

Openness + Transparency = Accountability ?

The Case of Mexico

**Juan Pablo Guerrero A.
Information Commissioner, IFAI**

June 2008

Is the Mexican Federal Experience on ATI successful?

- Fundamental right established in the Constitution
- ATI applies to all branches of Federal Government (no exclusions)
- Exemptions are clearly established and frequently require harm test

Is the Mexican Federal Experience on ATI successful?

- Time framework for response and complaints is clearly established
- Complaints to independent Commission with binding decision powers (IFAI)
- Complaints can challenge administrative silence and other ways of not providing information

Role of the Commission (IFAI): Administrative Court of Appeals

- IFAI can verify at any time classified information
- IFAI is obliged to help the applicant (*remedy deficient complaints*)
- IFAI manages the System: Info. Tech. has been widely utilized to support ATI
- IFAI can initiate a responsibility administrative process against violators

Main results: Trust & Efficiency

- Anyone, anytime, anywhere, can request information through the Internet
- Anonymity: officials focus on whether the information is public or not; concerns on who is requesting and why are eliminated
- Requesters have confidence and get results in less than 4 months

Main result: Trust & Efficiency

- Decentralization of demand (considering unreliable postal service & highly centralized Federal Government)
- Accessibility is enhanced by socializing information already released through the Internet
- The Commission can better supervise and enforce ATI

Statistics

(June 2003-June 2008)

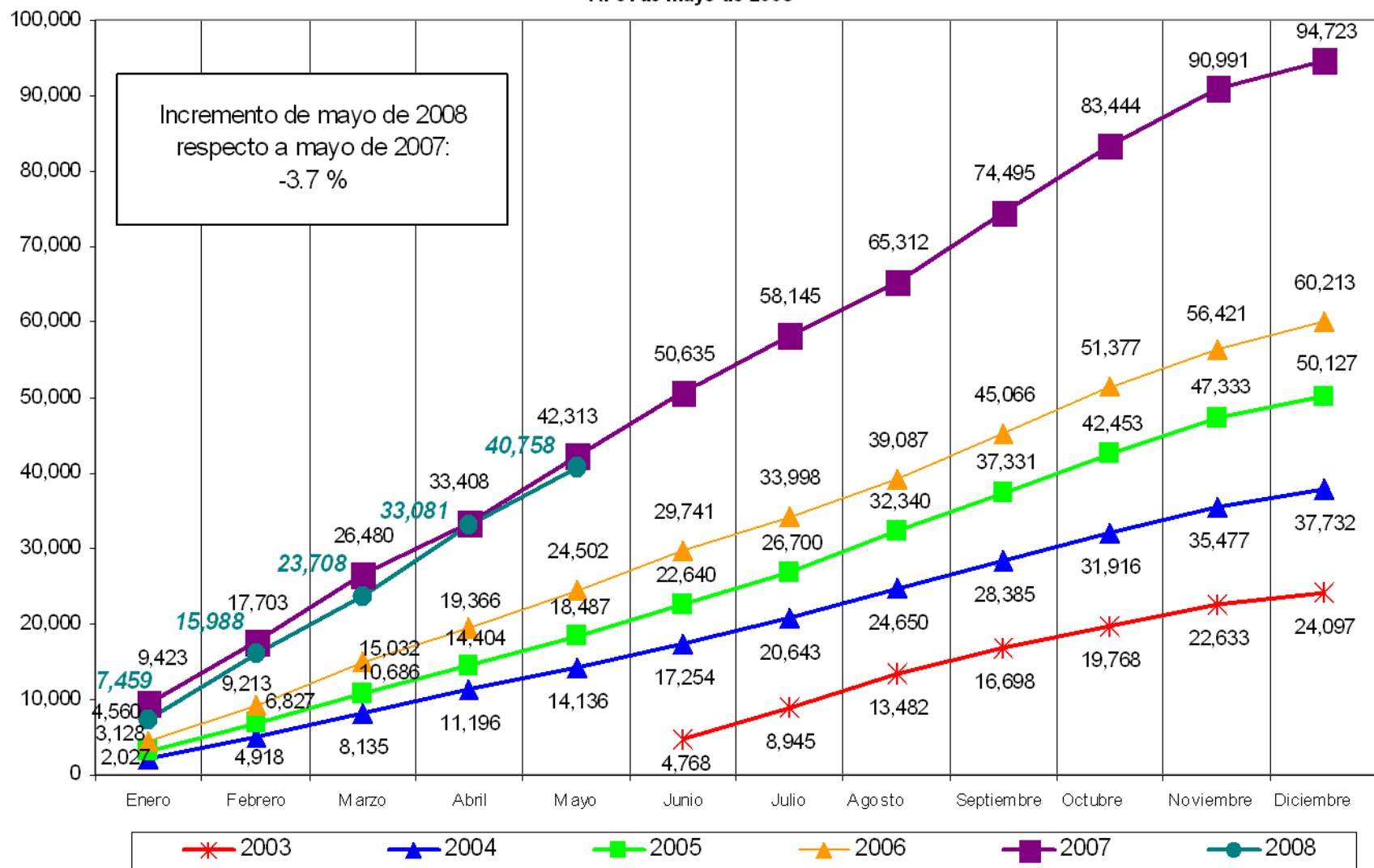
- 310,000 requests
- 15,378 complaints to the Commission (IFAI)
- 203 appeals to Judicial Courts (*amparos*) filed against IFAI by requesters
 - 70% have ruled favorably to the IFAI
 - 30% in favor of the complainer

