



Access to Environmental Information:

How can better practice be achieved in the Latin American Context?

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Traditionally, in Latin American countries, environmental management policy has been drawn up and implemented in a highly centralised manner, without the involvement of civil society. However, over the last decade, awareness of the importance of including the general public in environmental management has increased. This has generated significant reforms fostering a different relationship between civil society and State bodies. In spite of this, several obstacles continue to conspire against citizen participation in environmental management.

One of these obstacles is poor access to environmental information for the general public. This problem has led some authors to point out that citizen participation begins with the delivery of information. It can thus be affirmed that access to information constitutes a key tool for strengthening democracy and sustainable development in the region.

At the Earth Summit (Rio, 1992), a big step was taken towards recognising the importance of environmental information in fostering citizen participation. Principle 10 of the Rio Declaration states that: 'States shall facilitate and encourage public awareness and participation by making information widely available'. In spite of this declaration, most countries have made slow progress in establishing the necessary measures to make information available to everyone. Bearing in mind the growing number of international initiatives and agreements fostering easy access to information, it is fundamental that countries in the region adopt a proactive attitude in this matter in order to avoid resorting to judicial procedures and so favouring more practical implementation.

Objectives of civil society's access to environmental information

Easy access to environmental information benefits both governments and civil

society, including the business sector. Facilitating citizen access to environmental information fosters transparency and openness in decision-making, which in turn contributes to increasing the efficiency and effectiveness of environmental regulation. Without doubt this favours protection of the environment. It is achieved by giving citizens the necessary tools to participate actively in decision-making in environmental matters, such as keeping watch over compliance with environmental agreements.

Main problems in access to environmental information

Some problems faced by countries in the region regarding access to information are described below:¹

- There is a lack of constantly updated and systematised information regarding the state of the environment. The issue of access to information becomes meaningless if the quality of information available is questionable.
- Access rights are not co-ordinated by a single legal body, which complicates analysis and interpretation or there is no specific legislation for rights to access to environmental information.
- There is a lack of legal and institutional frameworks to help set up emission and pollutant transfer records and create

KEY CHALLENGES:

- Access to environmental information should be seen not only as a citizen's right but also as an essential component of an effective environmental policy. Easy access to information enhances citizen involvement in the decision-making process and gives individuals and communities tools for better environmental actions.
- Easy access to information constitutes a key tool for strengthening democracy and sustainable development in the Latin American region.
- Governments have to guarantee and strengthen access to information by various means and set up practical institutional mechanisms to ensure citizen access to environmental information.
- NGOs can play a prominent role in promoting initiatives to foster rights for access to information and in disseminating good practices.



other tools for data collection and integration and dissemination of reliable, updated environmental information for the general public; there are no mandates for public bodies to collect and disseminate updated information on handling dangerous substances, nor are companies obliged to draw up, execute and inform the community about their contingency plans for technology-related environmental emergencies.

- Likewise, the available environmental information is generally too technical, thus making it difficult for the general public to use, or it is not broken down into regions, thus complicating its use in a specific region.
- Civil society has little knowledge of either their rights regarding access to information or the sources of available information.
- The law lays down few or no serious disciplinary measures to punish civil servants' failure to comply with their duty to disseminate information.
- There are no appeals tribunals and thus no way to make an appeal when a request for information is rejected, ignored or given an inadequate response. In most cases, the only option is to resort to the law courts. Hence, in many Latin American countries, non-governmental organisations have started legal action against the civil services for denying access to supposedly public information.
- There is an ongoing culture of secrecy amongst civil servants and public bodies regarding information.

How can access to environmental information in the region be guaranteed and strengthened?

Access to information can be guaranteed and strengthened by diverse means, such as global or regional conventions or declarations, annex protocols to international agreements, and national or sector-orientated laws. In fact, all these methods complement each other, so a combination of activities could help to progress synergically in environmental information access at local, national, regional and global levels.

At *international level*, the rights to access to information could be fostered with a variety of international tools. It is hoped that renewed attention will be given to citizen information access rights in Johannesburg in order to create a favourable atmosphere for greater concern about the issue in the countries involved.

The *regional initiatives* could complement the global ones and contribute to their adjustment to different contexts. Examples of regional initiatives include the Aarhus Convention, which sets minimum standards for signatory countries to adopt in their national legislation; and in Latin America, the Inter-American Strategy for the Promotion of Public Participation in Decision-Making for Sustainable Development, where signatory countries are encouraged, without obligation, to undertake similar reforms at legal and institutional levels.

Free trade agreements are another type of regional initiative that have incorporated the issue of access to information.

At *national level*, access to information can be ensured through diverse legal and institutional methods. For example, in Chile, although there is no specific legislation regarding rights to access to information, enactment of the Law on Administrative Integrity (Ley 19.653) in December 1999 has displayed modest progress. This law establishes for the first time that 'administrative acts of State Administration organisations and documents that serve them as direct and essential complements or support are public'.

Laws on product information are another way to guarantee citizens' rights to gain access to environmental information. Manufacturers are thus legally bound to warn people of possible health or environmental damage.

Final thoughts

As has been mentioned, all these initiatives complement each other and could help to improve access to environmental information for civil society. However, their success depends on whether citizens are aware of their rights of access to information and on the value given by governments to citizen access to environmental information.

Within this context, NGOs could play a prominent role in creating initiatives tending to foster rights for access to information and in disseminating successful practises that could be copied elsewhere. One example is the worldwide 'Access Initiative' (www.accessinitiative.org) that looks to improve decisions and policies affecting the environment and human life by establishing common global practices for public access to information, participation and justices in environmental decision-making. Lastly, although it is important that citizen rights to gain access to environmental information be protected legally, regulatory regimes alone are clearly unable to ensure access to environmental information. Governments must set up practical institutional mechanisms to ensure citizen access to environmental information.

If governments fail to adopt a proactive attitude in fostering civil society's access to environmental information, there is a risk that the issue 'goes to law'. Although this is possible given the judicial structures of many countries, it generates mistrust of the system and imposes a burden that the legal system is ill prepared for. Thus, the need arises to establish opportune mechanisms that allow compliance with new demands imposed by international and regional treaties, in order to generate opportunities to resolve information disputes without resorting to the legal system. ●

1 The problems mentioned here have arisen from research carried out by the author on access to environmental information (LSE, 2000) and from a study undertaken in Chile within the framework of the Access Initiative, carried out by Participa, Terram and CIPMA in 2001.