

Access to Information Monitoring

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Tool summary

The Access to Information Monitoring (AIM) tool developed by the Open Society Justice Initiative is a set of three instruments designed to capture information about a country's laws and practices regarding freedom of information. First, is a legal template that provides a basis for assessing a country's laws and practices against established international standards. Second, is a monitoring methodology that facilitates standardization in the submission of requests for information and the types of information requested. Third, is a specially designed software that allows multiple partners in a range of countries to input monitoring data in a common format thus enabling comparative analysis of the results.

What is it?

The AIM tool offers a methodological foundation for monitoring and analyzing compliance with norms established for access to information. It was developed on the basis of a review of existing research and practices of CSOs in the area of access to information.

The AIM tool was created as a versatile and effective instrument to:

- enable analysis of a range of access to information indicators;
- facilitate comparisons among different public bodies within any given country; and
- permit comparative analysis of responsiveness to requests for information between agencies within a country and/or between countries.

The tool aims to be flexible enough for application in a wide range of monitoring contexts, ranging from large multi-country studies to assessment of one or two institutions within any one country. In those countries that are lacking access to information laws, indicators of levels of transparency are valuable in demonstrating the need for legislation.

How is it done?

Applying the AIM tool involves four sequentially related phases. First, it requires a review of national legislation using a legal template. Then, participants in the study request information from various institutions, track the responses, and key



the results into a shared database. A third phase consists of interviews with representatives of bodies to which information requests were made, in order to identify the context in which public institutions (and officials) work. The aim is to get a picture of both the practice and spirit of openness in each body monitored. Finally, the data are analyzed and prepared for presentation.

1. Phase one: Legal analysis

The first phase in applying the AIM tool involves a legal analysis of the national laws in the light of international standards by means of the legal template. It is aimed at identifying the basic regulations that govern access to information in a particular country and provides a standard by which to evaluate that country's progress towards implementing its own laws. The legal template is a checklist based on the Justice Initiative's "10 Principles on the Right to know", which in turn reflect international and national laws and practices. The legal template provides a framework for comparative analysis of elements such as: the scope of institutions and the types of information covered by a given country's law; the time frames for delivering information; exemption of certain types of information; procedure to apply for information including payment of fee; and procedure for appeals against grievances. In countries with access to information legislation, the template also allows for identifying country specific variations while assessing compliance to established international norms.. For countries without any relevant legal provisions, the template provides a basic structure for assessing their compliance with minimum international standards on the right of access to information.

2. Phase two: Submission and monitoring of requests

The second phase involves submission of requests for information by the participants of CSOs undertaking the monitoring exercise. The type and number of requests to be filed should be determined so as to test a number of variables between agencies or across countries, allowing for measurement and comparison of the response to requests, processing of requests and the quality of information received. In order to facilitate comparisons between agencies or countries, requests should be standardized. This means that requests must be submitted for similar information from similar agencies/departments across the countries. To the extent possible, there should be consultation with the requesters themselves so that the requests are relevant to them and meet their real information needs. For example, local NGOs and journalists can be consulted so that requests yield information that is useful to their work.

Requesters may be from a single NGO in each country or may be chosen to represent different groups that may wish to access information such as for e.g.



NGOs, journalists, business people, and members of socially marginalized groups (like for e.g. illiterate or disabled persons or those from vulnerable minority communities). The range of national institutions targeted with information requests must be broadly similar across the countries.

Project designers may decide that each request is submitted twice to the same institution by two different requesters with a reasonable time gap between the two requests in order to assess the consistency of response and, where the response is inconsistent, to assess whether patterns of discrimination are discernible.

Before the process of submitting the requests begins, a training programme must be organized for requesters that explains the process and sets common standards for filing requests and follow-up actions. The training session should specify the mode of requests (oral or written) as well as determine the time and effort to be devoted for following-up on requests. For instance, requesters might be instructed to: make up to three attempts to submit a request; an optional telephone call or visit to verify receipt of request; and a later follow-up call or visit once the time frame for delivery of information nears expiry. This enables better comparison of the results.

3. Phase three: Interviews with public bodies

The third phase of AIM consists of interviews with key officials of each public body that was part of the monitoring exercise, in order to gain a deeper understanding of their systems for implementation of access to information or other relevant laws. The interviews provide an opportunity for the officials to explain how they generally handle requests for information, and also to respond to the findings of AIM, particularly when there are instance of low response or high refusal rates from certain institutions.

Interviews should also aim at identifying various needs of the public bodies such as additional training, and internal manual for personnel on implementing freedom of information laws. Interviewers should seek a frank discussion with the designated personnel to listen to their concerns and understand the logistical challenges they face. Some institutions may refuse to grant interviews, especially when their compliance scores on access to information are low.

