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VOICE AND CHOICE

OPENING THE DOOR TO ENVIRONMENTAL DEMOCRACY

Joseph Foti with Lalanath de Silva, Heather McGray, Linda Shaffer, Jonathan Talbot, and Jacob Werksman

Executive Summary

BASED ON THE FINDINGS OF THE ACCESS INITIATIVE

People have the right to participate in the decisions that affect their environment. To exercise this right they need access to the information upon which decisions rest, and the opportunity to voice opinions and to influence choice among possible outcomes. Meaningful participation is guaranteed through “access rights”: the rights of public access to information, to public participation in government decision-making, and of access to justice.

In the 1992 Rio Declaration on Environment and Development, 178 governments pledged to open environmental decision-making to public input and scrutiny. Access to information, public participation, and access to justice are keys to more transparent, inclusive, and accountable decision-making in matters affecting the environment—what we call “environmental democracy”. Access to information motivates and empowers people to participate in an informed manner. Participatory decision-making enhances the ability of governments to respond to public concerns and demands, to build consensus, and to improve acceptance of and compliance with environmental decisions. Access to justice enhances the public’s ability to enforce the right to participate, to be informed, and to correct environmental harm. In turn, access depends on governments and civil society having the capacity to operationalize these rights.

Voice and Choice: Opening the Door to Environmental Democracy assesses the progress governments have made in providing access to environmental decision-making and, in the hope of moving forward, evaluates what hurdles remain and how they might be overcome. It picks up where a previous WRI publication *Closing the Gap: Information, Participation, and Justice in Decision-Making for the Environment* (Petkova et al. 2002) left off and builds on its findings and recommendations. This report is for “access proponents”—members of government, civil society, business, and intergovernmental organizations committed to promoting access, and eager to learn what has worked and why. *Voice and Choice* captures the research findings and practical experiences of The Access Initiative (TAI)—the largest network of civil society organizations to assess and promote transparency, inclusiveness, and accountability in environmental decision-making (see Box 1, TAI Strategy, and Box 2, TAI Method). It brings these findings together with academic literature on public participation in an attempt to further understand the link between the quality of public participation and the impact of environmental decisions.

BOX 1 THE ACCESS INITIATIVE STRATEGY

TAI developed a strategy to spread access rights around the world. The strategy has three elements:

1. Develop an indicator-based tool to assess the performance of national governments on the implementation of Principle 10 of the Rio Declaration and to identify gaps in the law, institutions, and practice of access rights.
2. Empower civil society organizations (CSOs) to use the tool and support them to conduct independent assessments of access rights in their countries.
3. Engage governments in a constructive dialogue to close gaps identified in the national assessments, and encourage collaboration between CSOs and governments in the effort to realize access rights for all.

Voice and Choice presents TAI assessments from 2002-2005 of the performance of 26 national or regional governments on access to information, public participation, and capacity building.

TAI Assessments were carried out in:

- **Africa:** South Africa, Tanzania, Uganda
- **Asia:** India, Indonesia, Thailand
- **Europe:** Bulgaria, Estonia, Hungary, Ireland (limited study), Latvia, Lithuania, Poland, Portugal, Ukraine
- **Latin America:** Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Mexico (national and three state-level: Baja California, Jalisco, Chiapas), Peru, Venezuela
- **North America:** United States (state-level: California and Ohio)

Findings

Generally, *Voice and Choice* finds that governments have made significant progress in establishing the legal infrastructure of rights and opportunities for “access”. Constitutions and laws now guarantee freedom of information in more than 69 countries. Many governments have enacted administrative processes, such as environmental impact assessments, that mandate public participation. Progress toward the implementation of these policies has, however, been slower, reflecting the profound transformations necessary to achieve a level of openness in which governments and civil society share a commitment to environmental democracy.

Framework laws for freedom of information are more widespread than framework laws on public participation. Assessments from the TAI network demonstrate that more countries have bedrock framework laws on information than framework laws supporting public participation.

BOX 2 THE ACCESS INITIATIVE METHOD

The TAI assessment method evaluates national law and policy regarding access to information, public participation, and access to justice, as well as the capacity of the public, civil society organizations, and government officials to supply and demand access. TAI assessments use a standardized set of indicators, research guidelines, and rankings. The method also surveys government practice in each of the three access rights using case study analysis. The table below lists the topic areas covered by TAI assessments. The full report identifies limitations to the data.

