding for freedom of information activities across government institutions; general apathy among the operators of the Act worsened by high level of ignorance of its provisions and their obligations under the Law; late response to freedom of information requests as against the seven-day time limit provided by the law due to lack of necessary framework for enforcing compliance with the timeframe; the challenge of bottlenecks in some public institutions; the lack of coordinated training of concerned public officials; and the poor record keeping practices of public institutions.

However, it is clear that other factors are also relevant and contribute to the poor level of implementation of the Act. Although given oversight responsibility by the Act, the Attorney-General is not an independent Information Commissioner. An Attorney-General in Nigeria is a political appointee and combines the office with that of the   Minister of Justice. Being saddled with the oversight responsibility for the implementation of the FOI Act, therefore, over-burdens the office, in addition to the obvious potential for political interference with his work.

Moreover, the Act does not allow for administrative redress mechanisms for requests that are denied. The law only provides for requesters who are denied access to information to go to court to seek redress. Since it is very expensive for ordinary citizens with limited resources to pursue legal redress, the judicial review process is not an effective remedy. Thus, most refusals are never challenged even when there is clearly no justification. Even in cases where requesters who are denied access to information have chosen to challenge such denials in court, the courts are already so over-burdened courts that they are unable to deal with the cases speedily with the result that it takes over one year on the average to resolve a case.

Virtually all the public institutions are failing to abide by their obligations under the Act, including the mandate to provide appropriate training for their officials on the public's right of access to information or records held by government or public institutions; the requirement that they record and keep information about all their activities, personnel, operations, businesses, etc.; their duty to proactively publish certain types of information, even without anyone requesting them; and the requirement that they properly organize and maintain all information in their custody in a manner that facilitates public access to such information, among others.

There also is no institution or agency charged by the Act with sensitizing members of the public about the existence of the Act and how to use it. Public enlightenment and sensitization activities about the Act have largely been undertaken by civil society organizations, whose efforts and constrained and limited by lack of resources and capacity to cover a huge country with a population of about 170 million people.

Consequently, within this context, the benefits of the FOI have failed to reach the majority of Nigerians with the promise of the right to information remaining largely unfulfilled.

Findings for Nigeria

Aggregated Findings by Indicator

Table 1. Key for Findings

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

Table 2. Nigeria Findings

Fundamental Functions: Leadership

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
1	Does the agency's strategic plan incorporate ATI, such as by including specific mention of access to information and/or principles of openness and transparency?	Red	B	Red	B	Red	B	Red	B	Red	B	Red	B	Red	B
2	How often does an agency official with authority over policy participate in meetings with public officials responsible for ATI activities?	Red	C	Red	C	Red	C	Red	C	Green	A	Red	C	Green	A

Fundamental Functions: Rules

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
3	Has the agency created or adopted specific guidelines on ATI?	Red	B	Red	B	Green	A	Green	A	Green	A	Green	A	Green	A
4	How often are ATI guidelines reviewed by an agency official with authority over policy?	Red	C	Red	C	Red	C	Red	C	Yellow	B	Red	C	Red	C
5	How often are ATI guidelines revised by an agency official with authority over policy?	NA	C	NA	C	NA	C	NA	C	Green	A	NA	C	NA	C
6	Does the agency make all guidelines available for reference?	Red	C	Red	C	Red	C	Red	C	Green	A	Red	C	Red	C
7	Does the agency have a document(s) that establishes instructions for ATI implementation and/or operation?	Red	B	Red	B	Red	B	Red	B	Green	A	Red	B	Red	B
8	8. Does the document(s) detailing instructions for ATI implementation and/or operation currently reflect the agency's ATI policy?	Red	B	Red	B	Red	B	Red	B	Green	A	Red	B	Red	B
9	Has the agency internally disseminated the document(s) detailing instructions for ATI implementation and/or operation?	Red	C	Red	C	Red	C	Red	C	Green	A	Red	C	Red	C

