

# Improving Water Governance Through Increased Public Access to Information and Participation

Karin M. Krchnak

Follow this and additional works at: <http://digitalcommons.wcl.american.edu/sdlp>

 Part of the [Environmental Law Commons](#), [International Law Commons](#), and the [Water Law Commons](#)

---

### Recommended Citation

Krchnak, Karin M. "Improving Water Governance Through Increased Public Access to Information and Participation." *Sustainable Development Law & Policy*, Winter 2005, 34-39, 48.

This Article is brought to you for free and open access by the Washington College of Law Journals & Law Reviews at Digital Commons @ American University Washington College of Law. It has been accepted for inclusion in *Sustainable Development Law & Policy* by an authorized administrator of Digital Commons @ American University Washington College of Law. For more information, please contact [fbrown@wcl.american.edu](mailto:fbrown@wcl.american.edu).

# IMPROVING WATER GOVERNANCE THROUGH INCREASED PUBLIC ACCESS TO INFORMATION AND PARTICIPATION

by Karin M. Krchnak\*

## INTRODUCTION

**I**ncreasing access to water, a Millennium Development Goal, can have a substantial impact on education, health, and economic livelihoods. Increasing access to water can also increase access to other basic needs such as food. With such a wide range of potential impacts from the water sector, it is critical to expand decision-making to include constituencies for the poor and for the environment. A more open and transparent process for involvement in water decision-making processes would better identify appropriate goals for effective water management and conservation.

In 1992, over 170 governments assembled at the Earth Summit in Rio de Janeiro and affirmed the importance of public access to information, participation, and justice in decision-making in Principle 10 of the Rio Declaration on Environment and Development. Ten years later, governments of the world reaffirmed this commitment at the World Summit on Sustainable Development (“WSSD”). Although many governments have developed laws related to access to information, public participation, and access to justice, implementation of these rights has been weak.

The absence of information or mechanisms for participation and redress can result in decisions that adversely impact, exclude, and are consequently opposed by, affected communities. Such decisions are rarely effective and are frequently illegitimate and unjust. They undermine the ability to integrate environmental concerns into development processes. As the experience with the United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters (“Aarhus Convention”) in Member States indicates, no country has fully developed policies or the organizational capacity to implement all of the pillars of Principle 10.<sup>1</sup>

Assessments using a common framework of indicators can help identify critical gaps. Civil society organizations can collect and analyze the necessary information on the status of the whole system, both in terms of policy development and organizational capacity. However, the results of the assessments will not lead to policy or organizational change at a national level without a broad national constituency, and at the international level without a global constituency, and mechanisms for cooperation, assistance and accountability. The Access Initiative<sup>2</sup> and the Partnership for Principle 10<sup>3</sup> are potential vehicles for both identifying the shortfalls in water governance and engag-

ing all stakeholders in a constructive dialogue on ways to build good governance through a collaborative approach.

## IMPORTANCE OF ACCESS ISSUES IN THE WATER SECTOR

Over the past decade, many countries have begun to rethink how their utility sectors are organized, including whether or not to open their sectors to market competition and foreign investment. The water sector is one such utility, with significant social and economic importance. With an estimate that close to one-half of the world’s population will live under conditions of water stress or scarcity by 2025, conflicts and potential human rights abuse over water are expected to increase dramatically. Already, conflict over privatization of water has led to violent protest in several countries. And in the first round of national assessments undertaken by The Access Initiative (“TAI”), access to information about water quality emerged as a key area for improvement in most countries.<sup>4</sup>

The water policies that countries adopt determine whether private investment will result in projects and technologies that improve water efficiency and expand water services to the rural and urban poor. For this reason it is critical to develop mechanisms that citizens and public interest groups can use to keep governments accountable for the decisions they make about a sector that delivers basic human services.

Increased civil society engagement can serve as a vehicle to integrate social and environmental goals in approaches to water management, and as an instrument of accountability. It will help ensure involvement and ownership of decisions by local populations and address the needs of the poor, the people whose opinions and ideas are most often muted in development decisions.

