

Ghana's Right to Information (RTI) Act of 2019: Exploration of its implementation dynamics

Theodora Dame Adjin-Tettey

Senior Lecturer, Department of Media, Language and Communication, Durban University of Technology; and Research Associate, School of Journalism and Media Studies, Rhodes University, Grahamstown, South Africa

 <https://orcid.org/0000-0002-3160-9607>

Abstract

After extensive advocacy and lobbying by the media, human rights campaigners, and civil society organisations (CSOs), Ghana's Right to Information (RTI) Act (Act 989) became law in 2019 and went into effect in January 2020. The Act sets out the procedures for access to information held by Ghanaian public institutions, with oversight by the Right to Information Commission (RTIC). The purpose of this study was to explore the dynamics of initial implementation of the law, in the years 2020-22, and to identify potential obstacles to optimal execution during that initial period. The core research data was collected via semi-structured interviews, between April and August 2022, with 10 individuals possessing deep knowledge of the Act and its implementation dynamics. This interview data was qualitatively analysed, through the lenses of the principal-agent conceptual model and the objectives of the Act, in order to determine the key themes emerging from the data. It was found that realisation of the Act's objectives was being hampered to some extent by a lack of public awareness, and to a more substantial extent by bureaucratic blockages resulting from a mix of entrenched administrative culture and a lack of knowledge of the requirements of the Act. Based on these findings, the author recommends improved public education by the RTIC in cooperation with CSOs; strong RTIC engagement with public institutions to ensure a sufficient number of fully trained information officers (IOs); continued CSO cooperation with the Ministry of Information towards ensuring optimal implementation of the Act; CSO monitoring of the work of the RTIC; and CSO support for information access applications by journalists and other civil society actors.

Keywords

right to information (RTI), access to information, public information, media, human rights, civil society organisations (CSOs), principal-agent framework, Ghana, Right to Information (RTI) Act, Right to Information Commission (RTIC)

Acknowledgements

The author thanks Juliana Kwofie for assistance with the research. This article draws on elements of a discussion paper developed for the Star Ghana Foundation.

DOI: <https://doi.org/10.23962/ajic.i32.16223>

Recommended citation

Adjin-Tettey, T. D. (2023). Ghana's Right to Information (RTI) Act of 2019: Exploration of its implementation dynamics. *The African Journal of Information and Communication (AJIC)*, 32, 1-17. <https://doi.org/10.23962/ajic.i32.16223>



This article is licensed under a Creative Commons Attribution 4.0 International (CC BY 4.0) licence: <https://creativecommons.org/licenses/by/4.0>

1. Introduction

Transparency is a core tenet of democracy, serving as a potential antidote to corruption and a mechanism for accountability (Mendes, 2020). One element of transparency is the right of access to government-held information, which is a right grounded in the notion that public agencies hold information not for themselves but on behalf of the public. As a result, right to information (RTI), or freedom of information, laws are present in most democratic countries, including Ghana. Under such laws, government and state records are presumed to be public unless expressly exempted by the law itself (Ackerman & Sandoval-Ballesteros, 2006).

Ghana's 1992 Constitution contains important references to the public's right to know(ledge). The Constitution affirms in Articles 21(1)(a) and (f) that citizens have the right to "(a) freedom of speech and expression, which shall include freedom of the press and other media" and "(f) information, subject to such qualifications and laws as are necessary in a democratic, society" (Republic of Ghana, 1992). These provisions recognise that transparency through access to information is an important prerequisite for accountability of public office holders whose authority is entrusted by the citizens' sovereign will. In line with these constitutional provisions, Ghana's Right to Information (RTI) Act was passed by Parliament in March 2019, assented to by President Nana Akufo-Addo in May 2019, and came into effect in January 2020 (Republic of Ghana, 2019). It was the result of nearly three decades of advocacy, protracted political scrutiny, and significant legislative manoeuvring (Abdullah, 2021).

The purpose of this study was to evaluate the initial implementation of the RTI Act, with a specific focus on any obstacles to its execution and use. The study's evaluation data was drawn from interviews with 10 individuals who are knowledgeable about the Act and its implementation. The data was qualitatively analysed through the lens of the principal-agent conceptual framework and with reference to the objectives of the Act.