Fundamental Functions: Procedures

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
10	Does the agency's public outreach specifically include a component regarding ATI?	Red	B	Green	A	Red	B	Red	B	Green	A	Red	B	Red	B
11	Does the agency specifically provide information on how to make a request and to find proactively published information?	Red	B	Red	B	Red	B	Red	B	Red	B	Red	B	Red	B

Fundamental Functions: Resources

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
12	Has one or more public official been made responsible for ATI functions and duties?	Yellow	B	Green	A	Yellow	B	Green	A	Green	A	Green	A	Green	A
13	Has the name of the public official(s) appointed/tasked responsible for ATI functions and duties been made known to the public?	Red	B	Red	B	Red	B	Red	B	Green	A	Red	B	Red	B
14	Does the public official(s) appointed/tasked responsible for ATI functions and duties have the authority needed to comply with ATI mandate?	Red	B	Red	B	Red	B	Red	B	Green	A	Red	B	Red	B
15	Does the public official(s) appointed/tasked responsible for ATI functions and duties have the time and staff needed to fulfill his/her ATI responsibilities?	Greeh	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A
16	Does the public official(s) appointed/tasked responsible for ATI functions and duties and his/her staff receive specialized training on ATI?	Red	C	Green	A	Yellow	B	Yellow	B	Green	A	Yellow	B	Red	C
17	Are all public officials made aware of basic ATI principles?	Red	D	Yellow	C	Red	D	Red	D	Green	A	Red	D	Red	D
18	Are training materials related to ATI created and maintained for future reference by public officials?	Red	C	Green	A	Yellow	B	Red	C	Green	A	Yellow	B	Red	C
19	Does the public official(s) responsible for ATI functions and duties have regular access to necessary equipment?	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Red	C
20	Has the agency created a space, physical or virtual, to make requests, review documents, and share proactively published information?	Red	C	Green	A	Yellow	B	Yellow	B	Green	A	Green	A	Green	A
21	Does the agency specifically allocate the financial resources necessary for fulfilling its ATI functions and duties?	Red	B	Red	B	Green	A	Red	B	Red	B	Red	B	Red	B

Fundamental Functions: Monitoring

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
22	Does the agency monitor its ATI functions and duties?	Red	C	Green	A	Green	A	Red	C	Green	A	Red	C	Green	A
23	Does the agency's internal oversight body/auditing mechanism take into account ATI functions and duties?	Red	B	Red	B	Red	B	Red	B	Green	A	Red	B	Red	B
24	Does the agency's performance review of persons appointed/tasked with ATI functions and duties take these responsibilities into account in their review?	Red	B	Red	B	Red	B	Red	B	Green	A	Red	B	Red	B

Fundamental Functions: Wildcard

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
25	In your expert opinion, in practice does the agency effectively fulfill its fundamental functions related to access to information?	Red	C	Yellow	B	Yellow	B	Red	C	Yellow	B	Yellow	B	Yellow	B

Receive and Respond to Requests: Rules

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
26	Does the agency have written guidelines for receiving requests?	Red	C	Red	C	Yellow	B	Yellow	B	Green	A	Red	C	Green	A
27	Does the agency have written guidelines for processing requests?	Red	C	Red	C	Green	A	Green	A	Green	A	Red	C	Green	A
28	Does the agency have written guidelines for responding (release or deny) to requests?	Red	C	Red	C	Green	A	Green	A	Green	A	Red	C	Green	A
29	Does the agency have written guidelines for internal review?	NA	D	NA	D	NA	D	NA	D	NA	D	NA	D	NA	D