Broad access to information about water management allows people to find out whether they can use the water available to them for drinking, swimming, irrigating their crops, or fishing. With that knowledge, people can make informed choices and protect themselves from harm.

Information about water may also mobilize public opinion and urge polluters and governments to reduce pollution and to

---

\*Karin M. Krchnak, Esquire is a Consultant with Davos International Ltd. Previously, she was Director of the Access Initiative and the Partnership for Principle 10 with the World Resources Institute. She serves on the Steering Committees of the Global Water Partnership and the Gender & Water Alliance and also serves as Co-Chair of the UN Commission on Sustainable Development Freshwater Caucus. The ideas expressed here are her own and not necessarily those of the World Resources Institute or The Access Initiative.

improve water quality. Initial TAI research found that the public rarely has easy access to useful information about the quality of drinking and surface water.<sup>5</sup> As a result, individuals and communities cannot protect themselves from contaminated water or monitor the improvement of its quality.

### ASSESSING ACCESS ISSUES

The current TAI toolkit of indicators measures both law and practice in decisions that affect the environment.<sup>6</sup> Table 1 lists the categories of indicators that teams may use to assess access to information and public participation under the current methodology.<sup>7</sup> The World Resources Institute is beginning to develop an indicator methodology for civil society coalitions to assess information disclosure, transparency, and accountability specifically in the water sector based on the TAI methodology.

| TABLE 1 <sup>28</sup>   | CATEGORIES OF ACCESS TO INFORMATION AND PUBLIC PARTICIPATION |
|---|--|
| <p><b>ACCESS TO INFORMATION</b></p> <p><i>Information about environmental emergencies:</i> Questions on the timeliness of public notice; breadth, quality, and content of information distributed; and investigation and monitoring aimed at preventing future incidents.</p> <p><i>Information about water quality:</i> Questions on the comprehensiveness of monitoring, as well as distribution and accessibility of monitoring data.</p> <p><i>Information about environmental performance of industrial facilities:</i> Questions on legal mandates for reporting, including compliance reporting; standardization, periodicity, and specificity of reporting; availability of exemptions for confidential information; release and transfer data management; and dissemination.</p> <p><b>CATEGORIES OF ACCESS TO DECISION-MAKING PROCESSES</b></p> <p><b>Policy-Making Decisions</b></p> <p>Participation in the formulation of Sector or Regional Policies, Plans, and Programs: Questions on the timelines and scope of public notice; breadth of consultation in drafting and formulation; lead-time for public comments on proposals; feedback and transparency in communication of final decisions; and accessibility of performance monitoring and review procedures.</p> <p><b>Project-Related Decisions</b></p> <p>Participation in Concessions, Facility Siting, and Environmental Permitting: Questions on the accessibility of rules governing award procedures; timeliness and scope of notice of intent to award concession or permit; degree of consultation or input in selection/award criteria; transparency of award process and final decision on award; accessibility of performance monitoring and review procedures; and accessibility of close-out or remediation plan.</p> |  |

This paper is based on the assessments carried out under the current TAI methodology<sup>8</sup> in two ways. First, a number of the current indicators assess access issues in the water sector, such as access to information from systems to monitor water quality. Second, teams may choose water-related case studies when they assess the practice of access to information, public participation, and access to justice. TAI-Hungary, for example, selected a water case for evaluation of information disclosure in environmental emergencies. The case study is included below to pro-

vide a glimpse into an entire process, including the myriad points at which public access to information is important.

### INITIAL TAI RESULTS IN THE WATER SECTOR: ACCESS TO INFORMATION

As Table 2 shows,<sup>9</sup> the TAI pilot teams assessed eight cases to evaluate the quality and accessibility of information on water quality. The assessments revealed considerable differences in the performance of government agencies in providing information to the public about drinking or surface water quality.<sup>10</sup>

