



Proactive Disclosure : Best Practices from Mexico

About RTI Briefs

The Right to Information Act (RTI Act) was passed in 2005. The RTI Briefs series examines issues relevant to the debate on right to information in India, highlighting international best practices with a view to inform policy debates.

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The first brief in this series looks at Section 4 or proactive disclosure of information under the RTI Act. It highlights best practices in information disclosure from Mexico.

Other Briefs in this Volume

No.2. Information Commissions : Selection and Appointment.

No.3. RTI : A Tool for CSO Accountability in India.

Summary

- Proactive disclosure of information by government departments ensures that citizens have easy access to key government information on a regular basis.
- Section 4 of the Indian Right to Information Act 2005 (RTI Act) requires government departments to publish 17 categories of key information proactively on a regular basis.
- In practice, government reporting on Section 4 is poor. Most departments are found to be reporting only 30 percent of the requirements under the RTI Act.
- Mexico provides a good example of how IT can be harnessed by the government to ensure good proactive disclosure.

Recommendations

- **Publishing Section 4 information:** Departments need to think of innovative ways to publish and disseminate Section 4 information. For example, by using the internet to develop Section 4 information portals like Mexico.
- **Ensuring accurate and updated information:** Departments at various levels need to work towards routinely updating their Section 4 information so that citizens have access to accurate information.
- **Information Commissions to Monitor Section 4 Compliance:** Information Commissions need to get closely involved in Section 4 monitoring. This could take the form of rating or grading department websites to spark competition and thereby efficiency in information disclosure
- **Participation of civil society:** Civil society organisations can be mobilised to track and monitor information disclosure by government departments to help improve the quality of information and reporting.

Information Disclosure: Getting “Proactive”

Most access to information laws including the Right to Information Act 2005 (RTI Act) have *suo moto* or proactive disclosure clauses that require government departments to publish certain kinds of organizational and financial information. The proactive disclosure of information benefits both citizens and governments. It gives citizens easy and regular access to updated government information. This minimises the need for citizens to seek information through formal requests under information laws, and thus helps reduce the volume of requests received by government departments. In the long run, proactive disclosure can help promote a culture of openness and transparency in government.

India Lags Behind in Section 4 Reporting

Section 4 of the RTI Act requires government departments to routinely publish 17 categories of information including details of the functions, powers and duties of officers, decision-making procedures, directory of officials, details of documents and records held, information on salaries, budgets, subsidy schemes etc. However, government departments have a poor record of implementing proactive disclosure. According to a recent study conducted by the Right to Information Assessment and Analysis Group (RaaG), departments are reporting only 30 percent of the requirements under Section 4. The study conducted a physical and electronic audit of government departments at the central, state and district levels and found that most of the information published on government websites is incomplete and out of date. The quality of data is also quite poor.¹ In marked contrast to government departments in India, federal agencies in Mexico have a high record of compliance with the federal access to information law.

Mexico Gets Creative: Using IT for Better Disclosure

Internationally, Mexico has a strong record in implementing the right to information. The Federal Law on Transparency and Public Access to Information was passed in 2002 and applies to all 3 branches of the government - legislature, judiciary and executive - as well as autonomous constitutional bodies and other government bodies.² The right to information in Mexico was extended to state governments in 2007 through a constitutional amendment. State governments are now obligated to standardize their transparency laws and set up electronic systems to process information requests.³ Mexico has made innovative use of the internet to develop easy to use tools and portals to help citizens get information. These include an online request processing system (SISI and Infomex)⁴, a keyword search engine for government responses to requests (ZOOM)⁵, and an online portal to access proactive disclosure information (POT).

Transparency Portal

Under Article 7 of the Mexican information law, all agencies covered under the law, have to proactively publish 17 categories of information including information about their organisational structures, services provided, directories of officials, details of salaries, subsidies and contracts etc.⁶ The information has to be made available through remote and local electronic means, and has to be updated every 3 months. To save people the trouble of trawling through multiple government websites, the Federal Institute for Access to Information (IFAI)⁷ has developed an online portal known as the “*Portal de Obligaciones de Transparencia*” or Transparency Portal.⁸ (See Box 1)

¹ Right to Information Assessment and Analysis Group, “Safeguarding the Right to Information: Report of the People’s RTI - Executive Summary”, 2009, available at, http://rti-assessment.org/exe_summ_report.pdf

² Federal Law on Transparency and Public Access to Information, available at, <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB68/laweng.pdf>

³ Juan Pablo Guerrero Amparan and Zachary Bookman, “Two Steps Forward, One Step Back: Assessing the Implementation of Mexico’s Freedom of Information Act”, *Mexican Law Review*, New Series Volume 1, No. 2, 2009, pp. 14-16, available at, <http://info8.juridicas.unam.mx/pdf/mlawrns/cont/2/arc/arc1.pdf>

⁴ More information is available at <https://www.infomex.org.mx/gobiernofederal/home.action>

⁵ More information is available at <http://buscador.ifai.org.mx/buscador/bienvenido.do>

⁶ Article 7, Federal Law on Transparency and Public Access to Information, available at, <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB68/laweng.pdf>

⁷ The IFAI (Mexico’s Information Commission) was set up under the Law on Transparency and Public Access to Information as an autonomous agency responsible for overseeing implementation of the law by agencies of the executive branch of the government. The IFAI is also responsible for promoting the use of the law amongst citizens. The IFAI can be accessed at, <http://www.ifai.org.mx/>

⁸ The portal can accessed online at www.portaltransparencia.org.mx

Box 1.