2. Literature review and conceptual framework

The right of access to information

The right of access to information is established by both national and international instruments. An important instrument in the African continental context is the 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa, as developed by the African Commission on Human and Peoples' Rights (ACHPR, 2019). The right of access to information is a form of human rights protection falling within the right to free expression, and it comprises two parts: the individual right of any person to seek information; and the state's affirmative obligation to ensure the individual's right to receive the requested information (Mosquera, 2014). The right to information erodes the horizontal and vertical information asymmetries that frequently result from inadequate information-sharing (Clarkson et al., 2007). The right to information is necessary to ensure that public office holders are held accountable, to foster government transparency, and to combat corruption (Martini, 2014).

The numerous lobbying and advocacy efforts by various organisations around the world, notably civil society organisations (CSOs), serve as evidence of the importance of the right of access to information. A good example of this is Jamaica, where a coalition of CSOs, media actors, human rights advocates, and private associations worked together to seek amendments to the country's proposed RTI law, so as to make the legislation more robust (Neuman & Calland, 2007). A similar situation occurred in South Africa, where the Open Democracy Campaign Group pushed, from 1995 to 2000, for a strong law to implement the right of access to information enshrined in the nation's Constitution (Neuman & Calland, 2007). In Ghana, CSOs, media professionals, and human rights campaigners were instrumental in the process leading to the RTI Act (Abdullah, 2021).

Nations implementing access to information laws often encounter obstacles such as a lack of knowledge and awareness, capacity issues, a lack of political will, and established bureaucratic cultures characterised by, inter alia, secrecy and poor record-keeping (Neuman & Calland, 2007; Dokeniya, 2013). "Proactive transparency" (Darbishire, 2010, p. 9) is a key driver of RTI implementation, and bureaucratic culture has been found to often be at odds with proactive disclosure requirements. Effective implementation of RTI laws requires strong political will; the creation of independent, well-funded oversight institutions; a clear legal framework and appeals processes; capacity building for public servants; public awareness-raising initiatives (Martini, 2014); and a conducive political economy (Dokeniya, 2013).

In the case of Ghana, the RTI Act provides for the Right to Information Commission (RTIC), an oversight organisation that has the power to impose fines for non-compliance with the Act (Cooper, 2022). The development of public information systems that educate citizens on the significance of the right to information, and how they can access their legal rights, is a crucial element in ensuring that RTI laws fulfil their objectives (Daruwala & Nayak, 2008). In addition, CSOs are often crucial in ensuring an RTI law's success during its implementation phase because they engage in the creation of collaborative governance for public policies (Lopes, 2021).

Conceptual framework: Principal–agent model

Viewed through the principal–agent conceptual lens, the information economy can be seen as one that is characterised by information imbalances between the *principal* (society) and the *agent* (state) (Shapiro, 2003). Ultimately, the contract of demand and supply of public information should not adversely affect the principal, which has delegated authority to the agent. This is because the contract is founded on the premise that the expertise and professionalism of the agent—who, according to Weber (1946), may be a politician or public servant—allows them to serve the principal's interests.

This representation contract, however, does not allow for complete delegation of power to the agent (O'Donnell, 1994). It also requires a degree of monitoring of the agent by the principal. The goal of the monitoring is to ensure that the agent (as represented by, e.g., a public official, politician, or civil servant) conforms with the contract and promotes public interests rather than private ones. In the absence of this, there is a moral hazard (Arnott & Stiglitz, 1986), which results from knowledge asymmetry between the principal and the agent in a situation where the agent handles closed, privileged information. Among the elements of this hazard is that a public official can use the state's power and knowledge for personal gain rather than for resolving public concerns in compliance with the principal–agent contract, resulting in undesirable social effects (Mosquera, 2014).

For the purposes of this study, a public institution (an agent) can be a state or government entity, or, as per the definition provided in Ghana's RTI Act, any entity, including a private organisation, that is mandated or funded to serve the public. The principal–agent model, when applied to the right to information, suggests that data or information that is held by public institutions is public. Information that pertains to the conduct of public institutions is, as a default, not private or confidential but rather for the public, and therefore should be accessible by the public when requested (except when subject to a justifiable exemption in an RTI statute or regulation). A largely free flow of public information is necessary to ensure accountability of the agent to the principal.

3. Core provisions of Ghana's RTI Act, 2019 (Act 989)

The RTI Act of Ghana seeks to facilitate the implementation of the country's aforementioned constitutional right to information, with the ultimate objectives being to encourage transparency and accountability in public affairs and to protect the public interest in a democratic society. In addition to state/public entities and agencies, the Act's provisions also apply to any "private institution or a private organization that receives public resources or provides a public function" (sec. 84). Under the Act, any individual or entity in Ghana can make a written request for information held by a public institution.