Collectively, performance in providing water quality information scored weak. This should be contrasted to assessment of information disclosure and public participation regarding air quality found to be strong by the assessment teams.<sup>11</sup> The 2004 TAI assessment of Estonia revealed that dissemination of drinking water data is not very developed if compared to air monitoring data.<sup>12</sup> The TAI-Estonia team considered that one of the reasons is perhaps that air monitoring belongs to the jurisdiction of the Ministry of the Environment (where several trainings and projects have been carried out to implement the Aarhus Convention), but drinking water falls under the control of the Ministry of Social Affairs.<sup>13</sup>

The TAI pilot teams found that the quality of the system for providing water quality information depended on how the monitoring networks are coordinated. Monitoring systems can cover a single urban area, as in Mexico or Indonesia; entire countries, as in Hungary and Thailand; or large regions within a country, such as the state of California in the United States. The Hungarian and Thai experiences indicated that unified and integrated systems provide a more coherent picture of water quality and present less of a challenge to obtaining information.<sup>14</sup>

Information technologies can facilitate public access to information. Websites increasingly provide an opportunity for the public to learn more about water quality monitoring issues. In California, for example, a website for the Environmental Justice Coalition for Water encourages citizens to become involved in monitoring the water quality in their communities. Teams in five countries (Hungary, India, Mexico, Thailand, and Uganda) found no active dissemination of data on drinking water quality for the public on the Internet or in the press. In Mexico and Uganda, teams could not obtain the data at all; in India, data could be obtained only through a personal contact.<sup>15</sup>

However, it is important to bear in mind that Internet access is not universal. Governmental agencies that provide information only through the Internet are in fact reaching a very limited number of people. In most countries, for example, only 10% or less of the public may access the Internet.<sup>16</sup>

In addition, providing information through the Internet does not guarantee that the information is complete or is the type of information needed by citizens to make important decisions for themselves and their families. For example, the TAI-Ukraine team<sup>17</sup> studied a case involving groundwater pollution in five settlements of the Pervomaysk district of the Mykolayiv oblast caused by a number of extremely toxic chemical agents in 2000 (the so called “Accident in Boleslavchik”). Among all of the

**TABLE 2**

**CASE SELECTIONS EVALUATING QUALITY AND ACCESSIBILITY OF WATER QUALITY INFORMATION<sup>29</sup>**

| Country                   | Case Selection  | Quality <sup>30</sup> | Accessibility |
|---------------------------|---|-----------------------|---------------|
| Hungary <sup>31</sup>     | Information from four networks:<br>KoFe – the Environment Inspectorate has 12 regional institutes that monitor surface water quality<br>ANTSZ – County Health Officers Service Network has 19 institutes and supervises drinking water quality<br>VIZIG – Water Management Directorate<br>RIV – regional emission analyzing stations cover entire country | Intermediate          | Weak          |
| India                     | Information from the rivers network (“MINARS”) as well as Ministry of Environment and Forests, Central Pollution Control Board and 11 state Pollution Control Boards.<br>Assessed drinking water supply in municipalities of: Gwalior, Chiplun, Chandigarh  | Intermediate          | Weak          |
| Indonesia <sup>32</sup>   | Information from the Jakarta Clean River Program monitoring the Ciliwung River, a primary source of water for Jakarta.  | Weak                  | Weak          |
| Mexico <sup>33</sup>      | Information from the Lerma-Cutzamala Monitoring System, the principal water supply for Mexico City.   | Strong                | Weak          |
| South Africa              | Information from RandWater, a national supplier of drinking water.  | Intermediate          | Intermediate  |
| Thailand                  | Bottled water information from the Food and Drug Administration.<br>Tap water information from: Metropolitan Waterworks Authority, Provincial Waterworks Authority, Universal Utilities, a private water supply company in Chachengsoa province   | Weak                  | Weak          |
| Uganda                    | Information from a system monitoring the wastewater discharged into the Rukoki River (A source of water for local communities and their livestock) by the Kasese Cobalt Company Ltd., which extracts cobalt from pyrite about 400 km from Kampala.<br>Information from a drinking water monitoring system in Kampala.                                     | Weak                  | Weak          |
| United States: California | Information from the California Department of Health Services, Division of Drinking Water and Environmental Management, which oversees 8,700 public water systems; 35 county health departments cover smaller systems.  | Intermediate          | Strong        |

tests on public participation are in Table 3.