	LAW	PRACTICE	
Access to Information	Access to Information Law	State of Environment Reports	
		Facility-level Information	Compliance Data Pollutant Release and Transfer Data
		Regular Monitoring	Air Quality Water Quality
		Emergency	Small-scale Emergency Large-Scale Emergency
Public Participation	Public Participation Law	Policy-level decision-making	
		Project-level decision-making	
Capacity Building	Capacity Building Law	Government-level agency capacity building	
		Public capacity building	
Access to Justice ¹	Access to Justice Law	Denial of Access to Information	
		Denial of Public Participation	
		Environmental Harm	

1. Access to justice was not included in this report. It has been included in TAI regional reports and will be the subject of future publications.

Figure 1 documents the results of TAI assessments that seem to confirm this gap. Only 1 of 20 countries evaluated lacked a basic freedom of information law. Yet, of the countries evaluated for framework laws on participation, one quarter received weak rankings.

Practice lags behind laws. Implementation of information and participation laws has lagged far behind legal reform. Figure 2 shows the difference between law and practice in 26 countries as surveyed by TAI partners. Causes for these differences vary. Implementation of

FIGURE 1 RANKINGS OF ACCESS TO INFORMATION FRAMEWORK LAWS AND PUBLIC PARTICIPATION FRAMEWORK LAWS (number of countries)

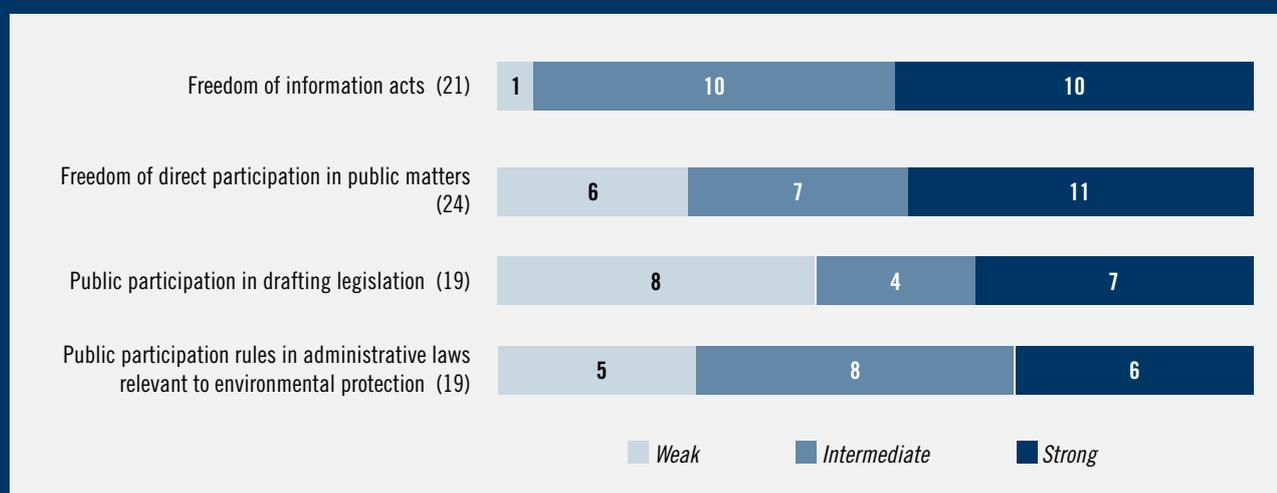
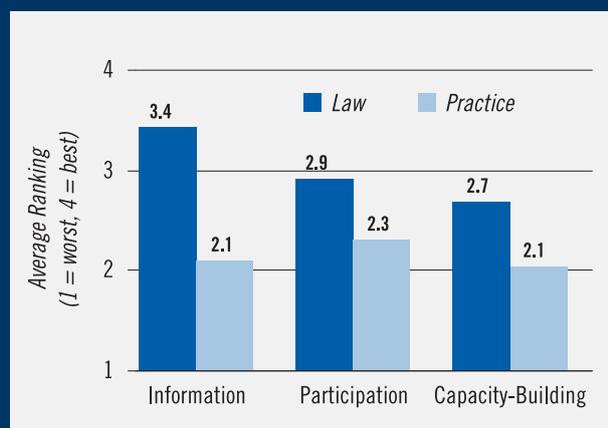


FIGURE 2 MEAN RANKINGS FOR LAW AND PRACTICE INDICATORS (*value*)



framework laws may be hindered by a lack of detailed administrative rules and operational policies. In other cases, laws may be in place, but public capacity to use the laws or official capacity to carry out the laws may be absent.

ACCESS TO INFORMATION

Rules providing access to environmental information can take on a variety of forms. They include general freedom of information laws, pollutant release and transfer registers (PRTRs), compliance reporting requirements, emergency information systems, state of the environment reporting, and the release of regular monitoring of environmental quality.

Fewer laws require the proactive release of information.

