



Using the UNCAC for advocacy: Access to Information

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Addis Ababa, 11 April 2019

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What do we mean with freedom of information?

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- Everybody has the right to request information and documents held by State bodies
- Terms and abbreviations commonly used
 - RTI = Right to Information
 - FOI = Freedom of Information
 - FOIA = Freedom of Information Act
 - ATI = Access to Information

Who of you has filed a freedom of information request?

UNCAC: Article 5

Preventive anti-corruption policies and practices

„1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote **the participation of society and reflect the principles of** the rule of law, proper management of public affairs and public property, integrity, **transparency** and accountability.“

UNCAC: Article 10

Public Reporting

- (a) Adopting procedures or regulations **allowing members of the general public to obtain**, where appropriate, **information on the organization, functioning and decision-making processes of its public administration and**, with due regard for the protection of privacy and personal data, **on decisions and legal acts that concern members of the public**;
- (b) Simplifying administrative procedures, where appropriate, in order to **facilitate public access to the competent decision-making authorities**; and
- (c) **Publishing information, which may include periodic reports on the risks of corruption in its public administration.**“

UNCAC: Article 13

Participation and Society

„.... participation should be strengthened by such measures as:

- (b) Ensuring that the public has affective access to information
- (d) **Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption.**

The freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

- (i) For respect of the rights or reputations of others;
- (ii) For the protection of national security or ordre public or of public health or morals.“

International Covenant on Civil and Political Rights

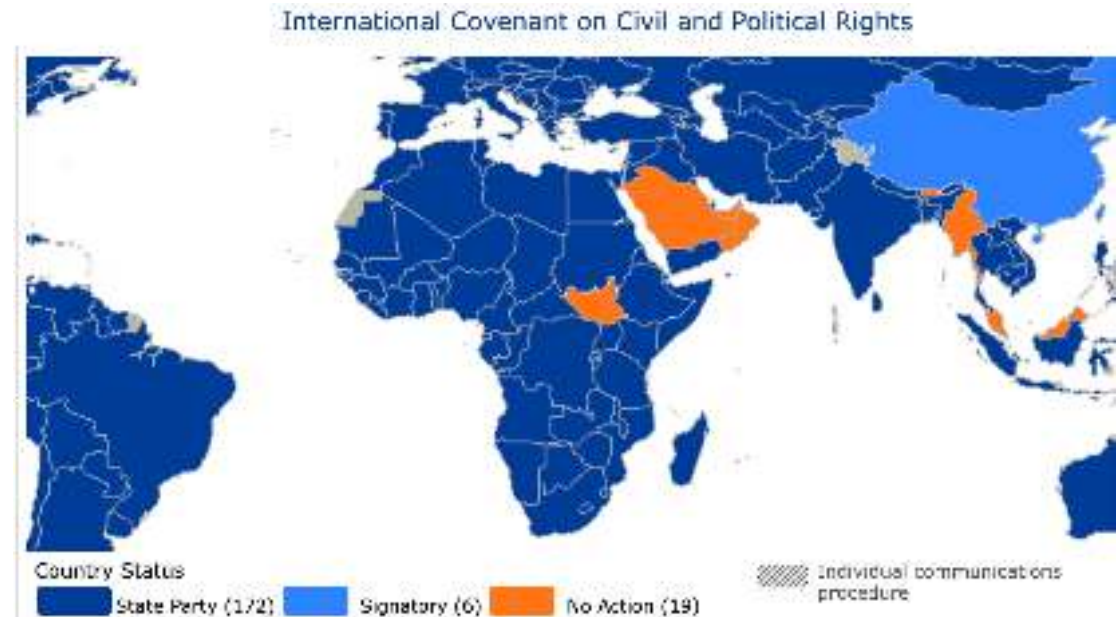


International Covenant on
Civil and Political Rights

Article 19

“2. Everyone shall have the right to freedom of expression;

this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”



<http://indicators.ohchr.org/>

International Covenant on Civil and Political Rights



International Covenant on
Civil and Political Rights

“Article 19, paragraph 2 embraces a **right of access to information held by public bodies.**

Such information includes **records held by a public body, regardless of the form in which the information is stored, its source and the date of production.** (...)

The designation of such bodies may also include other entities when such entities are carrying out public functions.”

