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# **ECO LAC P10**



**A Publication of Civil Society Organizations at the Negotiation Process of the Regional Agreement on Access to Information, Participation and Justice in Environmental Matters in Latin America and the Caribbean.**

At the Fourth Meeting of the Regional Negotiating Committee, the signatory countries will continue negotiating the Agreement; the discussion will be on the third version of the text that has been compiled by the Presiding Officers and includes the various text proposals submitted by the countries.

**REGIONAL AGREEMENT- PRINCIPLE 10:  
ACCESS TO INFORMATION, PARTICIPATION AND  
JUSTICE IN ENVIRONMENTAL MATTERS IN PERU**

From August 9<sup>th</sup> to 12<sup>th</sup>, the Fourth Negotiation Meeting of the Regional Agreement on Principle 10 will be hosted in the Dominican Republic. The final agreement must be ratified by the new Pedro Pablo Kuczynski government in December 2016. The purpose of the meeting is for countries of the region to set standards to ensure: access to timely and comprehensive environmental information, effective participation in decision-making and access to legal redress if they have been treated unfairly, overall it is to ensure the right to a healthy and sustainable environment for everyone.

Ratification of Principle 10 would strengthen environmental institutions, such as the National Service of Environmental Certification for Sustainable Investment (SENACE) and the Agency for Assessment and Environmental Control (OEFA), through improving the environmental assessment process by including effective public participation in decision making. In order to achieve this, it is important that there is proper dissemination of the Environmental Impact Assessments (EIA) files, where the following information should be included: information about the classification of the project, evaluation of plans for public participation, changes to the EIA and evaluation processes of technical reports (ITS).

Other international initiatives in which Peru participates would be strengthened, such as the Extractive Industries Transparency Initiative (EITI) and the Open Government Project. These are areas that promote access to more environmental information and the creation of a governing body for transparency and access to information.

Moreover, the ratification of Principle 10 would confirm the importance of the participation of vulnerable populations such as indigenous people as well as the effective implementation of prior consultation. Indigenous people should participate in the development of concession contracts and thus influence decisions that affect their development, contributing to the sustainable management of natural resources.

Principle 10 may be the safeguard to generate sustainable investments because it allows greater transparency and makes socio-environmental information from extractive industries more accessible, thus improving public participation and avoiding socio-environmental conflicts. In this regard, the Ministry of Environment should continue to participate in this process, as it has been doing.

**3 reasons why YOU should CARE about PRINCIPLE 10 in the  
LAC Region**

**1. Because you should have A RIGHT TO KNOW:**

Have you ever wondered about the quality of the air you are breathing; the quality of the water you are swimming in or drinking? Have you wondered about the impact of the latest big development project or what the next government policy is going to mean for the lives and livelihoods of rural communities? Then you should support the Principle 10 LAC Agreement. The agreement will introduce environmental information systems, pollutant registers and mandatory access to this kind of information through affordable and electronic means.

**2. Because you should have A RIGHT TO HAVE A SAY:**

Do you want to be consulted before precious natural resources are sold to the highest foreign bidder? Do you want to ask hard questions about the costs and benefits of big development? Do you want to say what you think and what you feel about how your neighbourhoods, communities and natural sanctuaries are developed or exploited? Then you should support the Principle 10 LAC Agreement. The agreement provides for consultation on developments, environmental policies and legislation allowing you to have your say and ensuring that public feedback is taken into account and responded to by governments and decision-makers.

**3. Because you should have A RIGHT TO JUSTICE:**

Have you ever wanted to challenge an environmental decision? Have you ever felt that major decisions relating to development or environmental planning was made without all the facts or based on information which was

inaccurate or false? Then you should support the Principle 10 LAC Agreement. This agreement will work towards creating affordable and fair channels to challenge environmental decisions. It will help to empower local communities with the capacity to stand up to poor governance and question decisions which deserve to be challenged! **YOU SHOULD CARE! #3REASONS**

### **A CALL FOR A MORE PEOPLE-CENTRED APPROACH TO DEVELOPMENT**

The 2001 Physical Planning and Development Act (Chapter 5.12 of the Revised Laws of Saint Lucia) provides for public consultation in the creation and approval of physical development plans and for public consultation on, and scrutiny of Environmental Impact Assessments (EIA) as part of the planning approval process for projects likely to impact the social and economic circumstances of those likely to be affected by the proposed developments. Furthermore, the proposed Freedom of Information Act signals government's intention to empower the governed with the information needed to be meaningful participants in the development process generally, and in matters that will impact their circumstances directly. Sadly, there is a great divide between this noble intention and reality.

