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# HOW-TO NOTES

Supporting Passage and Implementation  
of Right to Information Laws

SOCIAL DEVELOPMENT

This note was prepared by Anupama Dokeniya (Governance and Public Sector Practice, The World Bank). The author is grateful to Sanjay Agarwal, Robert Beschel, and Helene Grandvoinet for very helpful comments on various drafts, and Sherrie Brown for editorial help. This Note draws from a comparative study on implementation of Right to Information reforms to which several colleagues within and outside the World Bank have contributed.



## 1. INTRODUCTION

### 1.1 Context

Access to government information is seen as an important facilitator of social accountability<sup>1</sup>—enabling citizens to hold the state accountable for the delivery of services and entitlements, participate in the management of development programs, and make political and electoral choices. Mechanisms to enable public access to information have proliferated over the past two decades. These mechanisms range from transparency policies that enjoin agencies to voluntarily make information available to policies that provide a legal obligation to do so, from policies that cover a range of government information to policies that are focused on specific kinds of information, and from initiatives that are government led to initiatives that are civil society led.

- Information campaigns are proactive communication initiatives, usually undertaken by authorities or development agencies to inform citizens about their entitlements under development programs, quality standards, and other program-related information. Information campaigns are also undertaken for social marketing purposes, promoting the use of better health and hygiene habits, education, and the like.
- Citizens' charters provide information about the obligations and performance standards of service agencies, enabling citizens to monitor whether these standards are being fulfilled.
- Proactive transparency policies in various thematic and sector areas focus on disclosure of specific categories of information, for instance, budgets, assets of public officials, public procurement documents, and contracts with private entities for public projects.
- Open data initiatives aim to put government data sets online in easily accessible formats that can be used by citizens for academic, monitoring, or business purposes. Open data initiatives typically either cover data sets in a range of areas, or focus on a specific category of information. For instance, BOOST<sup>2</sup>, a tool developed by the World Bank, enables the collection and compilation of data on public expenditures from national treasury systems and presents it in a simple, user-friendly format, enabling citizens to examine trends in allocation of public resources, analyze potential sources of inefficiencies, and become better informed about how governments finance the delivery of public services.
- Multistakeholder initiatives typically involve agreements between various stakeholders. Governments or private entities commit to publishing documents related to specific areas, such as contracts or revenues, and monitoring arrangements for the disclosures are put in place. Prominent examples of such

<sup>1</sup> For instance, publicly available and easy-to-understand information on the standards of public service provision enables citizens to demand proper services from service providers or to influence politicians through voting choices, in turn putting pressure on politicians to hold service providers accountable for their performance. The World Bank's World Development Report 2004 labeled these two mechanisms as the "short route of accountability" and long route of accountability respectively.

<sup>2</sup> BOOST is not an acronym. It is the name of the data tool. For more information, see: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/0,,contentMDK:23150652~pagePK:148956~piPK:216618~theSitePK:286305,00.html>.

initiatives include the Extractive Industries Transparency Initiative, the Construction Sector Transparency Initiative, and the Global Initiative on Fiscal Transparency.

- National civil society–led citizen monitoring initiatives proactively seek out government information (for example, Ushahidi<sup>3</sup>), or generate information about interactions with government (for example, “I Paid a Bribe”)<sup>4</sup> and make this information publicly available, recently on online platforms.
- Global civil society monitoring initiatives led by international nongovernmental organizations (NGOs) monitor the publication of information by international aid agencies (International Aid Transparency Initiative, Publish What You Fund). Some initiatives monitor and rank countries based on the publication of information in specific areas (such as Publish What You Pay and Revenue Watch, which monitor transparency in the natural resource sector, and the International Budget Partnership, which publishes information on budgets).
- Right-to-information legislation guarantees citizens (sometimes noncitizens as well) the right to access public information and imposes on the state the obligation to put in place mechanisms to ensure the realization of these rights.

This note focuses primarily on the last mechanism—passage, implementation, promotion, and use of right-to-information (RTI) laws. It is intended as a basic primer, a quick and convenient guide for operational staff, on helping support the adoption and implementation of RTI laws.

## 1.2 Definition

The right to information has been recognized as a fundamental right in several international human rights conventions, to which a majority of countries are signatories. But it is only since the 1990s that national legislation operationalizing this right has become an important part of broader efforts to institute accountable governance. Until 1990, only 13 countries had passed RTI laws. Since then, an additional 70 countries or so have adopted such laws.

An RTI law gives citizens<sup>5</sup> the right to access government records without being obliged to demonstrate a legal interest or standing—a fundamental shift in the principle guiding access to public information from “need to know” to “right to know.” In addition to provisions outlining the scope of coverage of the law, good practice laws also couple the right of citizens to information with a duty of the government to not only respond to information requests but also to put in place the necessary systems and processes to enable responsiveness and disclosure. Table 1.1 presents the key areas that RTI laws address and the minimum provisions that have emerged as global good practice standards.<sup>6</sup>

<sup>3</sup> <http://www.ushahidi.com/>.

<sup>4</sup> <http://www.ipaidabribe.com/>.

<sup>5</sup> In some instances, the right extends to all interested parties, including noncitizens.

<sup>6</sup> Primarily through the work of NGOs such as Article 19 and others; <http://www.article19.org>



**TABLE 1.1**  
Key Elements of  
RTI Legislation

<b>Maximum disclosure</b>	Overarching presumption that all information held by public bodies is public, subject only to a limited set of exceptions to protect overriding public and private interests (such as harm to the economic interests of the country, national security, or commercial interests of third parties). Exceptions should be subject to a harms test (it is the risk of harm to a protected interest that triggers the protection of the exception); a public interest override (information should still be released if the overall benefit of disclosure outweighs the harm to a protected interest, for instance, sensitive national security information that reveals evidence of corruption; and time-bound (the risk of harm should be assessed at the time of a request, and overall time limits should be imposed on exceptions).
<b>Access procedures</b>	Requesters should not be required to provide reasons for requests or to provide identifying information (beyond what is necessary for delivering the information) to prevent discrimination. Procedures should be clear and simple. Officials should assist requesters in formulating their requests. Timelines for responding to requests should be reasonable (usually 20 days). Fees should not be a barrier to requests; fees should be imposed only to recover the costs of reproducing and delivering the information. In the context of recent emphasis on open data, emphasis has also been placed on provisions allowing reuse of information, except where a third party holds a legally protected copyright.
<b>Capacity and promotion</b>	The law should enjoin governments to put in place the necessary mechanisms to enable access, such as dedicated officials or units, a central body with overall responsibility for promoting RTI, minimum standards for management of records, publication of lists or registers of the documents, training programs for officials, and annual reports to parliament on monitoring implementation.
<b>Proactive disclosure</b>	Proactive disclosure removes the burden of making decisions about whether to respond to a request and eases access to the vast majority of records that are “benign” and that otherwise would require the effort of a request. Documents that are considered minimum good practice to disclose include operational information about the public body, including costs, objectives, audited accounts, and standards; requests, complaints, or other direct actions to the public body; guidance on processes for providing input into major policy or legislative proposals; types of information that the body holds and the form in which this information is held; and content of decisions or policies affecting the public.
<b>Appeals and sanctions</b>	An internal appeals mechanism within the responding agency is important for the expeditious resolution of potential conflicts arising from noncompliance. The creation of an independent information commission with adequate capacity and expertise to hear appeals about noncompliance is also considered essential for resolving cases speedily. Independent recruitment procedures, professional expertise, and security of tenure for commissioners, and financial and administrative autonomy are necessary for ensuring political independence. The necessary mandate to perform its functions, such as reviewing classified documents and providing sufficient remedies for noncompliance, are also important for ensuring the effectiveness of the commission. Furthermore, the law should specify the sanctions to be imposed for noncompliance and the protections accorded to whistleblowers (although the latter are sometimes protected through complementary legislation).