4. Phase four: Data collection, verification, and analysis

The AIM Software includes a user friendly interface and a relational database that allows for tracking the key stages of an information request, from filing to receipt of information or refusals as the case maybe and appeals. AIM Project



partners are able to input information into the database online throughout the project period, allowing for centralized analysis of results. The software generates statistics on the monitoring outcomes and facilitates comparison of data within and between countries.

Once the data entry is complete, the data is reviewed and the final outcome of each request is determined. The four possible outcomes are as follows: fulfilled partial refusal, complete refusal, and mute refusal (or no response at all). Data verification sheets in Excel are generated using the software and sent to partners for review and correction. Partners should undertake a thorough review to ensure the accuracy of the basic data, substantive comments, and final outcomes assigned to each request. Any disagreements concerning how to interpret data or designate the final outcome should be discussed and resolved over phone or email.

The projects in which requests are submitted twice to the same institution by different requesters, the final step in the verification process involves an analysis of the outcomes for identical requests. The results of each pair of requests provide an additional test as to whether institutions are consistent in their responses, and whether there appears to be discrimination based on the socio-economic status of the requester.

Benefits

- Enables analysis of how access to information laws are being implemented in practice;
- Helps to manage the collection and analysis of data in a manner that is easy to use, yields statistically valid results, and facilitates comparisons of responsiveness to information requests between different agencies in the same country or between different countries;
- Monitoring results can improve implementation by collecting information that exposes problems in implementation, and which can thus be used as a basis for recommending additional training of government personnel and/or advocacy by the concerned CSOs to press for reforms; and
- Monitoring process develops the capacity of civil society organizations and other groups to file requests and monitor, analyze and present results.
- AIM also helps to build and strengthen trans-national coalitions and networks of CSOs.



Challenges and lessons

- The AIM tool assumes access to computers and internet by all partners of the monitoring project.
- Using the software for the first time requires some training, time and effort. Assistance of a computer specialist might be needed in case of users who are less familiar with computers. A detailed Users Manual is provided together with the software.
- Due to the relative complexity of the software, the tool is more appropriate for large scale monitoring exercises involving a huge number of requests and covering several institutions or countries. However, the use of AIM software in small scale monitoring studies, lead to unnecessary complications.
- Given the sheer number and a wide range of actors, and the legal and cultural variations across countries involved in such large scale monitoring projects, a certain amount of inconsistency is unavoidable. The results should not be regarded as perfectly comparable, even if efforts are made to ensure consistent application of the methodology.

Key resources

Banisar, D. *Freedom of Information Around the World: A Global Survey of Access to Government Information laws*: Privacy International (2006).

<http://www.privacyinternational.org/foi/foisurvey2006.pdf>

- ☞ This report is a review by the Freedom of Information Project of Privacy International of 69 countries that have adopted national regimes on access to information. The survey also included countries with extremely weak or largely negative ones such as Zimbabwe and Uzbekistan to facilitate better understanding of the effects of these different systems. Privacy International, was formed in 1990 as a privacy, human rights and civil liberties watchdog

Commonwealth Human Rights Initiative (CHRI)

http://www.humanrightsinitiative.org/programs/ai/rti/articles/intl_articles.htm

- ☞ CHRI is an international, non-governmental and non-partisan organization mandated to ensure practical realization of human rights in the countries of the Commonwealth. CHRI's Right to Information website is designed to provide legislators, advocates and the public with resources on international and Commonwealth principles and standards on the right to information. The site also provides a unique and comprehensive collection of national right to information resources for all 53 countries of the Commonwealth, including legislation, papers and links to other useful websites.

Darbishire, H & Carson, T. *Transparency and Silence. A Survey of Access to Information Laws and Practices in 14 Countries*. Open Society Justice Initiative (2006)

http://www.soros.org/initiatives/justice/focus/foi/articles_publications/publications/transparency_20060928/transparency_20060928.pdf

- ☞ This oft cited report details the results of a study using AIM and undertaken by the Justice Initiative and its partners to discover how government offices and agencies in fourteen countries—Argentina, Armenia, Bulgaria, Chile, France, Ghana, Kenya, Macedonia, Mexico, Nigeria, Peru, Romania, South Africa, and Spain—respond to specific requests for information. FreedomInfo.Org

<http://www.freedominfo.org/>



- ☞ This site is one of the largest one-stop portal that describes best practices, consolidates lessons learned, explains campaign strategies and tactics, and links the efforts of freedom of information advocates around the world.

