



## SPOTLIGHT ON PUBLICATIONS: DESIGN, ADOPTION AND IMPLEMENTATION OF LATIN AMERICAN FREEDOM OF INFORMATION ACTS

In the last two decades, Latin American countries – from Brazil, Chile and Colombia to Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Peru and Uruguay - have designed and adopted innovative Freedom of Information Acts (FOIAs). These FOIAs have helped to increase transparency in government actions, ensure citizens' right to request and access public information and enhance overall accountability.

This selection highlights some of the key publications on Latin American FOIAs' critical features, the challenges and opportunities of their implementation and use, and the process for adopting them. It divides the publications into two parts: [Designing and Adopting FOIAs](#) and [FOIA Implementation and Use](#). These resources – offering access to the Latin American experience – could be useful for countries looking to develop, adopt or strengthen their own legal framework to guarantee transparency and access to information.

### Designing and Adopting FOIAs

#### ► [Disclosing Justice: A Study on Access to Judicial Information in Latin America](#)

This publication analyses the implementation of FOIAs in the judicial system. Using case studies from ten Latin American countries, it shows that FOIAs' impact on judicial systems depends on the law's scope. The publication also analyses trends and commonalities in these legal frameworks, as well as their gaps and loopholes. Because this publication assesses countries where a FOIA is applied to the judicial branch and compares outcomes with countries where no such FOIA exists, this publication will be useful for South Asian and Sub-Saharan African experts interested in improving access to information in their own judicial systems, regardless of the legal framework in place.

Full Citation: Yagel, L. (ed). 2007. *Disclosing Justice: A Study on Access to Judicial Information in Latin America*. Due Process of Law Foundation, Open Society Institute, Washington, DC.



## ► [Exploring the Role of Civil Society in the Formulation and Adoption of Access to Information Laws: The Cases of Bulgaria, India, Mexico, South Africa and the United Kingdom](#)

The interaction between civil society and public officials is an important component of the process of enacting a country's FOIA. This [World Bank Institute](#) paper analyses how civil society influenced the design and adoption of FOIAs in five countries. The paper studies how CSOs influenced the context in which these FOIAs were implemented and their design, focusing on the enabling factors underpinning civil society's successful push for greater transparency. The paper concludes by comparing the countries' varying experiences and offering lessons learned. As this publication studies the case of the Mexican FOIA, one of the most progressive in Latin America, and includes interesting comparison across countries, the publication will likely be useful to CSOs across the world.

Full Citation: Puddephatt, A. 2009. *Exploring the Role of Civil Society in the Formulation and Adoption of Access to Information Laws: The Cases of Bulgaria, India, Mexico, South Africa, and the United Kingdom*. World Bank Institute and the Communication for Governance and Accountability Program, Washington, DC.

## ► [Handbook on Citizen Oversight of Transparency and Access to Information](#)

This handbook from the Chilean civil society organization (CSO) *Libertades Ciudadanas* ([Citizen Freedoms](#)) is targeted at citizens, CSOs and media that could potentially make use of the Chilean FOIA. It describes in a simple and practical way the content, objectives, scope and procedures for requesting public information. The handbook also presents the history and contextual factors that enabled the enactment of Chile's FOIA and the establishment of the Council of Transparency, the agency in charge of overseeing the law's implementation. Chile's FOIA law is widely considered to be one of the best legal and institutional frameworks in Latin American, and this publication allows South Asian and Sub-Saharan policymakers and CSO practitioners to gain a deeper understanding of it. The publication also offers a model handbook that could be adapted for use by CSOs in other countries.

Full citation: Castilla, A. et al. 2009. *Manual de Control Ciudadano Sobre la Transparencia y Acceso a la Información Pública (Handbook on Citizen Oversight of Transparency and Access to Information)*. Corporación Libertades Ciudadanas, Santiago de Chile.