Implementation experience from a number of countries that have had RTI laws in place for some time show that the majority of requests for information under the law come from private citizens interested in information of personal relevance, for example, about a health benefit, an adverse decision on school admission or immigration status, or entitlement to services. But evidence from several countries, including developing countries that have passed RTI laws in the last decade or so—among them Bangladesh, Brazil, India, Mexico, and South Africa—also shows that when the appropriate enabling conditions are present, RTI has been leveraged to gain access to information related to mismanagement of public funds; nonperformance by service delivery agencies; instances of fraud, collusion, corruption, or nepotism; and other information necessary to hold government accountable for its policies, performance, and expenditures.

### 1.3 Key Entry Points for Bank Engagement

Three broad areas of engagement in which the Bank can leverage its comparative advantage can be identified:

- Supporting the adoption and design of legislation. Although almost 95 countries now have RTI laws (see Table 2.1), including several of the Bank's clients, many countries, particularly in Africa and East Asia, have still not passed such laws. In several of these countries, RTI bills have been pending in parliament and struggles for the adoption of the law have lasted several decades. In these countries, the Bank can include support for the enactment of RTI laws as part of its policy dialogue and budget support operations, and can provide technical assistance for the design of the law. Engaging with a range of RTI stakeholders is particularly important for the ownership and sustainability of reforms.
- Providing technical support for implementing institutions. The supply side of RTI implementation—building capacity and incentives for the public sector to respond to requests—can be addressed through both technical assistance and lending projects in public sector management and in the sectors.
- Strengthening the demand side of RTI. Because the effectiveness of RTI laws, along with other accountability mechanisms, depends on robust civil society and strong media institutions, support for an enabling environment for these actors—for instance, laws protecting NGOs and media freedom—should be integral to strategies to promote RTI. The Bank has limited instruments for building capacity in civil society organizations (CSOs), but strengthening awareness of the law, skills training for the use of RTI laws (for instance, how to file requests), and training of local-level officials are important interventions. The Bank also has an extensive practice supporting CSOs, as well as various social accountability mechanisms, particularly at the local level. These activities provide an important space for strengthening the ability of communities to leverage RTI laws.



Table 1.2 summarizes the key activities and instruments for potential entry points. Two caveats need to be underscored in further discussing these areas. One, these are not discrete areas of engagement. The effectiveness of RTI depends very much on how effectively the supply and demand sides of information are linked. Therefore, helping countries implement an RTI system should ideally approach these issues in an integrated manner rather than through silos of practice areas. Two, development solutions that attempt to promote a “best practice” approach independent of context are unlikely to be effective. Therefore, within the areas and actions proposed below, the feasibility of particular measures in different country contexts needs to be assessed, implementing measures need to be designed with the realities of the institutional and capacity constraints in mind, and expectations need to be moderated where the enabling environment might be weak.

**TABLE 1.2**  
Potential Entry Points  
for Engagement on  
Right to Information

	Area of Support	Key Components	Instrument
<b>Passage and Design of Legislation</b>			
1	Passage of Legislation	Assessing broader political context and ownership Ensuring engagement with a range of stakeholders	DPLs, policy dialogue, workshops
2	Design of the law	Mobilizing external experts (global and from countries with implementation experience)	Workshops, South-South exchange, TA
<b>Supply-Side Institutions and Capacity</b>			
3	Oversight and Capacity Building	Establishment of information commission, and a “nodal agency” Creation of implementation plan and implementing regulations Government-wide training M&E systems and records management	TA, grants, PSM IL, P4R
4	Sector Ministries and Agencies	Information units and officials; Response procedures; Incentives	Sector projects
5	Local Government Capacity for Disclosure	Capacity for information management; Training for citizen engagement and responsiveness Grievance redress	Local government and CDD projects
<b>Strengthening Demand Side</b>			
6	Enabling Environment	Media laws, laws protecting NGOs	DPLs, Policy dialogue
7	CSO Capacity for Monitoring Implementation	Monitoring; Databases	Grants, GPSA
8	RTI in Projects Across Sectors	Training modules; Links with other mechanisms	Sector projects
Note: CDD = community-driven development; CSO = civil society organization; DPL = Development Policy Loan; GPSA = Global Partnership for Social Accountability; M&E = monitoring and evaluation; NGO = nongovernmental organization; P4R = Program for Results; PSM IL = Public Sector Management Investment Loan; TA = technical assistance.			

## 2. PASSAGE AND DESIGN OF LEGISLATION

### 2.1 Passage of Legislation

Quite a few countries, mostly in Africa and East Asia, have still not adopted RTI legislation (Table 2.1). In many of these countries, strong constituencies and advocacy groups are lobbying for enactment of the law, including with support from international groups. The experience of several countries shows that RTI laws are sometimes passed during political transition, often as a means by political elites to gain legitimacy with both domestic constituencies and international partners. When such windows of opportunity present themselves, the Bank could potentially precipitate the passage of the law by integrating it into the policy dialogue on broader governance reforms, and into institutional reforms for its implementation through Development Policy Loans (DPLs). Among the issues the Bank could raise in support of the law are the following: international norms are clearly established in favor of RTI; providing the right to information enables citizens to participate effectively in development programs; providing the right to information enables the building of an inclusive state; and RTI strengthens service delivery—all goals that governments espouse.

**TABLE 2.1**  
Status of RTI Laws in  
World Bank Borrowers  
(March 2013)

Region	Countries without RTI Laws	Countries with RTI Laws
Africa	Swaziland, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Republic of Congo, Côte d'Ivoire, Equatorial Guinea, Eritrea, Gabon, The Gambia, Ghana, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, São Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, Tanzania, Togo, Zambia	Angola, Ethiopia, Guinea, Liberia, Niger, Nigeria, Rwanda, South Africa, Uganda, Zimbabwe
East Asia and Pacific	Cambodia, Fiji, Guam, Kiribati, Lao People's Democratic Republic, Macao, Marshall Islands, Myanmar, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu, Vanuatu, Vietnam	China, Indonesia, Mongolia, Thailand
Eastern Europe and Central Asia	Belarus, Turkmenistan	Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, the Kyrgyz Republic, Kosovo, Latvia, Liechtenstein, Lithuania, Macedonia FYR, Moldova, Montenegro, Poland, Romania, the Russian Federation, Serbia, Slovak Republic, Slovenia, Tajikistan, Turkey, Ukraine, Uzbekistan
Latin American and the Caribbean	Anguilla, Bolivia, Costa Rica, Grenada, Guadeloupe, Haiti, Paraguay, St. Kitts and Nevis, St. Lucia, Suriname, Venezuela	Antigua and Barbuda, Argentina, Belize, Brazil, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Peru, Trinidad and Tobago, Uruguay