Mendel, T. *Freedom of Information: A Comparative Legal Survey*. UNESCO (2003)

<http://unesdoc.unesco.org/images/0013/001341/134191e.pdf>

- ☞ This report illustrates the way in which ten countries and two international organizations have dealt with issues concerning Freedom of Information. An attempt has been made to ensure that all regions of the world are represented, with a focus on those countries with effective legal guarantees for the right to information.

Open Society Justice Initiative: *Access to Information Monitoring Tool -Report from a Five-Country Pilot Study* (2004)

http://pdc.ceu.hu/archive/00002352/01/Access_to_Inform.pdf

- ☞ The report provides a description of the pilot testing of AIM in Armenia, Bulgaria, Macedonia, Peru and South Africa, the survey marks one of the most comprehensive efforts to test the limits of government transparency. It involved the submission of 100 information requests to 18 different public institutions by a range of actors in each country. The Open Society Justice Initiative, a programme of the Open Society Institute, pursues law reform activities grounded in the protection of human rights, and contributes to the development of legal capacity for open societies.

Open Society Justice Initiative: *10 Principles on the Right to Know*

<http://right2info.org/resources/publications/JI%2010%20Principles%20R2K-Country%20list%202009.doc>

- ☞ This link describes the ten principles of the Right to Know which forms the basis for access to information monitoring initiatives

Right2info.org

http://right2info.org/resources/publications-1/?searchterm=monitoring%20report_



- ☞ Right2INFO.org brings together information on the constitutional and legal framework for the right of access to information as well case law from more than 80 countries, organized and analyzed by topic. This website is organized and maintained by the [Justice Initiative](#) which together with [Access Info Europe](#), continues to collect, analyze and upload information. The website lists several useful links on access /Right to Information

United Nations Development Programme (2006): *A Guide to Measuring the Impact of Right to Information Programmes- Practical Guidance Note*

http://www.undp.org/governance/docs/A2I_guides_righttoinfoimpact.pdf

- ☞ The aim of the Guide is to help UNDP Country Offices to select country specific and appropriate indicators in order to assess Right to Information focused interventions. This guide complements the Right to Information Practical Guidance Note by focusing on the monitoring and evaluation side of right to information programming. The Guide outlines key considerations for understanding the baseline situation for monitoring right to information programmes, it explains the importance of establishing clear and specific right to information programme outcomes and it sets

Case studies

Transparency and Silence: A Survey of Access to Information Laws and Practices in 14 Countries using AIM

The first monitoring carried out with the help of the Access to Information Monitoring Tool involved 14 countries all over the world - Argentina, Armenia, Bulgaria, Chile, France, Ghana, Kenya, Macedonia, Mexico, Nigeria, Peru, Romania, South Africa, and Spain.

In several countries, the monitoring results demonstrably helped partners in their campaigns for law reform and/or improved implementation. For instance, in Chile, the results helped get pledges from the leading Presidential candidates to adopt a full ATI law. In a case filed at the Inter-American Court of Human Rights by the petitioners challenging the lack of a right of access to info in Chile cited the monitoring results, and the Court referred to the report in its judgment, especially in justifying its order that the Government of Chile must train the personnel to respond properly to information requests. The results boosted support for an ATI law in Macedonia, which was adopted in 2006, and for a national law in Argentina. In France, the survey motivated the authorities to issue a regulation requiring all government agencies to designate an officer to respond to information requests. The survey also strengthened calls for reforms in Romania.

The results of the monitoring have taught a great deal about the mechanisms of access to information laws. None of the project implementers had a sense about how information requests were being handled, and everyone was surprised by some aspect of the process, whether it was unusually good or bad treatment of requesters, the problem of security guards, the acceptance by some authorities of oral requests, charging of excessive fees, non-disclosure of routine information, or release of information that partners had assumed would be hard to get.

Source:

http://www.soros.org/initiatives/justice/focus/foi/articles_publications/publications/transparency_20060928/transparency_20060928.pdf

Macedonia: Application of the Law on Free Access to Public Information – A Monitoring Report by PRO MEDIA



A monitoring exercise was undertaken by PRO MEDIA between April and May of 2009 studying the free access to information (FAI) on the web sites of various public institutions in Macedonia. The monitoring was intended to establish how much the government or the monitored institutions are open (and if they are open at all) in addition to how the FAI concept is understood and how the Law on Free Access Public Information (LFAPI) is practiced. Attempts were made to get much needed answers to questions posed on the web sites of information holders. The mission of the research was to collect data and information on enforcement of LFAPI with reference to its various articles relating to fulfillment of obligations that are imposed on every public information holder in order to publish such information without receiving an individual application.

Source:

<http://right2info.org/resources/publications/PRO%20MEDIA%20Report%20FAI%20Web%202009.pdf>