The core elements of the Act cover the obligations of Ghana's public institutions; the categories of exempt information; access procedures; reviews and appeals processes; and the roles of the aforementioned RTIC. According to the Act, the state is required to engage in proactive information disclosure, while also granting access to information that is requested. However, the law specifically lists 13 categories of information that are exempt from disclosure (secs. 5 to 17). The key categories are: information prepared for the President, Vice President, or Cabinet; information related to certain elements of law enforcement, public safety, international relations, security of the state, economic interests, tax, internal operations of public institutions, and trials; and information which, if made public, would "(i) prejudice the effective formulation or development of government policy; (ii) frustrate the success of a policy by premature disclosure of that policy; (iii) undermine the deliberative process in Cabinet; or (iv) prejudice national security" (sec. 6(c)(i–iv)).

The RTI Act requires each Ghanaian public institution to establish "an information unit headed by an information officer who shall facilitate access to information" (sec. 3(3)(b)). Each public institution is also required to publish, and update every 12 months, an information "manual" that outlines precisely which information can be requested from the institution (sec. 3(1)). The manual must include a list of the departments or agencies that make up the institution, and the name and contact information of the institution's information officer (IO).

In terms of access processes, a public institution's IO has 14 days to process a request and notify the applicant of a granting or denial of access (sec. 23). If the institution is unable to process the request because the information sought is not in its custody or control, the IO is required to transfer the application to the appropriate entity within two days of receiving the information request, and to write to the applicant to inform them of the transfer (sec. 20). The law also specifies that the only fees that can be charged for release of information are those necessary to cover the costs of photocopying or other means of reproduction of the material (sec. 75).

The Ministry of Information has established an Access to Information (ATI) Division that is responsible for training IOs and assigning them to government ministries, departments, and agencies so that they can respond to access requests. IOs also gather and store data generated by the organisation's operations on the organisation's behalf. The ATI Division supports IOs' tasks via designated officers with oversight responsibilities for the six segments of the public sector: infrastructure, economics, administration, public, social, and local government (metropolitan, municipal, and district assemblies). As of the end of 2021, 446 IOs had been assigned to public institutions throughout the nation (RTIC, 2021). In 2022, 250 assistant IOs were trained and assigned to various public institutions (RTIC, 2022).

Provisions for the Right to Information Commission (RTIC)

As provided for in the Act, the RTIC has seven members, handles appeals if an applicant is dissatisfied with a public institution's response to an information application, has the authority to ensure that the law is fully implemented (sec. 40), and, as mentioned above, can issue fines for non-compliance by a public institution. In terms of section 41 of the Act, the Commission is mandated to "(a) promote, (b) monitor, (c) protect, and (d) enforce the right to information" provided by the Constitution's aforementioned Article 21(1)(f).

The Commission is mandated to uphold the rights of applicants for information access; to establish the fees (for parliamentary approval) that public institutions can charge for reproducing information to be provided to an applicant; and to ensure that citizens are aware of the law and know how to access information. The Commission may, among other things, decide what is reasonable and equitable in the outcome of a complaint; settle it through discussion, conciliation, or arbitration; and issue broad instructions for the matter's hearing, including notice to other parties (sec. 43).

Where persons are dissatisfied with a review decision by the RTIC, the Act provides for applications to the High Court for judicial review (sec. 66(b)). Section 85 of the Act makes it clear that the provisions of other previously enacted laws providing for the disclosure of information—for example, the State Secrets Act, 1962, (Act 101)—are subject to the RTI Act.

4. Study design

Research questions

The study was guided by the following research questions:

- How does the RTI Act currently stand in terms of its overall implementation, its procedures for obtaining information, and its bottlenecks?
- What types of information are accessible and inaccessible to the different sections of civil society?
- How has the implementation of the RTI law impacted citizens' access to information?

Methodology

The study was qualitative. In-depth interviews were used to elicit the perspectives of individuals who were deeply familiar with the law. These interviewees comprised representatives of CSOs, a journalist/lawyer, and representative of a state entity. These key informants were purposefully chosen. Respondents were interviewed through the use of video conferencing technology and, for some respondents, telephone interviews. A total of 10 semi-structured, in-depth interviews were conducted between April and August 2022. Each interview lasted approximately 45 minutes. Interviewees' responses were recorded, transcribed, and subsequently thematically analysed. Interviewees were assigned codes (see Table) to anonymise their responses. I supplemented findings from the interviews with scrutiny of the RTIC's 2021 and 2022 Annual Reports.