Middle East and North Africa	Algeria, Bahrain, Djibouti, the Arab Republic of Egypt, Iraq, Kuwait, Lebanon, Libya, Morocco, West Bank and Gaza	Jordan, Tunisia, the Republic of Yemen
South Asia	Afghanistan, Bhutan, Maldives, Sri Lanka	Bangladesh, India, Nepal, Pakistan
<p>Source: "93 Countries Have FOI Regimes, Most Tallies Agree," October 19, 2012 (<a href="http://www.freedominfo.org/2012/10/93-countries-have-foi-regimes-most-tallies-agree/">http://www.freedominfo.org/2012/10/93-countries-have-foi-regimes-most-tallies-agree/</a>).</p> <p>Note: Includes proclamations and decrees.</p> <p>a. Considered a very restrictive law, mainly intended for censorship.</p>		

However, if enactment of RTI legislation is purely a top-down process, either instigated by aid agencies or pushed through by political elites without the engagement of a range of stakeholders, the law is unlikely to take root or be effective. Experience demonstrates that involvement of a range of stakeholders is useful for a number of reasons. First, the participation of CSOs accelerates activity and creates momentum and pressure for the passage of the law. In countries such as Bulgaria, India, Jamaica, Mexico, Peru, and South Africa, widespread civil society campaigns and well-publicized efforts by highly influential CSOs has been important in putting pressure on the government to pass the legislation. In India, the National Campaign for People's Right to Information, a nationwide coalition, has brought together NGOs working across regions and sectors and has been a powerful galvanizing force for RTI.

Second, the involvement of a range of stakeholders creates broad-based ownership and increases the likelihood that these groups will stay engaged in the implementation and use of the law. In countries such as Albania and Moldova, where the post-Soviet democratic transition provided the external impetus for reform, but domestic constituencies were not strong, RTI laws have made little headway, either in their use by citizens or in the establishment of implementing mechanisms. Similarly in Uganda, where reforms were undertaken in large measure in response to criticism of weakening accountability, the commitment to reform has not been sustained. However, in India, where the impetus for RTI emerged from the grassroots and a range of CSOs were involved, the momentum for implementation has been sustained.

Third, the involvement of stakeholders can be important to ensuring a stronger law is enacted, as the experience in a number of countries demonstrates. In India, for example, civil society's involvement in the National Advisory Council, which was drafting the RTI legislation, helped ensure that important provisions, such as the disclosure of information about corruption and human rights violations by intelligence agencies, and the extension of the law to cover state governments, were reinstated in a diluted government draft. In the United Kingdom, information on investigations into health and safety (for example, product safety reports, pollution investigations, and documents concerning workplace accidents) were initially exempted from the Freedom of Information Act, but this exemption was removed in Parliament under pressure from CSOs.

Bank support for the adoption of RTI laws should, therefore, highlight the importance of the participation of a range of stakeholders as a means of fostering broad-based ownership and enabling advocacy groups to have a voice in the process. Engaging with parliamentarians is particularly important because they are pivotal to enactment of the law.

## 2.2 Design of the Law

Technical assistance for the design of the law can leverage three sources of expertise:

- Several international organizations<sup>7</sup> are active in promoting RTI and developing and disseminating good practice standards for legislation. Partnerships with these organizations can be useful in helping countries develop legislation.
- Model laws have also been adopted by the Organization of American States<sup>8</sup> and the African Commission on Human and Peoples' Rights<sup>9</sup>. These model laws provide useful blueprints for designing legislation in the context of specific regions, which might have weaker administrative cultures and institutions.
- South-South exchanges are particularly important because they enable discussion on the potential and feasibility of laws in developing countries that have capacity and institutional constraints. The RTI laws in India and Mexico are considered among the best in the world, and experts from these countries can provide support to countries drafting and implementing legislation. Networks of NGO groups have also developed across these countries,<sup>10</sup> and support to these groups can help strengthen South-South exchange mechanisms. Regional dynamics have been important for the passage of legislation, creating a demonstration effect, putting pressure on governments, and learning about the passage and design of the law. Hence, a regional approach to engagement on RTI can be very useful. The World Bank Institute (WBI), for instance, has organized several regional dialogues in Asia, Africa, and the Middle East (both face to face and through videoconference); connected stakeholders within and across regions; and held several South-South exchange events to promote the adoption of RTI laws.

There are a number of areas, where either evolution or differences in the social and economic context requires countries to make choices among different alternatives. Some of these areas are discussed in Box 2.1.

7. Such as Article 19, the Carter Center, the Open Society Initiatives, Access-Info Europe, and the Center for Law and Democracy. For instance, the Center for Law and Democracy's RTI Ratings Index could provide a source of guidance on more detailed provisions of the law.

8. [http://www.oas.org/dil/access\\_to\\_information\\_model\\_law.htm](http://www.oas.org/dil/access_to_information_model_law.htm).

9. [http://www.achpr.org/files/news/2013/04/d84/model\\_law.pdf](http://www.achpr.org/files/news/2013/04/d84/model_law.pdf).

10. For instance, the Commonwealth Human Rights Initiative works across countries in South Asia and also works with Ghana. The Africa Freedom of Information Center works across the African continent.



**BOX 2.1**  
Choices in Designing  
RTI Laws

Public versus private. RTI laws typically cover the gamut of executive agencies, and often include within their purview the legislature, the judiciary, and state-owned enterprises. However, the issue of coverage of private entities is more challenging. Several public services are increasingly delivered by private contractors under various kinds of public-private partnership arrangements, making the extent to which these entities should be subject to disclosure laws of growing importance in many countries. In the United Kingdom, for instance, the inclusion of quasi-autonomous nongovernmental organizations (so-called QANGOs) was a victory for openness proponents. In Romania, the precedents created by the courts lean toward a liberal, protransparency notion of the term “public institution,” suggesting that the law should cover not only bodies financed entirely from the public purse, but also those for which the government exerts influence over governance (for example, through appointments-governing boards) or through regulation, especially when operating as a state-protected monopoly (postal service, forest management, state export-promotion bank, and the like).

Federal and state laws. Most federal systems have both federal- and state-level laws. In India, although most states have separate RTI laws and state-specific implementing institutions, such as the state information commissions, the central law overrides the state-level laws. In Mexico, however, the national law only applies to federal public bodies, and the federal government has no power to regulate openness at the subnational level. Concern has been expressed that many of the RTI laws that have now been adopted by all 32 subnational entities in Mexico might not meet minimum transparency standards. Although these arrangements clearly depend on the political tradition and constitutional norms in each country, it points to the need to engage with state-level laws.