Receive and Respond to Requests: Procedures

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
30	Does the agency have a procedure for logging and tracking requests and responses?	Red	C	Red	C	Red	C	Yellow	B	Green	A	Red	C	Red	C
31	Does the agency have a procedure for processing a request?	Red	C	Red	C	Red	C	Green	A	Green	A	Red	C	Yellow	B
32	Does the agency have a procedure for transferring requests to other agencies?	Yellow	B	Red	C	Red	C	Green	A	Green	A	Red	C	Green	A
33	Does the agency have a procedure for issuing and serving responses?	Red	C	Red	C	Green	A	Green	A	Green	A	Red	C	Red	C

Receive and Respond to Requests: Monitoring

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
34	Does the agency regularly capture statistics related to receiving and responding to requests?	Red	C	Green	A	Green	A	Red	C	Green	A	Red	C	Green	A

Receive and Respond to Requests: Wildcard

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
35	In your expert opinion, in practice does the agency effectively fulfill its function related to receiving and responding to requests?	Red	C	Yellow	B	Green	A	Yellow	B	Green	A	Yellow	B	Green	A
36	Does the agency have written guidelines for proactive disclosure?	Red	C	Red	C	Red	C	Yellow	B	Green	A	Red	C	Green	A

Proactive Disclosure: Procedures

#	Indicator question	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
37	Does the agency have a procedure for proactive disclosure?	Red	C	Red	C	Red	C	Red	C	Green	A	Red	C	Red	C

Proactive Disclosure: Resources

#	Indicator question														
38	Has one or more public official been appointed responsible for proactive disclosure functions and duties?	Red	C	Yellow	B	Yellow	B	Red	C	Red	C	Red	C	Red	C
39	Does the public official(s) responsible for proactive disclosure have the time and staff necessary to effectively fulfill his/her functions and duties?	Red	D	Green	A	Red	D	Red	D	Red	D	Red	D	Red	D
40	Is the public official(s) responsible for proactive disclosure trained to comply with their duties?	Red	C	Red	C	Red	C	Red	C	Red	C	Red	C	Red	C

Proactive Disclosure: Monitoring

#	Indicator question														
41	Does the agency capture statistics related to proactive disclosure on an annual basis?	Red	B	Red	B	Red	B	Red	B	Red	B	Red	B	Red	B
42	Does the agency regularly monitor its proactive disclosure?	Red	C	Red	C	Red	C	Red	C	Red	C	Red	C	Red	C

Proactive Disclosure: Wildcard

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
43	In your expert opinion, in practice does the agency effectively fulfill its function related to proactive disclosure?	Red	C	Yellow	B	Red	C	Red	C	Yellow	B	Yellow	B	Red	C

Records Management: Leadership

#	Indicator question	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
44	How often does an agency official with authority over policy participate in meetings with public officials responsible for records management?	Green	A	Green	A	Red	C	Red	C	Green	A	Red	C	Red	C
45	Has the agency created or adopted a records management policy for managing paper-based and digital information?	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Red	B

Records Management: Rules

#	Indicator question														
46	Does the agency have written guidelines for records management, regardless of format (including digital records, maps etc.)?	Green	A	Green	A	Green	A	Green	A	Green	A	Yellow	B	Green	A
47	Does the agency have written guidelines for security classification of documents?	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A
48	Does the agency have a document(s) that establishes instructions/guidelines for implementation and/or operations for records management?	Green	A	Red	B	Red	B	Red	B	Green	A	Green	A	Red	B

Records Management: Procedures

#	Indicator question														
49	Does the agency have a procedure for security classification of documents?	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A
50	Does the agency have a procedure to manage its paper records?	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A
51	Does the agency have a procedure to manage its digital records?	Red	C	Red	C	Red	C	Red	C	Red	C	Yellow	B	Yellow	B
52	Does the agency have a procedure to retrieve and access paper records?	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A
53	Does the agency have a procedure to retrieve and access digital records?	Red	C	Red	C	Yellow	B	Red	C	Red	C	Red	C	Red	C