Table: Interviewees

Code assigned	Description	Interview date
Respondent 1	Programmes Manager, CSO focused on socio-environmental advocacy	15 April 2022
Respondent 2	Head of Programmes, CSO focused on anti-corruption and good governance	26 April 2022
Respondent 3	Executive Director, CSO focused on fighting corruption and poverty	27 April 2022
Respondent 4	Executive Director, CSO focused on education for children with disabilities	7 May 2022
Respondent 5	Programmes Officer, CSO focused on press freedom	20 May 2022
Respondent 6	Executive Director, CSO focused on addressing corruption	20 June 2022
Respondent 7	Journalist and legal practitioner	4 July 2022
Respondent 8	Representative of a state entity	17 July 2022
Respondent 9	Executive Director, CSO active in numerous sectors	27 July 2022
Respondent 10	Programmes Manager, CSO focused on socio-environmental advocacy	8 August 2022

Interview guide

The semi-structured interview guide comprised open-ended questions that sought respondents' inputs and views on: the implementation of the RTI Act; categories of exempt information; impact on citizens' access to information; impact on holding public officials accountable; types of information becoming more accessible; types of information still not easily accessible; constraints on the implementation of the law;

aspects of implementation that need to be strengthened; elements to be included in effective public awareness campaigns on the law; and how the media, civil society, and citizens can build political will for the implementation of the law.

Data analysis

The study adopted Creswell's (2013) steps for qualitative data analysis, which comprise "organizing the data, conducting a preliminary read-through of the database, coding and organizing themes, representing the data and forming an interpretation of them" (2013, p. 179). The principal-agent model, and the objectives of the Act, provided framing for the thematic analysis of the data.

Ethical considerations

According to Schinke and Gilchrist (1993), all human-centred data collection processes should be conducted with participants' consent, guided by three dimensions: "participants must be competent to give consent; sufficient information must be provided to allow for a reasoned decision; and consent must be voluntary and uncoerced" (Schinke & Gilchrist, 1993, p. 220). I complied with these criteria by properly identifying myself, briefing participants on the purpose and relevance of the study, and receiving their informed consent before conducting the interviews. The participants received no incentives to take part in the study. All the information obtained from respondents was kept anonymous, and participants were made aware that they could voluntarily end their involvement at any time without facing any consequences.

5. Findings

Use of the law

In 2020, after the passage of the Act, 23 RTI applications were received across 13 public institutions, and 16 were approved (RTIC, 2021). In 2021, 159 of the 247 applications received were approved (RTIC, 2021). In 2022, 669 of the 783 applications were approved (RTIC, 2022). The most frequent grounds for denial were that the data was either exempt or not in the possession of the public institution.

With respect to requested RTIC reviews of rejected information access applications, the Commission had, as of the end of the 2022, received a total of 110 applications for review, of which 34 had gone through the full process with RTIC determinations made, while 39 had been settled through alternative dispute resolution. The other review cases were in various stages of determination. RTIC remedies imposed on public institutions included: orders granting access to information; orders granting access to information in a more acceptable format; and administrative penalties levied on public institutions for not granting access to information and failing to respond to the RTIC's requests for a response (RTIC, 2022).

State commitment to awareness-raising

The view of many of the interviewees was that while the Ministry of Information had been proactive in the recruitment and training of IOs for public institutions, not enough had been done to inform and empower the general public and key stakeholders, such as journalists, to use the law. It was seen to be crucial to educate the public and significant stakeholders who required public information on their rights under the law's provisions. It was also widely felt that because of their strategic placement to ensure that the goals enshrined in the RTI law are realised, journalists needed to be provided with dedicated education on what information they could access and how. In this respect, the efforts of the Media Foundation for West Africa (MFWA) were applauded as being useful in building awareness. Participants pointed to the MFWA's development of a guidebook, *Essentials of the Right to Information Law (989)* (MFWA, 2021), and its distribution to public institutions and media organisations, as a useful initiative. It was made available online, as well as printed and delivered to key public institutions. In the words of respondent 7, the journalist and legal practitioner:

Education has not been the best. [...] before the implementation started, the education that was being done was not [...] being sponsored by the state. It was NGOs, particularly the Media Foundation for West Africa, that sought sponsorship and [were] organising sensitisation for media and for ordinary citizens, for MMDCE [Metropolitan, Municipal and District Chief Executives] heads and officers within these institutions. I [...] and a good number of lawyers went round the country educating people about this, and it was surprising that these workshops and seminars were not being organised by the state. They were being led by private organisations.