Meaningful access to environmental information requires governments to *proactively* gather, analyze, and disseminate information. However, most information laws require government agencies to release information *reactively*, only when that information is requested. Figure 3 shows that in the countries surveyed, governments have underinvested in proactive information laws, which were seen as narrower and weaker than reactive information laws.

Access to information on industrial facility pollution and compliance is particularly weak. There remain tremendous barriers to accessing information on facility level industrial pollution. For the facilities studied, emissions compliance reports and pollutant releases and transfer registers (PRTRs) were unavailable. Access to information was also hampered by a failure

to record data, weak mandates to report data, and excessive claims of commercial and security-based confidentiality.

The capacity for air quality monitoring was strong, but data was not disseminated. Access to information on air quality demonstrates the divide between what is measured and what is made public. While most countries had an intermediate or strong capacity to actually monitor major problems with air quality, few demonstrated the commitment to publish and distribute that information to the public.

Water quality monitoring systems were generally weak.

Findings for drinking water quality demonstrated both weak collection and dissemination. Governments monitored fewer and less diverse parameters for water. Of 25 countries assessed for available water quality monitoring information on the Internet, 21 received a “weak” ranking. Findings suggest weaknesses in all aspects of information provision—collection, analysis, and dissemination—are pervasive across countries.

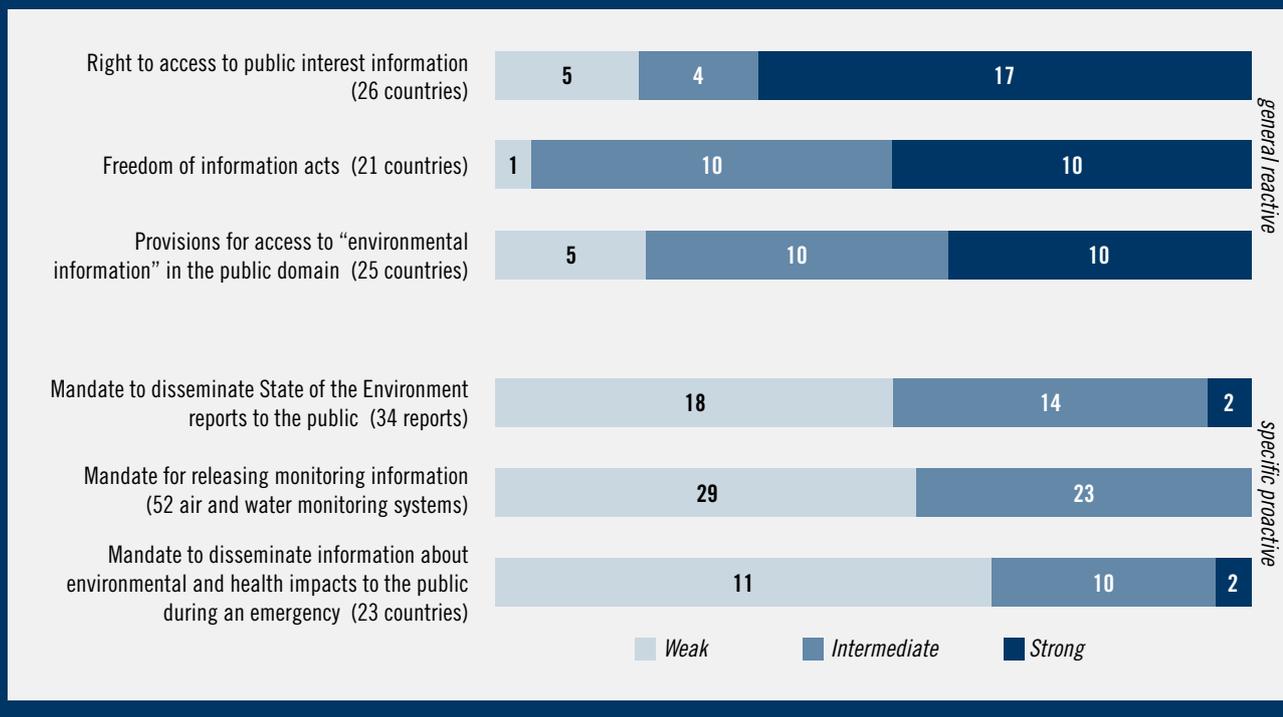
Countries performed poorly in providing environmental information during and after emergencies. Improvements in information management during emergencies, especially emergency warning systems, have improved greatly in recent times. A number of countries fared better at releasing information during an emergency than after. Most countries, however, failed to release relevant environmental information on emergencies at all. Mandates to produce and disseminate such information were generally weak.

