



The Way Forward: Progress and Challenges in the Implementation of Principle 10 from Around the World

The Access Initiative (TAI) is a network of civil society organization working to ensure the implementation of Principle 10 of the Rio Declaration¹. Principle 10 provides that

“Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided”.

TAI has been in existence for 10 years and has documented numerous case studies on the establishment and strengthening of the right to information, public participation and justice. Our partner’s and other advocates experiences speak to the continued struggle for attainment of the promise of environmental democracy. These case studies reflect the most recent information we have collected on progress in the implementation of principle 10 of the Rio Declaration but also current challenges and opportunities for change. The Rio 2012 Summit process is an opportunity to recognize the progress that has been made but also to address the continuing gaps in accountability, and the lack of foresight of a number of governments which have failed to establish access rights for their citizens. The case studies also highlight the critical need for building capacity and strengthening the gap between policy, law and practice. Years of struggle by environmental advocates and their work to save the environment from harm, to push for transparency and accountability and seek justice in the public interest need to be recognized at RIO 2012. For a discussion on “renewing the political commitment for sustainable development” and “assessing the progress to date and remaining gaps in the implementation of the outcomes of the major summits” to be credible it must address environmental governance, accountability and transparency.

INTERNATIONAL

New International Guidelines for Principle 10

UNEP’s Governing Council reached a major milestone in implementing Principle 10 of the 1992 Rio Declaration from February 24 to 26, 2010 at the United Nations Governing Council/Global Ministerial meeting in Bali. At the meeting, delegates adopted guidelines for the development of national legislation on access to information, public participation and access to justice. This is a major milestone for implementing Principle 10 of the 1992 Rio Declaration on Development and Environment. TAI contributed significantly to this outcome, helping to convince members of the Governing Council to formally adopt, rather than merely “note” the guidelines. As a result, UNEP has a mandate to promote the implementation of the guidelines. Beginning in January of 2009, World Resources Institute’s Access Team (The TAI Secretariat) worked both directly and with partners to persuade governments to push for “adoption” of the guidelines. TAI partners from WRI, Cameroon and Indonesia participated in UNEP meetings on three separate occasions and helped shape the guidelines.

¹ <http://www.accessinitiative.org/>

The decision gives UNEP a mandate to work with countries that wish to use the guidelines for advancing their national legislation. The guidelines cover key areas including freedom of information laws, state of the environment reporting, emergency planning and response, project planning, and environmental harms. These guidelines will significantly strengthen officials and civil society ability to work at the national level to open up government information systems and decision-making processes.

Organization of American States

In June 2010, the 40th General Assembly of the Organization of American States (OAS) took place in Lima, Peru, with an agenda to discuss "Peace, Security and Cooperation in the Americas". TAI partner PARTICIPA, through the Active Democracy Network, led the creation and presentation of a declaration that was signed by three networks and over 60 organizations, demanding the passage of a renewed strategy for civil society participation in the OAS. Although this strategy has made some progress over time, the progress that has been made is far too little, and is in no way binding.

The good news at the Assembly was the passage of a Model Law of Access to Public Information, created by the Freedom of Expression Roundtable, which included a high level of participation by civil society organizations in the region. This Model Law seeks to support the processes of countries that are currently working on a Law of Access to Information, and act as a reference for good practices and common baselines in terms of transparency for all countries throughout the Americas.

International Court of Justice

It has been revealed that the International Court of Justice has "recognized environmental impact assessments as a practice that has become an obligation of general international law".

On April 20, 2010, the International Court of Justice (ICJ) announced its judgment in a environmental dispute between Argentina and Uruguay, concerning Uruguay's authorization for pulp mills on the banks of the Uruguay River, which forms the international boundary between the two countries. Over strenuous objections from Argentina, Uruguay authorized construction of one of the largest pulp mills in the world in 2005, which has been converting wood chips into paper pulp on the banks of the River since November 2007. The Court in this case is said to have recognized that environmental impact assessment are a practice that has become an obligation of general international law in these situations. The insight by Cymie R. Payne in *The American Society of International Law*² goes on to state-

The ICJ characterized the present case as highlighting "the importance of the need to ensure environmental protection of shared natural resources while allowing for sustainable economic development. The judges determined that the practice of environmental impact assessment (EIA) "has gained so much acceptance among States that it may now be considered a requirement under general international law to undertake an environmental impact assessment where there is a risk that the proposed industrial activity may have a significant adverse impact in a transboundary context, in particular, on a shared resource."³

Aarhus Convention Decision on Access to Justice

A new and far reaching decision by the Aarhus Convention Compliance Committee in August of 2010 has found that the United Kingdom's (UK) legal system did not, 'remove or reduce financial barriers to access to justice'. It called on the UK to 'undertake practical and legislative measures to overcome the problems'. Under the Aarhus Convention it provides that people should not be denied environmental justice because of the unreasonable financial risks of bringing a case to court. As reported in the Guardian "The NGO, Client Earth, which brought the case to the compliance committee last year with the Marine Conservation Society, said: "These findings are game-changing for anyone fighting for their environmental rights. At the moment,

² (ASIL Insight, Volume 14, Issue 9)

³ <http://www.asil.org/insights100422.cfm>

the government and industries can ride roughshod over their environmental responsibilities, confident that the legal system's failings will make challenges impossible."4

Development of the Aarhus PRTR Protocol

Since the adoption of Chapter 19 of Agenda 21 and Principle 10 of the Rio declaration at the 1992 Earth Summit, several international organizations including the UN/ ECE, OECD and UNITAR have become involved in supporting the development of national and regional PRTR systems. The Protocol on Pollutant Release and Transfer Registers became international law binding on its 23 Parties on 8 October 2009. The Protocol is open to signature by any country in the world. The Protocol is the first legally binding international instrument on pollutant release and transfer registers. Its objective included within article 1 of the Protocol is " The objective of this Protocol is to enhance public access to information through the establishment of coherent, integrated, nationwide pollutant release and transfer registers (PRTRs) in accordance with the provisions of this Protocol, which could facilitate public participation in environmental decision-making as well as contribute to the prevention and reduction of pollution of the environment. PRTRs are inventories of pollution from industrial sites and other sources. The first meeting of the Parties to the Protocol was held from 20-22 April 2010 in Geneva. This new development is likely to accelerate the adoption and implementation of PRTR's around the world.

Passage of Approximately 90 Freedom of Information Laws Around the world

There has been an explosion of new Freedom of Information Acts (FOIAs) around the world. By the last count, approximately 90 countries have enacted some form of FOIA, and the vast majority of these have been introduced in the past five or six years. FOIA laws are quickly becoming the norm. International organizations, Multilateral Development Banks, and bilateral donors including USAID are all assessing governments' transparency policies as part of decision-making about development aid. Civil society and citizens' groups have continued to demand progress in the implementation of these laws. With the most recent passage of a Law by Liberia and discussions of adoption of laws in Sierra Leone and Botswana it is critical that laws are implemented well to fulfill the promise of transparency and participation to citizens.