Information commission versus ombudsman. Three key models for appeals against refusal of information can be identified: direct appeals to the judiciary, appeals to an ombudsman, and appeals to an independent information commission. The last model, an independent, specialized appeals tribunal, is considered best practice. A specialized RTI commission signals the importance that the political regime places on strengthening information access. Furthermore, RTI-specific information commissions enable commissioners to become specialists in RTI, develop the competence to appropriately interpret the law, and deal with complaints expeditiously; and enables speedy resolution of cases and ease of access, especially with regard to more procedural cases on points of law or process. Direct appeals to the judiciary, especially in countries where overburdened courts have a record of delays and inefficiencies, do not provide any of these advantages. And unlike an ombudsman, information commissions are also more formal agencies with powers to issue rulings requiring the release of information or to undertake other measures that are binding on government agencies. Ombudsman offices have multiple responsibilities and are, therefore, also not able to specialize in RTI. At the same time, establishing and maintaining an independent information commission could be expensive, and poorer countries might consider multipurpose tribunals as a cost-saving measure. This area needs further investigation, but there is no evidence

that an ombudsman can be an effective arbiter of RTI. In two countries studied as part of an RTI implementation study, Peru and Albania, which both entrusted the appeals function to an ombudsman, the office was not effective in enforcing the law (Dokeniya 2013).

Sanctions. Sanctions for noncompliance are important for creating a credible system of enforcement, but an excessively onerous system of penalties might create a backlash against the law. Furthermore, when an executive agency, rather than an information commission or ombudsman, is given the authority to impose sanctions, it may exercise too much discretion unless the agency is committed to enforcing the law. Another important issue to address is upon whom the sanctions are imposed. Making junior-level information officials liable for the failure to provide information may be unfair. They might decide not to release information that the department might consider “sensitive” under fear of reprimand or other punitive action from senior officials, but at the same time, not releasing this information might make them liable for penalties. One way to address this issue is to designate a senior person to be responsible for noncompliance, while designating a more junior officer for the day-to-day functioning of the law.

## 2.3 Implementing Regulations

RTI laws usually provide a general framework. Further elaboration through implementing regulations creates clarity in procedures and processes for access. The absence of implementing regulations causes a lack of clarity among officials about their obligations and about procedures and the functioning of the law. In particular, inconsistent fee structures, restrictive formats, and varying procedures for accessing information can be stumbling blocks to citizens’ efforts to use the law. The absence of implementing regulations can also be used as an excuse to not implement the act in practice. In Albania, for instance, the absence of common rules or implementing regulations resulted in implementation details being left to the discretion of individual agencies. In Uganda, the absence of implementing regulations stymied efforts to make the law effective for several years after its enactment. Support for the formulation of implementing regulations should, therefore, be an integral part of support to the formulation of the law, while there is still momentum behind the initiative.

Implementing regulations are formal, binding, operational procedures that typically address such issues as the schedule of fees for access, requirements for application forms, internal procedures for processing requests, templates for making requests for information, and procedures for administrative complaints. Additional guidelines need to be issued to help officials understand and interpret both the law and the regulations, for instance, helping them understand what constitutes a request under the law and their obligations for assisting the requester, establishing instructions for processing requests as provided for in the implementing regulations, ensuring coordination within the agency and with other agencies for the fulfillment of requests, interpreting exceptions provided in the law, and presenting reasons for refusal.<sup>11</sup>

<sup>11</sup> Suggestions are from the RTI Implementation Assessment Tool, Carter Center.

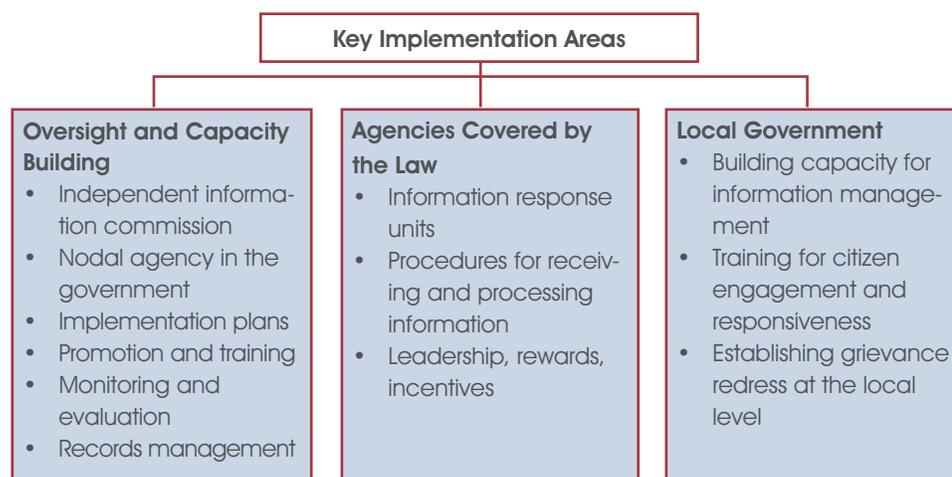


### 3. SUPPLY-SIDE INSTITUTIONS AND CAPACITY

It is critical to emphasize during policy dialogue that enactment of the law is only an initial step, to underscore the importance of continuing the commitment to implementation, and to ensure that implementation issues are taken into account during the design and passage of the law. The erosion of political will can be a major contributor to the “implementation gap” that is evident in several countries.<sup>12</sup>

Because the potential political dividends that can be gained from a high-profile reform measure dissipate after enactment, the implementation phase rarely embodies the same kind of political momentum as the passage phase. Evidence suggests that as political momentum wanes, both political actors and public officials might employ strategies to undermine the effectiveness of the law, such as introducing amendments to limit the scope of the legislation or broaden the number of exemptions, actively resisting improvements to make the functioning of the law more effective, or simply dragging their feet in implementing key measures. If the Bank is promoting or supporting the enactment of legislation, it needs to also have a forward-looking plan for implementation.

**FIGURE 3.1**  
Areas of Engagement  
in Implementation



Three key areas of engagement in RTI implementation can be identified, as depicted in Figure 3.1: establishing the formal institutions and rules for oversight, capacity-building, and adjudication; providing support to sector agencies covered by the law; and supporting local-level implementation.

**BOX 3.1**  
Supporting Passage  
and Implementation  
of RTI in Tunisia

The World Bank has supported the enactment of RTI in post-revolutionary Tunisia through a Development Policy Loan that focused on a number of governance reforms. Following passage of the RTI law, the Bank organized various activities and events to raise awareness among citizens of their new rights, and provided technical assistance to the government to draw up an implementation plan, learning from how other countries have managed implementation and institutional requirements. Along with RTI, the government has also initiated disclosure of public financial and statistical information, such as budget execution reports and the Court of Auditor’s full reports.

<sup>12</sup> For an interesting commentary on “implementation gap,” see: <http://www.oxfamblogs.org/fp2p/?p=10521>.

### 3.1 Oversight and Capacity Building

#### Independent Information Commission

The law should provide mechanisms for ensuring independence of the information commission through appointment procedures, security of tenure, provisions for qualifications of the commissioners, and financial and administrative autonomy. But financial constraints might be a significant impediment to the effective functioning of the information commission. Therefore, support for capacity building in information commissions, such as ongoing training or potential funding to establish systems for tracking and recording cases, can be an important area of Bank assistance, either as part of investment lending or through instruments such as Institutional Development Fund grants. The grants might be focused on only the information commission (box 3.2), or might support the functioning and independence of non-executive oversight institutions more broadly.

