



Comparative Analysis of Right to Information between India and Mexico

By: Ritika Sharma, Amity Law School, Noida & Tushant Sharma, Anand Engineering College

Democracy must be built through open societies that share information. When there is information, there is enlightenment. When there is debate, there are solutions. When there is no sharing of powers, no rule of law, no accountability, there is abuse, corruption, subjugation, and indignation.

-Atifete Jahjaga

India is a democratic republic infused with the spirit of Justice, Liberty, Equality and Fraternity.¹ In this republic, state plays a role in the promotion of economic, social, environmental, cultural well-being of its citizen and assumes primary responsibility for the welfare of its citizens.² This is given to the citizen in the form of 'Rights' and government being a sovereign authority, provides guarantee to protect their rights from cradle to grave. Transparency and accountability in an administration is the sine qua non of participatory democracy. Information is oxygen that any citizen needs to live in a social structure of the society and maintain its democratic balance.³ So in order to maintain this democratic balance, Right to

Information Act is passed in countries as a pioneer tool for citizens for protecting, promoting and defending their 'right to know' in which a citizen can obtain information from the government also.

According to the survey conducted, on the eve of Right to Know day,⁴ India is ranked at fourth position out of 111 countries that have a similar law and Mexico has been ranked first for having the best National level RTI law on the planet.⁵

This research paper laid emphasis on the comparative analysis of RTI laws of India and Mexico.

Keywords: Subjugation, Indignation, Infused, Justice, Liberty, Equality, Fraternity, Democratic, Sovereign, Transparency, Accountability, Eve.

INDIA (RIGHT TO INFORMATION ACT, 2005)

1. PRELIMINARY

1.1 OBJECTIVE OF THE ACT- The objective of the Act is to set out a practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of public authorities and to ensure smoother and greater access to information.⁶

¹Aatish Palekar, *Democracy in India*, <http://www.publishyourarticles.net/knowledge-hub/essay/an-essay-on-democracy-in-india/1669/>.

² MM Sankhder, *The Welfare State* (Delhi: Deep and Deep Publication).

³ Sahina Mumtaz Laskar, Importance of Right to Information for good governance in India, *Bharati Law Review* (Oct.-Dec. 2016) 1.

⁴ Rakesh Dubbudu, *India's RTI Act is the 4th Best in the world*, *Factly* (Sept. 29, 2016).

⁵ Gaurav Vivek Bhatnagar, *India Slips to fourth place in global RTI rating*, *The wire* (Sept. 28, 2016), <https://thewire.in/69464/india-slips-to-fourth-place-in-global-rti-rating/>.

⁶*Right to Information*, a citizen gateway, an initiative of department of personnel and training, government of India, <http://rti.gov.in/>.



1.2 APPLICATION- This Act is applicable to public authorities and non-government organization substantially financed directly or indirectly by the government. A public authority is any authority or body or institution of self-government which has been established by the constitution of India, by the laws made by the parliament or state legislatures and by government orders or notification. It also includes bodies owned, controlled or substantially financed by the government and non-governmental organisations substantially funded by the government (Section 2 (h)).

1.3 PRIVATE PARTIES PERFORMING PUBLIC FUNCTION

1.3.1 Funded: Private parties who perform public function and is substantially financed by the funds provided by the government fall within the ambit of public authorities under Section 2(h).

1.3.2 Non- Funded: Not covered.

1.4 MEANING OF INFORMATION -

Information means any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force (Section 2 (f)).

1.5 RIGHT TO ACCESS THE INFORMATION:

All the citizen of the country is eligible to seek information under the Act (Section 3).

1.6 RESTRICTION IN USE OF INFORMATION:

No such provision.

1.7 REASON REQUIRED FOR SEEKING THE INFORMATION:

As per Section 6 of the Act person seeking information under the Act is not required to state any reason for requesting the information or any other personal details except his contacting details.