World Bank Access to Information Policy

The World Bank on July 1, 2010 launched its new Access to Information Policy. For the first time the Bank has adopted a far reaching policy making more information public than ever before. The World Bank President Robert B. Zoellick noted that "This new policy constitutes a major shift in the Bank's approach to information disclosure, transparency, sharing of knowledge, and accountability," "The public will now have access to a much broader range of information than ever before, particularly information about projects under preparation and implementation and the Board's actions."5 The new policy makes it clear that all information is available except that which falls within limited exceptions. The new policy is expected to result in greater transparency and accountability of Bank supported projects.

The Access Your Government Campaign

The *Ask Your Government!* Initiative⁶ was begun in January 2010. Over 100 civil society organizations all around the world documented the status of public access to budget information in 80 countries. The core

⁴ <http://www.guardian.co.uk/environment/2010/aug/27/legal-costs-environment-un>

⁵ <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:22635372~pagePK:64257043~piPK:437376~theSitePK:4607,00.html>

⁶ The *Ask Your Government!* initiative is coordinated jointly by the International Budget Partnership (IBP), [Access Info Europe](#) (AIE), and the Centre for Law and Democracy (CLD). Campaign partners at the international level are [White Ribbon Alliance](#), [Family Care International](#), the [Averting Maternal Death and Disability Program](#) at Columbia University, [Publish What You Fund](#), [Oxfam America Development Initiatives](#), [World Resources Institute](#), and the [International Institute for Sustainable Development](#).

question behind the effort was simple: What happens when ordinary citizens ask their government for specific budget information relating to key international development commitments to which the government is a signatory? The key question in relation to the environment was Question 5 which asked: How much is spent on environmental protection and conservation as a percentage of the national budget? The findings of the project were extremely startling. 37 (46% of 80) cases did not receive any information or answer to the question. Question 5 on environmental protection and conservation actually received one of the worst scores in relation to all 8 questions⁷. There were numerous cases where there was simply no response to this question. In 17 cases where there was some contact with officials, promises were made to provide information that never materialized.

- In Angola, the Ministry of Environment did not respond at all, and Ministry of Finance promised to deliver some information but never did
- In Chad, researchers were told that responding would require gathering large amounts of information, and they should wait for the response, which never came.

Even more surprising there were 3 cases of outright refusals:

- In Nigeria, the researcher was told that the information was “sensitive” and they would likely not get any response as officials will not want to be exposed.
- In Yemen, the Ministry of Finance said the information was “private” while the Ministry of Environment did not respond at all.
- In Portugal the researcher was told over the phone that the Ministry of Environment would not provide the requested information.
- Finally in Mozambique, researchers were told to consult the website of the Ministry of Finance, Planning and Development, but the required information was not there.

Even developed countries failed to be able to answer this question. In Spain, the Ministry of Environment responded that the request needed to be sent to the Ministry of Finance, who then responded that they do not have this information and the request should go back to the Ministry of Environment. In Italy, the National Institute for Protection and Research of Environment responded that they did not have the information, and the Ministry of Finance and Ministry for Protection of the Environment simply did not respond.

The campaign showed quite clearly that there is simply no tallying of expenditure for the protection and conservation of the environment even in terms of international commitments. The fragmentation of International environmental agreements has triggered a multiplicity of responsibilities for environmental protection and conservation across government. In effect, governments themselves are unaware of how much is spent on environmental protection and conservation activities, but perhaps more troubling what responsibilities fall under the heading environmental protection and conservation. The Government of Bolivia stated it best when they indicated in their response that the information they provided to the requestor only pertained to a sub-set of activities for protection and conservation of the environment, and no one agency collects the overall budget expenditures on these activities as they are spread across many agencies and levels of government.

Supporting the Development of Environmental Adjudication Processes

Over 100 Asian judges, lawyers, and government officials met in Manila, Philippines from July 28-29, 2010 and decided to establish a network to facilitate their work in environmental cases. The meeting was organized by the Asian Development Bank and the United Nations Environment Programme in conjunction

⁷ Q1: How much is spent on life-saving drugs to reduce maternal mortality?

Q2: How much is spent on training midwives (or equivalents), and how many are trained?

Q3: How much aid has been received (or provided), and when was notification about the amount given?

Q4: How much aid will be received (or provided) in the near future, and when was the government notified?

Q5: How much is spent on environmental protection and conservation?

Q6: How much is spent on subsidizing fossil fuel production and consumption?

with the Philippines Supreme Court and the Access Initiative. Judges from a number of Asian countries including India, Bangladesh, Korea, Japan, Indonesia, Thailand and Philippines participated. The Chief Justices of Indonesia and Philippines made statements encouraging judges to form the network and to exchange ideas and experiences in the field of environmental law. They all recognized the importance of such cases and echoed the sentiments expressed by Chief Justices in the Statement issued in 2002 at the Johannesburg Summit.

LATIN AMERICA

ARGENTINA

Ensuring Justice for Local Communities to have Clean Water

TAI Argentina partner the foundation “Center for Human Rights and Environment” (CEDHA) and the residents of “Chakras de la Merced y Corazón de María” filed an environmental compensation lawsuit in the civil and commercial court of Cordoba against the municipality of Cordoba for the dumping of fecal matter which had been done for some time by the local sewage treatment plant “la Estación Depuradora de Liquidos Cloacales de Bajo Grande” (EDAR BAJO GRANDE). The “EDAR BAJO GRANDE” plant is responsible for treating the sewage it receives from the city of Cordoba, and is under the control and administration of the municipality. This plant collapsed several years ago and, as a result has frequently been dumping untreated sewage directly into the river Suquia.

The main purpose of the lawsuit filed by CEDHA and the affected community was to force the municipality to carry out all necessary work to recover the flora, fauna and water quality downstream of the plant. The actors asked the judge in a precautionary and immediate manner to order the Mayor of the municipality of Cordoba not to authorize the construction of new sewer pipes and connections to the collection network in the city of Cordoba until they have finished the expansion of “EDAR Bajo Grande” to ensure that the sewage treatment will conform with the provincial legislation and reduce the environmental impact of its run off into the river.