In developing the methodology, TAI concluded that three types of legal instruments and interpretations form the basis for participation: (1) constitutional guarantees supportive of public participation in decision-making; (2) provisions for notice and comment in sectoral policy-making; and (3) public participation provisions in environmental impact assessments (“EIAs”). Table 4 summarizes how well the TAI pilot countries articulated participation rights in constitutional and legal frameworks.<sup>20</sup> Among the nine pilot countries, only Thailand and Uganda provided an explicit constitutional right to public participation. The constitutions of the other seven pilot countries did not contain explicit guarantees of participation in decision-making. Legislation in only four of the pilot countries—Indonesia, Mexico, South Africa, and the United States—contained provisions establishing public notice and comment in decision-making for sectoral policies. The absence of public participation provisions for sectoral policies in the remaining pilot countries inhibits the integration of environmental concerns into decisions on policies and plans in such sectors as water and other infrastructure development.<sup>21</sup>

The TAI pilot tests indicated that given the weakness of legal provisions

indicators, the highest score was given to the presence of information about environmental emergencies on the Internet. This type of information is freely located on the website of the Ministry on Emergencies of Ukraine. However, the public had no access to on-line information about the impact of this environmental emergency on people’s health and environment, particularly about its effect on the quality of drinking water.<sup>18</sup>

**PUBLIC PARTICIPATION**

In addition to assessing access to information, the TAI pilot teams applied indicators to evaluate a number of characteristics of public participation in specific decision-making cases.<sup>19</sup> The overall findings from the TAI pilot

**TABLE 3**

**ACCESS TO PARTICIPATION SCORECARD<sup>34</sup>**

| Type  | Quality      | Accessibility | Over All     |
|---|--------------|---------------|--------------|
| Legal guarantees and provisions for participation                           | Intermediate |               |              |
| National policy-making on environmental issues                              | Strong       | Intermediate  | Intermediate |
| Regional, state, or local decision-making (state or local planning efforts) | Intermediate | Intermediate  | Intermediate |
| Specific projects with or without an EIA process                            | Weak         | Weak          | Weak         |
| National policy-making outside the environment                              | Weak         | Weak          | Weak         |

| <b>TABLE 4</b>  |  |  |  |
|---|--|--|--|
| <b>ARTICULATION OF PARTICIPATION RIGHTS IN CONSTITUTIONAL AND LEGAL FRAMEWORKS<sup>35</sup></b> |  |  |  |
| <b>Indicators</b>   | <b>Weak</b>  | <b>Intermediate</b>  | <b>Strong</b>  |
| Constitutional guarantees to public participation   | Constitution does not explicitly guarantee right to public participation in decision-making: Chile, Hungary, India, Indonesia, Mexico, South Africa, United States | No value offered: only two indicator choices were “strong” and “weak”  | Constitution guarantees the right to public participation in decision-making: Thailand, Uganda   |
| Comprehensiveness of notice and comment in different types of decision-making processes         | Types of policy- and project-level decisions requiring public notice and comment are not specified: Indonesia, Thailand  | Types of project level decisions requiring public notice and comment are specified, but types of policy-level decisions are not: Chile, Hungary, India, Uganda | Types of both policy- and project-level decisions requiring public notice and comment are specified: Mexico, South Africa, United States |
| Public notice and comment requirements for EIAs   | No requirement for public notice and comment for EIAs: Thailand  | EIAs require public notice and comment at final stage: Hungary, India, Indonesia, Mexico, Uganda   | EIAs require public notice and comment at various stages: Chile, South Africa, United States   |
| Source: Access Initiative National Team Reports   |  |  |  |

opportunities for the public to define the scope or parameters of particular projects or development activities were generally absent. In some cases, the failure to actively engage affected populations early on in the definition of individual development activities generated serious social conflicts. The Thai national team recorded severe and drawn-out conflicts among the government, project sponsors, and local communities regarding the approval of the Klong Dan wastewater treatment plant. The Thai analysis indicates that the absence of any public input when the national government defined the scope of the project and alternatives is at the root of ongoing conflicts about the plant’s siting and operation. Overall, most project-level cases failed to engage external stakeholders in the definition of the scope of the project, the identification of mitigation measures, or the exploration of alternatives.<sup>24</sup>