Human Rights Committee
102nd session
Geneva, 11-29 July 2011

General comment No. 34

Article 19: Freedoms of opinion and expression

<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

International Covenant on Civil and Political Rights



International Covenant on
Civil and Political Rights

“States parties should **proactively put in the public domain Government information of public interest.**

States parties should make every effort to **ensure easy, prompt, effective and practical access to such information.**

States parties should also **enact the necessary procedures**, whereby one may gain access to information, such as by means of freedom of information legislation.”

Human Rights Committee
102nd session
Geneva, 11-29 July 2011

General comment No. 34

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<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

International Covenant on Civil and Political Rights



International Covenant on
Civil and Political Rights

“The procedures should provide for the **timely processing** of requests for information according to clear rules that are compatible with the Covenant.

Fees for requests for information should not be such as to constitute an **unreasonable impediment to access to information**. Authorities should provide **reasons for any refusal** to provide access to information. Arrangements should be put in place for **appeals** (...)

Human Rights Committee
102nd session
Geneva, 11-29 July 2011

General comment No. 34

Article 19: Freedoms of opinion and expression

<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

African Charter on Human and Peoples' Rights

Article 9

1. Every individual shall have the right to receive information.
1. Every individual shall have the right to express and disseminate his opinions within the law.



African Commission on Human and Peoples' Rights

<http://www.achpr.org/instruments/achpr/#a>

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What are aspects of a strong RTI Act?

What are aspects of a strong RTI Act?

- Covers **all branches of government** (executive, legislative, judiciary), state-owned companies and entities with an important public role
- **Access to documents** (in all formats)
- **Exemptions are clearly defined by law**, protect interests and are necessary in a democratic society
 - „**Harm test**“ for each exemption
 - „**Public interest test**“
- Partial access to information (redaction of sensitive information in a document)

What are aspects of a strong RTI Act?

- **Timely** response
- **No costs** for applicant
- Accessible, effective and timely **appeals process**
- **Independent Information commissioner** to monitor compliance, promote transparency, assist citizens and civil service to ensure easy and timely access

How can we advocate for a strong RTI?

What advocacy approaches have you tried?

UNCAC Review

Use the 2nd cycle of the UNCAC implementation review

- Contribute to the **self-assessment checklist**
- Engage **country reviewers**
- **Produce a Paralell Report**
 - Demand the adoption of RTI legislation
 - Highlight gaps in existing legislation
 - Document weaknesses in the implementation



**MAKING UNCAC WORK: COALITION STATEMENT
TO THE 7th SESSION OF THE UNCAC CONFERENCE OF STATES PARTIES**

On prevention

5. Remind States Parties that, as recognised in CoSP Resolution 5/4, effective public access to information is essential for corruption prevention and call on them to adopt and implement comprehensive access to information legislation, ensure proactive publication of information, including on anti-corruption efforts and release data in open format on public spending (UNCAC Chapter II, especially Articles 5(1), 9, 10 and 13)).

6. Call on States Parties to increase efforts towards transparency of their procurement processes, ensuring that there is full public access to information about all contracts and agreements, and through the life cycle of the contract.

https://uncaccoalition.org/en_US/uncac-bodies/conference-of-states-parties/cosp7/