Strengthening Access to Information

The Foundation for the Development of Sustainable Policy (FUNDEPS) in Argentina is this year developing the Project “Access and Transparency” (A&T) which promotes the use of the Access to Public Information mechanisms by the citizens, and at the same time strengthen the capacity of the State agencies to provide more and better information. The Law 8.803, in the Province of Cordoba, Argentina provides a comprehensive legal framework for Access to Public Information, regarding actions of the State. However, despite the broad and multiple mechanisms available for the society, this law has seldom been put in practice and is barely known by citizens, civil society organizations and public officers. The main goal of the A&T project is to promote the Access to Information for citizens and the civil society. At the same time, it seeks to strengthen the State capacities to deal with and diligently respond to the Public Information requests presented by the citizens.

BRAZIL

Access to Information Laws for Public Administration

As noted by the United Nations Educational, Scientific and Cultural Organization (UNESCO), on May, 5, 2010 Brazil approved a new Access to Information Law. This Law, which regulates access to information within the public administration, represents a great step forward for the Brazilian democracy. The Access to Information Law contributes to strengthening the country’s commitment to the Universal Declaration of Human Rights, especially the provisions contained in Article 19. It awaits consideration by the Senate and sanction by the President.

BOLIVIA

Incorporation of Access rights into Constitutional Provisions

Bolivia passed a new Constitution (2009) with several clauses addressing access to information, public participation and access to justice. Under Art 21(6): Bolivians now have the right to access information, interpret, analyze, and communicate it freely, as an individual or as a group. TAI partners led by PRODENA submitted a review of the draft of the new Constitution prior to its enactment, at the request of the Vice Ministry. The review stated that access to information and public participation were adequately addressed in the proposed constitution, but that access to environmental justice should be added to the document. This recommendation was incorporated into the final version of the Constitution, which was ratified by the Congress in October 2008 and approved in a public referendum in January 2009. The Constitution of 2009 established the country's first environmental and agricultural court, giving citizens and communities a forum to air environmental grievances. The court may resolve cases related to agrarian actions, forestry, the environment, water, and rights of renewable natural resource use, such as forestry and biodiversity.

Opening Access to Information on Environmental Quality

In Bolivia, the Ministry of the Environment and Water, in April 2009, opened a center to provide access to information on Environmental Quality. This Centre for the first time makes available to the public Environmental Impact Assessments and Environmental Licenses. Access to this information is vital for the communities to raise their voices and concerns about the projects that may impact their lives.

CHILE

Opening up Government Information through Maps

CODESOSUR-SINERGIAS and Corporación Participa in Chile worked with government officials to design and produce a series of maps showing which Chilean government agencies are responsible for different types of environmental information at the regional level. These maps are being used to educate both government officials and the public.



Access to Information Laws for Civil Service Transparency

In August 2008, President Bachelet of Chile enacted the Law for Civil Service Transparency and Access to Information of the State Administration Organs. Under the new law, all state administration agencies -at the central, regional or community level- will be obliged to provide, within a maximum of twenty days, information requested by any citizen. State agencies are also required to publish on their websites, in a mandatory, permanent and updated form, information relating to their internal structure, functions, powers, performing contracts, staffing, salaries, fees, acquisitions, transfer of funds and results of audits.



Corporación Participa, our lead Chilean TAI partner, had participated in the lobbying through: generating public discussions, drafting a proposal for the counselors' selection process and promoting opinion and analysis in the media. Additionally, *Participa* had trained public officials, media and civil society organizations in access rights, with the goal of building capacity to implement the Law.

Increasing Public Participation within Local Communities

TAI Chile lead partner *Participa* undertook to work with local NGO MODEMA and other local organizations to seek to prevent the establishment of a coal-fired power plant around Punta de Choros. Punta de Choros has a wealth of biodiversity, including two nature reserves. Outreach activities targeted the 19 regional council members who would vote on the project. At the same time, the strategy highlighted the campaign pledge of President Sebastián Piñera regarding his opposition to the installation of a power plant in the vicinity of Punta de Choros. Alliances with other environmental organizations were established as well, on local, regional and national levels. A TV commercial regarding the case of Barrancones was carried out including interviews with public figures, especially those from the entertainment community. In addition, a web site was created (www.salvemospuntadechoros.org). MODEMA compiled 27,000 signatures from various countries in Latin America and Europe and delivered these to the doors of the Chilean presidential palace with wide-ranging media coverage. An initial decision to approve the project faced a campaign that had people using Face book and Twitter as well as a peaceful protest march. The result was that, the President Piñera decided to personally oppose the Barrancones project. He decided to order the relocation of the coal-fired plant. In addition, he commissioned the Minister of National Assets to study the possibility of establishing protected areas within the national territory, which would disallow the installation of electrical power plants.

ECUADOR

Building Capacity of Civil Society

From 2006-2008, Centro Ecuatoriano de Derecho Ambiental (CEDA) worked with the Coalition Acceso in Ecuador to train more than 1000 civil servants (in both central and local governments), representatives of civil society, and academics. CEDA has worked with more than 2500 citizens, in more than 68 capacity building workshops and 5 national forums. CEDA has also developed and published three training manuals (one for each access right), a civil guide and several brochures to help spread awareness of Principle 10.

Promoting Dialogue

TAI Ecuador partner, The Ecuadoran Center for Environmental Law (CEDA) promoted a national dialogue between citizens, the private sector, authorities, and NGOs working in the environmental field to draft a proposal for a national strategy on environmental information. CEDA then drafted a national strategy proposal for access to environment information and submitted it for adoption by the Government. It has yet to be adopted.

GUATEMALA

Access to Information Law Passed

After several months of analysis and debate, Congress unanimously passed the Law on Access to Public Information in October 2008. The law was to take effect 180 days after its publication. With this Law, citizens are guaranteed their right to access information that is held by public officials and contribute to the transparency of the State.



MEXICO

Ensuring Transparency for all

For the last two years TAI partners in Mexico, Cultura Ecologic have assisted in the creation and running of a transparency fair for Mexico city. At the fair the three organs of government of Mexico City, autonomous bodies and civil society organizations, committed to strengthening transparency in the nation's capital as an instrument through which society can access information and influence public policy definition. The groups agreed" on work that is necessary to improve the Law on Access to Public Information, and provide greater autonomy and budget to the Institute for Access to Public Information (InfoDF). This fair seeks to socialize the right of access to information and make a bridge to other rights such as housing, health and education. The event presented a series of cultural, artistic and recreational activities, health activities and guidance from local and federal government agencies.