Respondent 5, a CSO programmes officer, recommended that the government make use of the National Commission for Civic Education (NCCE), a state agency with the mandate to advance and uphold democracy and instil in Ghana's citizens a sense of their duties and rights through civic education.

I think the government can use the NCCE because the NCCE is everywhere, in every corner of the country. So once the government resources that institution, they should be able to run education, public awareness, sensitisation around the Right to Information law in different languages. Everybody needs to understand it. And I think it is time that such laws are introduced within the educational curriculum so that right from an early age, people are already familiar with the RTI law and how they can use it. The government must also partner with media houses to sensitise the public about the Right to Information law.

Respondent 8, the representative of a state entity, stated that the RTIC was tackling the issue of language by creating radio public service announcements in local languages, and by pressuring public institutions to translate their information manuals:

The Commission shall take up the drive to encourage institutions to convert their manuals into local languages and make them accessible at their various regional and district offices.

Obstacles to access

According to many participants, access processes had been hampered by bureaucracies and inefficiencies at public institutions, especially during the early phases of implementation. Challenges faced by individuals, the media, and CSOs who requested information were said to include unfounded denial of applicants' requests for information; delays in responding to requests; and demands for large fees in return for information.

Participants pointed to the fact that, between March and July 2021, The Fourth Estate, a non-profit investigative journalism project of the MFWA, had sent 36 RTI queries to 33 public institutions, and nearly 60% of the applications had been denied. Within the 14-day window specified by the law, The Fourth Estate received access to the material requested from only eight of the 33 public institutions. Several other public entities eventually provided the requested information, but only after appeals were submitted to the RTIC (Bokpe & Asante, 2021).

Participants also pointed to instances of obstacles faced by specific media entities. One such instance involved the Multimedia Group, which was said to have encountered hostility when it requested, from the Ministry of Health, information on the policies guiding the government's Agenda 111 project, which aims to build hospitals across the country. More than a month after the request was made—well beyond the required 14 days—the Chief Director of the Ministry responded to the Multimedia Group in writing, saying that the Ministry did not have any such documents in its possession. Among other things, the Ministry seems clearly to have disregarded the RTI Act's requirement, in section 23(1), whereby a public institution not in possession of requested information directs the applicant to another entity where the information is held. According to respondent 7, the journalist and legal practitioner:

This sort of information, if the Ministry of Health doesn't have it, it clearly will know the next place where you can find that information. The law says "do a referral or a transmittal". So, you do one of two things: either you transmit the request you have received to the institution that you know has custody or control over the information that is being sought, or you refer the requester to that institution. And I think that the Minister of Health failed big-time in the manner [in treating] that request, and simply said "I don't have the information, end of story". That is not the best.

Another obstacle identified by participants was an apparent lack of knowledge of the law at some public institutions. In the words of respondent 6:

A lot of public institutions still are not even abreast with the law. They lack education on the operationalisation of the law. They think it's an Accra-based thing and [that] it does not apply to decentralised agencies. They are still glued to their traditional modes. And the effort from the Ministry of Information to actually educate public institutions in the regions on this law [appears] to be very weak.

Participants also pointed to instances where officials at public entities felt threatened by, and thus were openly hostile towards, information requests. In the words of respondent 5, a programmes officer at a CSO focused on press freedom:

I was in one district in the Ashanti Region. And some of the people that were making [requests] on behalf of [name of organisation] went to ask for information and [the] coordinating director was so angry that the person had to write to seek that information. He was like, "Why do you have to put it on paper? Are you trying to [implicate] me so that when I don't give you the information, then you go ahead and report me or take me to court?" This is ridiculous. The law is so clear that when you are making a request, even if you are not educated, you must do it orally, the information officer has to reduce it into writing. So, it always comes in the form of a written request. So why would a coordinating director at a public institution ask such a question?

According to respondent 1, there was, among state officials, a prevailing culture of secrecy that would take some time to dismantle:

Public officials generally regard as intrusive outsiders of public institutions seeking information from them. This could potentially be due to the culture of keeping institutional information from public access. This works against the RTI implementation. Generally, you would notice that it is the same old culture that mystifies information in a manner that is not helpful, so secrecy and confidentiality have become the norm in the public space. But if the public space will thrive, secrecy must give way to transparency. That is the only way the public can benefit from the public space.

Another interviewee, respondent 10, pointed to many public officials' misunderstanding of their role.

We still have a cadre of public officers whose understanding of the office is quite different from what you would expect. So, people are working in institutions, and they feel that they only owe allegiance to the institution or the government they work for. They do not understand why you want the information and what you need the information for.