Recent TAI assessments indicate weaknesses in public participation in the water sector. For example, TAI-Estonia evaluated the inclusion of the public in drafting water management plans for nine sub-basins in Estonia. In the case of the Pandivere basin, the TAI-Estonia team found that the public was invited to participate in drafting the water management plan, was given reasonable time for commenting, and was incorporated into the final decision. However, from the perspective of engaging the minorities, the opportunity for public participation was negative. No special efforts were made to invite Russian-speaking people (approximately 5% or less of the population in the basin) to participate in the plan’s development. Although the law prescribes conditions for participation (e.g., time for commenting, number of meetings, etc.), the law does not require any measures to involve minorities.<sup>25</sup>

In evaluating other sectors having significant impacts on water, initial results show access to public participation is weaker than access to information. In conducting an assessment in 2004, the TAI-Ukraine team found it difficult to obtain empirical material related to public participation for the chemical sector. The team focused on the role of the public in the development of the National Environment Health Action Plan and the January 10, 2002 Law of Ukraine “On drinking water and water supply system.” The team found that there was no public participation in developing the above documents for the chemical sector, however, all of the documents were available and accessible to the public.<sup>26</sup>

### **CASE STUDY: A WATER EMERGENCY FOR HUNGARY**

The TAI-Hungary team’s<sup>27</sup> case study in assessing access to information and public participation in Hungary focused on the cyanide pollution of the River Tisza. The disaster occurred on January 30, 2000 near Baia Mare in Romania when a strongly poisonous, high concentration cyanide compound used during the preparation of ore entered into the tributaries of the Tisza River from the non-ferrous metal mine of the Australian-

for participation, practice can also be expected to be weak or, at best, intermediate. It is also likely that there are differences in the performance of different line agencies, since common standards for participation in sectoral policy-making are generally absent.<sup>22</sup>

In the original pilot tests, the TAI South African team used a water case study at the national level. They found that the water catchment maps and policy documents were both publicly accessible in physical locations. In South Africa, all regional water authorities posted draft maps and demarcations of water catchment areas for public comment and feedback. Considerable efforts were also made to consult with affected communities and public interest groups, and sufficient lead-time was provided for public comment, so South Africa scored strong on both quality and accessibility.<sup>23</sup> This may be attributed to the South African government’s identification of water as a priority area.

Across all project cases in the TAI pilot assessments, regardless of whether or not they included an EIA, most public authorities scored weak regarding accessibility in communicating to affected communities or public interest organizations that plans or processes were under way to grant an operating license, award a concession, or approve a development activity. The national teams also found that the difficulty of obtaining the rules on how permits, concessions, or operating licenses are awarded varied considerably—some were accessible on the Internet, while others require individuals requesting the information to justify their need for such information. Consequently,

Romanian joint venture Aurul SA Baia Mare Co. There was a breach in the tailing dam as a result of the pressure of accumulated ice. The leaking water and slime fell over the protection dam of the trap pool for almost two days. Interventions to reduce the pollution were unsuccessful. The pollution proceeded from the stream to the Szamos, then to the Tisza River, reaching the Hungarian border on February 1, 2000. The cyanide pollution devastated the entire Tisza in Hungary until only a dead river and a mass of dead fish remained.

A month later in the middle of March, several dams burst at Baia Borsa, Romania, resulting in different metals (e.g., copper, lead, and zinc) entering the rivers. This pollution series was the most serious environmental disaster that ever occurred in Hungary. The “bed washing” effect of the following all-time high flood wave fortunately diminished significantly the extent of the damages.

The TAI-Hungary team selected this case study because the pollution affected the sphere of authority of all the public administration bodies, with all of them playing a role in assessing and mitigating the damage and informing the public. The Government Commissioner’s Office coordinated all of this.