PARAGUAY

Obtaining Information on Dumping Practices

The Governing Council of the Iberoamerican Federation of Ombudsman (FIO), a body chaired by the Ombudsman in Peru, Beatriz Merino, issued a statement of support of the Ombudsman's office in Paraguay. The Ombudsman of Paraguay has intervened with the judiciary in that country by a constitutional process that is pending in the Constitutional Chamber of the Supreme Court of Justice of Paraguay, to address the arbitrary refusal of the Municipality of San Lorenzo (Paraguay) to deliver public information to Daniel Vargas Tellez. This case is the first to be sent to the Supreme Court regarding access to public information in Paraguay and has already attracted interest from across the Americas. Indeed, in late February this year, the Open Society Institute - Justice Initiative OSI-JI and civil society organizations grouped in the Regional Alliance for Freedom of Expression and Information presented an Amicus Curiae (Friend of the Court) brief arguing for a resolution of the case to respect the standards set by the Inter-American Court of Human Rights in the celebrated case of *Claude Reyes v. Chile* "(Judgment of September 19, 2006).

The delivery of the FIO ends with this exhortation: "In an effort to help strengthen the rule of law in establishing the Republic of Paraguay, the FIO urges the Paraguayan state, in accordance with those rules and under the general application, directly and immediately from the jurisprudence of the Court, to guarantee all citizens the full exercise of the right of access to public information, which suggests the desirability of promoting and encouraging legal means to develop the actual application of this fundamental right. "

AFRICA

CAMEROON

Involving Marginalized Groups in Policy Making regarding Environmental Impact Assessments

Cameroon TAI lead partner Bio-Resources Development and Conservation Programme (BDCPC) and government officials worked together to determine that a new framework for the EIA process was important to implement. Together with local communities, they developed a new framework in which the government agreed to involve marginalized groups (especially women) in policy making on biodiversity-related issues as well as EIAs.

Access to Justice -Standing

TAI Cameroon partner FEDEV filed and won two precedent-setting high court cases. The cases dealt with illegal dumping by the Bamenda City Council and a permitting process for a quarry (by the China Bridge company) that did not consult with the affected community. The court decisions recognized the right of the public to protect the environment by broadening legal standing to sue for environmental harms. Until these decisions, legal standing was restrictive, with personal injury to property or person serving as the requirement for filing cases. By these rulings, the courts have broadened legal standing to allow NGOs to bring public interest cases to enforce environmental laws and recognized the right to a healthy environment.



Enhancing capacity for environmental justice and enforcement of access rights in Cameroon

From January 2010, the Foundation for Environment & Environment (FEDEV) has engaged in the production and distribution of hard copies of basic national environmental laws. This is an activity designed to promote the capacity of judicial actors and relevant legal stakeholders for effective enforcement of the access rights and good governance in Cameroon. FEDEV has produced hundreds of copies of the environmental laws of Cameroon which before were unavailable across the country. The laws are being distributed to judicial actors in the country (judges, prosecutors, lawyers, bailiffs, investigators and registry staff) and relevant stakeholders including: government enforcement institutions/officials, civil administrators, law faculties, civil societies, impacted communities, traditional rulers, and environmental litigants.

MALAWI

Establishing Environmental Tribunal

TAI Malawi partner Center for Environmental Policy and Advocacy (CEPA) worked diligently with the Government of Malawi to enhance access to environmental justice by facilitating the establishment of the Environmental Appeals Tribunal (EAT). The new environmental tribunal will seek to address the inaccessibility to general courts for majority of Malawians. CEPA was instrumental in the design of the Tribunal rules which will for the first time ensure an operational tribunal to hear environmental cases in Malawi since the Environmental Management Act was passed in 1996.

Establishing a National Access to Information Bill

Despite work by TAI partner CEPA and other civil society and media organizations new grounds for the delay in enactment of the Access to Information Bill have been made in Malawi. The Bill has been in draft since 2006. The Bill has remained in draft for some years due to lack of political will⁸. However, in January 2010 government has indicated that in the absence of an Access to information Policy enactment of the Access to information Bill will not proceed. This is very frustrating considering that length of time the Bill has been discussed by Government and support for this Bill by civil society and the media.

KENYA

Access to Information

In January 2009, the Kenyan President Mwai Kibaki introduced amendments to the Communications Bill. The amendments grant the Information Minister sweeping powers to control what can be broadcast, when and in what form. The Minister will also appoint the government-dominated Communication Commission, which is charged with licensing broadcasters and ensuring the broadcasts are of "good taste." Among other provisions, penalties for press offences - fines and jail time - have also increased.

⁸ <http://www.bizcommunity.com/Article/410/15/20833.html>

New Constitution

It has been reported in All Africa.com⁹ that the new Kenyan Constitution for the first time, includes the right of every citizen to enjoy a clean and healthy environment, the right to have it conserved and protected, and the right to enforce environmental rights. The Constitution also provides specific rights to access justice as it includes a provision in Article 70 that every citizen has the right to go to court to seek redress where there is any alleged violation, denial or infringement of their constitutional right to a clean environment.

UGANDA

Training of Public Officials on Environmental Law Best Practices

Greenwatch in Uganda has blazed a trail championing citizen rights of access to information, public participation and access to justice in environmental matters. It also works closely with the Government of Uganda to train public officers and judges in environmental law. In one of its court cases, Greenwatch sued the Attorney General of Uganda to obtain a copy of the power purchase agreement between the government and a private mining company. Review of the power purchase agreement would tell the public if the electricity produced would be affordable and would ease the burden on the environment. The court decided that the power purchase agreement and all connected documents were both public documents and therefore ought to be made available to the public. Greenwatch has also successfully used the space provided for public participation at EIA public hearings to stop the spraying of herbicides on Lake Victoria. Green watch currently has begun a case in the Supreme Court seeking access to copies of the Production Sharing Agreements for Uganda's newly discovered oil.

ZIMBABWE

Developing Public Access Guidelines

There is a lack of clear guidelines that can be used by members of the public when they want to access environmental information from the Environmental Management Agency (EMA) in Zimbabwe. TAI Zimbabwe's lead partner ZELA developed a set of guidelines which were submitted for adoption by the government's environmental agency as a Communication Plan. The Plan touches on how the Agency will communicate with its stakeholders and provides the key principles to promoting access to environmental information. These guidelines are more generous than the current Access to Information and Protection of Privacy Act of Zimbabwe which has been used more effectively to restrict access than grant access to information.

Revising Outreach to Incorporate Environmental and Natural Resources Issues

The Constitutional Parliamentary Select Committee (COPAC) which is in charge of preparation for establishment of a new constitution in Zimbabwe has revised the talking points and questions that will be used during the country-wide referendum to gather people's views on constitutional reforms. COPAC had initially developed talking points without consulting various stakeholders. The Zimbabwe Environmental Law Association (ZELA) had raised concern on behalf of the Land, Environment and Natural Resources Civil



Society Cluster on Constitutional Reform on the absence of any specific talking points on environment and natural resources. Further, in its submission to COPAC, ZELA had stated that the lumping together talking points on land, natural resources and empowerment in the same thematic area without any distinction therein tended to cloud the whole thematic area. ZELA had suggested that although these issues are related, they needed separate and specific questions for the Referendum. In response COPAC has revised the talking points and questions and included specific questions on access rights and the right to a healthy environment as referendum questions.