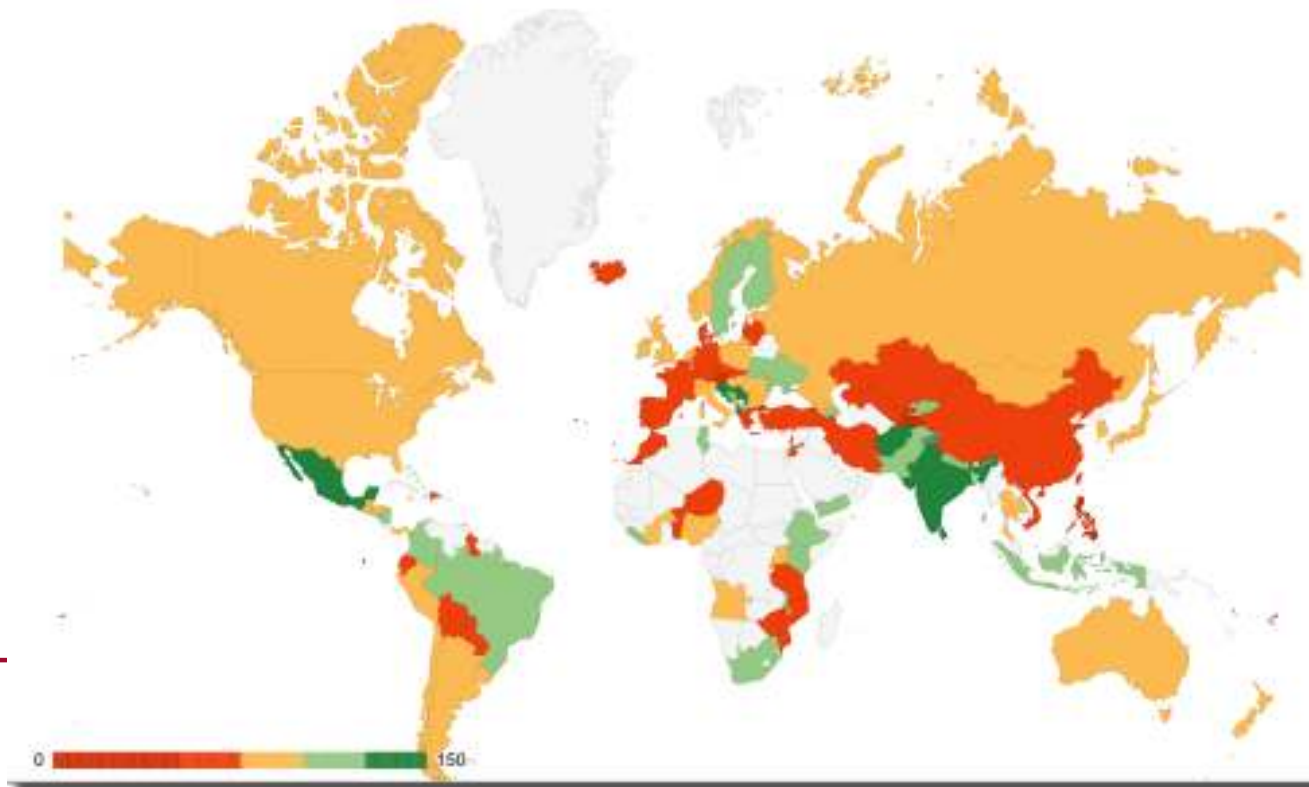
[UNCACCoalition.org](https://uncaccoalition.org)

RTI Rating

- Scores the quality of the world's access to information laws
- Currently 123 laws (9 yet to review, including Sudan)
- Methodology provides best practice on provisions of RTI laws
- Highlights which countries in the region have strong laws
- Can be used to compare own law to others
- Does not evaluate implementation

RTI

Global Right to Information Rating Map



<https://www.rti-rating.org/>

[UNCACCoalition.org](https://www.uncaccoalition.org)

RTI

Country Rating Results

Top 10

Afghanistan	139
Mexico	136
Serbia	135
Sri Lanka	131
Slovenia	129
India	128
Albania	127
Croatia	126
Liberia	124
El Salvador	122