**BOX 3.2**  
Supporting Information  
Commissions in Latin  
America

The World Bank Institute (WBI) facilitated bilateral peer exchanges through videoconferences in the early days of Chile's RTI oversight body, founded in 2009. Through an Institutional Development Fund grant, the WBI provided support to Chile's freedom of information commission, the Council for Transparency, to develop a regional exchange platform that evolved into a regional network of RTI agencies.

#### Oversight Agency within the Government

Designating an entity within the government for oversight and promotion and coordinating the required change management are equally critical, both during the initial years of implementation and in the long term to ensure sustainability of implementation.

Locating the oversight function in a mainstream department with cross-cutting responsibilities—instead of creating specialized bodies that could be both ad hoc and too close to the specific political group in power—is useful. A high-profile transparency initiative, championed by the political leadership, can lead to the oversight agency directly reporting to the chief executive. In the immediate term, this might be a useful measure for increasing political support and acquiescence by the other ministries and might provide the necessary boost of additional resources, but the implementing agency could be too closely tied to the fate of the political administration and could atrophy with a change in regime. The oversight function might be located in the law and justice ministry, in a ministry of information technology, or in the ministry overseeing civil service administration. The latter is useful because civil service ministries already have cross-cutting responsibilities for training and capacity building.



## Implementation Plan

Setting in place an implementation plan and costing and realistically projecting the needed resources should be the first order of business for the nodal agency. The implementation plan should typically include specific objectives and benchmarks; actions needed to make the law a reality; timeframes; responsibilities and accountability; and proposed mechanisms for monitoring, training, and communications. The implementation plan can also provide a framework for helping other implementing agencies determine their priorities.

Cost estimates for RTI need to factor in the costs incurred by implementing entities. These costs should not be limited to overt incremental costs, such as the establishment and functioning of oversight agencies, but should include ongoing capacity-building functions such as infrastructure, training, and promotion. The costs associated with implementation could be seen as particularly daunting in resource-constrained environments. Design, prioritization, and sequencing of implementation mechanics to fit with the context might ease the burden of implementation. For instance, in the short term, it might be useful to focus efforts on building the capacity for information management in agencies that have high demand. For cost-intensive areas, such as records management, actions that might have the largest payoffs and address the most challenging constraints could be prioritized, rather than expecting a full-fledged rollout of advanced records management systems in the short term.

## Promotion and Training

- Training and awareness-raising efforts to create an understanding of obligations under the law are critical both for building technical skills and for enabling a shift in the way that officials approach information access and communication with the public. It is particularly important to address entrenched informal norms and administrative culture in the course of RTI implementation. For instance, although RTI laws are intended primarily to democratize access, in several countries access to information is dependent on participation in privileged networks, and information requests are handled informally and through personal contacts. Training efforts need to be directed to three sets of officials:
- Information officials. Information officers have typically tended to be public relations officers for the government, rather than seeing themselves as obligated to release information at the request of the public. Thus, when incumbent information officials and existing liaison units are given additional responsibilities, it is critical that they be trained in the specificities of RTI.

Although several laws may enjoin public bodies to provide assistance to requesters, in practice, citizens in several settings encounter difficulties in lodging requests. For instance, in India, respondents to a survey pointed out that they often had to make multiple trips to the government office to get the information released,

and were very rarely able to get assistance from officials in lodging requests, and in fact, reported harassment of RTI applicants by officials, particularly in rural areas (RAAG and NCPRI 2009). Training efforts should, therefore, focus on creating a service orientation, an ethos of formal and equitable interaction with all information requesters, and the duty to provide assistance to service requesters. Training in the technical aspects of information management is equally important, particularly with a focus on the completeness, clarity, and usefulness of the information released.

- Heads of institutions. Empowering information officers to release information without the fear of reprisal, delegating more autonomy to information officers, and signaling the agency leadership's support for openness might empower them to be more open, especially in those departments that have a higher number of requests relating to government performance—the more sensitive requests that officials are particularly cautious about.
- All officials. RTI implementation is not the responsibility of only information officers, but requires the involvement of staff across functional areas. Information officers in the implementing ministries, departments, and agencies (MDAs) often act as dispatchers of requests to the relevant units within the department that then must make the information available. Information management systems, therefore, need to be improved in different units of any MDA. Legal capacity needs to be shored up to accurately interpret the nuances of the law and to handle litigation on RTI, thus requiring upgrades to systems and processes across the government.

### Monitoring System

Attention needs to be paid to setting up a sustainable monitoring system both to assess the effectiveness of the law and to provide an incentive for compliance. Having adequate monitoring data enables assessing where the greatest need for investment is likely to be and what areas the government should focus on, especially in the face of limited resources (box 3.3). Monitoring can provide an accountability mechanism for compliance. For instance, in Mexico, the information commission, IFAI, systematically tracks statistics on requests and responsiveness from federal agencies, cross-checks data from RTI monitoring platforms against data on other technology platforms, and monitors the outcomes of its appellate decisions. Because it actively publicizes its findings, federal agencies have an incentive to comply with the Transparency Law. Monitoring and independent surveys on implementation have also been carried out by CSOs, but are not viable substitutes for official monitoring mechanisms. Based on reports from implementing agencies, the oversight body (typically the nodal agency) should prepare an annual report with quantitative and qualitative information on implementation. The nodal agency and the independent oversight body would need to work together closely on the report because the latter might be tasked with presenting it to the parliament.



### BOX 3.3 Performance Metrics

Statistics related to receiving and responding to requests typically include

- Number of requests received during the year
- Total number of requests at the end of the year
- Number of requests transferred to other entities
- Number of refusals
- Reasons for refusal
- Average number of days to respond to requests
- Percentage of applications received during the reporting year that are rejected
- Number of times various provisions are invoked for rejecting applications

Statistics on proactive disclosure typically include

- Number of documents placed in the public realm
- Number of times they are accessed
- Number of documents automatically disclosed following a specific request

### Records Management

Records management is a critical, and perhaps the most daunting, aspect of implementation efforts. As RTI laws are set in place, the importance of records management increases because the absence of records is often a constraint to the fulfillment of requests. Institutional weaknesses, lack of resources, cutbacks in civil service, and poor maintenance have made the management of records a major challenge in most countries. Given the relatively massive effort that upgrading records management systems and digitizing them is likely to require, it could be quite challenging. In the short term, it might be useful to focus on some of the more pressing imperatives that set the foundation for effective records management. If the relationship between the RTI and archival law is unclear, or the archives are excluded from the scope of the RTI law, two parallel and inconsistent regimes might be created for access to information. These different regulations have to be harmonized. It would also be useful to set in place clear lines of responsibility and effective coordination mechanisms as the foundation on which to build records management systems. In the early stages, the focus could be on implementing minimum standards for records management—standards that are included in the law—such as requiring agencies to create updated lists or registers of the documents in their possession, and to make these lists public.