⁹ <http://allafrica.com/stories/201009200564.html>

Passage of New Freedom of Information Laws in Africa

A new Freedom of Information Law was passed on October 11 of this year by President Ellen Johnson Sirleaf of Liberia. The Law has been commended by international agencies, civil society and media in this post conflict state. Commentators have noted that:” (this event) not only demonstrates the government’s commitment to promoting access to information, but also to tremendously promote a Liberian society of integrity”¹⁰

Ethiopia also saw the passage of a new Law that governs both Freedom of Information and Media Freedoms in 2009 with implementing regulations to be passed in 2010. Unfortunately this Law has been widely criticized by media¹¹ and civil society as maintaining strict controls over the media and its ability to critique the government.

ASIA

BANGLADESH

Providing the Right to Information

The Right to Information (RTI) Act, 2009 provides that, it is the legal right of every citizen to obtain accurate and correct information. Exercising this legal right, Bangladesh Environmental Lawyers Association (BELA) has utilized the Act to seek environmental information but have recorded initial bureaucratic resistance. BELA was the first organization to apply for information last June when the Act became operational and for one of their requests it took one year and two months to get information about approval of a building constructed in a wetland. Encouragingly the Information Commission is fully functional with appointment of all the commissioners and Parliament is currently considering a new bill to make release of information on public interest issues mandatory.

Curbing Ship Breaking

A recent CNN article” covered the clash of Bangladesh Environmental Lawyers Association’s BELA”. Executive Director, Rizwana Hasan, with the 78 ship-breaking yards littering Chittagong’s coast. Not only is ship-breaking an environmental hazard, it also endangers its workers. The workers toil in tough conditions; they have no unions, no safety equipment, and no training. Approximately 50 are said to die annually from accidents; often in explosions set off by blowtorches deep inside the fume-filled holds. For a business that is lucrative to the country, it is not personally profitable to its workers. For every 12 hours of work, contractors pay out a dividend of 300 taka, roughly equivalent to \$4.38.



Ship breaking is a process that involves crude hammers, axes and acetylene torches to dismantle as many as 160 ships a year. Hasan recognizes the importance of the ship-breaking industry in bolstering Bangladesh’s economy as well as its potential merit as a recycling initiative, yet is assertive in her declarations of the legal responsibilities that must be upheld throughout the process. Ship Breaking is primarily carried out in developing nations such as India and Bangladesh – as their laws on dealing with lead paint, asbestos and general worker’s conditions fall far short of Europe and the US. Many ships which enter the Chittagong Coast contain hazardous material, and nations such as Bangladesh, India, and Pakistan are unequipped to deal with the material, and as such needs to be removed before its arrival on the coast. The Bangladeshi Supreme

¹⁰ <http://allafrica.com/stories/201010190467.html>

¹¹ <http://cpj.org/2009/07/anti-terrorism-legislation-further-restricts-ethio.php>

Court ruled in 2009 that “ships entering the country for decommissioning must be “pre-cleaned” in line with the Basal Convention”.

Although the 2009 ruling helped regulate the industry, many of the shipyards’ bad practices continue, and new yards continue to emerge each year. However, recent advancements have been made between Japan and the Gujarat government in India to upgrade the Alang ship-breaking yard in Bhavnagar, India. The two have signed a pact which focuses on the transfer of technology and financial assistance from Japan to upgrade the yard at Alang to international standards. This pact includes construction and operation of a common hazardous waste removal pre-treatment facility, modernization of recyclable goods markets, and development of human resources.

Rizwana remains one of Bangladesh’s most prominent advocates on the path towards reform and regulation. Unfortunately Rizana is currently being sued for her work for defamation alongside two editors of a leading Bengali newspaper and one reporter for serving letters and legal notices upon the government agencies urging them not to allow importation of any ships without complying with the High Court Directives (not stayed by the Appellate Division) passed in Writ Petition 7260 of 2008.

CHINA

Government Disclosure Becomes Law

On May 1, 2008, the Regulations on Government Disclosure of Information officially took effect in China. The objective of the Chinese regulation specifically is “to ensure that citizens, legal persons and other organizations can obtain government information by lawful means and increase government transparency.” While this new FOI regulation covers all branches of government, the environmental aspects will be enforced by the Ministry of Environmental Protection through its Measures on Open Environmental Information, which took effect the same day. Disclosed environmental information ranges from government laws, regulations, and standards to plans, statistics, and other government service information, including “environmental quality status” information and lists of China’s most polluting businesses. An Open Government Index was developed by Peking University and Yale Law School¹² on the basis of the FOI Regulations to rank cities compliance with their requirements.

The Natural Resource Defense Council alongside the Chinese Institute of Public and Environment Affairs have been instrumental in also assessing implementation of new environmental regulations which were also adopted at the same time. As noted by Jamie P. Horsley from The China Law Center, Yale Law School “Within the first several months, several non-profits had issued local citizen’s guides to obtaining environmental information and held workshops and training sessions about how to use the Regulations.... The published results in June 2009 revealed uneven success in obtaining information and that only four of the cities scored above 60 points out of a possible 100 points, while the average score of all 113 cities was barely over 30 points. Nonetheless,...the very fact they were able to conduct the assessment, as well as the results themselves, showed the “historic progress” already made in environmental transparency and public participation in China”.

INDIA

Access to Justice through Better Public Hearings and Open Access to EIA Information

TAI India led by Legal Initiative for Forest and Environment (LIFE) and Environics Trust won a legal victory in August 2008 stopping a public hearing on the construction of a proposed 3000 MW Hydel Power Dam to be located in Dibang District of Arunachal Pradesh. For more than a year, local tribal communities have been protesting against the dam touted to be among the highest in the country on the ground that it would devastate the fragile ecology and destroy the culture and livelihood of the Idu Mishmi Community. When the first Public Hearing was announced, the local tribal community sent a legal notice through LIFE requesting a

¹² http://www.law.yale.edu/documents/pdf/Intellectual_Life/CL-OGI_Update_for_freedominfo_Horsley_article_4-6-10.pdf

postponement of the hearing in view of the fact that the Environment Impact Assessment Report was not available at designated places and only an electronic version was made available in a state where people hardly had access to Internet. The Government relented and directed that no Public Hearing be conducted till the required EIA Reports are made available at the designated places for access to the community.