## ► [Proactive Transparency: The Future of the Right to Information](#)

This [World Bank Institute](#) publication analyses the concept of proactive transparency: public officials pre-emptively offer information, rather than waiting for citizens to specifically request it. It presents the historical development and drivers of proactive transparency, reviews the international standards of proactive disclosure of public information and draws practical considerations related to the implementation of such measures. In doing so, the study highlights issues regarding resources, training and oversight that such policies imply. As this publication studies the cases of Chile, Mexico and Peru, and compares these experiences with those of other parts of the world, it might be of interest to those working on access to information in other contexts.

Full Citation: Darbshire, H. 2011. *Proactive Transparency: The Future of the Right to Information? A Review of Standards, Challenges, and Opportunities*. World Bank Institute and the Communication for Governance and Accountability Program, Washington, DC.



## ▶ [The Right to Information in Latin America: A Comparative Legal Survey](#)

This survey compares the existing FOIAs of 11 Latin American countries: Chile, Colombia, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru and Uruguay. For each country's FOIA, the author analyses seven legal principles, namely the right to access information, procedural guarantees, the duty to publish, exceptions, appeals, sanctions and protections, and proactive measures to promote access to information. A regional comparative analysis is also presented allowing readers to compare the various countries' laws and to identify the particular innovations some Latin American countries have designed.

Full Citation: Mendel, T. 2009. *The Right to Information in Latin America: A Comparative Legal Survey*. UNESCO, Quito.

## Implementing and Using FOIAs

### ▶ [Access to Information and Transparency in the Judiciary: A Guide to Good Practices from Latin America](#)

The judiciary plays an important role in mediating the relationship between citizens and their political institutions and is a key factor in consolidating the rule of law. This paper analyses how transparency and access to information is crucial in the judiciary, including its positive effect on institutional capacity, legitimacy and authority. The paper studies good practices in FOIA implementation regarding the management and jurisdictional functions of the judiciary in Argentina, Brazil, Chile, Colombia, Costa Rica, Guatemala, Mexico and Peru. In particular, it analyses the importance of disclosing judge's personal assets, court statistics and court sentences, and of providing access to case files. This publication could be valuable for those in other regions working towards improving transparency and access to information in the judiciary.

Full Citation: Herrero, A., López, G. 2010. *Access to Information and Transparency in the Judiciary*. World Bank Institute, Governance Working Paper Series, Washington, DC.

### ▶ [Freedom of Information Around the World 2006: A Global Survey of Access to Government Information Laws](#)

This international review analyses country cases from all regions of the world, including Latin American countries such as Argentina, Belize, Colombia, Ecuador, México, Panama and Peru, that have adopted national laws or regulations on access to information. Based on an analysis of all the country cases, the author offers an overview of the shared problems that transparency and access to information reforms are facing in their implementation, such as the culture of secrecy, excessive fees for accessing information, records management and privacy issues, among others. In particular, the detailed national cases presented here should be useful for those interested in comparing their national access to information frameworks and implementation with those from Latin American countries.

Full Citation: Banisar, D. 2006. *Freedom of Information Around the World 2006: A Global Survey of Access to Government Information Laws*. Privacy International.



## ▶ [Knowing More Report: Regional Report on Access to Information as a Tool to Access Other Rights](#)

This report from the [Regional Alliance for the Freedom of Expression and Access to Information](#)<sup>1</sup> presents a qualitative overview of the status of the right to access information in individual Latin American countries and at the regional level. In particular, the publication focuses on how governments and judicial systems are responding and reacting to the increasing number of citizen requests for public information. The case studies and the regional analysis presented would be useful to South Asian and Sub-Saharan CSOs and policymakers working on FOIA implementation processes and their effective use by citizens.

Full Citation: Regional Alliance for Freedom of Expression and Information. 2009. *Informe Saber Más, Informe Regional Sobre el Acceso a la Información Como Herramienta Para Acceder a Otros Derechos (Knowing More Report: Regional Report on Access to Information as a Tool to Access Other Rights)*. Regional Alliance for Freedom of Expression and Information.

## ▶ [Making the Access to Information Law Work: The Challenges of Implementation](#)

Adopting a FOIA is the relatively easy part, compared to the difficulty of implementing the law to effectively guarantee access to public information. This article highlights the challenge of successful implementation, showing how its effectiveness is a matter of co-responsibility, involving the citizen, as the 'demand side', as well as the government, as the 'supply side'. Moreover, it reviews the main implementation obstacles faced and identifies possible solutions to overcome them. As it highlights the recent lessons learned in Latin American countries, and includes South Africa, it will be of interest to policy makers, academics and members of CSOs from other regions.

