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

THE PLANET MOURNS BERTA CACERES’ DEATH

There has been another cruel murder against defenders of indigenous rights and the environment, this time the death of activist BERTA CACERES, has shocked the world, indigenous peoples and the international community.

An unacceptable number of innocent people have fallen by the wave of violence against human rights activists in Honduras, and it does not discriminate. On Thursday, March 3, 2016, at 1:00 am, a brutal murder ended the fruitful life of Berta Caceres, a woman from the Lenca indigenous people, who waged a fierce battle against the Government of Honduras, transnational and hydropower companies in the process of appropriating natural resources that unfailingly belong to indigenous peoples, their mother earth.

The Honduran community demands that those responsible for this terrible crime will be tried and sentenced, impunity is not the answer. Also it is time that the government through its agencies, set high on the agenda the issuance of concessions and environmental permits for projects that do not meet the legal requirements including free and prior informed consent.

Lack of public information in Honduras is the genesis of countless protests by the population, as well as opposers, non-violent demonstrations and social conflicts lead to the silencing of those who have a voice by those who do not want to hear them.

YPF CONTINUES REFUSING TO PROVIDE INFORMATION ON THE AGREEMENT WITH CHEVRON DESPITE THE RULING OF ARGENTINA’S SUPREME COURT OF JUSTICE

The company YPF S.A., with majority state control, signed a secret contract with Chevron Corporation in 2013 for the exploitation of unconventional hydrocarbons (fracking) in the Province of Neuquen.

The company has systematically refused to reveal the contents of the contract claiming confidentiality clauses. Therefore, Senator Giustiniani (Socialist) submitted a request to access information to publicize the text of the contract which was never answered.

Thereafter, he filed a law suit on access to information (Law No. 25.6831 and Decree 1172/2003), reaching the Supreme Court. In November 2015 the Court ordered YPF S.A. to deliver a copy of the project agreement.

The ruling highlights the right of citizens to access information on the activities of companies with state participation, especially when it can affect the environment and quality of life of people. Notwithstanding this, and despite the deadline to submit the information in court, the company delivered the agreement with deletions, which makes reading the contract practically impossible.

The case shows the deficits in access to public information in Argentina. Greater enforcement is needed particularly regarding techniques, whose environmental impacts are still being discussed. Argentina has a law guaranteeing access to environmental public information since 2004.

BENEFITS OF CHANGE FROM PARTICIPATORY TO REPRESENTATIVE DEMOCRACY

With the signing of the Declaration on the implementation of Principle 10 (P10) of the Rio Declaration on Environment and Development in Latin America and the Caribbean (LAC), in 2012 at the UN Conference on Sustainable Development (Rio + 20) in Rio de Janeiro and the creation of the Roadmap, the presiding officers and Working Groups, a new paradigm was born in the discussion on international conventions in the region, thus integrating civil society as a legitimate partner in environmental governance.

2 Project Investment Agreement signed on 16 July 2013 between Y.P.F S.A. and its subsidiaries and Chevron Corporation for the joint exploitation of unconventional hydrocarbons in areas of North Loma La Lata and Loma Campana province of Neuquen.
Most LAC countries exercise representative democracy, however, this model has deepened inequalities between rich and poor and caused conflict and insecurity due to the disconnection between the authorities and the population. Principle 10 raises an opportunity to change this model making it more open to leaders and citizens.

This change of model taken by regional leaders of the signatory countries of the Regional P10 Agreement, allows direct and virtual public participation.

This level of participation in the negotiation of the Regional Agreement on P10 is more beneficial than simple representation where the public would be mere passive observers. As a result of this participatory model the contents of the documents being negotiated are enriched, it legitimizes and consolidates the process and serves as a guide for discussion of laws in our countries, and consequently this new paradigm seeks to diminish conflicts of interest and inequalities and leads to sustainable development, sustained economic growth and inclusive social development, protection of the environment and the eradication of poverty and hunger.

Some of the major challenges facing Latin America and the Caribbean (LAC) regarding social and environmental sustainability can only be adequately tackled with the informed participation of all stakeholders: governments, civil society organizations, private and business sectors and all citizens. This informed participation will result in the existence of a vigorous democratic system characterized by transparency, the influence of the public’s opinions about the decisions that affect them and the real possibility of the whole society to access to justice, especially in environmental issues.

Advancing the negotiation of a legally binding Convention on Principle 10 will strengthen environmental governance and the realization of the right to live in a healthy and sustainable environment. Additionally, it will provide a strong response to the demand for greater equality, inclusion and citizen participation as a mechanism for the prevention and mitigation of the growing socio-environmental conflicts in the region for the management of natural resources and ecosystems, which are basic requirements for effective implementation of the Sustainable Development Goals.

Thus, we can affirm that both Agenda 2030 and the process of the instrument on Principle 10 in Latin America and the Caribbean, agree that sustainable development cannot be realized without an atmosphere of peace and security to contribute to building fair and inclusive societies. A strong institutional framework is needed to guarantee the rights of access and reduce the emergence of multiple socio-environmental conflicts in the region.

This Agreement shall constitute for the LAC region an institutional political step of the utmost importance to sustainable development, considering that the existing institutions face great challenges to channel dialogue and decision-making, especially on the use of natural resources and the protection of human rights for the inhabitants of the region.

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The Conference of the Parties COP 21, held in December 2015, concluded with a document approved by 195 countries: the Paris Agreement, in which both developed and developing countries, committed to take action to move towards a low carbon economy.

Article 12 states the cooperation duty of the parties in the adoption of measures to improve education, training, awareness and public participation and public access to information on climate change.

To achieve compliance with this Article there should be an important base to advance other aspects, because ultimately, a starting point for effective action is the participation of all people at the appropriate level. However, it is a requirement that they understand what climate change is, how it affects each person and their community, how it is caused and, above all, how they are a part of the solution.

An important point of the agreement is the transparency mechanism which is mandatory for all countries and they have committed to provide information on their emissions and actions taken to reduce them. This will involve the development of national inventories.

They must also report on progress in the implementation and enforcement of their national defined contribution (NDC). Similarly, a more relevant issue is to report on the financial assistance they provide, technology transfer being utilized, etc. The agreement states that this information will be publicly reviewed by a panel of international experts.

Although mitigation actions and adaptation stand out in the Agreement, all countries should apply to implement actions on access to information as a means to achieve better results.

Protecting environmental defenders requires action to prevent threats and provide security for citizens who are making their voices heard. It requires creating fair and equitable forums for decision-making about potentially environmentally destructive or damaging projects, such as dams, highways, mining sites, factories and more. It requires early notification, consultation and consent from indigenous communities to use their natural resources. It also requires judicial systems that work to hear the grievances of those most affected. And it requires that governments recognize community’s traditional use of natural resources and their rights to land and territory.

Moreover it is the government’s duty to level the playing field between communities and often powerful corporate actors. Even more care must be taken when governments themselves are proposing mega infrastructure projects to boost economic development.

Governments around the world should evaluate their national laws—or lack thereof—designed to protect citizens’ environmental democracy and procedural rights. States in the Latin America and Caribbean (LAC) region in particular could commit to the LAC Principle 10 Regional Declaration, a process governed by the UN Economic Commission for Latin America and the Caribbean (UNECLAC) to develop new standards for laws on procedural rights and the protection of environmental defenders. This opportunity cannot be wasted.