Most countries produced state of the environment reports of generally good quality, but publicity was particularly weak. State of the environment reports, which present data on a country’s air, water, and land quality, were produced in most countries, but country-level assessments demonstrate that many had weak mandates to disseminate their findings, and very few made attempts to publicize the results through the mass media or in a usable format.

PUBLIC PARTICIPATION

Public participation takes place largely, although not exclusively, as a part of procedures to assess and to mitigate environmental harm, such as in preparation of environmental impact assessments, and through policy making and planning bodies such as legislatures and zoning boards.

FIGURE 3 ACCESS TO INFORMATION: RANKINGS FOR REACTIVE LAWS AND PROACTIVE MANDATES



Public participation has not been mainstreamed at the project level in about half of the countries assessed. Findings demonstrate that environmental impact assessments and similar processes have yet to integrate public participation fully. Often, even where there are open participatory processes, there are hurdles to meaningful participation, including insufficient lead time or unavailable project documents. Consultation is often held too late in the project development cycle to make a significant difference in selecting outcomes.

Planning and policy processes do not consistently involve public participation. Those that did varied in terms of how well they facilitated involvement. Nearly half of policy and planning processes studied were evaluated as having weak or no consultation at all. Those with stronger consultation often gave inadequate lead time for public comment or involvement. In the majority of cases, the public did not receive a timely response from officials as to how concerns were or were not integrated into final policies and plans. This has the effect of weakening the ability of public participation to foster accountability. On the other hand, strengths included a general availability of documents relating to the proposed policy.

CAPACITY BUILDING

Legal mandates are insufficient to ensure the implementation of access principles. The government must have the capacity to supply access, and the public and civil society organizations (CSOs) must have the capacity to demand access.

The majority of governments invested in building the capacity of officials, but a significant minority did not. Government officials need knowledge of the legal framework, practical skills, and financial resources for access. In some countries assessed, some officials were trained but not across all relevant ministries. Often, only the Ministry of Environment had sufficient training in implementing access; other parallel and sectoral ministries and agencies did not. In many of the poorly ranked countries, ministries lacked mechanisms for public consultation.

Governments generally had strong legal frameworks supporting civil society associations and freedom of association. In a few cases, these laws were not enforced and civil society organizations suffered harassment. In most cases, however, governments were ranked as "strong" in laws carrying out basic rights such as freedom of association and providing general tax breaks for CSOs, but made less effort to support the CSO sector through education on access rights and offering seed grants.

Environmental education is not yet fully integrated or supported in many public schools. While many countries mandated environmental education, the quality of such education and the support of teacher training often reflected the state of education in the country more generally. In countries with strong education systems, many teachers completed training in environmental education and had sufficient materials. In other school systems, despite requirements in the curriculum, teachers often lacked formal training in the subject and often went without textbooks or supplies.

Hurdles

A number of political, legal, cultural, and capacity-related hurdles stand in the way of more rapid progress in fulfilling access rights. Examining these hurdles serves as a starting point to understand where access advocates might best deploy tools and arguments to spark reform. Evidence from TAI assessments (including cases studies) as well as TAI network member experiences served to diagnose the problems in achieving access, and suggested the outline of prospective solutions.

MANAGING VESTED INTERESTS AND THE POLITICS OF ACCESS

In many policy processes, increasing access may threaten those in power. Government officials may stand to lose influence over decisions by increasing transparency, public input, and personal accountability. Public participation can shift control, at least in part, from government officials to the public. This shift may be perceived as a cost to some, whose status or power may be premised on exclusive control of information and decision-making. TAI assessments suggest significant resistance to greater transparency. Specifically, vested interests—those individuals, businesses, and government agencies that benefit from the control of information—seek to limit public knowledge about extraction of natural resources, pollution, and compliance with regulation.

Strategic alliances and coalitions can help to strengthen access in single issue cases and more broadly. Movements for access rights require the involvement of many actors. Pioneering officials, media outlets, environmental CSOs, community-based organizations, and companies that depend on information about the environment are just some of the parties interested in fostering more transparent decision-making. Building issue-oriented

strategic alliances and sustaining long-term coalitions can help overcome the hurdles that vested interests present. By its very nature, advocating transparency requires the coordination of the many—those who pay the price of corruption and poor decision-making—to oppose the few—those who benefit from secrecy.

Information by itself is not enough to initiate collective action. Groups are more likely to respond to information when it reveals a substantial departure from the status quo rather than a gradual change. This phenomenon, this shift in perception, is often referred to as “shock.” The implications for advocates of access are that the timing and messaging of information can have as crucial an impact on environmental and human health outcomes as the information itself. Information by itself is not enough: it must be combined with a clear, precise, and novel message about the state of affairs through culturally appropriate channels. Environment advocates must decide how to release information strategically.