Records Management: Resources

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
54	Has one or more public official been appointed responsible for records management?	Yellow	B	Green	A	Green	A	Yellow	B	Green	A	Green	A	Green	A
55	Does the public official(s) appointed/tasked responsible for records management functions and duties have the time and staff needed to fulfill his/her responsibilities?	Green	A	Green	A	Green	A	Red	D	Green	A	Green	A	Green	A
56	Does the public official(s) appointed/tasked responsible for records management and his/her staff receive specialized training on records management?	Yellow	B	Yellow	B	Green	A	Red	C	Green	A	Red	C	Yellow	B
57	Are all public officials made aware of basic records management procedures?	Yellow	C	Yellow	C	Red	D	Yellow	C	Yellow	C	Yellow	C	Yellow	C
58	Has the agency created space and facilities for storing paper and digital records?	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A

Records Management: Monitoring

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
59	Does the agency regularly monitor its records management functions and duties?	Red	C	Yellow	B	Yellow	B	Red	C	Green	A	Red	C	Green	A

Records Management: Wildcard

#	Indicator question:	Ministry of Education		Electricity Regulatory Commission		Ministry of Finance		Ministry of Health		Ministry of Justice		National Bureau of Statistics		Ministry of Water Resources	
60	In your expert opinion, in practice does the agency effectively fulfill its function related to records management?	Yellow	B	Green	A	Green	A	Green	A	Green	A	Green	A	Green	A

Ministry/Agency Summary of Findings

Table 3. Ministry of Education

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

Table 4. Electricity Regulatory Commission

	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 🔴
Procedures (order)	Public awareness raising 🟢🔴	Procedures for receiving/processing 🔴🔴 Procedures for transfer/responding 🔴🔴	Procedures for proactive disclosure 🔴	Classification 🟢 Manage Records 🟢🔴 Retrieve Records 🟢🔴
Resources (enable)	Staffing 🟢🔴🔴🟢 Training 🟢🟡🟢 Infrastructure 🟢🟢 Budget 🔴		Staffing 🟡🟢 Training 🔴	Staffing 🟢🟢 Training 🟡🟡 Infrastructure 🟢
Monitoring (adjust)	Internal oversight 🟢🔴 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 Finance

	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 🔴
Procedures (order)	Public awareness raising 🔴🔴	Procedures for receiving/ processing 🔴🔴 Procedures for transfer/ responding 🔴🟢	Procedures for proactive disclosure 🔴	Classification 🟢 Manage Records 🟢🔴 Retrieve Records 🟢🟡
Resources (enable)	Staffing 🟡🔴🔴🟢 Training 🟡🔴🟡 Infrastructure 🟢🟡 Budget 🟢		Staffing 🟡🔴 Training 🔴	Staffing 🟢🟢 Training 🟢🔴 Infrastructure 🟢
Monitoring (adjust)	Internal oversight 🟢🟢 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 Health

	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 🔴
Procedures (order)	Public awareness raising 🔴🔴	Procedures for receiving/processing 🟡🟢 Procedures for transfer/responding 🟢🟢	Procedures for proactive disclosure 🔴	Classification 🟢 Manage Records 🟢🔴 Retrieve Records 🟢🔴
Resources (enable)	Staffing 🟢🔴🔴🟢 Training 🟡🔴🔴 Infrastructure 🟢🟡 Budget 🔴		Staffing 🔴🔴 Training 🔴	Staffing 🟡🔴 Training 🔴🟡 Infrastructure 🟢
Monitoring (adjust)	Internal oversight 🔴🔴 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 Justice

	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 🟢
Procedures (order)	Public awareness raising 🟢🔴	Procedures for receiving/processing 🟢🟢 Procedures for transfer/responding 🟢🟢	Procedures for proactive disclosure 🟢	Classification 🟢 Manage Records 🟢🔴 Retrieve Records 🟢🔴
Resources (enable)	Staffing 🟢🟢🟢🟢 Training 🟢🟢🟢 Infrastructure 🟢🟢 Budget 🔴		Staffing 🔴🔴 Training 🔴	Staffing 🟢🟢 Training 🟢🟡 Infrastructure 🟢
Monitoring (adjust)	Internal oversight 🟢🟢 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. National Bureau of Statistics