1.8 RIGHTS PROVIDED UNDER THE ACT:

The Act provides for other rights as well which include

1.8.1 Right to Inspection (Section 2(j)(i))

1.8.2 Right to take notes extracts. Certified copies of document or records (Section 2(j)(ii))

1.8.3 Right to take certified samples of material (Section 2(j)(iii))

1.8.4 Right to take information in the form of diskettes, floppies, tapes or in any other electronic device (Section 2(j)(iv))

1.8.5 Right to take printout of the information stored in a computer or any other device (Section 2(j)(iv))

1.9 POLITICAL PARTY WITHIN THE PURVIEW OF RTI-

There are no provisions in the Act to bring political parties within the ambit of public authority and hence, political parties are not answerable under the Act.

1.10 EFFECT OF THE ACT-

The provisions of the Act has an overriding effect on



any other law for the time being in force or anything inconsistent with its provision⁷ (Section 22).

under Section 4 of the Act. As per the Act the public authorities should provide as much information suomotu to the public through various means of communication.

2. OBLIGATIONS OF RESPONSIBLE AGENCY

2.1 RESPONSIBLE AGENCY- Public authorities have designated some of its officers as Central Public Information Officer and State Public Information Officer. They are responsible for enabling access to information to any person requesting information under the Act.

2.2 INCENTIVES TO THE RESPONSIBLE AGENCY: No such incentives has been provided under the Act for Public Information Officer.

2.3 PRO-ACTIVE OR SUO-MOTU DISCLOSURE SCHEME- The Act makes it obligatory for public authorities to maintain all its record to facilitate right to information in an effective manner and make such records available to the public. Every public authority is obliged to maintain all its record duly catalogued and indexed. It has to ensure that records that are capable of being computerized are duly computerized to effectively facilitate access to information to the citizens. The Act also makes it obligatory for the public authorities to publish the particulars of its organization, functions, etc. as provided

2.4 ASSISTANCE TO APPLICANTS:

2.4.1 In case an application cannot be made in writing, it is the responsibility of the Central Public Information Commissioner or the State Information Commissioner to provide all reasonable assistance to the person making the request orally to reduce it in writing (Section 6).

2.4.2 In case a person has a sensory disablement, it is the responsibility of the Central Public Information commissioner or the State Public Information Commissioner to provide assistance to such person in order to enable access to the information (Section

3. EXEMPTIONS

3.1 EXEMPTION FROM DISCLOSURE-

3.1.1 Sections 8 of the Act enumerate the categories of information which have been exempted from disclosure. Below mentioned information has been exempted from disclosure:

3.1.1.1 Absolute Exemption:

- a) **Information related to sovereignty and Integrity:** Any information which would affect the sovereignty and integrity of India or would affect the economic, scientific, security or strategic interest of the State or

⁷Manoj Kumar Bhati, *Right to Information in India*, <http://www.legalserviceindia.com/article/1188-Right-to-Information-in-India.html>.



- information which would affect the relation with foreign state or which would lead to incitement of an offence
- b) **Contempt of Court:** Information which would lead to contempt of court
 - c) **Parliamentary Privilege:** Information which would lead to a breach of privilege of parliament or state legislatures.
 - d) **Confidential Information:** Information which has been received from a foreign government in confidence
 - e) **Information endangering Life or Safety:** Information the disclosure of which will endanger life or physical safety of any person or identify the source of information or assistance given in confidence for security purpose.
 - f) **Hindrance to Investigation:** Information which would cause hindrance in the process of investigation
 - g) **Cabinet Papers:** Cabinet papers including records of deliberation of Council of Ministers and other officers. However, the information related to decisions made and the material on which the decision was made should be made public after the decision has been taken.

3.1.1.2 Qualified Exemption:

- h) **Commercial Secret:** Information which is related to commercial confidence, trade secrets or intellectual property and would harm the competitive position of a third party. This information cannot be disclosed unless the competent authority is

satisfied that there lies a larger public interest which warrants the disclosure.

- i) **Information held in a Fiduciary relationship:** Information available to a person in his fiduciary relationship. This information cannot be disclosed unless the competent authority is satisfied that there lies a larger public interest for such disclosure.
- j) **Personal Information:** Information which is personal and is not related to any public activity or interest and would cause unwarranted invasion of the privacy of the individual. However, the Public Information Officer may allow access to information on being satisfied that the larger public interest justifies such disclosure.