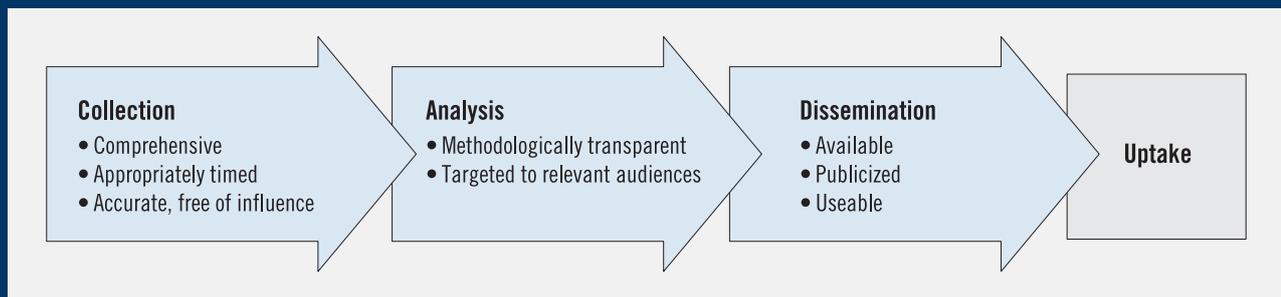
IDENTIFYING THE GAPS IN INFORMATION SYSTEMS

Access to information requires more than just a public right to obtain information. Governments must be able to collect, analyze, and disseminate information in ways that are meaningful. Challenges in providing environmental information vary across issues. For example, most countries assessed by TAI were able to monitor environmental indicators for air quality. While some had trouble analyzing the data to see larger trends, others had a hard time distributing the data in a useful format that made larger environmental trends clear to the consumers of that information: politicians, businesses, and the public. An important step in developing effective advocacy strategies will involve targeting the problems unique to the particular environmental information system. Figure 4 shows the elements of a complete environmental information system.

FOSTERING A CULTURE OF OPENNESS

Many officials in resource management agencies go through years of training in forestry, fisheries, or other resource management skills. Respect for technical skills can lead to a culture of decision-making that is closed to public input. On the basis of their professional expertise, officials may be genuinely concerned that “inexpert” public influence over resource management decisions may result in choices that are worse for the

FIGURE 4 ELEMENTS OF AN INFORMATION SYSTEM



environment, the public well-being, or both. Access rights can be seen as compromising technocratic or data-driven analysis by introducing more democratic processes aimed at balancing subjective and competing views.

By seeking to improve particular aspects of the public participation process, officials can improve the quality of participatory decision-making. Public notice, advertising, and early information can engender stakeholder interest, affect social norms, and educate the public to understand the problem better. Proactive recruitment of a variety of stakeholders, especially from underrepresented groups, will increase the likelihood of a wider range of possible solutions.

Governments can foster citizen participation and environmental values through better public education campaigns. Widely held environmental values are characteristic of sustainable societies. To facilitate public participation, governments, CSOs, and international organizations have created campaigns to ensure that citizens know how to access environmental information, participate in public hearings and consultations, and use justice mechanisms to safeguard the environment.

INVESTING IN ACCESS CAPACITY

Governments are the primary suppliers of access and the gatekeepers to the information and processes necessary to realize those rights. CSOs, those interest groups independent from the state, family, and market—are the primary—although by no means the only—source of organized demand for access. By supporting the growth of the CSO sector concurrently with other governance reforms, governments can encourage transparency and accountability.

In order to supply access, government officials need training. Government itself does not need to be the sole source of capacity-building; it can be completed through partnerships with civil society and business. Experience from case studies demonstrates that civil society can be an important source of education for judges and other officials through training in environmental and access law.

Governments can take a number of steps to increase the independence and sustainability of CSOs, and consequently promote the power of this sector to advocate in the public interest:

- *Freedom of association.* Even in countries that allow people to freely associate and interact, CSOs face a number of obstacles to organization. Common limitations on freedom of association include requiring sponsorship by local authorities, registration of individual members, or excessive tax burdens due to unclear nonprofit status. Removing these legal obstacles would strengthen the ability of CSOs to function.
- *Building public domestic support.* Governments can help build domestic support for CSOs by subsidizing or requiring public service announcements, encouraging philanthropy, or sponsoring publicity campaigns about public interest issues.
- *Seed grants.* Governments can set up agencies responsible for setting forth transparent requirements and decision-making processes for competitive grants to nonprofit organizations.
- *Tax-exempt status.* Governments could allow organizations registering as nonprofit to receive tax exemptions on income. Standards for such exemption should be transparent and subject to review by an independent authority.