Physical development plans are not part of the overall planning process and development by application rather than by invitation prevails. Of greater concern is that after fifteen years, EIA regulations proposed under the Physical Planning and Development Act have not been developed, thereby denying the public the intended involvement in the development process. The resulting environment is one in which, time and again, developers are empowered to acquire private lands from sometimes unwilling owners, denying them their constitutional right to own and enjoy private property under the guise of pursuing development in the national interest while those who earn their livelihoods from ecosystem services are displaced by the degradation of those resources, or even their outright privatization.

The *status quo* is a growing unease among the public over promised developments which generally do not materialize, and an accompanying helplessness to protect their livelihoods. Government needs to reorient the focus of its development agenda to one that is people-centred rather than the current mortar and brick approach. Central to this shift is the need to embrace the public as partners in the development process by empowering them with the information they will need to participate in, rather than being passive recipients of the benefits of development as seen through the eyes of investors. Therefore, it is integral for Saint Lucia and other countries in Latin America and the Caribbean to support the current process for a Regional Agreement on Access to Information, Public Participation and Justice regarding Environmental Matters in order to improve the standards of environmental governance in the region.

### **A DEADLY SHADE OF GREEN -- ARTICLE 19 AND CIEL RELEASE REPORT ON THE DANGEROUS SITUATION FACING EHRDS IN LATIN AMERICA**

In Latin America, environmental human rights defenders (EHRDs) are increasingly targeted for raising concerns about the potential impacts of development projects on local communities' livelihoods and environments. Latin America has become the most dangerous region for EHRDs around the world today. To address the threats EHRDs in Latin America currently face in defense of the right to a healthy environment, CIEL and Article 19 have published a report called *A Deadly Shade of Green*.

*A Deadly Shade of Green* reveals the rising threats to EHRDs' activism and safety. The report details how local governments and corporations, the most common perpetrators of human rights violations committed against EHRDs, have utilized various tactics to restrict the activism of EHRDs. These tactics range from surveillance and defamation campaigns, judicial harassment

including false charges and arbitrary arrests, and physical attacks such as acts of torture and assassinations.

However, there is lack of accountability for the numerous human rights violations committed against EHRDs. Impunity for human rights violations committed against EHRDs has escalated the repression even further.

In *A Deadly Shade of Green*, CIEL and Article 19 argue that implementation of the rights of access to information, participation and justice enshrined in Principle 10 of the Rio Declaration will help diffuse the conflicts in the region that are resulting in attacks against EHRDs. *A Deadly Shade of Green* recommends that the regional instrument on Principle 10 under negotiation include specific provisions designed to give effective protection to EHRDs.

### **COMMUNITY RIGHTS ON NATURAL RESOURCES AND ENVIRONMENT: THE SIGNIFICANCE OF A REFERENDUM FOR THAI CONSTITUTION**

The draft 2016 constitution was developed for the new electoral system in Thailand and was voted on by the Thai public on August 7, 2016. If it is approved, parliamentary elections could be held in 2017. However, after the two-day discussion titled "Draft Constitution: Concerns on Environment and Resource Issues" at Chalalongkorn University, 100 civil society organizations around the country from June 19-20, agreed that the junta-sponsored draft constitution would do more harm than good to efforts to enhance environmental safeguard, since the draft constitution limits community rights in terms of resources and environment planning and management<sup>1</sup>. If the constitutional draft passes the referendum, the communities will lose their voice to protect their natural resources that may lead to the destruction of the environment and negatively affect sustainable development.

To build a stronger and more effective constitution for Thailand, a common set of seven core precepts have evolved that forms a basis for environmental governance<sup>1</sup>, which consist of: (1) Environmental laws should be clear, even handed, implementable and enforceable; (2) Environmental information should be shared with the public; (3) Affected stakeholders should be afforded opportunities to participate in environmental decision-making; (4) Environmental decision-makers, both public and private, should be accountable for their decisions; (5) Roles and lines of authority for environmental protection should be clear, coordinated, and designed to produce efficient and non-duplicative program delivery; (6) Affected stakeholders should have access to fair and responsive dispute resolution procedures; and (7) Graft and corruption in environmental program delivery can obstruct environmental protection and mask results and must be actively prevented. Therefore, community rights should be involved in elements of this common set of core precepts.

<sup>1</sup> Dumrongkiat M. (2016), Civil opposition to the constitution starts to grow. Available from: <http://www.bangkokpost.com/news/politics/1042873/civil-opposition-to-the-constitution-starts-to-grow>

<sup>ii</sup> Antonio H. Benjamin (2011), Effective National Environmental Governance -A Key to Sustainable Development. Available at: <http://www.unep.org/delc/Portals/24151/EffectiveNationalEnvironmentalGovernance.pdf>

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