A public Authority may allow the above-mentioned information to be disclosed, if the public interest in disclosure outweighs the harm to the protected interests.

- 1.1.2 **Copyright Infringement:** Information which would involve an infringement of copyright subsisting in a person other than the state (Section 9).

3.2 ORGANISATION(S) EXEMPTED FROM PROVIDING INFORMATION

Section 24 provides for exemption of intelligence and security organizations established by the Central Government or by the State Government from disclosing any information unless pertaining to corruption or human right violation.



3.3 MECHANISM FOR OBTAINING INFORMATION FROM EXEMPTED ORGANISATIONS –

3.3.1 In case the information sought is in respect of allegation of violation of human rights from any of the organisation established by Central Government, the information shall be provided only after the approval of Central Information Commission within forty-five days from the date of the receipt of request.

3.3.2 In case the information sought is in respect of allegation of violation of human rights from any of the organisation established by State Government, the information shall be provided only after the approval of State Information Commission within forty-five days from the date of the receipt of request.

4. PROCEDURAL MECHANISM

4.1 PROCEDURE TO ACCESS INFORMATION

A citizen who desires to obtain any information under the Act, should make an application to the Public Information Officer of the concerned public authority in writing or through electronic means in English or Hindi or in the official language of the area in which the application is made. The application should be precise and specific. An amount of rupee ten is required to be paid along with the application. In case the information so sought is held by another public authority the same should be transferred within five days from the date of receipt of the application and the applicant should be duly informed (Section 6).

4.2 DUTY OF THE RESPONSIBLE AGENCY, IN CASE THE REQUEST MADE IS REJECTED:

When the request made is rejected by the Public Information Officer, the person making the request has to be informed about the reasons for such rejection, the time period within which an appeal against such rejection can be made and the particulars of the appellate authority (Section 7(8)).

4.3 MECHANISM FOR OBTAINING INFORMATION FROM THIRD PARTY-

A third party is any person other than the citizen who makes a request for information and includes a public authority (Section 2 (n)).

If the Public Information officer intends to disclose any information on a request made under the Act, which is related or is supplied by a third party and has been treated confidential by the third party, the officer shall within five days from the receipt of such request give a written notice to the third party of the request and invite the third party to make a submission regarding whether such information should be disclosed. The disclosure of such information may be allowed if the information is not related to trade or commerce secrets and is in the larger interest of public and outweighs the harm if any that may occur to the third party (Section 11).

5. TIME LIMIT

5.1 TIME PERIOD FOR SUPPLY OF INFORMATION-

5.1.1 SPEEDY ACCESS TO INFO: If the information sought concerns the life or



liberty of a person, it should be made available within 48 hours.

5.1.2 ORDINARY ACCESS TO INFO:

- 5.1.2.1** In the normal course, information to an applicant shall be supplied or rejected within 30 days from the receipt of the application by the public authority.
- 5.1.2.2** If the application needs to be transferred to another public authority, five days is to be added to 30 days or 48 hours as the case may be.
- 5.1.2.3** If the application is received through Assistance Public Information officer, the information is to be provided within 35 days.
- 5.1.2.4** In case the information is to be received from intelligence or security organisations, the information is to be provided within forty-five days from the date of receipt of such request.

5.2 INFORMATION NOT PROVIDED WITHIN THE TIME LIMIT: If the information so sought is not provided within the time limit, then such information shall be provided to the applicant free of charge (Section 7(6)).

6. FEE CHARGED

6.1 FEE FOR THE INFORMATION:

- 6.1.1** An amount of rupee ten needs to be paid along with the application as a fee for the information so requested.
- 6.1.2** When the information sought is to be provided in printed or in any electronic format, the applicant will have to pay:
 - a) Two rupees for each page or actual cost of the photocopy or sample

- b) Fifty rupee for each diskette or floppy
- c) No fee is to be charged in first hour of the inspection. A fee of five rupee is to be charged for every subsequent hour of inspection.
- d) the extra postal charge cost involved in supply of information exceeding fifty rupee.

6.2 EXEMPTION OF FEE: No fee is to be charged from any person belonging to below poverty life if he has submitted his BPL certificate issued by the government along with the application.