- *Broadened standing for environmental harm.* Environmental CSOs, in particular, require legal innovations from governments, such as broadened standing in order to carry out litigation in the name of the public.
- *Capacity building.* CSOs unaware or incapable of using access rights are less likely to foster membership, attract publicity, or influence environmental decisions. Governments should include CSOs as a key target group in their larger educational efforts to increase public understanding of access.

Advocating Access

Access proponents must understand and deploy the array of arguments in favor of access and overcome hurdles to implementation. Access rights are inherently human rights. Increasing access will advance the fulfillment of norms well-established in international and national laws. Access allows society to tap the potential of all of its sectors — the public and the private, government officials and citizens — to contribute to the betterment of public policy.

The fulfillment of access rights confers substantial public goods to the benefit of the governments and communities that implement them. Access principles are associated with good governance. These practices, in turn, are associated with stronger economic growth. Through its connection with good governance, access may also promote sustainable development more widely. A growing body of research demonstrates the positive connection between the ability to govern and the ability to manage natural resources sustainably.

ACCESS RIGHTS ARE HUMAN RIGHTS

Access rights are rooted in human rights. The primary purpose of access rights is to empower people to advance the fulfillment of substantive rights—the entitlement of all people to the fundamental civil, political, economic, social, and cultural conditions that are considered necessary to ensure human dignity. The most widely recognized category of human rights, known as civil and political rights, provides the basic building blocks for access. Various international and regional human rights instruments establish these core rights of the individual to exercise freedom of expression and association, to take part in the conduct of public affairs, and to have these and other rights enforced by an independent and impartial tribunal.

Access rights are also rooted in another category of human rights—so-called economic, social, and cultural (ESC) rights. ESC rights are reflected in many international and regional human rights treaties and proclamations. They include the right to an adequate standard of living, including adequate food, clothing, and housing; safe and healthy working conditions; and the highest attainable standard of physical and mental health.

Forging a strong link between environmental access rights and human rights instruments can be an important dimension of strategies to promote and reform access law and practice for several reasons. Widely recognized human rights are grounded in both treaty law and the equally binding rules of international customary law. Human rights describe duties that a government has consented to or is bound by and should therefore be a constructive part of its discourse with civil society. Framing arguments in human rights terms can also help environmental advocates to utilize international and regional human rights enforcement machinery, as well as domestic constitutional courts, tribunals, and commissions. Finally, the universal appeal of human rights can draw support from civil society groups beyond the environmental field. Evidence from the TAI network suggests that when national governments adapt the law to reflect these international norms, they enable CSOs to use these rights to improve environmental outcomes.

ACCESS TAPS SOCIETY'S FULL POTENTIAL

The provision of access can be understood as a dynamic of supply and demand. Governments are the primary suppliers of access rights, and the gatekeepers to the information and processes necessary to realize those rights. Civil society organizations are the primary source of organized demand for access. However, access to decision-making by the government is essential for more than just civil society. Tables 1 and 2 give a broad view of the reasons different groups demand access to information, participation, and access to justice. As Table 2 shows, governments themselves benefit from openness. An informed public is an essential ally in government's role as regulator, strengthening the incentive of regulated entities to police themselves. Participatory processes such as public hearings raise awareness of—and can build public support for—government initiatives.

TABLE 1 WHY DEMAND ACCESS?

	GOVERNMENT INFORMATION	PUBLIC PARTICIPATION	JUSTICE MECHANISMS
Civil Society	<ul style="list-style-type: none"> To monitor government and private activity through information collected by the government To assess and formulate policies and practices To educate the public about existing policies and practices 	<ul style="list-style-type: none"> To increase influence of civil society organizations To ensure fairness of decisions To foster greater voice and equity for underrepresented groups 	<ul style="list-style-type: none"> To ensure enforcement of environmental laws To enforce access to information and participation To resolve disputes
Private Sector	<ul style="list-style-type: none"> To identify potential resources—financial, human, technological, and natural To obtain market information To ensure fair contracting practices To manage environmental and human risk 	<ul style="list-style-type: none"> To increase influence of the private sector To reduce risk to projects from the consequences of low public approval 	<ul style="list-style-type: none"> To ensure fair application of laws and regulations by officials To seek remuneration for harm from damage to ecosystem services To ensure consistent and predictable interpretation of laws