Retrieving, organizing, and digitizing records; creating systems for maintaining records; and training in records management all require significant investment and are areas in which the Bank can be an important source of support through investment lending. Records management should also be tied to front-end information-delivery systems to ensure that good records management enables access.

## 3.2 Sector Ministries and Agencies

The Ministries, Departments, and Agencies (MDAs) and other government and non-executive entities covered by the law are primarily responsible for implementation. The mandate to respond to information requests in a timely manner, proactively release several categories of information, and monitor implementation, requires investment by these entities to enhance capacity and put in place organizational mechanisms necessary for compliance. Support for these entities to build the necessary capacity and systems can be a useful area of engagement for the Bank's sector projects. Strengthening information disclosure mechanisms should, in any event, be part of the institutional development component of sector projects. The existence of an RTI law provides an additional impetus for these efforts.

### Information Response Unit

Separate funds are not usually dedicated to implementing agencies; the agencies are expected to find funds in their internal budgets. Hence, flexibility in designing the RTI response function while ensuring that the arrangements are adequate to fulfill the RTI mandate is useful. Specific functions of the MDA, the extent of demand from the public, and available resources will influence how large an information management unit must be and how the RTI function could be organized. MDAs that tend to have heavy engagement with the public might need to expand their information management and dissemination units and channel resources toward hiring additional officials especially focused on implementing RTI. In Mexico, for instance, the largest number of requests is directed to the Social Security Institute, and in the United Kingdom, to the Health and Safety Executive (Bookman and Guerrero-Amparan 2009). Such agencies might need to expand their information management and dissemination units and hire additional staff. Other departments, for which RTI does not create significant additional demands, could shore up the capacity of existing communications and public relations units and collocate the handling of RTI requests with other functions, such as a complaints-handling office (Box 3.4).

#### BOX 3.4

Information Departments in the United Kingdom and India

In the United Kingdom, where agencies are given considerable autonomy to determine their arrangements, smaller departments have tended to delegate RTI to their legal teams or corporate services divisions, while larger departments and those receiving a high volume of requests have set up dedicated teams.

In India, departments focused more on formulating policies at the central level, such as the Department of Rural Development and the Department of School Education and Literacy, have leaner implementation structures with fewer information officers, primarily because most of their programs are implemented at the state and local government levels, and requests for information are most often transferred to them. Conversely, departments such as Public Works, which are heavily engaged in the implementation of programs and receive many requests, have more formalized systems, more information officers, and dedicated and well-staffed RTI units.



## Procedures for Receiving Requests

Request procedures are usually spelled out in the law and further elaborated through implementing regulations. While a common set of implementing regulations issued by the nodal agency is useful, in some instances, individual agencies might need to produce additional guidance in keeping with their specific procedures. Implementing agencies then need to put the necessary systems in place to enable citizens to file requests. Some countries have built electronic information request and response platforms, such as Mexico's Sistema Informatizado de Solicitudes de Informacion, which enables requests to be made online anonymously, responses to be fulfilled and monitored electronically, and appeals to be processed online. Requests that are presented in writing in person are transferred into the e-platform by a staff member so that they can be registered by the system.

Electronic platforms can considerably ease access, especially if the majority of requesters are part of the urban population and those with access to technology. But such solutions might not be feasible in poorer contexts. A digitally based system also lacks human interaction and may make it harder for requesters to frame their requests accurately and for officials to respond with specific and relevant information. In poorer countries with low literacy, admission of oral requests is very important, to enable those without access to technology to still get access to information, as well as to assist citizens in making requests.

## Incentives and Rewards

Ensuring that additional responsibilities are accompanied by commensurate remuneration can support the shift to a more open and responsive administrative culture. Being designated as the information officer might not be the most attractive option for a public official. Beyond the inherent threat of cutting into opportunities to profit from corruption, it might entail additional responsibilities perhaps without additional pay or rebalancing of other responsibilities. For instance, in India, more than 30 percent of rural information officers polled in one survey admitted that they did not want RTI to be part of their responsibilities, and more than 10 percent of the public information officers cited a lack of financial and other incentives as reason for their reluctance (RAAG and NCPRI 2008). Instituting incentives for responsiveness, such as including assessment of RTI responsiveness in performance management, could be useful. Leadership signaling of the importance of the law and modeling openness are also important for providing junior officers with the appropriate incentives to improve responsiveness.

## Proactive Disclosure

In addition to responding to requests, RTI laws also enjoin agencies to proactively disclose a range of documents. Guidelines for publishing the information should be

included in the central regulations and guidance materials, but individual agencies might need to provide additional guidance. Officials designated as RTI officers, and responsible for responding to information requests, should also oversee proactive disclosure to enable coordination and continuity in the disclosure function. To the extent possible, documents should be digitized, and websites for dissemination should be created, with the caveat that this might not be feasible in the short term. In any event, documents should be available in various formats, and in particular, they should be simplified to be accessible and comprehensible to citizens. A central website at the nodal agency to enable proactive disclosure might also be set up.

### 3.3 Local Government Capacity for Disclosure

Equally important is building the capacity of local government institutions to manage information and respond to requests with the appropriate attitude about disclosure and interaction with citizens. Although these issues are relevant across the public administration for RTI implementation, they are often more pronounced at the local level, where there is less oversight and support by central government institutions charged with implementing the law.

Local governments might find it very challenging to develop and implement information management systems, and might have little capacity or resources to do so. Records management in these contexts does not have to await state-of-the-art, advanced technology solutions. An incremental approach would be feasible even in lower-capacity contexts, with priority given to organizing and cataloging the most urgent and frequently sought documents, and to educating the public about the availability of these documents through publication of registers of documents, notice boards, and community outreach.

Access to grievance redress mechanisms can be particularly difficult at the local level. Information commissions are located in the national or state capitals, and poor, rural communities might hardly be able to afford sustained litigation for release of information. Collective action and support by CSOs can be important for raising the profile of their demands. But appropriate grievance redress mechanisms should be made available at the local level, including good internal appeals systems within local government agencies.



## 4. DEMAND SIDE OF ACCESS TO INFORMATION

Two dynamics relevant to the demand side of RTI can be identified. The first is the use of RTI by larger NGOs to compel the disclosure of information on government expenditures; decision-making processes; performance and contracts; mismanagement of public funds; nonperformance of service delivery agencies; and instances of fraud, corruption, or nepotism. The uses of Freedom of Information Act (FOIA) requests in the United Kingdom to expose misuse of funds by members of parliament, and the use of the U.S. FOIA to declassify documents about events ranging from the Cuban Missile Crisis to the wars in Iraq and Afghanistan, are some prominent examples. In Romania, NGOs have pursued a legal activism or litigation strategy, winning court cases to push the envelope on the use of RTI to elicit information on issues like public procurement contracts and conflicts of interest. Similarly, in Mexico, NGOs have used the Transparency Law to access information about the operation and financial management of government programs.

The second dynamic is the use of RTI by communities to elicit information that can help them access basic services and entitlements, and protect their social, economic, and community rights. Several examples of RTI being used in this way have emerged in India, Mexico, South Africa, and more recently, Bangladesh. Box 4.1 highlights several examples of the use of RTI for accountability.