	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 🟢
Procedures (order)	Public awareness raising 🔴🔴	Procedures for receiving/ processing 🔴🔴 Procedures for transfer/ responding 🔴🔴	Procedures for proactive disclosure 🔴	Classification 🟢 Manage Records 🟢🟡 Retrieve Records 🟢🔴
Resources (enable)	Staffing 🟢🔴🔴🟢 Training 🟡🔴🟡 Infrastructure 🟢🟢 Budget 🔴		Staffing 🔴🔴 Training 🔴	Staffing 🟢🟢 Training 🔴🟡 Infrastructure 🟢
Monitoring (adjust)	Internal oversight 🔴🔴 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 9. Ministry of Water Resources

	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 🔴
Procedures (order)	Public awareness raising 🔴🔴	Procedures for receiving/ processing 🔴🟡 Procedures for transfer/ responding 🟢🔴	Procedures for proactive disclosure 🔴	Classification 🟢 Manage Records 🟢🟡 Retrieve Records 🟢🟢
Resources (enable)	Staffing 🟢🔴🔴🟢 Training 🔴🔴🔴 Infrastructure 🔴🟢 Budget 🔴		Staffing 🟢🟢 Training 🔴	Staffing 🟢🟢 Training 🟡🟡 Infrastructure 🟢
Monitoring (adjust)	Internal oversight 🟢🟢 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 Narrative[4]

n April, 2016, ten FOI experts drawn from academia, the press, legal practitioners and civil society, whose sphere of intervention centered on access to information, participated in a focal group in Lagos to consider the findings of the access to implementation assessment tool and to reflect on whether the results were consistent with their practical experiences. The three-hour focal group discussion was facilitated by the Media Rights Agenda, which served as the researchers for the IAT application, and included a detailed explanation of the research methods including desk research on the target institutions and field visits to and interviews with personnel of the institutions using the questionnaire developed by The Carter Center, with the objective of determining the level of compliance with identified performance benchmarks.

At the outset of the discussion, a number of the participants questioned the rationale behind selecting only seven out of over 500 Federal public institutions and the manner in which they were chosen, whether random or purposeful. The facilitator explained that the agencies were selected based on consultations and agreements between MRA and The Carter Center, and that this is neither a random nor representative sampling. Importantly, the IAT is designed to assess each agency independently. Thus none of the specific public institution findings should be considered representative of the government as a whole or serve as proxies for other agencies' implementation. It was further explained that the agencies that comprised the IAT cohort were selected based on a number of criteria, such as those that hold information critical for socioeconomic rights and service delivery, those that play a role in overseeing or promoting the overall ATI regime, and an intentional decision to have a mix of ministries and agencies, in particular public agencies of varying size and resources. Participants expressed their opinions that the Bureau of Public Procurement (BPP), the National Assembly, the Nigerian National Petroleum Corporation (NNPC), the Nigerian Extractive Industries Transparency Initiative (NEITI), the Office of the National Security Adviser in the Presidency, and the Judiciary ought to have been selected for assessment as they form critical federal government institutions that should be transparent and open.

In reviewing the indicators, some participants observed that questions relating to the availability of internal FOI implementation guidelines at the selected ministries and agencies were unnecessary by virtue of Section 29 (5) and (8) of the Freedom of Information Act, 2011 as the Guidelines developed by the Attorney General of the Federation should suffice. Other participants expressed the opinion and contended that since the Attorney General's Guidelines have no sanctions in cases of non-compliance, internal guidelines within institutions and agencies might be more effective. Besides, they argued, the Guidelines relate to the reporting requirements of the Act and do not necessarily establish succinct policy provisions for implementation of the FOI Act, although there are a number of clear policy provisions contained in the Guidelines which support effective implementation of the Act.