A half-day before the “cyanide wave” reached Hungary, the regional water management directorates were informed of the emergency first. The Romanian authorities sent the first measuring results in the afternoon of January 31, 2000 to the Upper-Tisza-Region Environmental Inspectorate. The first sign arriving from the Romanian part came on characteristically informal channels: both the disaster relief and the water management authorities consulted each other first confidentially, by telephone. A “higher level” official notification arrived only days later. It was extremely difficult to determine who was informed and how information was disseminated about the emergency.

The disaster relief organs immediately took the necessary measures in order to inform the population and to prevent accidents. With the help of local mayors, the local civil defense offices informed the public by loudspeaker about the necessary precautionary measures and about the water-withdrawal, usage of wells, and fishing prohibitions that entered into force. The press communicated these same warnings the following day. The effectiveness of information dissemination is inferred from the fact that no one came into contact and fell ill from the contaminated water.

The water management and the environmental authorities disseminated information to the public about the extent of the pollution and its consequences. The Upper-Tisza-Region Water Management Directorate communicated the daily water-quality measuring results. The director of the Upper-Tisza-Region Environmental Inspectorate decided to publish all of the information while at the same time reserving the right to make statements for himself alone, thus securing the control of authenticity of outgoing information.

A number of agencies took action. For example, the county health officers measured the quality of drinking water while the Fish-breeding Research Institute examined the survival of individual fish species. However, they played less of a role in

informing the public. Non-governmental organizations established their own information dissemination system.

A coordinating discussion took place on February 2, 2000 at the National Disaster Relief Chief Directorate with the participation of competent experts from the Ministry for Environment, the National Water Management Chief Directorate, the National Health Officer’s Service, and the National Disaster Relief Chief Directorate about the situation and the necessary measures. The authorities reacted quickly and professionally, according to the unanimous judgment of the public administration experts interviewed by the TAI-Hungary assessment team. While at the local level, the TAI-Hungary assessment team found the cooperation among the partner institutions working on the same field appropriate as well. This was also confirmed by the non-governmental organizations. Coordination problems appeared instead at the higher public administrative level. In particular, the Minister of Environment tried to reduce the seriousness of the situation in the first few days.

In addition, in the first few days, the public and non-governmental organizations considered the information confused and unsatisfactory. One could not assess exactly what type and what magnitude of pollution existed; governmental statements appeared to contradict the pictures showing masses of dead fish. The Ministry of Environment’s website had data on the situation but at some point, for unknown reasons, the information was removed from the site.

On February 15, 2000, the government appointed a Tisza Government Commissioner to strengthen coordination among the responsible departments. However, from the beginning, the new office could not carry out its task, as it did not have clear authority or financial resources. In terms of territorial institutes, it was unclear who was responsible for reporting; for example, the inspectorate was informed that the Ministry reports to the government commissioner’s office, but in spite of this, the office expected them to give reports. Simultaneously, the new institute was always open and helpful to non-governmental organizations. In contrast to the quick and adequate measures of public dissemination of the disaster, there was little information after the disaster and concerning lifting the restrictions. This was partly caused again by the unclear state of the spheres of authority, but by this time also the interest of the press diminished.

The Ministry for Environment controlled the assessment of the consequences and the longer-term effects. The Ministry ordered studies directly from VITUKI (Water Management Scientific Research Institute), and partly supported those carried out by non-governmental organizations and research institutes. Once prepared, however, the materials remained the Ministry’s intellectual property and the research results were not published. The Government Commissioner’s Office even had difficulty obtaining the VITUKI study. It was not published despite repeated requests by non-governmental organizations. Through their own channels, the environmentalists tried to spread the results—information that they obtained only through personal contacts.

The main task of the Tisza Government Commissioner's Office was to prepare an international convention about similar cases with a sphere of authority covering the whole catchment area. Neither they nor other institutes made a comprehensive retrospective evaluation about the measures of the "acute" period. A number of departmental authorities carried out evaluations of the case. However, none of these materials were assembled into a consistent system. In addition, no common action plan was prepared for the future.