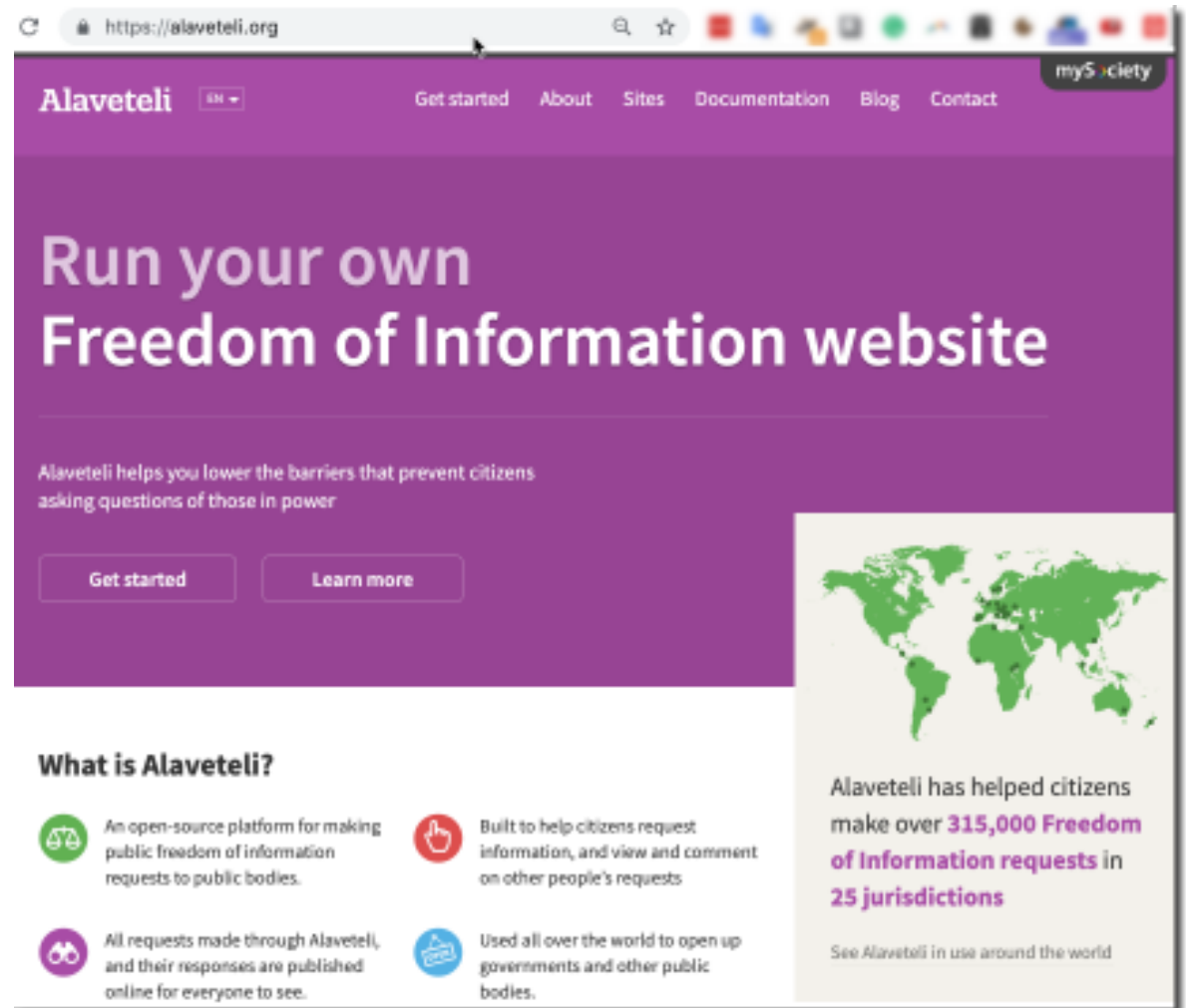
Bottom 10

Austria	33
Palau	33
Liechtenstein	39
Philippines	46
Tajikistan	49
East Timor	51
Benin	52
Germany	54
Jordan	56
Taiwan	57