Role of the RTIC

Many participants applauded the fact that, due to the interventions of the RTIC, several access requests that had initially been denied or had encountered impediments (including the imposition of unlawful fees) had since been fulfilled. Some participants pointed to the value of a reporting template that the RTIC had created for use by public institutions when completing their required annual reporting on RTI requests. The template requires, among other things, reporting on specific information that the institution has proactively disclosed to the public during the reporting period. It was also felt that the RTIC's rulings on review applications could serve as a deterrent to public institutions that might try to deny or restrict information requests without justification.

Participants also applauded the RTIC's role in ensuring the passage of a law to limit the charges that state entities can impose for the reproduction of information—in paper or digital form—in fulfilment of information access requests. The law in question, the Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1038), was enacted in October 2022 (Republic of Ghana, 2022).

Role of CSOs

As seen above, one CSO (the MFWA) had, since the RTI Act came into force, taken steps to produce educational materials on the Act and to test the system by making information requests to numerous public institutions and reporting on the outcomes (Bokpe & Asante, 2021). Interviewees also pointed to the fact that another CSO, the Ghana Anti-Corruption Coalition, has provided significant assistance to RTI applicants, mostly investigative journalists, to file information requests and to seek RTIC reviews of rejected applications.

It was also found that CSOs were participating in RTI implementation discussions, and sharing lessons learnt, through the Civil Society Coalition platform. They were also meeting with the Ministry of Information regularly, to voice their concerns over elements of the Act's implementation and to suggest means for more effective implementation. In the words of respondent 3, a CSO executive director:

We had opportunity, as Coalition members, to go to the Minister of Information, where I can say that they have in place a huge mechanism and infrastructure to help with the implementation of the Act. They have put in place a mechanism on how [to] request for information flows [on the status of RTI applications]. The monitoring is going on to see who is delaying and who is delivering on time.

According to respondent 4, another CSO executive director:

Target consultations are good. Thankfully, this government has given us some space as civil society, which is coordinated by the Ghana Anti-Corruption Coalition. Once in a while, civil society has the opportunity to meet with the President to engage him on some topical issues. I believe RTI implementation should be a focus, so that the President, who championed the call for an RTI bill when he was in opposition, will understand what is happening from our perspective.

Respondent 2 was confident that, despite some early difficulties with implementation of the Act, the law's very existence would, in the long run, result in the realisation of its objectives:

The whole point of the law is that it is there; it's an expression of the Constitution itself because the Constitution gives the right to information, and then the law gives out the protocol as to how to do it any time we need to. The fact that we are guaranteed access to information is enough.

6. Analysis

The RTI Act specifies how the *principal* (society) can seek information from the *agent* (the state), and how the agent can grant access to information requested by the principal. It also specifies which types of information must be accessible to the principal, and which types can legitimately be withheld (exempt information). While challenges were identified on both the demand and supply sides of information access, the greatest challenges were found on the supply side, due to reluctance or insufficient knowledge on the part of representatives of the agent. The resultant effect is the maintenance of information asymmetry between the principal and the agent, representing non-compliance with the contractual agreement that exists between the two (see Shapiro, 2003). Because information asymmetry results in negative consequences such as underdevelopment and inequality (Clarkson et al., 2007), it ultimately disadvantages the principal, which has granted (conditional) authority to the agent.

The RTI obstacles identified by this study can be attributed to several things. Some of the barriers relate to bureaucratic procedures that existed before the passing of the law and the age-old culture of bureaucrats keeping official documents private, i.e., keeping public information and documents close to their chests as if they constituted private information or documents to be guarded. In addition, some agents were seemingly uninformed about their obligations under the law. To some extent, this may have been the result of limited exposure, and lack of training, at the initial stages of implementation.

Significant improvement was observed after the RTIC was inaugurated, with RTIC reviews of application rejections resulting in several of the applications being fulfilled. For example, when representatives of the principal (e.g., journalists, CSO representatives) encountered demands for large fees in return for the requested information, the RTIC was able to intervene and ensure that any payments required would be, in accordance with the Act, only for the cost of reproduction of the information requested.

As seen above in the literature review, entrenched in bureaucratic cultures, characterised by, *inter alia*, secrecy and poor record-keeping, can undermine the implementation of RTI laws (Dokeniya, 2013; Neuman & Calland, 2007). In this study, bureaucratic culture in public institutions was indeed found to be a barrier to the RTI. Since proactive transparency (see Darbshire, 2010) is a key component of RTI implementation, the work of RTIC, whose mandate includes ensuring public institutions' documentation of the information they hold, can be expected to be crucial to the success of Ghana's RTI regime.