7. ENFORCEMENT AGENCY

7.1 ENFORCEMENT AGENCY- The Act under Chapter III provides for constitution of Central Information Commission and State Information Commission which have been made responsible for proper enforcement of the Act.

7.2 EMPOWERMENT OF COMMISSION:

7.2.1 COMPONENT-

- The Central government has constituted the Central Information Commission consisting of the Chief Information Commissioner and Central Information Commissioners not exceeding ten in number. (Section 12).
- Every state has State Information Commission consisting of the State Chief Information Commissioner and State Information Commissioner not exceeding ten in number (Section 15).



7.2.2 POWER AND FUNCTIONS:

The power and functions of the Central Information Commission and State Information Commission has been enumerated in Section 18 of the Act. According to the Section, it shall be a duty of the officer to receive and inquire into a complaint from any person.

- While inquiring into the matter the commission has been given the same power as that of an civil court as under the Civil Procedure Code of 1908 in respect of summoning and enforcing the attendance of the person and to compel them to give evidence on oath and produce the document and thing, receiving evidence on affidavit or requiring the discovery and inspection of the document and requisitioning any public record from any court or office. It can also issue summons for witnesses and documents Section 18(3)).
- During the inquiry of any complaint the commission has power to examine any record to which the Act applies which is under the control of public authorities and no such record can be withheld on any ground.

The Commission while deciding an appeal has been given power as mentioned below:

- Require the public authority to take any such step as required for compliance with the provisions of the Act (Section 19 (8) (a))
- Require the public authority to compensate the complainant for any

loss or detriment caused. (Section 19 (8) (b))

- Impose any penalty provided under the Act (Section 19 (8) (c))
- Reject the application (Section 19 (8) (d))⁸

8. COMPLAINT AND APPEAL MECHANISM

8.1 COMPLAINT MECHANISM:

A complaint can be made to the Information commission by any person:

- Who has been unable to submit a request either due to non-appointment of the Public Information officer or due to the refusal to accept the application.
- Who has been refused access of information so requested
- Who has not been given a response within the time limit prescribed
- Who has been required to pay an unreasonable amount of fee
- Who believes that he has been given incomplete, misleading or false information
- in respect of any other matter relating to requesting or obtaining access to information

If the commission is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry. During the inquiry, the Commission will have same power as that of a civil court as provided under CPC, 1908.

⁸Right to Information Act, 2005, No. 22 of 2005, <http://rti.gov.in/webactrti.htm>.



8.2 APPEAL MECHANISM - If an applicant is not provided information within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the Central or State Public Information Officer. Such an appeal should be filed within a period of thirty days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the Public Information Officer is received. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or within the extended period not exceeding forty-five days from the date of filing of such appeal. If the first appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Central Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant (Section 19).

within specified time without reasonable cause or has malafidely denied the request for such information or has knowingly given incorrect information. Such officer on whom the penalty has been imposed shall be given reasonable opportunity to be heard. (Section 20).

9.2 AMOUNT OF PENALTY THAT CAN BE IMPOSED- The Central or State Information Commission may impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished but the total amount must not exceed twenty-five thousand rupees. (Section 20).

9.3 DISCIPLINARY ACTION AGAINST THE OFFICER: The Central Information Commission or the State Information Commission at the time of deciding an appeal has been given the power to recommend disciplinary action against the Public Information Officer in case, the officer has without any reasonable cause and persistently, failed to receive an application for information or has not been able to provide information within the time limit or has malafidely denied the information or has knowingly given incorrect or misleading information. (Section 20 (2)).

9. PUNISHMENT AND PENALTY

9.1 POWER TO IMPOSE PENALTY- The Central or State Information Commissioner has the power to impose penalty on the Public Information Officer if it is of the opinion that such officer has refused to receive application for information or furnish information

9.4 PUNISHMENT IN CASE OF VIOLATION OF SUO-MOTU DISCLOSURE: There is no punishment provided in case of violation of suo-motu disclosure

9.5 PUNISHMENT IN CASE OF FALSE OR VICIOUS COMPLAINT: The Act does not provide any punishment for false or



vicious complaint made to the Information Commission under the Act.