Information and information dissemination problems arose in terms of the long-term management of water. It was never made clear when the disaster was over and what further precautionary measures the local population might need to observe. The Ministry for Environment kept the studies analyzing the long-term ecological effects from the public referring to its intellectual property right. Heated protests by non-governmental organizations arose as a result of the situation.

### CONCLUSION

The TAI assessments carried out thus far to assess access to information and public participation in decisions affecting

the environment indicate weaknesses in the quality and accessibility of information and participation opportunities in the water sector. Once the TAI water governance indicators are developed and used by civil society organizations across the globe, more information will be available identifying specific gaps in information disclosure, transparency, and accountability. This information will enable civil society, utility managers, and policy makers to gain systematic understanding of good process in the water sector, while identifying areas of strength and relative weakness in governance structures. This will also enable a dialogue among representatives of government, civil society, and the private sector in effective water governance as a means to move beyond the debate over privatization to one that centers on governments and international/regional institutions implementing good governance practices in the water sector. The recent case involving the lack of information dissemination about lead in the water supply of Washington, D.C. indicates that there is much work to be done even in developed countries to build good governance to ensure healthy water for people and nature.



## ENDNOTES: Improving Water Governance

<sup>1</sup> REGIONAL ENVIRONMENTAL CENTER, SZENTENDRE, HUNGARY, DOORS TO DEMOCRACY: PAN-EUROPEAN ASSESSMENT OF CURRENT TRENDS AND PRACTICE IN PUBLIC PARTICIPATION IN ENVIRONMENTAL MATTERS (June 1998).

<sup>2</sup> The Access Initiative ("TAI") is a global coalition of civil society groups dedicated to promoting the implementation of Principle 10 and closing the gaps between international commitments to information and participation and national laws and practices. TAI helps civil society organizations generate national-level assessments and monitor government performance through the use of an indicator toolkit developed by TAI partners. The interactive CD-ROM toolkit, *Assessing Access to Information, Participation and Justice for the Environment: A Guide (Version 1.1)*, helps non-governmental organizations and governments identify ways that their countries can improve public access to information, participation and justice. National assessments of law and practice for access were conducted in nine pilot-test countries with launches occurring in at least 20 more countries in 2004-2005. More information is available at [www.accessinitiative.org](http://www.accessinitiative.org).

<sup>3</sup> In creating the Partnership for Principle 10 ("PP10"), civil society organizations joined with governments, regional and global organizations at the World Summit on Sustainable Development to translate the results of TAI assessments into improved policy and practice. The PP10 builds on TAI, but is a distinct entity. While TAI is a civil society coalition focused on independent assessments of the access principles at the national level, PP10 works with a wide range of stakeholders including governments, international organizations, UN agencies, and civil society to review policy recommendations and translate the results of the assessments into law and practice. More information is available at [www.pp10.org](http://www.pp10.org).

<sup>4</sup> WORLD RESOURCES INSTITUTE, CLOSING THE GAP: INFORMATION, PARTICIPATION, AND JUSTICE IN DECISION-MAKING FOR THE ENVIRONMENT (2002).

<sup>5</sup> *Id.*

<sup>6</sup> Practice is assessed through case studies that national NGO coalitions

select. The methodology specifically measures the following: comprehensiveness and quality of the general legal framework for access to information, participation, and justice; degree of available access to selected types of information about the environment; degree of public participation in decision-making processes in selected sectors by actors in the development process at various levels; the accessibility of justice, both redress and remedy; and, comprehensiveness and quality of capacity building efforts to encourage informed and meaningful public participation.

<sup>7</sup> In 2001-2003, TAI conducted pilot assessments in nine countries to test its methodology and identify needs for improved access. The results described here are taken from the assessments found at [www.accessinitiative.org](http://www.accessinitiative.org) and the publication *Closing the Gap*, *supra* note 4. TAI has developed draft access to justice indicators that are being pilot tested in countries across the globe. Results will be available in early 2005. Finalization of the indicators will be carried out in 2005 as well as their incorporation into the TAI tool-kit.