Also, in the literature review above, we saw the finding by Lopes (2021) that CSOs' participation can be crucial to the establishment of collaborative governance of public policies. This finding holds true for the work of Ghana's CSOs, who have made concerted efforts to ensure that those on the demand side of information (e.g., journalists, the public) are familiar with their rights within the law, and that those on the supply side (public institutions) are living up to their obligations.

7. Conclusions and recommendations

This article has evaluated the dynamics of the initial implementation of Ghana's RTI Act. The conceptual basis for the study was the principal-agent model. The study's findings demonstrate that although the goals of Ghana's RTI Act are to promote the flow of public information between the agent (the state) and the principal (society), there were, at the time of the study, some obstacles on the information-demand side and some more significant obstacles on the supply-side. The demand side was being hampered to some extent by insufficient awareness of the Act among its potential users. The supply-side challenges, meanwhile, were more pronounced, with reluctance or lack of knowledge on the part of representatives of the agent proving to be a significant hindrance to information provision.

It is recommended that the RTIC partner with CSOs to increase public education on the Act. Consideration should be given to the use of community radio stations as a public education channel. A key advantage of community radio stations is their use of the local languages spoken in their areas of broadcast coverage. If these local languages are used, it becomes possible to reach out to those who are

socioeconomically marginalised and thus less likely to be aware of the RTI Act and how it works. Additionally, community information centres and community *durbars*¹ can serve as platforms for public education on the law, by using respected opinion leaders to deliver key messages. It is also recommended that schools be targeted as a key audience for RTI education campaigns. By sensitising young people about the law, Ghana can cultivate a future generation that is more likely to engage with it. In addition, these informed youngsters have the potential to influence their parents, by imparting knowledge about the law's purpose and how to use it. This approach can create a ripple effect, fostering increased RTI usage. The RTIC can liaise with educational institutions to elect student RTI ambassadors who will sensitise their families and friends about the Act.

The RTIC must also play an active role in ensuring improved compliance by public institutions, via, inter alia, ensuring that all public institutions have IOs—including at regional and local levels—who are sufficiently resourced and trained to provide robust proactive information disclosure and efficient, legally compliant responses to information applications.

Finally, the importance of continued work by CSOs cannot be overstated. CSOs must, to the extent that their human and financial resources allow, continue to: engage with the Ministry of Information on joint efforts to ensure optimised implementation of the Act; hold the RTIC accountable for all of the Commission's obligations with respect to promotion, monitoring, protection, and enforcement of information access; support information access applications to public institutions by journalists and other civil society actors; and, when an application is denied by a public institution, assist the applicant to apply for RTIC review, and potentially even judicial review (if the RTIC review is found to be unsatisfactory).

References

- Abdullah, A. (2021, November 29). Ghanaian journalists still face challenge of access to information despite passage of RTI law. <https://jamlab.africa/ghanaian-journalists-still-face-challenge-of-access-to-information-despite-passage-of-rti-law/>
- ACHPR. (2019). Declaration of principles on freedom of expression and access to information in Africa. https://www.chr.up.ac.za/images/researchunits/dgdr/documents/ati/Declaration_of_Principles_on_Freedom_of_Expression_ENG_2019.pdf
- Ackerman, J. M., & Sandoval-Ballesteros, I. E. (2006). The global explosion of freedom of information laws. *Administrative Law Review*, 58(1), 85–130.
- Arnott, R., & Stiglitz, J. E. (1986). Moral hazard and optimal commodity taxation. *Journal of Public Economics*, 29(1), 1–24. [https://doi.org/10.1016/0047-2727\(86\)90023-X](https://doi.org/10.1016/0047-2727(86)90023-X)

¹ A *durbar* is a traditional gathering convened by a community's chief, elders, and influential individuals to serve as a forum for community discussion and implementation of development projects.