Creating Specialized Courts

The National Environmental Appellate Authority (NEAA) of India was an administrative court that heard appeals to certificates for development based on Environmental impact Assessments. For years, TAI partners brought litigation to the NEAA with little success. The NEAA has been reported to lack qualified judges often siding with developers and government at the expense of community and civil society¹³. TAI partners in India LIFE challenged several of the NEAA decisions before the Delhi High Court and were victorious. The Court agreed with the criticisms leveled against the NEAA making obvious the need for far-reaching reforms of this Authority.

Independently, the Ministry of Forests and Environment introduced a “Green Tribunal Bill” to the Parliament. The Bill sought to abolish the NEAA, establishing a green tribunal to hear environmental disputes throughout the country. The bill went further than reforming the NEAA and covered general environmental litigation as well - litigation that had previously been before the regular courts. TAI partners felt that the bill was not drafted well and had some clauses that actually narrowed legal standing and limited the scope of environmental dispute resolution and access to justice. A critique, of the Bill was produced entitled “How Green Will Be the Green Tribunal” which highlighting the various provisions of the Green Tribunal Bill that needed revision and making recommendations for change. TAI India partners disseminated their views to the media, initiated a campaign with members of Parliament to spur revision, and held nationwide meetings with lawyers and judges to build awareness and raise concerns. Consequently, newspapers began reflecting growing concern. Most of these revisions were eventually incorporated in the Bill which was adopted in May 2010.

Ensuring Proper EIA Processes are Upheld

Construction on a proposed thermal power plant in the Raigarh district of Chhattisgarh, India was brought to a halt following reports that the company in charge of the project, failed to obtain required environmental clearance. In June, India’s Ministry of Environment and Forests (MoEF) withdrew its March 2009 letter, which had granted terms of reference (TOR) for the plant, provided the company prepare an Environmental Impact Assessment (EIA) and conduct public hearings regarding the project as required by the Environmental Impact Assessment Notification of 2006. The company however, allegedly began plant construction before creating an EIA. Although the local Environment Conservation Board requested that the company stop operations months ago, local residents and activists contended that construction of the 2,400 MW power plant continued until just recently.



The Power Company also failed to conduct public hearings prior to construction. Following a mounting number of complaints from villagers and local NGOs, the MoEF investigated. The Ministry then decided to withdraw its initial project permission, halting all operations and citing Section 19 of the 1986 Indian Environment (Protection) Act. Recent developments in this case are notable displaying a rare example of public complaint and persistence influencing government action in favor of the environment.

¹³ <http://economictimes.indiatimes.com/articleshow/3945975.cms>

PHILIPPINES

Helping Communities Reclaim Damages from Environmental Injustices

The Philippines has been the site of many grave environmental injustices¹⁴. Many families still await redress



for losses of lives and livelihoods due to the 1996 Marcopper Mine Disaster¹⁵. Justice is delayed for reasons of cost, complicated, often biased rules, and high risks. In 2010, the Philippine Supreme Court established the world's largest

network of environmental courts. But environmental courts, if designed poorly, could actually hinder access to justice. Without fair, quick, and inexpensive procedures, the new courts could become just as ineffective as their precursors. After completing a TAI assessment in 2007, TAI Philippines, a coalition of NGOs led by the Ateneo School of Government in Manila, worked closely with WRI to evaluate the specific problems faced by the poor in accessing government institutions -including the courts- for environmental concerns. This research fed into the drafting a green "bench book" for the Philippines' new courts, "Procedures for Environmental Cases." In April 2010, the Supreme Court issued the official procedures for, civil, criminal and special civil actions before the Regional, Metropolitan and Municipal Trial Courts. The newly established procedures are impressive including objectives to protect and advance the constitutional right of the people to a balanced and healthful ecology. The rules include provisions to simplify trials; make them speedier, and inexpensive. They also enable courts to monitor and ensure enforcement of judgments and innovative environmental remedies such as continuous mandamus.

PHILIPPINES

Passage of a Freedom of Information Bill

The Access Initiative – Philippines Assessment reveals that the Philippines is still far from the full realization of the people's right to information as well as the avowed policy of full public disclosure of transactions involving public interest. The major gap in the functioning of the right to information in the Philippines is the absence of a comprehensive statute that will complement the existing Constitutional guarantee and relevant jurisprudence. Thus, starting in 2008, TAI-Philippines became actively involved with the Access to Information Network (ATIN), a group of non-government organizations and other networks advocating for the passage of the Freedom of Information (FOI) Bill in the country. Although a Bill was passed by the Senate and House of representatives last year the final reconciled version failed to pass both houses just before their dissolution before the last General Election. The newly elected government has pledged to pass the Bill.

SRI LANKA

Disclosure of Environmental Information by the Urban Sector

TAI Sri Lanka, lead by Public Interest Law Foundation (PILF) worked tirelessly to ensure the passage and promotion of rules for the disclosure of environmental information in the Urban Sector. The Minister of Urban Development and Sacred Area Development officially issued the Directions on

¹⁴ http://www.google.com/imgres?imgurl=http://i-site.ph/dailypcij/wp-content/uploads/2008/11/mogpog-river.jpg&imgrefurl=http://www.i-site.ph/dailypcij/&usq=QNos9M8ONRZEK0SaJCBpitXODr4=&h=467&w=350&sz=54&hl=en&start=1&zoom=1&um=1&itbs=1&tbnid=Ypv0KCP5LGCYKM:&tbnh=128&tbnw=96&prev=/images%3Fq%3DMarcopper%2BMine%2BDisaster%26um%3D1%26hl%3Den%26sa%3DX%26rls%3Dcom.microsoft:en-us:IE-SearchBox%26rlz%3D1I7SKPB_en%26tbs%3Disch:1

¹⁵ http://www.google.com/imgres?imgurl=http://bp1.blogger.com/_gslvZbFz3fE/SI05a2irNOI/AAAAAAAAAFQ/12sfV0Dzvj8/s320/marinduque%2Bdisaster%2B-%2Bmine.jpg&imgrefurl=http://saverapurapu.blogspot.com/2008/07/revisiting-marinduque-mining-disaster.html&usq=clg0ghLS1KwtkEQ_jl3KDGiqSYA=&h=239&w=304&sz=24&hl=en&start=5&zoom=1&um=1&itbs=1&tbnid=--IDNbi91eGUIM:&tbnh=91&tbnw=116&prev=/images%3Fq%3DMarcopper%2BMine%2BDisaster%26um%3D1%26hl%3Den%26sa%3DX%26rls%3Dcom.microsoft:en-us:IE-SearchBox%26rlz%3D1I7SKPB_en%26tbs%3Disch:1

Information Disclosure in the Urban Sector on 15 September 2009. This is the first time that such directions were issued on information disclosure in Sri Lanka. PILF facilitated the process of making the ministerial directions, held two training workshops on the directions and its implementation for the staff of relevant agencies. PILF is also carrying out a pilot project on its enforcement. PILF is now working with three other Ministries to spread these regulations to other sectors.