<https://www.rti-rating.org/>

RTI Portals

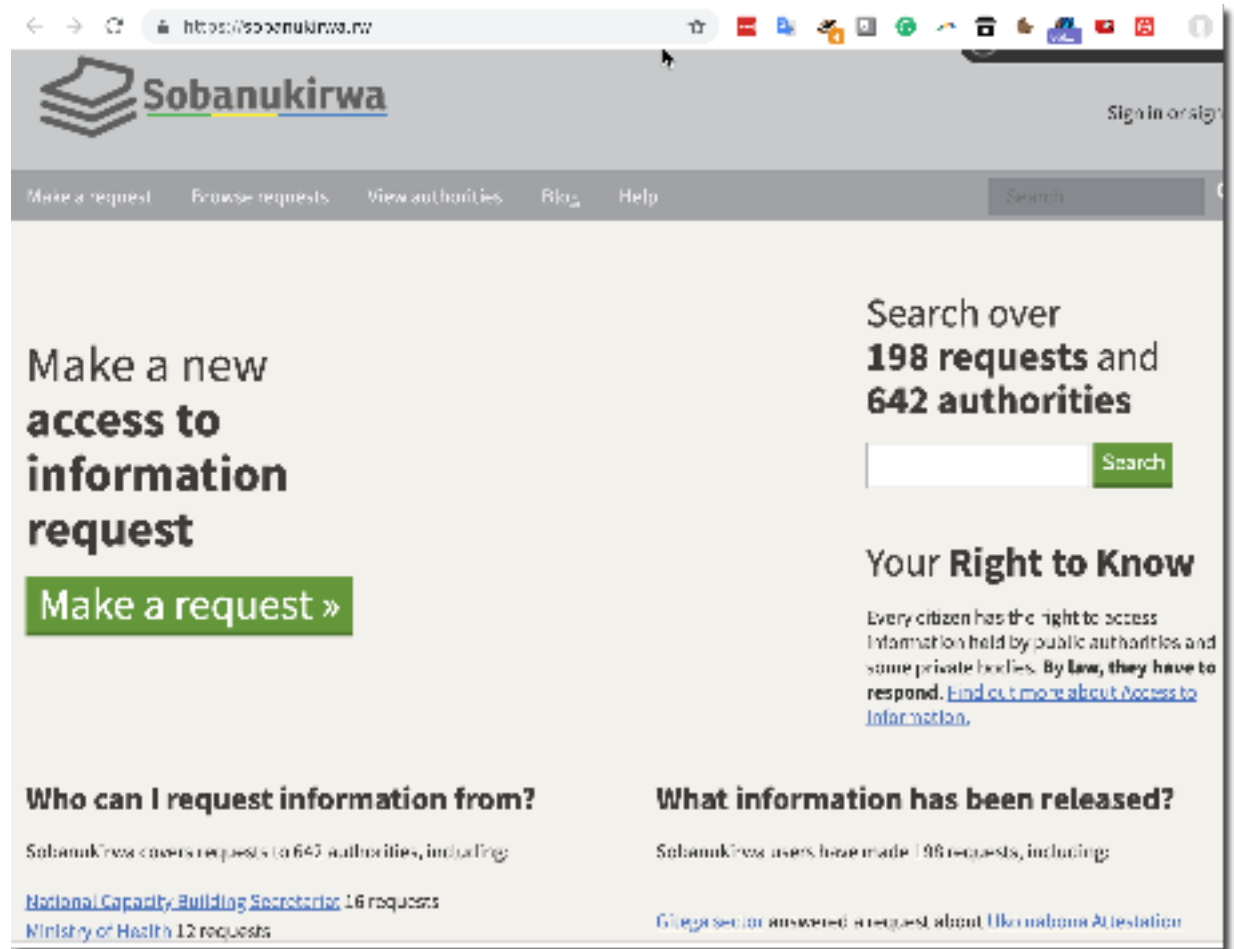
- encourage journalists & citizens to ask
- guide citizens through the process of filing a request
- lower the barrier
- generate insights and statistics on how public bodies react to requests for information



The screenshot shows the Alaveteli website homepage. The browser address bar displays "https://alaveteli.org". The website has a purple header with the "Alaveteli" logo and navigation links: "Get started", "About", "Sites", "Documentation", "Blog", and "Contact". A "mySociety" logo is in the top right corner. The main content area features a large purple banner with the text "Run your own Freedom of Information website". Below this, a sub-headline reads "Alaveteli helps you lower the barriers that prevent citizens asking questions of those in power". Two buttons, "Get started" and "Learn more", are positioned below the text. To the right, a world map graphic is shown above a text box stating: "Alaveteli has helped citizens make over 315,000 Freedom of Information requests in 25 jurisdictions". Below the map, it says "See Alaveteli in use around the world". A section titled "What is Alaveteli?" contains four bullet points with icons: 1. An open-source platform for making public freedom of information requests to public bodies. 2. Built to help citizens request information, and view and comment on other people's requests. 3. All requests made through Alaveteli, and their responses are published online for everyone to see. 4. Used all over the world to open up governments and other public bodies.

RTI Portals

- shows that there is demand for access to information
- can help build momentum for State bodies to open up
- can highlight what information is kept secret from the public
- makes information available for a broader public




The screenshot shows the Sobanukirwa website interface. At the top, there is a navigation bar with links for 'Make a request', 'Browse requests', 'View authorities', 'Blog', and 'Help'. A search bar is located on the right side of the navigation bar. The main content area features a large heading 'Make a new access to information request' with a green button labeled 'Make a request >'. To the right, there is a search box with a green 'Search' button and text stating 'Search over 198 requests and 642 authorities'. Below this, there is a section titled 'Your Right to Know' with a sub-heading 'Every citizen has the right to access information held by public authorities and some private bodies. By law, they have to respond. [Find out more about Access to Information.](#)'

At the bottom, there are two columns of information:

- Who can I request information from?**
Sobanukirwa covers requests to 642 authorities, including:
[National Capacity Building Secretariat](#) 16 requests
[Ministry of Health](#) 12 requests
- What information has been released?**
Sobanukirwa users have made 198 requests, including:
Gilega section answered a request about Uluabatona Attestation


Nicht sicher | askyourgov.ug



Sign in or sign up

Make a request Browse requests View agencies About

Search



Your right to know

Every citizen has the right to access information held by public authorities. By law, they have to respond.