Portal of Transparency and Access to Public Government Information	
<p>I Organizational Structure Operational</p>	<p>II Faculties</p>
<p>This section presents the organizational structure, basic, no counterparts in the agencies. Browse by Institution</p>	<p>This section presents the powers and duties of the administrative units of the departments and agencies. AFP Search Search by Institution</p>
<p>III Directory</p>	<p>IV Remuneration</p>
<p>This section presents the directory of public servants. It can be accessed alphabetically, by area and by an advanced search. AFP Search Search by Institution</p>	<p>This section presents the monthly salary and the compensation scheme applicable to public servants and staff recruited from fees, as well as vacancies for the agencies. AFP Search Search by Institution</p>

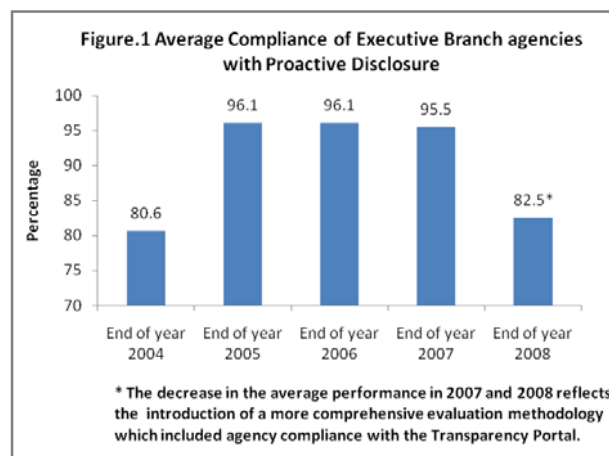
*Source: Portal de Obligaciones de Transparencia, <http://portaltransparencia.gob.mx/pot/>
Translated into English using Google Translate.*

The portal provides individuals with access to information proactively disclosed by federal agencies of the executive branch. Through the portal users can access and search for organisational information of different federal agencies including details of budgets, concessions and permits, information on grants etc. Users can search through the information on the portal by item, category and name. In addition, the portal also organises and systematises the presentation of information, making it easier to access and use. In its first year the portal registered over 18 million visits with approximately 30,000 searches per day. Interestingly, the most searched for category is the directory of officials with 25 percent of traffic, followed by 17 percent for salaries and benefits, 15 percent for contracts and 6 percent for authorisations, licenses and concessions.⁹

Federal Agencies Score Highly on Proactive Disclosure

The degree of compliance amongst agencies with the mandate for proactive disclosure is high. The IFAI has been evaluating the extent to which agencies have been publishing information through their transparency portals. The internet has played an important role in enabling the IFAI to better monitor and supervise

compliance by agencies. As statistics and agency responses can easily be collated, the IFAI is able to "spot trends and identify roadblocks to access".¹⁰ Starting late 2003, the evaluations of the IFAI show a progressive increase in agency compliance with the mandatory disclosure requirements. As we see in Figure 1, since 2004, agency compliance has been steadily increasing from 80.6 percent in 2004 to 96.1 percent in 2005 and 2006.



Source: Statistics compiled from IFAI "Informes al H. Congreso de la Unión" for the years 2004, 2005, 2006, 2007 (<http://www.ifai.org.mx/Publicaciones/publicaciones>). Translated into English using Google Translate.

⁹ See Amparan and Bookman, pp. 44.

In 2007, the launch of the Transparency Portal and the introduction of a more comprehensive methodology to evaluate agencies raised the bar for federal compliance. As a result the number of agencies registering 100 percent compliance declined from 196 (out of 237 agencies) in 2005 to 5 (out of 235) in 2008 while there was an increase in the number of agencies with compliance between 80-99 percent.¹¹ To encourage agencies to meet their transparency obligations, the IFAI also follows the practice of rating agency websites. This has sparked friendly competition amongst agencies to get the best ratings for their websites.¹²

Lessons for India

The extensive use of the internet in Mexico has provided citizens with "anyone, anytime, anywhere" information access. The IFAI in Mexico has taken a lead in regularly monitoring compliance levels and innovating with new disclosure tools such as the Transparency Portal. This has fostered greater transparency and efficiency in government and created greater citizen trust and confidence in the government. Government departments in India need to learn from the Mexican example and bring their information disclosure up to par. Proactive disclosure has tremendous potential to transform the nature of government functioning in India. Information disclosure need not be a burdensome task. As the Mexico example shows, with a little creativity, proactive disclosure can be integrated into the daily functioning of departments with benefits for citizens and the government at large.

Recommendations

To improve the nature and quality of Section 4 disclosure, action is needed in certain key areas including:

- **Publishing Section 4 information:** Departments need to think of innovative ways to publish and disseminate Section 4 information. For instance, by using the internet more effectively to develop Section 4 information portals like Mexico.
- **Ensuring accurate and updated information:** Departments at various levels need to work towards routinely updating their Section 4 information so that citizens have access to accurate information.
- **Information Commissions to Monitor Section 4 Compliance:** Information Commissions need to get closely involved in Section 4 monitoring. This could take the form of rating or grading department websites to spark competition and thereby achieve efficiency in information disclosure.
- **Participation of civil society:** Civil society organisations can be mobilised to track and monitor information disclosure by government departments to help improve the quality of information and reporting.

¹⁰ See Amparan and Bookman, pp. 45.

¹¹ This data has been compiled from IFAI "Informes al H. Congreso de la Unión" reports for 2005, 2006, 2007 and 2008, available at, <http://www.ifai.org.mx/Publicaciones/publicaciones>

¹² David L. Sobel, Bethany A. Davis Noll, Benjamin Fernandez Bogado, et al. "The Federal Institute for Access to Public Information in Mexico and a Culture of Transparency", Centre for Global Communication Studies, Annenberg School for Communication, University of Pennsylvania, February, 2006, pp.42, available at, http://www.global.asc.upenn.edu/docs/mex_report_fiai06_english.pdf

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