Requests Statistics (June 03- June 08)

	2003	2004	2005	2006	2007	2008	TOTAL
Total Requests	24,097	37,732	50,127	60,213	94,723	42,651	309,543
Complaints to the IFAI	635	1,431	2,639	3,533	4,864	2,276	15,378
%	2.6%	3.8%	5.3%	5.9%	5.1%	5.3%	5.0%

NÚMERO ACUMULADO DE SOLICITUDES DE INFORMACIÓN INGRESADAS

Al 31 de mayo de 2008



Results: ATI making a difference

- Military procurement
- Emails from Interior Department and Presidential House
- Disclosure of public trust funds (previously classified from banking secret)
- Disclosure of files related to investigations into crimes of the “dirty war” (70’s)

Results: ATI making a difference

- List of guests & expenses of Presidential Birthday party
- Access to poverty alleviation subsidies by local community
- Personal access to medical files
- Access to results of personnel examinations for public services posts

Challenges - Weakness

- Profile of requester: young metropolitan male with high income = far away from common citizen
- Over 112,000 users in total; but only 6,000 account for 50% of total requests
- Quality and relevance of information provided is not verified (complying/lying)
- Record keeping failure: frequent “inexistence” of documents in a chaotic archive environment

Challenges - Weakness

- Inequality of the law: opacity in the income side of the budget (subsidies public; tax privileges not)
- Other State or public actors are left behind: Legislative, Judicial, Political Parties, Labor Unions
- Risk of capture of the Info Commission: how to keep the Commission independent & accountable?
- Limits of enforcement and open insubordination of some agencies

RTI dissemination in poor communities

- *IFAI-Comunidades* Project: Hewlett Foundation grant (\$750,000USD, 2005-07)
- The project operated in 9 states, in 116 communities, and in collaboration with 20 different local organizations
- Participants were 40% indigenous, 60% women, and 70% live on less than US \$2/day

IFAI-COMUNIDADES PROJECT

- Results have been dramatic and press coverage has been significant
- It was accompanied by an independent impact evaluation conducted by researchers at Mexico's prestigious National Autonomous University (UNAM)
- It was selected as the best Hewlett Foundation grant in 2006-2007

Success stories, *Ifai-Comunidades*

- Former gang-members and other at-risk teenagers requested the operating rules of a federal "Safe Schools Program"; they learned that there were no formal rules. As a result, the program has been suspended while rules are developed - with the input of students.
- Poor women in the state of Veracruz learned that their names are on the lists of beneficiaries for health and housing programs - benefits they have never received. They also identified men on the list of beneficiaries for Pap smears and mammograms. These women are now pressing for the benefits they are entitled to.

Success stories, *Ifai-Comunidades*

- A poor community in the state of Mexico used the law to halt a federal construction project on their land - by proving there was no environmental impact study, as required by law.
- Federal prisoners - the majority of whom are too poor to have a lawyer and are behind bars for petty offenses, used the law to gain access to their personal files. They were initially denied the information so they appealed, and in a precedent setting ruling, they won the right to information for all prisoners. Once they exercised that right, 36% of them walked free.

Results, *IFAI-Comunidades*

- 90 % reported that exercising RTI helped them resolve community problems
- 80 % affirmed they would continue to exercise their RTI after the project was finished
- 94% identified a useful application of the RTI in their personal, family, or community context

Benefits in organizations

1. They followed-up on requesting information and making use of it
2. They have assumed the Right to Information as a tool to strengthen their work & activities
3. They have increased their institutional advocacy and strategic support to the communities
4. They have improved their supervision capabilities on Government and incidence on policies that affect their communities

Transparency vs. Corruption

- Federal transfers to labor unions and Civil Society Organizations
- Permits for hazard games & bet-houses
- Refusal to access to concluded investigation files

Transparency vs. Corruption

- Institutional weakness for accountability: ATI cannot resolve, by itself, problems like corruption or impunity

Country	Country Rank	Regional Country Rank	CPI Score 2007
Chile	22	3	7
Colombia	68	12	3.8
Brazil	72	13	3.5
Mexico	72	13	3.5
Argentina	105	23	2.9

Source: http://www.transparency.org/policy_research/surveys_indices/cpi/2007/regional_highlights_factsheets

ADMINISTRATIVE PROCEDURE	Index ' 07
Military service exemption or certification	2
Benefits & subsidies from Federal Government Alleviation Poverty Programs	2.8
Admission to public schools	2.9
Accelerating new passport delivery	3
Official diplomas from public schools or grade exams certification	3.1
Admission in emergency room or easy admission for treatment in public hospitals	3.2
Access to Land & Property Registry information	3.8
Getting a job at the Federal Government	6.1
Getting access to certificates at the Civil Registry (birth, deceased, marital status)	6.6
Avoiding police detention / Presenting a formal accusation to investigation authorities / Assuring a followed-up in one case in the Justice Ministry	24.1
Going through Custom check point without showing merchandises	28.8
Avoiding one's vehicle to be towed / Recovering one's vehicle from towing lot	50.1
NATIONAL AVERAGE	10

Source: <http://www.transparenciamexicana.org.mx/ENCBG/>

Juan Pablo Guerrero
Commissioner

Federal Institute for
Access to Public Information
Mexico
June 2008

juanpablo.guerrero@ifai.org.mx

www.ifai.org.mx