Browse **3,490 requests** to **108 agencies**

Want to know something?

Start your own request

[Make a request >](#)

Sign in or sign up

Help

Search

Search over **198 requests** and **642 authorities**

[Search](#)

Your Right to Know

Every citizen has the right to access information held by public authorities and some private bodies. By law, they have to respond. [Find out more about Access to Information.](#)

What information has been released?

SubankNews users have made 198 requests, including:

[Gregg section answered a request about Uko nabwona Attestation](#)

Who can I request information from?

Ask Your Government Uganda covers requests to 108 agencies, including:

[Uganda Revenue Authority \(URA\)](#) 460 requests


[Ministry of Defence / Uganda Peoples Defence Forces \(UPDF\)](#) 190 requests

[Uganda National Roads Authority \(UNRA\)](#) 169 requests

[Civil Aviation Authority \(CAA\)](#) 146 requests

What information has been released?

Ask Your Government Uganda users have made 3,490 requests, including:

 [Uganda Registration Services Bureau \(URSB\)](#) answered a request about [Documents tracking](#) about 9 hours ago



Make a request Browse requests



Your right to know

Every citizen has the right to access information held by public bodies. By law, they have to respond.

Browse **3,490 requests** to

Who can I request information from?

Ask Your Government Uganda covers requests from the following authorities:

- [Uganda Revenue Authority \(URA\)](#) 460 requests
- [Ministry of Defence / Uganda Peoples Defence Forces](#) 11 requests
- [Uganda National Roads Authority \(UNRA\)](#) 11 requests
- [Civil Aviation Authority \(CAA\)](#) 146 requests



Sign in

Make a request Browse requests View authorities Help

Search

Your right to know

Every citizen has the right to access information held by public bodies. By law, they have to respond. [Find out more about Freedom of Information.](#)

Browse **106 requests** to **45 authorities**

Want to know something?

Start your own request

[Make a request »](#)

Building Coalitions

- Many different groups can benefit from access to information
- Possibility to build coalitions...
 - Journalists, media
 - Human rights activists, corruption fighters, environmental activists, public health organizations,...
 - Academia, (retired) judges, officials, lawyers
 - Small- and medium sized enterprises
 - Community leaders

Creating momentum for reform

- Outline/draft of a strong Freedom of Information Act
 - Maybe some MPs are open to introducing it in Parliament?
- Gather signatures of support, so you can show and communicate that you represent a constituency
 - Opportunity for public debate
 - Politicians may have a hard time openly opposing transparency
- Keep reminding the government of its (UNCAC) commitments

Testing transparency

- To find out how transparent government bodies are, you could submit requests and evaluate how State entities react
- You can request information from many foreign governments and multinational bodies such as the EU
- Request information to support your research and advocacy
 - UNCAC-related documents (self-assessment, full country review, if not published by government)
 - Enforcement statistics, anti-corruption action plan, etc.

Awards

For...

- government agencies who are highly transparent and responsive
- those that are highly opaque

International Right to Know Day:
Sept 28

- Opportunity for discussions, to raise awareness

Awards

Austrian „Wall of Silence“ award and the „Golden Information Filter“



Litigation – Taking your Government to court

- Fighting for access to information in court may help bring about new jurisprudence and
- may help to clarify unclear legal provisions
- Cases may take a long time to make the way through the courts
- May be costly
- There need to be relevant, applicable constitutional or legal provisions (or directly applicable regional standards)