### BOX 4.1

#### RTI as a Tool to Realize Social and Economic Rights

In India in 2002, information procured by Parivartan, a Delhi-based NGO, under the Delhi RTI Act 2001 and subsequent public hearings revealed massive corruption and embezzlement of funds in 64 of the 68 Delhi municipal corporation contracts. The incident prompted the local municipal councilor to offer full transparency in public works programs, and undertake a series of corrective measures, such as displaying information about public works projects at worksites and offices and in local communities.

Also in India, a coalition of NGOs in the state of Orissa mounted a campaign during which 42,000 RTI requests were submitted, helping landless people receive their allocated land from the government. For example, no action had been taken by the state government on an application filed in 2002 by 32 landless people to receive their land entitlements. When RTI requests were submitted on their behalf, 26 of those landless claimants received their land allocations within a few days.

In Mexico in 2006, Maderas del Pueblo del Sureste—an environmental NGO supporting indigenous people and rural communities in Chiapas—filed RTI requests using the federal Transparency Law, seeking information about a sewage project that was negatively affecting a village. Information released through these requests showed that the water treatment system was not properly designed and needed a filter system that had not been installed. The Cintalapa

sewage project was halted, and authorities publicly acknowledged that changes had to be made to ensure water was properly treated (Martinez-Moralez 2009).

In 2002, Mexican NGO Fundar was able to procure information from the Ministry of Health on arbitrary allocation to an antiabortion organization of special funds earmarked for the purchase of retroviral HIV/AIDS medications. Along with a coalition of six other CSOs, Fundar requested all of the financial reports of the organization. The information showed numerous irregularities, such as payments to fictitious organizations, frivolous expenditures, excessive expenditures on publicity campaigns, and preferential diversion of funds. Following a media campaign, the organization was forced to return the funds received from the ministry, was banned from receiving public resources, and was charged a large fine, although no public official was investigated or sanctioned.

CSOs play a critical role in applying RTI in both these contexts, but they have not been equally effective or successful in all contexts. According to a recent study (Dokeniya 2013), although CSOs were active in most countries, despite maintaining pressure for implementation of the law, launching monitoring initiatives, and mounting campaigns against efforts to amend the law to narrow the scope of disclosure, their relative success in exercising leverage over the political process and the actions of political actors differed. Two sets of factors that affect the relative effectiveness of civil society in leveraging RTI can be identified. The first is the enabling environment for the functioning of CSOs, and second is the capacity and independence of CSOs. Within the constraints of the Bank's instruments, several interventions can be undertaken to help strengthen the demand side of RTI.

#### 4.1 Enabling Environment

The larger enabling environment determines how effectively CSOs and the media are able to function, and how receptive the state is to civil society and media pressure. For instance, a recent study found that countries with higher scores on indicators such as civil liberties, political rights, and voice and accountability were the countries where there was evidence of RTI being leveraged to gain information about a number of accountability areas (Dokeniya 2013). Addressing this set of factors is undoubtedly a long-term endeavor, but engagement with laws that influence how NGOs and the media function—a regulatory environment that promotes freedom of speech and media freedom and laws that regulate the functioning of NGOs and that provide freedom of association—is useful. This engagement can be undertaken as part of policy dialogue as well as through DPLs.



## 4.2 CSO Capacity for Monitoring Implementation

The second critical set of issues is the relative capacity and independence of CSOs themselves, including financial capacity and the technical and legal expertise of CSOs and the media for engaging with RTI. Countries such as India, Mexico, and the United Kingdom, where CSOs have gained several victories in obtaining information, have stronger, more mature CSOs, with historical track records of engaging with the government on difficult governance issues. However, in countries such as Albania, Moldova, and Uganda, CSOs face significantly higher capacity constraints, sometimes even lacking basic resources,<sup>13</sup> and have been unable to effectively leverage the existence of the law to extract accountability. The Bank's role in this area is limited by its mandate and the availability of instruments at its disposal, although investment lending operations in the sectors can provide support for building capacity in CSOs. Instruments such as Global Partnership for Social Accountability grants are being developed that can support capacity building for CSOs.

### Monitoring Implementation

Support for CSOs monitoring RTI implementation can be a fruitful area of engagement. Monitoring by CSOs cannot be a substitute for establishing an official monitoring system. However, periodic monitoring by CSOs provides an alternative point of view and a mechanism for verifying the validity of government data. And if official monitoring mechanisms have not been set up, CSO initiatives might be the only mechanism available. CSOs in several countries have undertaken such monitoring exercises, which sometimes are the only sources of data available. Typically, test requests are floated to various government agencies to assess the level of responsiveness. These actions might be coupled with surveys, interviews, and assessment of government data.

#### BOX 4.2

Monitoring Implementation and Impact of RTI — RaAG and UCL Studies

Two prominent studies on the functioning of RTI are a 2008 study by the RTI Assessment and Analysis Group (RAAG), undertaken by the National Campaign for People's Right to Information (NCPRI), and an assessment by the University College London (UCL) on the implementation of the U.K. Freedom of Information Act (FOIA) (Hazel, Worthy, and Glover 2010; Worthy 2010). The RAAG and NCPRI study was based on extensive interviews, focus groups, analysis of government data, and surveys.

The UCL study analyzed the statements of policy makers to identify six broad objectives of FOIA and used a combination official literature and records reviews, interviews with officials and other stakeholders, an online survey of RTI requesters, and analysis of media articles to assess FOIA's impact on these six objectives. Support through grant instruments for such monitoring exercises can be helpful for maintaining the momentum and pressure for reform.

<sup>13</sup>Freedom House surveys of these countries, 2000-2010; <http://www.freedomhouse.org/>

### Databases on Government Performance

CSOs have also used RTI to create multiyear databases of information to monitor government performance. For instance, the Mexican NGO Fundar, in partnership with other groups, has created an online repository of information accessed through the Transparency Law on the working of PROCAMPO, the largest federal farm subsidy program in the country designed to support the poorest farmers. The information disclosed has revealed that the bulk of farm subsidies were not being allocated to the country's poorest and smallest farmers, but to the richest and most productive farmers, along with evidence of nepotism and patronage. Fundar's databases have provided a platform for ongoing monitoring of the program.

Similarly, in Romania the Romanian Academic Society and APADOR-CH collected multiyear data on the quality of information on the websites of public universities, ministries, territorial agencies, and local governments. The Romanian Institute for Public Policy (IPP) has built databases with individual track records of politicians' voting (both in the national parliament and local councils). Support for the creation of these kinds of databases could be another constructive area of involvement for the Bank.

### 4.3 RTI in Projects Across Sectors

RTI laws have not been used to their fullest potential as instruments for demanding accountability in sectors. In Uganda, for instance, the law is seen as a political tool rather than a developmental one, and most of the engagement in information access is by larger NGOs, based primarily in the capital. NGOs working on service-delivery areas, typically filling a role as service providers by implementing government programs or filling gaps in service delivery, are not aware of the RTI law, and do not recognize its relevance to their sectors. However, in India, and particularly in Mexico, grassroots organizations and NGOs in service-delivery areas have leveraged RTI for important gains in furthering the social and economic welfare of the communities in which they work.