Examination of the Findings

In the examination of the findings, with regard to the availability of FOI portals in the websites of the selected ministries and agencies it was observed that Bureau of Public Service Reforms,

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[4]The focal group narrative was largely drawn from the narrative drafted by researcher Edet Ojo and the MRA team.

although not among the selected agencies for the project, recently launched a web platform to facilitate freedom of information requests to the institution. Moreover, with regard to providing information on how to make a request and to find proactively published information, the performance of the Federal Ministry of Justice was encouraging. The participants unanimously agreed that the Federal Ministry of Justice should ideally serve as role model to other institutions. It was contended that the Ministry of Justice has performed very well in the implementation of the Act because it has the added advantage of being the oversight ministry for the implementation of the FOI Act, as well as having the Attorney-General of the Federation within the institution.

It also was suggested that the Ministry of Justice should have been assessed twice because of its dual capacity as an agency of the federal government and also as the supervisory ministry over the FOI Act implementation. One of such assessments, it was argued, should have focused on whether it is performing its oversight duties properly and adequately, rather than simply assessing it as a public institution within the meaning of the FOI Act. However, this second assessment would need a different set of indicators than those comprising the Implementation Assessment Tool.

As a part of the IAT assessment, there are a series of questions related to monitoring of access to information functions and duties and performance evaluation. One of the focal group participants disagreed with the findings related to the Ministry of Finance, noting that they have made numerous requests and received no response. The facilitator reminded the civil society representative that the IAT assesses the institutional capacities to enhance effective implementation of the FOI Act and not their level of compliance with granting access to records and information.

"the IAT assesses the institutional capacities to enhance effective implementation of the FOI Act and not their level of compliance with granting access to records and information "

The IAT includes four wildcard indicators related to the four functions: fundamental functions, receiving and responding to requests, proactive publication, and records management. The wildcard allows both the researcher and the blind peer reviewer an opportunity to provide an overall assessment of each of these functions based on their own expertise and experiences. The focal group participants asked a number of questions related to the wildcard scores, including whether the wildcard scores were an aggregate of the other findings or unique indicators. While not the initial intent of the wildcards, participants unanimously agreed to average their opinion upon the aggregate of each agency's scorecard. Thus, the entire performance of the agencies' scorecard in two categories were counted and reappraised. Using this methodology, participants were of the view that from the result of the performance, the Ministry of Finance and the Ministry of Water Resources should have scored a red in the fundamental function wildcard.

As noted above, the Attorney-General's Guidelines, their sufficiency, and how to assess an agencies "adoption" of the guidelines sparked a debate among the participants. Some experts maintained that adoption of the guidelines should be understood to mean "internalizing" them, and that merely using the guidelines does not mean it has been officially adopted by the relevant agency or institution.

With relation to the receiving and responding to request functions, the participants suggested that the wildcard score for the agencies should change to yellow, stating that government agencies are not capable – or not willing - to grant access to information when requested for by citizens.

There were similar concerns expressed about the agencies guidelines and procedures for proactive publication, with a suggestion, for example, that the Ministry of Justice would more accurately be scored at yellow (some progress but insufficient).

Closing

In the closing session, a number of suggestions were made for enhancing the effective implementation of the FOI Act and for improving the application of the implementation assessment tool. For instance, one participant suggested that Media Rights Agenda should set up a library to house already disclosed information so that others could access the information, without the longer process of request making. Another expert suggested that the organizers should leverage on pre-existing local records and research findings in designing and responding to similar research in future, including existing newspaper audits of agencies websites which have noted that most information on federal agencies' sites are obsolete and do not serve to enhance the implementation of the FOI Act.

It was proposed that for future application of the IAT, the researchers should harmonize the results of field research with the findings from desk research.