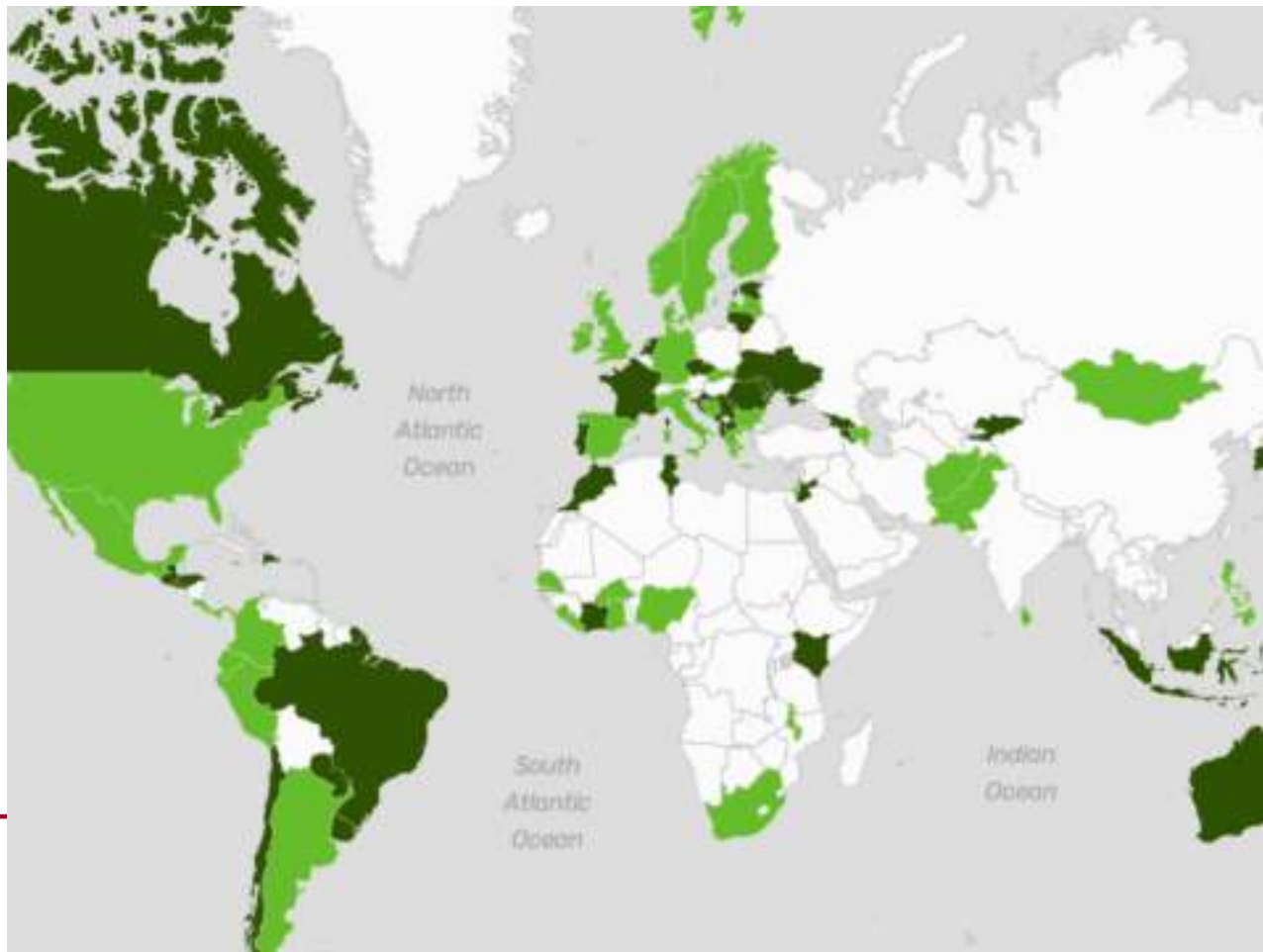
SDG 16

16.10 Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

16.10.1 Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months

16.10.2 Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information

Open Government Partnership (OGP)



Ressources

- UNCAC Coalition: Access to Information
http://uncaccoalition.org/en_US/learn-more/access-to-information/
- You can consult the indicators used by the RTI-rating
<http://www.rti-rating.org/>
- Model Law on Access to Information in Africa (African Commission on Human Rights and Peoples' Rights)
http://www.achpr.org/files/news/2013/04/d84/model_law.pdf
- Model Freedom of Information Law (Article 19)
<https://www.article19.org/data/files/pdfs/standards/modelfoilaw.pdf>
- Civil society resources: <http://foiadvocates.net/> (“FOIANet“ email list),
www.freedominfo.org, www.right2info.org
- Africa Freedom of Information Centre – AFIC
<https://africafoicentre.org/ati-cases-africa>