- To upgrade organisation, classification and handling of document,
- To contribute to democratization of Mexican society and the existence of Rule of Law.⁹

10. MISCELLANEOUS

10.1 PROTECTION AVAILABLE- The Act provides for protection from prosecution or other legal proceedings to any person for anything done in good faith (Section 21).

10.2 POWER OF COURT UNDER THE ACT- The Act under Section 23 bars the jurisdiction of court from entertaining any suit, application or other proceedings in respect of any order made under the Act. (Section 23)

1.2 Application: This act is applicable to government officials, autonomous constitutional bodies (like Federal electoral Institute, National Human Rights Commission, Central Bank, Universities, and other higher educational institutions which have derived the authority by law as well from federal constitution of Union Mexican States), entities, disclosing parties (like the Federal Executive, attorney general office, legislative branch, judicial branch, Federal administrative courts). The government official is defined under Article 108 first paragraph of Federal Constitution or any individual who handles or use federal funds.

MEXICO (FEDERAL LAW OF TRANSPARENCY AND ACCESS TO PUBLIC GOVERNMENT INFORMATION, 2002)

1. Preliminary

1.1 Objective: The objective of the act is provided under Article 4 of the act, that are:

- Right to access information through simple and expeditious procedures,
- Promote disclosure of public administrative task through dissemination of information issued by respecting disclosure parties,
- To guarantee protection of personal data held by disclosure party,
- To promote rendering of accounts to citizens so that they can evaluate the performances of disclosing party,

1.3 Private parties performing public function: Private parties who handles or uses Federal funds fall within the ambit of government officials.

1.4 Meaning of information: Information according to Article 3(V) means information contained in document issued, obtained, acquired, transformed, or kept by disclosing party under any title.

⁹María Marván Laborde, *Transparency Access to Information and Personal data*, Federal Institute for access to public information (IFAI) (Aug. 2004).



1.5 Right to access the information:

Any person is eligible to seek information under the act.

1.6 Restrictions in use of information:

No such Provision provided under the act.

1.7 Reasons required for seeking information: Any person seeking information under the act from Liaison Unit is required to submit his name, address, clear and accurate description of information required, any other information that help in location of information under Article 40 of the title two of the act.

1.8 Rights provided under the act:

Any person seeking information has the right to direct inquiry, to take certified copies, Photostatic copies or from any other means.

1.9 Political party within the purview:

Any organisation established in political constitution i.e. political parties are included within the ambit of autonomous constitutional entities under Article 3(IX) of the act.

1.1 Effect of the act: No such provision provided in the act.

2. Obligation of responsible agency

2.1 Responsible agency: The disclosing parties are considered to be responsible to provide information on application being made by an applicant.

The act under Article 41 made Liaison unit a link between the department or agency or people seeking information and shall be responsible for notification consigned. Head of each department or agency appoint Liaison unit to collect

and disseminate information, to receive and process request in some situation, to keep records of requested information.

2.2 Incentives provided to Responsible Agency: No such provision under the act.

2.3 Pro-active or suo moto disclosure scheme: Chapter II of the act creates transparency obligation on disclosing party regarding the information that they should have to provide people through remote or local communication means.

Article 7 of the act enumerates the list of information that disclosing party has to provide to the public and to update it according to regulations and guidelines issued by the institution;

- Organizational chart,
- The authority conferred upon each administrative unit,
- The directory of government officials at head of department level or equivalent level,
- Monthly salary by position,
- The address of the liaison unit including e mail to address request of information,
- Goals and objective of each administrative unit based on their operational programme,
- Services offered by said unit,
- The procedures, requirement and forms,
- Budget allocated and information on application in terms of Federal Expenditure Budget,
- The result of disclosing party's budget audit's conducted,



- The design, execution, amount allocated and criteria to access subsidized programs,
- The concessions permit, or authorization granted including the names of holders,
- Legal framework applicable to each disclosing party,
- Reports issued by disclosing party's according to the provision of the act,
- Citizen participation mechanism,
- The contracts entered into pursuant to applicable legislation including public work, goods procured or leased and services contracted in case of research and studies, amount, name of supplier, contractor, individual or corporation and date of performance,
- Any other useful information that public should know.