Saving the Oceans

In February 2009 a video story¹⁶ was launched about how the Environmental Foundation Ltd. (EFL), a public interest environmental law organization in Sri Lanka activated the Supreme Court of Sri Lanka and saved the only open ocean waterfront – the Galle Face Green- in the capital city of Colombo. The EFL filed a human rights violation case in the Supreme Court when it was refused a copy of the agreement the Urban Development Authority entered into with a private company to build an amusement park at the Galle Face Green. The court decision affirmed the right of the public to have access to information. The court inferred that right from the freedom of speech and expression guaranteed in the Constitution of Sri Lanka. It ruled that the freedom of expression included the right to seek and receive information from the Government in certain situations.

THAILAND

Information on Environment and Health to be Published without Request

The Official Information Act 1997 is a core piece of Thailand’s legislation that explicitly prescribes the rights to access official information. However, the criteria used by the state agencies for cataloguing information in terms of what must be proactively disclosed was still unclear. To elaborate a policy solution, TAI Thailand’s lead partner TEI built up a coalition of 36 organizations and had a consultation with key officials from the Office of the Official Information Commission (OIC) about ways to influence types of information related to environment and public health to be specified under the Official Information Act.



Subsequently, multi-stakeholder dialogues of 200-300 participants were held on 9 July and 7 October 2009. Recommendations for a new draft of the Act were also published and disseminated to the public. In August 2010 the Information Commissioner agreed to the coalition’s recommendations and guidance has been published requiring public authorities to release environmental and health information without a request.

Addressing citizens health issues in Thailand’s largest Industrial Estates

Maptapud is Thailand’s largest Industrial Estate established since 1990. The estate comprises 117 industrial plants which include 45 petrochemical factories, eight coal-fired power plants, 12 chemical fertilizer factories and two oil refineries. According to the reports of the Pollution Control Department and related academic studies, 20 volatile organic compounds which are carcinogenic have been detected in the air in the Maptapud areas in amounts exceeding safety levels. The Thailand Environmental Institute and TAI Thailand coalition have been actively involved in Maptapud since 2007. Based on the assessment of environmental governance of the Petrochemical Industrial Development Master plan (Phase III), the Pollution Reduction and Mitigation Action Plan for Rayong Province, and the Maptapud Town Plan, the study revealed that government has continuously promoted heavy and petrochemical industries in Maptapud at the expense of the environment, coastal resources and the health of its residents.



¹⁶ <http://www.accessinitiative.org/blog/2009/02/more-transparent-glass>

This goes against Article 67 of Thailand's 2007 Constitution that calls for projects deemed harmful to health and the environment to pass the scrutiny of an independent body comprising health experts, environmentalists and academics before operation. On 29 September 2009 Thailand's Central Administrative Court issued an injunction halting construction work in 76 projects in the Maptapud area that failed to conduct an EIA. After an appeal, 11 projects were allowed to proceed when the Supreme Administrative Court deemed them environmentally harmless to their surroundings and nearby communities, whereas another 65 projects were suspended. A panel has been created to regulate anti-pollution measures and cope with legal matters to ensure that health- and environment-related assessments are conducted as required by the section 67(2) of the Constitution.

NORTH AMERICA

UNITED STATES

Call for a Global Initiative

In his speech to the UN General Assembly, US President Barrack Obama called on countries to "bring specific commitments to promote transparency" and "to energize civic engagement" when they return to meet next year. He prefaced the call for specific commitments by asserting that "Civil society is the conscience of our communities" and that the common thread of progress was based on the "principle that government is accountable to its citizens". He drew out examples of good governance from both the developed and developing world suggesting that these were common goals that transcended the north-south divide. This speech by the President could be the beginning of a Global Initiative on Open Government

Open Government Directive

An Open Government Directive has been issued by the Executive Office of the President of the United States on December 8, 2009 to direct executive departments and agencies to take specific actions to implement principles of transparency, participation, and collaboration. It is an action oriented and time specific memorandum outlining measures to be taken to create a more open US Government. The Directive states that the principles of transparency, participation and collaboration form the cornerstone of an open government. Clear deadlines are outlined for each agency to comply with the Directive.

The four key steps mentioned as important for Open Government are:

1. Publish Government Information Online
2. Improve the Quality of Government Information
3. Create and Institutionalize a Culture of Open Government
4. Create an Enabling Policy Framework for Open Government

The Directive mandates increased publishing of information online by government in an open format that can be retrieved by commonly used web search applications that is available to the public without restriction of use. It also highlights the new central government website www.Data.gov where each government agency is required to develop an Open Government Webpage to state their compliance with the directive. A clear theme is transparency in government spending as there is a requirement for the designation of a senior officer to ensure that federal spending information is publicly disseminated through such public venues as www.USAspending.gov or other similar websites. A working group will be formed to be a forum for best practices on transparency and to coordinate all of the new efforts towards transparency especially in relation to the recent banking sector bailout.

To create an unprecedented and sustained level of openness and accountability, the Directive requires each agency to develop and publish an Open Government Plan that will "describe how it will improve transparency and integrate public participation and collaboration into its activities". These plans will be made available on www.whitehouse.gov/open.

The Oil Spill

In a compelling article written by Mark Chernaik – Environmental Law Alliance¹⁷ it is clear that although the United States has policies and procedures to require Environmental Impact Assessments by virtue of the National Environmental Policy Act both regulators and the public were asleep at the wheel in relation to the Deepwater Horizon Oil Spill. He notes “Unfortunately, government regulators were negligent, and citizens missed their opportunity to voice objections to this oil drilling project..... But as the case of the Deepwater Horizon rig explosion and oil spill illustrates, the EIA process can protect us and the environment only when environmental agencies and citizens take their responsibilities seriously.”



The National Environmental Policy Act of 1970 directs federal agencies to assess the potential environmental impacts of federal actions before permitting them. However wide scale exemptions were permitted under this Act, very few members of the public commented on the decisions made to grant leases to Oil companies and their was limited review by regulatory agencies. A whole scale review of the Mineral Management Service is now being undertaken because of the oil spill.