It was further stressed that the IAT should be peer reviewed in each country before application, take local situations into consideration, make adjustments/improvements as the circumstances warrant, and emphasize consultations to engender greater validation.

Summary of Findings[5]

Nigeria adopted a Freedom of Information law on May 28, 2011 when former President Goodluck Jonathan signed the FOI Bill passed by the National Assembly into law. Nearly five years on, the law is not being fully or effectively implemented. A number of reasons can be deduced for this situation. For example, there remains a pervasive culture of secrecy in government business which is compounded by the oath of secrecy that civil servants swear to upon employment under the existing Official Secrets Act.

Another reason for the ineffective implementation of the FOI Act is the low level of usage of the legislation by the public. Citizens are not making requests for information because of the belief that civil servants are not ready to abide by the right of access to information granted to citizens, and this in turns leads to inadequate implementation as there is limited demand.

This assessment, however, strives to determine the readiness – capacity, extent and quality - of public institutions' to implement the Freedom of Information Act. Beginning as a pilot phase for Nigeria, it involved a set of questions administered to seven federal government agencies namely: Ministry of Water Resources, Ministry of Justice, Ministry of Finance, Ministry of Education, Ministry of Health, Nigerian Electricity Regulatory Commission, and the National Bureau of Statistics. In implementing the project, MRA staff conducted desk research as well as field research, using the Access to Information Implementation Assessment Tool developed by The Carter Center. The field research involved MRA personnel visiting the seven selected public institutions to administer a standardized questionnaire.

The general finding from the research showed that the agencies are institutionally not prepared to effectively implement the FOI Act. Virtually none of the procedures, processes and facilities that these institutions are expected to put in place to enhance the effective implementation of the law were present. All of them are yet to comply with their obligation to proactively publish certain kinds of information as required by the Act, their websites do not contain the relevant information, and are largely obsolete. The websites appear to be used mainly as a public relations tool rather than as a platform to inform the citizenry and the world at large. At best, public institutions which regularly update their websites and have FOI "portals" upload just skeletal information that do not serve the purpose of assuring relevant and timely information in accord with the principles of the FOI Act. While it may seem though that the Ministry of Justice and the Nigerian Electricity Regulatory Commission have made some strides in proactive disclosure through their web portal, these efforts are far cries from the comprehensive categories of information and records that the FOI Act requires to be proactively published.

Although some of the agencies have FOI Units or Committees, there is no division of labor among the members of the committees or members of the units. They are selected to represent each of the departments of the agencies and not to address specific issues or special areas in the implementation of the Act. Aside from the Ministry of Justice, the other public institutions assessed do not meet to discuss, review or strategize on implementing the law. It seems the units/committees were set up to abide by a circular issued by the Head of the Civil Service of the Federation directing each agency to constitute a

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[5]The summary of findings section was largely drawn from the narrative drafted by researcher Edet Ojo and the MRA team.

FOI committee, rather than to truly advance the implementation and effectiveness of the FOI Act.

The FOI Act clearly states that government institutions should designate FOI officers to whom requests for information should be directed and who should deal with such communications, the findings show in a number of aspects this is not the case. While most public institutions have appointed senior personnel (deputy director and above) as FOI Officers, ostensibly to ensure that it reduces the line of consultation before information/records are released, all mails irrespective of their content pass through the registry of the agency's CEO who minutes on it before any official can treat it. It is only on the directive of the CEO that the correspondences are managed. This additional layer of review slows down the request and response process; FOI requests do not receive any special treatment but instead become one more victim to official bottlenecks and bureaucracies.

It also was discovered that some of the designated FOI Officers were not agency core staff but on deployment from other ministries, such as the Ministry of Information or the Ministry of Justice. This raises the potential for the FOI specialized official can be recalled and reassigned to another ministry by their original ministry, thus frustrating the seamless implementation of the law as officials who have been appointed and trained on the FOI functions and responsibilities may be redeployed anytime.

