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**The Impact on the Mexican Republic States, and Especially on the State  
of Mexico, of the Amendment to Article Six of the Constitution.**

The access to public information in México has highly developed and advanced in a fast pace, because people are requiring more sophisticated information every day. All the same, the so called State sovereignty has been misunderstood in such a way that, when transferred to the State field, the right to access public information stops being a fundamental universal right, and becomes a matter subjected to regional interests. In my country, the State laws regarding access to information are so uneven or different, that we find classified information catalogs of all kinds, which for instance in certain States, keep a Government's employee or a public servant's salary as confidential. Yes indeed, the problem is that not all the States of The Mexican Republic, base their Access to Public Information laws on the principle of maximum disclosure or maximum publicity, but all the opposite, they try to broaden the supposition of classified information.

Nevertheless, the preceding is not the only problem existing in Mexico regarding this subject matter, not the most serious one; for The Mexican Federation States are formed by Municipalities, which, in pretending to take advantage of a wrongly understood municipal autonomy, have tried to regulate Access to Information, through the setting up of rules and regulations, and by naming their own authorities. In The State of Mexico case, there are 125 Municipalities, which form a part of the more than 2400 Municipalities established in the country. This matter is absurd because fundamental

rights are not, and shouldn't be in any legal system, regulatory of the same, for this a Federal Power.

The third problem lies in the legal nature of The Access to Information Guarantor Entities, because essentially, the ideal situation would be that those organizations should not be dependent on any Government Entity. The above issue has been a constant in Mexico: that is to say, the autonomy of the organizations responsible to enforce the compliance with the access to information laws is not the general rule but the exception, which has to be the other way around. The coordination between the Federal and State Governments through their Federal Access Organization and the Sub-National Access Bodies respectively, is fundamental in order to avoid stress and to promote synergy among them.

Actually, within the Mexican reality, we don't find tension among Government circles or among Access to Information Organizations, but we do find uneven laws which harm or go in detriment of private individual rights. The coordination is fundamental of course, and it is there, where The Federal Congress Support has been of paramount importance in order to clarify those issues, as it is explained down bellow.

The fourth problem is about the Access to Public Information mechanisms, due to the fact that at the beginning, the Sub-National or State Laws' trend was to submit a written and signed request for information, a mechanism that inhibited the applicants requesting access to information, not only because it is threatening within the Mexican reality, but also because it forces individuals to go to government offices. The Federal Institute for Access to Public Government Information generated an electronic system called SISI which had, and has had as its main objective to facilitate access to information for the public. Nowadays, it has generated a system called INFOMEX, which is established as a base platform on which The Federation States that so desire, can operate. In The State of Mexico's case, The State's House of Representatives, authorized a budget aimed at the creation and organization of a State's computer information system that is called SICOSIEM, which has allowed to increase fivefold the number of applications and requests for information, as well as the number of resources through which individuals protest for nonconformities, against answers given by, or omissions made by the government.

As it has already been said, it was necessary by The Federal House of Representatives to solve the set out problems; therefore, in July of this year (2007), an amendment to Article Six of The Political Constitution of The Mexican United States was submitted. Originally, this article only stated that “The Right to Information shall be guaranteed by the State”. Today, Article 6 has been amended in order to add one paragraph and seven fractions or parts of the same.

The amendment recognizes the existence of the right to access information as a part of the right to information and rising or elevating it up to a Constitutional rank or level, which implies acknowledgement of a fundamental right of a new generation.

In other words, it is to say that the reality of our times demanded that a Constitution as the Mexican, long standing since 1917, would have to be updated regarding this issue, for the fundamental rights in it regulated, do not exceed the second generation.

In such amendment, the principal of maximum disclosure is established in an explicit manner, a situation that forces the States to render information rather than deny it, and reducing the assumptions of classified information. At the same time it is established that it is not required an interest either legal nor legitimate or simple in order to request information; neither it is required to set or establish the use that will be given to such information. It is established also that access to information shall be free of charge and that the procedures to access information and nonconformities shall be expeditious and fast.

The outcome of the amendment is important from the perspective that it reiterates that organizations for access to information shall be autonomous in management and decision making. Minimums of public information are established which will have to be found in a permanent manner within electronic media.

The principle of protection of privacy and of private life and the protection and preservation of personal data is established; these concepts are not properly shaped or expressed in the amendment, for it would have sufficed to mention personal data, because when these are properly protected, private life is protected as a result.

Nevertheless, it seems to me that the most important part of the amendment is that it solves the problem of the Municipalities, previously presented, because it declares The Federation, The States and The Federal District (which strictly speaking is not yet a Federal State) as the sole responsible for regulating this issue and for establishing the organizations to access public information.

Finally, the amendment establishes a “vacatio legis” (Period between the promulgation of a statute, and its entry into force) of a year, for the Federation, The States, and The Federal District to amend and adjust their laws to the principle of Article 6, and two years to establish electronic systems for the access to information, and for the promotion of nonconformities.

Again, the support of the Federal Organizations and of the State Congresses has been fundamental of paramount importance; the problem ladies and gentlemen was as you could see very serious.

That is why the Federal House of Representatives, the Federal Senate and State Congresses approved an amendment to Article 6 of the Mexican Constitution, in order to standardize access to public information in the country, establishing, minimums of transparency and maximums of classified information, as well as allowing access to public information via electronic media. The State of Mexico has a law similar to the Federal One, because in an objective sense it can be improved, but generally speaking it is a good one. The State of Mexico’s Institute for Transparency and Access to Public Information as it was mentioned above has its own system, which is equivalent to a SISI but with superior safety standards, which is called SICOSIEM, through which any person, either a Mexican citizen or a foreigner, can request information about the State of Mexico, a region which is considered the most important in the country for having the largest gross domestic product in the country and the largest population of inhabitants, with almost fifteen million people. Therefore I invite you to visit this system and request information through the SICOSIEM window on the web page [www.itaipem.org.mx](http://www.itaipem.org.mx)

Without deflecting me from the subject at hand, the Amendment to The Federal Constitution will allow access to information to get closer to the democratic concept we all want, even though, of course, we need that State Public Servants assimilate the culture of Openness, and that the guarantor Institutions or Organizations should be

invested with more supervision, surveillance, sanctions and penalties powers. The impact this way, is positive, for the fundamental rights can not be some in a certain determined place, and different in another place; they cannot be limited or have boundaries of some nature in a jurisdictional matter's scope, and of other nature in another. The above mentioned Amendment entails these types of advantages. In accordance with the same, issues and published on July 20, 2007, The State Members of The Federation, have a time period of one year beginning on that date, to make amendments and adjustments to their State and local Constitutions and applicable Laws. The State of México is already working on these subject matters, in order to comply accordingly, although it is very little what has to be amended; due to all what has been explained above regarding the Constitution and State Laws, they are very close to, and are much alike the primary and secondary federal legal bodies.

¿Would it be more practical a unique Law applicable throughout the national territory, with State Guarantor Organizations enforcing and applying it?

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