Reports submitted by National political parties and political association to Federal Electoral Institute and the audits and reviews ordered by the Public Funds Auditing Commission of the Political Parties and Associations must be publicized upon completion of the respective auditing procedure as according to Article 11 of the act.

Disclosing party should publish all information related to amounts and recipients of public funds as well as reports rendered by said recipients on the use and destination of said resources according to article 12 of the act.

2.5 Assistance to an Applicant: The act under article 40 provides Liaison unit to assist private entities in formulation of

request for access to information especially when an applicant is illiterate.

3. Exemptions

Chapter III of the act enumerates the categories of privileged and confidential information which have been exempted from disclosure of information. The heads of administrative unit as specified under Article 16 shall be in charge of classification of information based on criteria and regulations issued under the act. The head of each department is required to keep and protect classified files.¹⁰

3.1 Privileged Exemptions: The privilege character may not be invoked in case of patent violation of fundamental rights or crimes against humanity. Privilege treatment period specified under the act is not more than twelve years maximum.

3.1.1 If such disclosure of information which would prejudice the national security, public security or national defence,

3.1.2 If such disclosure of information cause an extreme damage to law enforcement activities, crime prevention or prosecution, tax collection, administration of justice, migratory control operations, procedural strategies in judicial or administrative actions,

3.1.3 Commercial, industrial, fiscal, bank or fiduciary secrets,

3.1.4 Criminal Investigations,

3.1.5 Judicial or administrative law case which have been prosecuted through law

¹⁰Kate Doyle, *Mexico's New Freedom of Information Law* (Jun. 10, 2002).



suits as long as they shall not become and conclusive,

3.1.6 Public officer liability proceeding as long as no final and conclusive administrative law o jurisdiction ruling has been issued,

3.1.7 Information containing opinions, views, recommendations that are not the part of deliberation process of government officials as long as the final decision has not been issued,

3.2 Confidential Exemptions: Confidential information is released by private entities to disclosing parties and personal data subject to private entity's consent for dissemination, distribution or commercialization.

3.2.1 If such disclosure of information would impair the development of negotiations, international relations including confidential information submitted by other state or international organisations to Mexican state,

3.2.2 If such disclosure of information would damage Mexican State's financial, economic or monetary stability,

3.2.3 If such disclosure of information would jeopardize the health, life, security of any person,

3.3 Organisation(s) Exempted from providing information: The National Security Investigation Center; the Drug Control Planning Center; the Intelligence Coordination Division of the Preventive Federal Police; the Organized Crime Unit, the Presidential Staff, the National Defense Staff and the Navy Staff or the substitute administrative units, are exempted under Article 31 of the act.

3.4 Process to obtain information from such exempted organisation(s): In case there has been a request to access confidential information, disclosing party may disclose it with the express consent of private party as provided under Article 19 of the act.

4. Procedural mechanism

4.1 Procedure to access information:

Any person can file an application in writing to responsible parties to access information. In case of Personal data, an interested party or their representative may ask for information from Liaison unit.

In case the information requested is already been provided to the public in printed matter, an applicant will be informed about the source and place of information.¹¹

Liaison unit forward the application to administrative unit and in return administrative unit inform Liaison unit whether the information will be provided or not and the same has to be informed to the applicant.

4.2 Duty of responsible agency, in case the request made is rejected:

In case of personal data, if the request made is rejected, the writ of review may be filed.

¹¹Wilsoncenter,

http://www.wilsoncenter.org/sites/default/files/LFTA_IPG%20traducci%25C3%25B3n%20certificada.pdf.



5.2 Mechanism for obtaining information from third party:

5. Time limit

5.1 Time period for supply of information: A person seeking information is provided with the information within twenty business days from the date on which the request is being made as given in article 44 of the act.

If an interested party or their representative made a request for seeking information in case of personal data, Liaison unit shall provide information within ten business days from the date on which request is being made in a user friendly format.