Overall, training remains a weakness in the implementation of the FOI law. Other than the Ministry of Justice's FOI unit, which said it had received training locally and internationally, the rest of the agencies assessed have only received basic training on the FOI Act and its implementation. The FOI officer in the Ministry of Health said he had received an additional training on record management, but he does not perform that function: he is a lawyer deployed from the Ministry of Justice and is responsible for the legal service of the Ministry to which was added the function of FOI officer.

It was observed during the field research that only the Ministry of Justice has clearly marked and designated offices for FOI. In the other agencies, FOI is domiciled and handled as an added responsibility by the media/media, legal services or Planning, Research and Statistics (PRS) Departments. Moreover, the Ministry of Justice was the sole agency in which the receptionist even know that an FOI Unit existed; and thus where to direct citizens to make their requests.

One way of denying citizens access to the information that they have requested is by not responding to the request, which the FOI Act refers to as "deemed denial." In the course of the field research, this practice of ignoring requests for information was a repeated occurrence and it was only because of the doggedness to obtain the information in order to implement the project that ensured the researcher was able to interview officials in all the selected agencies. It is unlikely that ordinary citizens or organizations who are not carrying out a funded project and who reside outside of the nation's Federal Capital Territory will be able to muster the time and resources to do the kind of repeated follow-ups that was required to be able to obtain information required under this project.

Nearly five years into the implementation of the FOI Act, public institutions do not have budgets allocated for the implementation of the Act. What this means is that where the Act is implemented, it is only through the agencies diversion of monies from other activities or services. Another attitude observed with public officials was that they prefer to err on the side of caution by denying access to information, as it was difficult getting supporting documents from even the FOI officers, including in cases where they claimed that the documents were available. At the Ministries of Justice and Health as well as the Nigerian Electricity Regulatory Commission, the public officials refused to give a copy of some

documents which they claimed were available saying they were not for public consumption. Moreover, only a handful of the agencies are submitting the annual report of their implementation of the FOI Act to the office of the Attorney General of the Federation, as required by the law.

The state of record keeping in most of Nigeria's public institutions is not such that will enhance the easy implementation of the FOI Act. Agencies have not started to digitize their records and information. Modern equipment available to the agencies are not used to collate, store and retrieve agencies' documents but more for the day to day running of these agencies. Documents and records generated before the widespread use of computers in Nigeria's public institutions are not digitized and electronically stored, making it more difficult for timely retrieval and to assure appropriate preservation.

The oversight responsibility of the FOI Act rests with the Federal Attorney-General and not an independent information commissioner. An Attorney-General in Nigeria is a political appointee; who combines the office with that of the Minister of Justice. Being saddled with the oversight responsibility for the implementation of the FOI Act adds a third office, making the work of the Attorney-General not only burdensome but susceptible to political interference.

Recommendations

In advancing full and effective implementation of the Freedom of Information Act, the government should ensure that public institutions are equipped with increased capacities to meet their responsibilities under the law, including training, sensitization, and instituting necessary measures and structures to facilitate implementation of the law. Public institutions with FOI units or committees should consider division of labor among the members of the committee/units to promote improved implementation as well as identifying all the requirements under the

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law and sharing the duties among themselves. Moreover, government agencies should be encouraged to make budgetary provisions for the implementation of the FOI Act.

Records keeping remains a perennial weakness. Agencies will need to develop policies for digital records and make efforts to digitize their information to ensure that the law is effectively implemented. Finally, there should be a sanctions mechanism to motivate public institutions to comply with their obligations under the FOI Act, particularly the proactive publication obligations and the obligation to submit annual implementation reports.

While FOI implementation is slowly growing, much still needs to be done. A strong directive from the Office of the Head of Service or the Presidency is needed to shake the ministries from their inertia or, alternatively, a sanctions mechanism for failure to comply with the provisions of the FOI Act should be considered.