TABLE 2 GOVERNMENTS THEMSELVES USE ACCESS

GOVERNMENT INFORMATION	PUBLIC PARTICIPATION	JUSTICE MECHANISMS
<p>Purpose of access</p> <ul style="list-style-type: none"> To share responsibility for monitoring with civil society To monitor fiscal expenditure To monitor and analyze management practice To set taxation rates and account for natural resource use To assess current practice To oversee other government agencies 	<p>Purpose of access</p> <ul style="list-style-type: none"> To gather information from the public To disseminate information and educate the public To disseminate and influence public opinion To increase legitimacy To respond to public pressure To generate and capture wider ideas To amplify minority voices 	<p>Purpose of access</p> <ul style="list-style-type: none"> To ensure monitoring and enforcement of regulation To protect minority interests and the environment To ensure consistent and predictable interpretation of laws To resolve disputes between parties over natural resources

ACCESS GENERATES PUBLIC BENEFITS

Findings from current governance literature show that, by increasing access to information, public participation, and access to justice, governments raise the quality of decisions in multiple ways:

Legitimacy. Participation by all interested parties in a decision process builds legitimacy and “buy-in” for the resulting decision. Even in cases where there are winners and losers, the ownership built through the

participatory process can lessen opposition and conflict when the decision is implemented.

Building Stakeholder Capacities. Through the participatory process, stakeholders gain skills and knowledge. They build relationships with one another, deepen their community’s democratic culture, and foster trust and social cohesion. All of these capacities may be resources that enable better project and policy implementation, or they may be of value for activities unrelated to the decision process. Some authors consider the relationships built through public participation a good in and of themselves—a form of social capital.

Better Implementation. Decisions made in a participatory manner are more likely to be fully implemented and sustained, in part because of enhanced legitimacy and reduced opposition. There may also be cost savings, especially in cases where stakeholder ownership of the decision extends to the sharing of labor or other resources in the implementation phase.

Improving the “Quality” of the Decision. In a participatory process, the resulting decision will reflect the specialized knowledge and variety of perspectives that participants bring to the table. This raises the substantive quality of the decision relative to its intended outcomes.

Making Decisions that Reflect Stakeholder Values. When the public has the opportunity to influence a decision-making process, the resulting decision is more likely to reflect public values and interests than if it were top-down.

Recommendations

Realizing greater environmental democracy is clearly a long-term process. Evidence from TAI country assessments and case studies conducted thus far suggests that improvements in access have been achieved over the 16 years since the Rio Earth Summit, but that much more remains to be done. These recommendations come primarily from our research, and provide a starting point for improving public participation, raising the quality and accessibility of information, and increasing the availability of judicial and administrative relief for citizens.

Many of these recommendations echo those in the previous TAI global report, *Closing the Gap*. This similarity raises a question: how can we ensure continued progress in the supply of access rights? Building on the

findings in this publication and the rapidly growing body of information being gathered by the TAI network, we present the following set of next steps, including instituting legal reforms, mainstreaming public participation, building coalitions, and building the capacity of both government and civil society for better environmental governance.

ACTIONS FOR GOVERNMENTS

Legal Frameworks for Access to Information

Gaps can exist at different points of environmental information systems. These may be at the collection, analysis, or dissemination stages. Governments can address these gaps by strengthening specific legal codes to mandate proactive information production mechanisms, including PRTRs, emergency response systems, regular air and water quality monitoring systems, state of the environment reports, and EIA codes. Adequate codes would encourage officials to produce and release information. Making clear which officials are answerable to the public will increase accountability for decision-making.

Information on Compliance and Industrial Pollutants

Industrial facility reporting on pollution emissions needs stronger mandates. Facility reporting needs further standardization of monitoring and sampling techniques, as well as narrowed scope of confidentiality claims. Establishment of a PRTR is one way to make information available through the channels most likely to reach those affected.

Information on Air and Water Quality

Strong mandates to monitor air and water quality require a robust slate of indicators, analysis of health and environmental implications of this information, and availability of regularly released information in a usable form.

State of the Environment (SoE) Reports

Strong mandates for SoE reporting require that reports are released regularly. Because SoE reports are used widely by the public, they should employ standardized formats for ease of comparability over years, attention to environmental trend data, and a minimum of jargon. Corresponding data should be available on the Internet free of charge. Production, analysis, and distribution can be aided through partnerships between agencies, the private sector, and CSOs.

Information on Emergencies and Accidents

Successful distribution of environmental information requires clear legal mandates for reporting on impacts. This involves clarifying responsibility and accountability for producing environmental reports during and after an emergency. It includes clarifying overlapping or nonexistent mandates and supporting responsible agencies with adequate budgets.