CARIBBEAN

JAMAICA

Two Decades of Pollution into the Harbour

In a July 6, 2010 decision” of the Supreme Court of Judicature of Jamaica, the Jamaica Environment Trust (JET)”and a group of residents of Harbour View filed a Judicial Review Action regarding the failure of two governmental agencies; The National Environment and Planning Agency (NEPA), and The Kingston and St. Andrew Health Department, to take action against the National Water Commission (NWC) concerning poor regulation of sanitation disposal in Jamaica¹⁸. Studies have shown that at least 20 million gallons of untreated sewage is discharged into the harbour daily, in addition to 1.5 million tons of solid matter by the



NWC which have placed the marine life at risk. The Sewage treatment plant had been polluting the harbor for over 25 years. Numerous attempts had been made to address the problem, the July 6th ruling successfully found the NWC in non-performance of its statutory duties regarding the prevention of untreated sewage flow into the sea.

The plaintiffs (JET and Harbour View residents) sought reparations from the NWC in the form of maintenance of an interim sewage collection treatment facility and the construction of a new facility.

This action is particularly significant considering it was the foremost attempt to hold a government agency accountable for its lack of adherence to statutory duties as a means to compensate for over two decades of improper sewage disposal. This Judicial Review Action constitutes significant progress in **Access to Justice** for Jamaican citizens who had been adversely affected by the deficient regulation of sewage treatment facilities as well as a lack of Governmental accountability in admonishing subsidiary governmental facilities. This win marks a 10 million dollar (the amount needed to build a modern plant in Harbour View) triumph in accountability and access initiatives within Jamaica, and sets a precedent for those citizens and organizations afraid to confront governmental agencies across the globe.

¹⁷ <http://special.registerguard.com/csp/cms/sites/web/opinion/24780631-47/environmental-oil-spill-deis-impact.csp>

¹⁸ http://www.jamaicaobserver.com/news/Harbour-View-residents-win-long-battle_7780762

BELIZE

Access to Information and Justice for the Macal River

Belize's Institute of Environmental Law and Policy (BELPO) this year filed an application to Belize's Supreme Court for an injunction to stop the sediment discharges from the Chalillo dam on the Macal River. The group released pictures in August 2009 showing the Chalillo dam discharging sediment-laced water—contaminating the downstream river with turbidity levels higher than current standards prescribed by the World Health Organisation.



BELA has protested the lack of usable information provided to the public and regarding the river's water quality or potential health concerns. Probe international released a report that "BELPO is fighting for the Supreme Court to issue an order to halt the release of sediments in the Macal River, and put a stringent monitoring system—with scheduled reports—in place. As part of this proposal, BELPO wants permission to apply for an Enforcement Declaration to enforce the regulations ordered in the Supreme Court's decision last year. The other possible plan would be for the Supreme Court to allow for an independent team with appropriate qualifications to be appointed to carry out the duties that the DOE has failed to perform. The costs of this team would be borne by the DOE and the Attorney General of Belize, and/or BECOL"¹⁹.

EUROPE

UKRAINE

Providing Information from the parliament

An international NGO - Environment-People-Law (EPL) – (A member of the Ukraine TAI Coalition) has set an important precedent for freedom of information in Ukraine by convincing a court that a Parliamentary advisory body should be subject to the national freedom of information law. EPL brought the case against the Accounting Chamber – a state body that executes control over the spending of funds from the State Budget on behalf of Ukraine's Parliament. The Chamber had refused to disclose details about what it found when auditing a construction project partly funded by the government to build the Danube-Black Sea Canal through internationally recognized wetlands. EPL convinced the court that the Accounting Chamber in effect had not only a consulting function for the Parliament of Ukraine, but authority over members of the public as the Chamber owns the information that might be of public interest. The court ordered the Chamber to provide the information requested by EPL.

HUNGARY

Establishment of an Ombudsman for the Environment

It was almost two years ago when Dr. Sándor Fülöp, a co-founder of TAI was elected by a two-third majority vote of the Hungarian Parliament to be the country's first ever environmental ombudsman. As reported from the website (<http://jno.hu/en/?&menu=home>) the Commissioner for Future Generations is an environmental ombudsman. As one of Hungary's four parliamentary ombudsmen his principal responsibility is to safeguard citizens' constitutional right to a healthy environment. In this capacity he investigates complaints relating to a broad range of environmental issues such as the degradation of urban green areas, noise pollution by aviation, licensing of individual industrial installations, etc. Secondly, as a guardian of future generations, he acts as a policy advocate for sustainability issues across all relevant fields of national or local legislation and public policy. This varies from the financing of environmental authorities, through the role of civil society in environmental decision-making to transport infrastructure development.

¹⁹ <http://www.probeinternational.org/fortis-belize/belpe-back-court-over-muddy-discharges-chalillo-dam>

Finally, the Commissioner aims to develop a strategic scientific research network through undertaking or promoting projects targeting the long term sustainability of human societies. The Commissioner for Future Generation is empowered to carry out investigations in relation to all issues that may affect citizens' constitutional right to a healthy environment. These do not only concern typical issues pertaining to air, water, waste, etc. but also all cases with a likely impact on the long term sustainability of the environment in the broadest sense. Thus the field of competence of the Commissioner also extends to the protection of world heritage sites, historic monuments, environmental health issues, energy and transport policy, and greening of the public budget.

MACEDONIA

Establishing Fines for Polluters

The TAI Coalition lead by Florozon in Macedonia made as one of their main recommendations of their assessment the need to change the Environmental law Article 212 i.e. increasing the minimal fines to 100 000 Euros for legal and natural persons who cause pollution or harm the environment. Massive protests were organized by the local inhabitants and Florozon's lobbying influence brought media attention to the issue. Through increased media attention and meetings with the government changes were achieved in the legal environmental regulation. On 19 December 2008, the changes were implemented in the Environmental law. In the Environmental law in Article 212 bullet 1 the amount from 8000 -10 000 Euros was changed to 70000-100000 Euros. Also, the Government set up new measurements in order to capture the amount of pollution being emitted by industry.

IRELAND

Establishing a New Pillar of Government

The Irish Government has officially established environmental organizations as the Fifth Pillar of Social Partnership, meaning that environmentalists now have a voice in crafting policy through dedicated public consultation. The Environmental Pillar is now a nominating body at all levels of governance, and has a seat at the table to develop long term policy documents on "well-being" and climate change. This "fifth pillar" of social partnership includes twenty-eight environmental groups working to create a sustainable society. It has been reported²⁰ that the Environmental Pillar will work with the other Social Partners to incorporate the three essential and interrelated strands of sustainable development into all aspects of the workings of Social Partnership. Prior to this the Social Partnership had focused on the socio-economic interests of the present generation and has largely neglected the need for a healthy environment and for providing a healthy and stable planet for future generations.

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Major Group: NGO

Organizations consulted in preparation of the case studies

The Access Initiative Network

Countries or region of interest to your group: Global

²⁰ <http://www.antaisce.org/Default.aspx?tabid=61&EntryID=6>