5.2 Information not provided within the time limit: If the information is not provided within the time limit, shall be interpreted as an affirmative answer and the department shall be required to provide information within ten business days in case the cost from reproduction of material has been received unless the institution tells them clearly that such information is under the privileged or confidential category.

6. Fee charged

6.1 Fee for the information: Fee is to be charged according to Chapter V of the act which states that the information may not exceed the sum of cost of material employed in the reproduction of information and mailing cost.

6.2 Exemption of fee: Release of personal data is exempted form fee under Article 24 of the act except the mailing cost.

7. Enforcement agency

7.1 Enforcement agency: Federal Institute for access to public information established under Chapter II of Title two of the act is made responsible for proper enforcement of the act.

7.2 Empowerment of commission:

7.2.1 Component of Commission: Federal Institute for access to public information is a body of Federal Public Administration with operational, budgeting and decision making autonomy in charge of promoting and dissemination right to access public information, issuing resolutions, denial of request, protection of personal data in possession of department and agencies.

7.2.2 The commission has five commissioners appointed for seven years without possibility of re-election and not be allowed to hold any other position.

7.2.3 Eligibility to become a commissioner; Mexican national, not convicted for fraudulent offence, thirty five years old at the time of designation, flawless record in professional, public service of academic activities related to the subject matter, not to have been a secretary of state, head of an administrative department, attorney



general, senator, federal or local representative, president of political party or association, state governor, head of the government of federal district during the year immediately preceding designation.

7.2.4 Power and Function: Article 37 of the act enumerates the list of function;

- To interpret an act in administrative sphere,
- To hear and issue a ruling on writs of review file by an applicant,
- To design and review the criteria for classification, declassification, and custody of privileged and confidential information,
- To act as co-adjustor of National Archive in preparation and application of criteria for listing and keeping of document,
- To supervise and in case of non-performance provide recommendations to department and agencies to perform,
- To provide counseling to private entities on their request,
- To provide technical support to department and agencies in formulation and implementation of program,
- To formulate guide,
- To promote and carry out training of government officials in access to information and protection to private data,
- To prepare and publish studies and research to publicize the knowledge on the subject matter,
- To prepare internal regulations,

- To prepare its annual budget to be submitted to the Department of Finance and Public Credit for inclusion in Federal Budget,

8. Complaint and appeal

8.1 Complaint mechanism: A complaint can be made to the institution by any person or his representative who is not providing access to information within time limit or been refused to have access, has an option to file a Writ of review with the institute or to the liaison unit that heard the matter within fifteen business days from the date of notification.

8.3 Appeal mechanism: If an applicant is not provided with the information within time limit, he may prefer an appeal to Federal Institute of Public Information. The appeal should contain the content like department or agency to whom the request is being made, name of appellant, date on which appellant was notified. The notice is served to the commissioner, he shall within thirty days has to submit draft of resolution in a plenary session and this session shall issue a final decision within twenty business days of the receipt of draft of resolution further an individual other than government bodies if not satisfied with the decision is allowed to appeal in federal judicial power.

9. Punishment and penalty

Title four has the provision regarding punishment and penalty.

9.1 Power to impose penalty: Federal law of administrative



liabilities of government official has the power to impose penalty (Article 63).

9.2 Amount of penalty that can be imposed: The act does not provide any amount of penalty that can be impose but it does amounts certain obligations as serious offences for the purpose of administrative law penalty that are:

- To use, destroy, hide, damage, disclose or alter in an unlawful manner the information in custody to which the government official is allowed to access by reason of their employment, position, commission,
- To act negligently, fraudulently or in bad faith in procession of access to information,
- To classify privileged information fraudulently, that it does not meet the conditions specified therein,
- To release intentionally incorrect information.

9.3 Disciplinary action against the office: There is no such provision provided under the act.

9.4 Punishment in case of violation of suo moto disclosure: There is no punishment provided in case of violation of suo moto disclosure.

9.5 Punishment in case of false or vicious complaint: The act does not provide any punishment for false or vicious complaint made to the department.

10.2 Power of court under the act: No such provision is provided by the act.

10. Miscellaneous

10.1 Protection available: No such provision is provided by the act.