Public Participation at Policy, Planning, and Project Levels

Earlier citizen involvement in policy and planning and improved notification processes for public input can serve to inform stakeholders more adequately about participation opportunities. Comprehensive briefing materials, such as initial planning drafts or scoping criteria can also be distributed. In particular, timely information on available technical, economic, and environmental data may improve the quality of final decisions.

Building the Capacity for Access

Capacity building for officials, CSOs, and the general public requires sustained support. This means increasing and maintaining budgetary resources directed toward training government officials not only to be aware of and comply with access laws, but to publicize and support opportunities for citizen participation, and to solicit the involvement of affected parties.

ACTIONS FOR ACCESS PROPONENTS

Proponents of access can assert both the instrumental benefits of access rights and the human rights basis of access. As access advocates continue to place access rights on their national agendas, they can argue that greater access has benefits on a number of levels. Because access rights have their basis in international and national human rights law, access proponents can deploy arguments based on these laws.

Access proponents should build and strengthen networks in order to push for greater transparency and public influence. Beginning with those most affected by lack of access to environmental decision-making and spreading out to those who have the most interest in a transparency and democracy agenda, access proponents can employ both strategic alliances and coalitions of like-minded groups in order to manage and sustain policy reform. This will involve developing mutual aid for member organizations and incentives for allies of the coalition. Networks—including members of civil society, govern-

ment, and the private sector—may serve strategic purposes different from CSO-only coalitions.

Governments and civil society can work together to build official capacity. The proper training of government officials requires efforts in the legislative, judiciary, and administrative branches. Civil society organizations can help provide training, as they often have well-developed access expertise.

Advocacy for public participation will gain strength through more attention paid to context. Public participation is strongest when it is an integrated part of accountable government and accompanies institutions such as free and fair elections. Access advocates should seek to find synergies between representative and accountable government, such as strengthening transparent and participatory aspects of legislative processes.

Access proponents can continue to innovate to involve the poor and marginalized. This includes practical research into transparent processes of recruitment of CSOs for national and regional policy setting, and mechanisms for downward accountability from “grasstops” CSOs to grass-roots community-based organizations. Research must address mechanisms to include the poor and socially excluded in decision-making processes and to limit capture of participatory processes by elites. Finally, the circumstances under which participation reinforces and strengthens other democratic institutions merits more attention. Continued assessments of access practice by TAI and others will play an essential role.

A RESEARCH AGENDA TO EXPLORE PUBLIC PARTICIPATION AND ENVIRONMENTAL SUSTAINABILITY

Research is needed to better understand when and how access in general and public participation in particular most contributes to positive environmental impacts and prevention of harm. Key questions include:

- What are the key elements— culture, institutional structure, capacity—that enable public participation to have positive on-the-ground impacts?
- At what stages in the policy and project planning processes does access generate the greatest benefits?
- What are appropriate guidelines for officials to decide what form of participation, information, and justice forums are most appropriate for particular circumstances?

In particular, the following research needs could help improve the policy environment for access rights:

- More—and more systematic—meta-studies of accumulated case studies.
- New, more comprehensive approaches to weighing the costs and benefits of participation (for example, how to include capacity-building benefits; how to apply cost-effectiveness analysis), especially those that would be usable at a practical administrative level.

Actors from all sectors and levels of society stand to benefit from increased access to information, public participation, and access to justice. Our findings suggest that access proponents can take several essential actions to bring about reforms and address barriers to and gaps in the provision of public access.

Final Thoughts

Access rights—and those individuals and institutions that fulfill them—are at a moment of opportunity. New freedom of information acts and a push for greater transparency in decision-making have raised the profile of access reforms. Yet forward movement on access and the institutionalization of those rights is not assured without continued independent assessment and continued advocacy and collaboration. The links among environment, poverty reduction, and governance are increasingly clear. If we are to meet these challenges, we will need to do so with governments that are transparent, inclusive, and accountable.

The Access Initiative

ABOUT TAI

The Access Initiative (TAI) is the world's largest network of civil society organizations working to ensure that citizens have the right and ability to influence decisions about the natural resources that sustain their communities.

Working in their respective countries, TAI partners form national coalitions and assess the performance of their governments to provide the public with **access to information** about government decisions, **public participation** in decision-making, and **access to justice** when their rights to information, participation, and a clean environment are violated.

TAI Partners use assessments to advocate for legal, institutional and practice reforms, raise public awareness, and engage their governments in a constructive dialogue to create change within their countries.

Since TAI began in 2000, more than 150 civil society organizations around the world have become TAI Partners. Assessments and advocacy have engaged governments in more than 40 countries to improve access to information, public participation and access to justice in decisions affecting the environment. To learn more about this dynamic network, please visit: <http://www.accessinitiative.org>.