Full Citation: Neuman, L., Calland, R. 2007. Making the Access to Information Law Work: The Challenges of Implementation. In: Florini, A. (ed). *The Right to Know*. Columbia University Press, New York.

## ▶ [Model Inter-American Law on Access to Information; Commentary and Implementation Guide for the Law](#)

The [Model Inter-American Law on Access to Information](#) provides guidelines to States under the jurisdiction of the [Organisation of American States](#) about the legal foundation necessary to guarantee the right to information in their jurisdictions, specifically setting forward the legal standards for the region. The [Implementation Guide](#) for the Model Law presents a road map for ensuring the law successfully functions in practice. Together, these two publications are key regional references on FOIAs in Latin America.

Full Citation: Organization of American States (OAS). 2010. *Model Inter-American Law on Access to Information and Commentary and Implementation Guide for the Law*. OAS, Washington, DC.

<sup>1</sup>To learn more about the Alliance, read the [ELLA Brief: Civil Society's Regional Network for Advancing Freedom of Expression and Access to Information](#).



## ► [Overcoming the Culture of Secrecy: Obstacles in the Implementation of Access to Information Laws and Policies in Seven Latin American Countries](#)

Though many countries have access to information laws on the books, perhaps the bigger challenge is ensuring they are effectively implemented in practice. This report analyses access to information in seven Latin American countries – Argentina, Bolivia, Chile, Ecuador, Mexico, Peru and Uruguay – identifying the institutional, administrative, cultural and social obstacles that the laws face in their implementation. Based on the findings, the authors make recommendations for both governments and international organisations. As many South Asian and Sub-Saharan countries are in the process of strengthening the implementation of their access to information laws, learning from the challenges that Latin American countries are facing will be of great use.

Full Citation: Centro de Archivos y Acceso a la Información Pública (CAInfo), Open Society Fundation (OSF). 2011. *Venciendo la Cultura del Secreto: Obstáculos en la implementación de políticas y normas de acceso a la información pública en siete países de América Latina (Overcoming the Culture of Secrecy: Obstacles in the Implementation of Access to Information Laws and Policies in Seven Latin American Countries)*. CAInfo/OSF, Montevideo.

## ► [Proceedings from the Transparency and Access to Information Forum in Ecuador: Challenges and Analysis Five Years After Enacting the FOIA](#)

This report analyses the implementation of Ecuador’s FOIA since its enactment in 2004. It assesses the barriers and opportunities that the law has faced in its implementation by the Ombudsman Office, the agency in charge of rolling out the law. The report also makes a citizen’s assessment of the effective enforcement of the law based on CSO experiences in using the law to monitor public policies and budgets. South Asian and Sub-Saharan policy makers and members of CSOs could learn from the Ecuadorian experience in implementing and using their FOIA.

Full Citation: Centro Ecuatoriano de Derecho Ambiental (CEDA) and Coalición Acceso. 2009. *Memorias del Foro. Transparencia y Acceso a la Información Pública en el Ecuador. Retos y Análisis Cinco Años Después de Promulgada la LOTAIP (Proceedings from the Transparency and Access to Information Forum in Ecuador: Challenges and Analysis Five Years after Enacting the FOIA)*. CEDA, Quito.

### CONTACT [FUNDAR](#)

To learn more about these publications or about FOIAs in Latin America, contact Janet Oropeza Eng, ELLA Project Coordinator, [janet@fundar.org.mx](mailto:janet@fundar.org.mx).

### FIND OUT MORE FROM [ELLA](#)

To learn more about FOIAs in the region, read the [ELLA Brief: Building the Legal Framework to Support Transparency in Latin America](#). To learn more about other Transparency and Access to Information issues in Latin America, read the [ELLA Guide](#), which has a full list of the knowledge materials on this theme. To learn more about other ELLA Development issues, browse other [ELLA Themes](#).



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