Several sector projects are integrating social accountability elements such as community participation, participatory and third-party monitoring, community scorecards, and grievance redress mechanisms. The transparency components of sector programs have tended to focus on campaigns designed to communicate information on specific areas, typically program-related information to enable communities to access program benefits. However, RTI is a tool for empowerment; it is not only about making information available, but empowering citizens and communities to seek out information both as a means of asserting their rights and entitlements and of holding providers accountable for quality and performance. Therefore, integrating both training, as well as awareness-raising—through various media such as radio, community meetings, posters, and the like—into the social accountability components of sector projects can be important to empowering communities in the development process.



## Training Modules for CSOs and Communities

Training modules for RTI should typically include the following aspects:

- Basic understanding of what an RTI act is, what rights it gives citizens, and why it is relevant to needs, priorities, and welfare, including citizens' access to services and livelihoods;
- What kinds of information are relevant, and which agencies might hold this information;
- Procedures for submitting information requests, and helpdesks that can be accessed (potentially local NGOs) in the submission process;
- How to use the information once accessed;
- Options to take if there is no response to the request, if the information request is denied, or if incomplete information is provided; and
- Processes for appeals to local authorities and grievance redress organizations

International and local CSOs that are active in RTI have done extensive training and might be a useful source of material that can be tailored to the local context.

## Mechanisms to Translate Access to Information into Accountability

Access to information is useful if it enables better outcomes in policy formulation, service delivery, control of corruption, and overall improvement in development and welfare. Realizing these outcomes through access to information requires a number of other mechanisms such as participation by stakeholders in decision making and management of development programs, and monitoring of performance and public expenditures. A common framework for organizing the range of social accountability mechanisms encompasses three broad areas:

- Transparency (information campaigns, open budget initiatives, citizen's charters, and so forth);
- Accountability (community scorecards, expenditure tracking, grievance redress mechanisms, advocacy campaigns, public interest lawsuits); and
- Participation (participatory budgeting and participatory planning).

But these are not discrete mechanisms; rather, they are part of a process that enables citizens to hold government officials accountable. The effectiveness of each of these mechanisms requires an integrated approach. When a project supports access to information, it is important to build in mechanisms to enable both participation and monitoring to ensure that access to information translates into development outcomes. Similarly, if a project supports participatory processes or monitoring mechanisms, efforts to ensure that stakeholders have access to the information necessary to perform these functions must also be built in. Enabling access to information within projects should be seen as one element of strengthening social accountability, with

interventions built into the project to help communities use this information to demand accountability and better services. See box 4.3 for an examples of monitoring activities resulting from access to information.

**BOX 4.3**  
Integrating Social  
Accountability  
Mechanisms

The Mazdoor Kisan Shakti Sangathan, a rural farmer and labor empowerment organization in the Indian state of Rajasthan, has been a driving force for transparency in local government as a means of protecting and advancing the rights of communities. Through extensive activism throughout the 1990s, it was able to get information released that was related to local wages and food distributed through the public distribution system. One of its most important innovations was the development of a collective method for analyzing the official information it obtained. During *jan sun-wais* (or “public hearings,” a social audit platform), detailed accounts, derived from official expenditure records and other supporting documentation, were read aloud to assembled villagers. These meetings were organized independently, not through the official, statutorily recognized village assemblies (or *gram sabhas*), but elected representatives and local government officials were also invited to attend. Local people were invited to give testimony highlighting discrepancies between the official record and their own experiences as laborers on public works projects, applicants for means-tested antipoverty schemes, or consumers in ration shops. Many people discovered that they had been listed as beneficiaries of antipoverty schemes, though they had never received payment. Large payments to local building contractors for works that were never performed were also discovered. This approach enabled collective and very local verification of official accounts—it is only at the local level that the many small diversions of funds, which go unnoticed in massive formal audits, can be detected (Jenkins and Goetz 1999).

In South Africa, villagers in Emkhandlwini, with the help of the Open Democracy Advice Centre, used the Promotion of Access to Information Act (2000) to request the minutes of the council meetings on the provision of water, the municipality’s Integrated Development Plan, and its budget. The documents, which were released after a delay of six months, showed that the village was supposed to receive access to clean water. By getting the media to cover the issue, villagers were able to apply pressure on the municipality. In response, the municipality installed fixed and mobile water tanks in the community. When the supply through mobile water tanks became erratic, villagers used the act again, this time to request access to the service-level agreement between the municipality and the company delivering the water. The request brought to light that such an agreement or contract had not been made, which was a breach of South Africa’s public finance legislation and resulted in the municipality being reported to the Auditor General for investigation (Dimba 2008).



## 5. CONCLUSION

The key issues for implementation of RTI can be summarized in the following points:

- Although the number of countries with RTI laws has expanded rapidly in the last few years, many countries, especially in Africa and East Asia, have still not adopted them. Either RTI has not been introduced in the national discussion in any significant way, or governments have resisted the law despite strong constituencies pushing for reform. In these countries, the Bank can potentially include a discussion of RTI in the policy dialogue and provide support for the design and enactment of legislation, especially when a political window of opportunity presents itself. However, if the law is introduced and implemented in a primarily top-down process, and undertaken as the result of external pressures without ownership by domestic constituents, it is unlikely to be effective. Engagement with stakeholders across the political spectrum should, therefore, be integral to reform efforts.
- On the supply side, concerted attention to establishing and maintaining the formal implementing institutions to build capacity and support for RTI within the public sector should be an integral component of reform efforts. Both a viable oversight entity within the government and independent oversight agencies have important roles, and sustainable funding for these entities is critical for them to continue to function effectively. At the same time, sequencing and prioritizing implementation measures can make RTI feasible in lower-capacity environments. Investment in performance systems is critical for monitoring implementation and for providing incentives for compliance. Appropriate metrics must also be devised for assessing both implementation and impact.
- The “softer side” of implementation is critical. Implementation requires a shift in administrative culture; for instance, junior-level information officers need to be empowered to release information, and training programs and rewards need to be instituted. Implementation should be seen as a systemic change-management exercise, requiring awareness-raising for all officials, not only specifically designated information officers.
- Attention to implementation of RTI at the local level has been neglected, but local-level implementation is critical, especially if RTI is to be useful for service delivery and empowerment of local communities. Implementation at the local level comes with its own set of challenges because the underlying capacity might be weaker and political pressure for implementation less pronounced. Hence, implementation solutions would need to be tailored to the local level, particularly for training local officials to assist and be responsive to local communities.
- On the demand side, the Bank can help strengthen the enabling environment for civil society—a necessary condition for the effective functioning of the law—and can support CSOs to build capacity for monitoring the law and for building databases of information extracted through RTI. Help with training and awareness-raising about RTI, and mechanisms for information access more broadly, can be

undertaken as part of sector investment lending projects, especially those that have social accountability components. Moreover, in designing these components, it should be recognized that information access, participatory processes, third-party monitoring, and grievance redress are not discrete mechanisms, but elements of the accountability relationship, and should be designed to ensure that the synergies between these mechanisms are leveraged.



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