<sup>8</sup> This paper highlights the water-related results from the pilot tests. This paper also provides information from more recent TAI assessments carried out in 2004 by TAI teams in Ukraine and Estonia, and a repeat assessment in Hungary.

<sup>9</sup> For the complete TAI assessments, more information is available at <http://www.accessinitiative.org>.

<sup>10</sup> *Supra* note 4.

<sup>11</sup> *Id.*

<sup>12</sup> Stockholm Environmental Institute-Tallinn led the TAI-Estonia assessment. The team assessed access to drinking water monitoring data in a small town in Southeast Estonia, where drinking water problems are known to exist and these problems represent the case of the whole region. The town is also representative in the terms of administrative capacity. The team found that there is a strong legal mandate for drinking water monitoring, but there is a problem with making this data public. The Ministry of Social Affairs has initiated a project for disseminating

ENDNOTES: Improving Water Governance *Continued on page 48*

drinking water monitoring data to the public via the Internet. The full assessment report, including this case study, is being finalized and will be made available on <http://www.accessinitiative.org>. Contact information is available at <http://www.accessinitiative.org/estonia>.

<sup>13</sup> Communication with TAI-Estonia team (August 8, 2004). The full assessment report, including this case study, is being finalized and will be made available on [www.accessinitiative.org](http://www.accessinitiative.org).

<sup>14</sup> *Supra* note 4.

<sup>15</sup> *Id.*

<sup>16</sup> Internet World Stats, *Top 20 Countries with the Highest Internet Penetration Rate*, at <http://www.internetworldstats.com/top25.htm>.

<sup>17</sup> EcoPravo Kyiv led the TAI-Ukraine assessment. The full assessment report (Assessment of the Access to Information, Participation in Decision-making and Access to Justice in Ukraine: Analytical Review), including this case study, is being finalized and will be made available on [www.accessinitiative.org](http://www.accessinitiative.org). It is currently available in English on CD-Rom from EcoPravo Kyiv. Contact information is available at [www.accessinitiative.org/ukraine](http://www.accessinitiative.org/ukraine).

<sup>18</sup> Communication with TAI-Ukraine team (August 2, 2004). The full assessment report, including this case study, is being finalized and will be made available on [www.accessinitiative.org](http://www.accessinitiative.org).

<sup>19</sup> Closing the Gap, *supra* note 4.

<sup>20</sup> The assessments were carried out in 2001-2003, and thus some of this may have changed since then. Repeat assessments have either started or will be commencing in 2004-2005 in Hungary, Thailand, Uganda, Chile, and India with plans to conduct repeat assessments in the other pilot test countries as well. Repeat assessments are part of the TAI approach to continually document progress on implementation of Principle 10.

<sup>21</sup> *Supra* note 4.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Communication with TAI-Estonia team (August 8, 2004). The full assessment report, including this case study, is being finalized and will be made available on <http://www.accessinitiative.org>.

<sup>26</sup> Communication with TAI-Ukraine team (August 2, 2004). The full assessment report, including this case study, is being finalized and will be made available on <http://www.accessinitiative.org>.

<sup>27</sup> The Environmental Management Law Association that provided this case study led the TAI-Hungary assessment. Contact information is available at <http://www.accessinitiative.org/hungary>.

<sup>28</sup> THE ACCESS INITIATIVE-UNITED STATES, AT THE FRONTLINES OF DEMOCRACY: STRENGTHENING THE PUBLIC VOICE IN STATE DECISIONS THAT AFFECT THE ENVIRONMENT (June 2004), available at <http://www.accessinitiative.org>.

<sup>29</sup> *Supra* note 4.

<sup>30</sup> Monitoring systems score weak on quality when they collect information for only a few parameters characterizing the quality of water.

<sup>31</sup> Obtained data from almost all 12 inspectorates and from 7 of 19 public health offices in four weeks. Seven of the 19 offices responded on drinking water.

<sup>32</sup> Indonesia submitted a single value for both air and water quality information.

<sup>33</sup> Mexico disseminates drinking water information at the state level but not by individual water supply.

<sup>34</sup> *Supra* note 4.

<sup>35</sup> *Id.*