- Bokpe, S. J., & Asante, K. K. (2021, October 11) Testing RTI law: The 33 public institutions that passed or failed. *The Fourth Estate*. <https://thefourthstategh.com/2021/10/11/testing-rti-law-the-33-public-institutions-that-passed-or-failed/>
- Clarkson, G., Jacobsen, T. E., & Batcheller, A. L. (2007). Information asymmetry and information sharing. *Government Information Quarterly*, 24(4), 827–839. <https://doi.org/10.1016/j.giq.2007.08.001>
- Cooper, N. (2022, March 29). Ghana: RTI fines KBTH Gh¢30,000 for failure to give information upon request. *Ghanaian Times*. <https://allafrica.com/stories/202203290664.html>
- Creswell, J. W. (2013). Steps in conducting a scholarly mixed methods study. DBER Speaker Series 48. Discipline-Based Education Research Group (DBER), University of Nebraska-Lincoln. <https://digitalcommons.unl.edu/dberspeakers/48>
- Darbishire, H. (2010). *Proactive transparency: The future of the right to information? A review of standards, challenges, and opportunities*. World Bank Institute. <https://doi.org/10.1596/25031>
- Daruwala, M., & Nayak, V. (Eds.). (2008). *Our rights, our information: Empowering people to demand rights through knowledge*. Commonwealth Human Rights Initiative (CHRI).
- Dokeniya, A. (2013). *Implementing right to information: Lessons from experience*. World Bank. <http://hdl.handle.net/10986/16520>
- Evans, P. B., & Wurster, T. S. (1997). Strategy and the new economics of information. *Harvard Business Review*, 75(5), 70–83.
- Kumar, R. (2011) *Research methodology: A step-by-step guide for beginners* (3rd ed.). SAGE.
- Lopes, J. (2021). Engagement of CSOs in the collaborative governance of education policy process in Cabo Verde. *Cadernos de Estudos Africanos*, 41(1), 91–117. <https://doi.org/10.4000/cea.6336>
- Martini, M. (2014, May 9). *Right to information laws: Impact and implementation*. U4 Expert Answer. Anti-Corruption Resource Centre. <https://www.u4.no/publications/right-to-information-laws-impact-and-implementation.pdf>
- Media Foundation for West Africa (MFWA). (2021). *Essentials of the right to information law (989)*. <https://www.mfwa.org/wp-content/uploads/2021/02/RTI-Toolkit-book-final.pdf>
- Mendes, J. (2020). *The principle of transparency and access to documents in the EU: For what, for whom and of what?* University of Luxembourg Law Working Paper No. 2020-004. <https://doi.org/10.2139/ssrn.3557795>
- Mosquera, M. (2014, February 27). The economics of access to information. Edmond & Lily Safra Center for Ethics blog. Harvard University. <https://ethics.harvard.edu/blog/economics-access-information>
- Neuman, L., & Calland, R. (2007). Making the access to information law work. The challenges of implementation. In *The right to know: Transparency for an open world* (pp. 179–213). Columbia University Press. <https://doi.org/10.7312/flor14158-006>
- O'Donnell, G. A. (1994). Delegative democracy. *Journal of Democracy*, 5(1), 55–69. <https://doi.org/10.1353/jod.1994.0010>
- Republic of Ghana. (1962). State Secrets Act, 1962 (Act 101).
- Republic of Ghana. (1992). Constitution of the Republic of Ghana, 1992 (as amended to 1996). <https://constitutionnet.org/sites/default/files/Ghana%20Constitution.pdf>

- Republic of Ghana. (2019). Right to Information Act, 2019 (Act 989). https://www.africanplatform.org/fileadmin/user_upload/Ghana-RTI-Act-1.pdf
- Republic of Ghana. (2022). Fees and Charges (Miscellaneous Provisions) Act, 2022 (Act 1080). <https://rtic.gov.gh/fees-and-charges-miscellaneous-provisions-act-2022-act-1080>
- Resnik, D. B. (2008). Environmental health research involving human subjects: Ethical issues. *Environmental Health Insights*, 2, 27–34. <https://doi.org/10.4137/EHI.S892>
- Right to Information Commission (RTIC). (n.d.). About us. <https://rtic.gov.gh/about>
- RTIC. (2021). *2021 Annual report*. <https://rtic.gov.gh/resource/2021-rti-annual-report>
- RTIC. (2022). *Annual report 2022*. <https://rtic.gov.gh/reports/2022-annual-report>
- Schinke, S. P., & Gilchrist, L. (1993). Ethics in research. In R. M. Grinnell (Ed.), *Social work research and evaluation* (4th ed.) (pp. 80–92). F. E. Peacock.
- Shapiro, I. (Ed.). (2003). *Two treatises of government and a letter concerning toleration: John Locke*. Yale University Press.
- Tiwari, A. N., & Ansari M. M. (2018). *Transparency audit of disclosures u/s 4 of the Right to Information Act by the public authorities*. A Report Submitted to Central Information Commission. Government of India.
- Weber, M. (1946). Politics as vocation. In C. W. Mills (Ed.), *Max Weber: Essays in sociology* (pp. 77–128). Oxford University Press.