

Mexican Right-to-Know Boosters Should Build Bridges to Environmental Disclosure Law

By Talli Nauman | April 13, 2005

*"The right of access to information has no meaning if people cannot use information to improve the quality of their lives."
—Declaration of Civil Society at the February 2005 International Conference of Information Commissioners in Cancun, Mexico.*

Mexico's official information barrier is very hard to crack. Five years after conception, the new federal freedom of information act has become a celebrated cause, but it remains a limp muscle barely flexed. What's worse, after 10 years of activism, the wherewithal still is lacking to implement the national pollutant register, the country's most advanced tool for public disclosure and accountability.

To date, many community right-to-know (RTK) advocates have failed to connect the dots between the campaign for the application of the applauded Federal Transparency and Governmental Public Information Access Law and the endeavor to achieve the lesser-known Pollutant Release and Transfer Register (PRTR). The gap is detrimental to the cause of building a more informed and democratic society. But if supporters make a concerted effort to specifically link the two issues, the positive impact could be notable.

Mexico's National Pollutant Register

On paper, Mexico's environmental law is the country's leading legislation for unlocking official information. It was the first to promise public access to federal documents, beginning nine years ago. The 1996 reform of the General Ecological Equilibrium and Environmental Protection Law incorporated a chapter stating that everyone merits access to any information environmental authorities have about the ecosystem and activities or measures that may affect it.

But then case studies by the Mexican nonprofit *Presencia Ciudadana Mexicana* showed that the environmental secretariat possessed very little of the information that environmentalists sought. Activists championed another reform of the same law in 2001. It consists of an article to guarantee a useful database by establishing mandatory, site-specific reporting of industrial toxic waste for a public inventory, or PRTR.

Nonetheless, the environmental law's open-records clauses have had little real meaning. A decade after the crusade for the PRTR began, compulsory filing and disclosure have yet to be implemented. Publication three years ago of the general freedom of information act was expected to help veteran environmental RTK reformers secure the coveted data. However, so far the new law hasn't been of much use for that either.

PRTR Reform Has 3 Strikes Against It ...

Mexican President Vicente Fox signed the Freedom of Information Act in June 2002. Born of a citizen movement that began in February 2001, the legislation took effect on July 12, 2003. In contrast to that three-year history, the PRTR movement traces its beginnings to 1995. Fox signed the reform authorizing it on Dec. 31, 2001, six months before he ratified the Freedom of Information Act, and implementation remains an unfulfilled demand. This begs the question: What's holding back the PRTR directive?

The PRTR campaign involves a component not present in the one for application of the general transparency law. It goes far beyond the clamor for record keeping and access to data about government activities: It requires creation of an inventory of private activities that is open to the public. Similar inventories exist in other countries. But in Mexico, the idea has made enemies in the private, productive sector, who are accustomed to influencing decisions with money and keeping their dirty secrets to



themselves. What's more, these enemies have some friends in high places.

Not only do PRTR boosters face these foes, they face them with considerably less funding than that available to promote the general right-to-know movement.

To give just a tiny example in the realm of organized civil society: One single nongovernmental organization (NGO), receives around U.S.\$455,000 for approximately a one-year period from three of its patrons for work on freedom of access to government information. The money comes from the U.S. tax-funded private National Endowment for Democracy, the Global Opportunities Fund sponsored by the British government, and the private, New York-based Open Society Institute. The organization also has other major benefactors for the cause. What's more, the group is just a fraction of a U.S.-Mexico coalition that includes eight others specifically funded to promote RTK in the interest of human rights. As a result, its potential as a compelling force is great.

In stark contrast, an NGO that helped lead the electronic network responsible for bringing together dozens of groups for the mobilization that achieved the PRTR legislative reform was forced to close its door this year due to lack of financial support. Most PRTR advocacy is being conducted on a strictly volunteer or ad hoc basis.

Likewise, on the governmental scene, the financial picture is relatively bleak for pollutant register advancement. The annual budget for the Federal Public Information Access Institute (IFAI), established to operate the freedom of information act, is in the realm of U.S. \$20 million annually. Some 200 people work in administering it. Meanwhile, the handful of civil servants assigned to PRTR development has no expense account for participants in its advisory committee meetings.

As for the media world, exercising the general transparency act has been a strong concern since the inception of the Oaxaca Group that achieved its passage. Among its advisory council members are the top managers of the most important national media outlets. In contrast, NGOs have worked with reporters to explain and obtain coverage of PRTR, but news businesses are not involved in encouraging its establishment. The media companies must take into consideration that among their advertisers and investors are industry chamber and industrial sector representatives who oppose the measure.

...But It's Not Out

NGOs, government, journalists, and foundations have a history of missed opportunities when it comes to breaking the information barrier by linking the efforts to make these two access instruments effective in Mexico. But they can extrapolate from lessons learned in actions to defend the Freedom of Information Act (FOIA) and the Toxic Release Inventory in the United States. Several simple steps to improve collaboration soon should become obvious and worthy of support.

An NGO coalition including environmental groups signed a covenant Nov. 19 with IFAI to carry out joint training and other activities to help citizens make use of the mechanisms now available to delve into government records. The coalition is supported by The Access Initiative, a global coalition of public interest groups collaborating to promote national-level implementation of commitments to access to information, participation, and justice in environmental decisionmaking. But the commitment includes no cross reference to work on PRTR.

IFAI hosted the third annual International Conference of Information Commissioners Feb. 20-23 in Cancun for the express purpose of getting stakeholders from "all walks of life to recognize and disseminate the power of the right of access to information and its impact on people's life, public deliberation, and the exercise of power." But PRTR was not on the agenda.

Atlal is an electronic news medium exclusively dedicated to information access issues. Its website and weekly newsletters draw on U.S. Agency for International Development financing to promote transparency and combat corruption in Mexico. It does not publish articles on PRTR.

These examples illustrate the failure to comprehend the relationship between the country's top information access tools. The oversight can be corrected. The Nov. 19-20 border conference *Both Sides of the Story*, organized by the Mexican nonprofit *Centro de Periodismo y Ética Pública* provided one of the rare occasions when a freedom-of-information effort addressed PRTR. That exception to the rule can be chalked up to the volunteerism of a couple of environmental advocacy journalists involved in cross-border cooperation.

By comparison, PRTR work is part and parcel of FOIA work in the developed world. Concern over civil and human rights prompted the European Community and 36 individual countries to adopt a legally binding interna-

tional protocol on PRTRs in 2003 as part as the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. In the United States, during Sunshine Week (March 13-19) this year, the Society of Environmental Journalists First Amendment Task Force made the Toxic Release Inventory just as much a highlight of activities as the filing of FOIA requests. Development Gateway Foundation's Environment portal collected and disseminated input on PRTR for the non-profit's quarterly *Special Report on Public Transparency: What Works?*, launched April 11. The National Security Archives and Woodrow Wilson Center treated issues related to PRTR at their Washington, DC conference April 14 on *Building Transparency in Practice: Mexico in Comparative Perspective*. The OMB Watch's *Working Group on Community Right to Know* garnered private foundations' funding to promote the part of its agenda dedicated to PRTR work in the *Next Generation of Right to Know Conference* for NGOs in Washington, DC, May 12-14.

Similar initiatives are needed to bring the two agendas together in Mexico. NGO representatives with a history of PRTR experience should sponsor meetings with media directors to brainstorm on ways of implementing the register and making it effective. Organizers should make sure that PRTR information and links are posted at general RTK sites on the Internet and vice-versa. Likewise, they should put both issues together on the agendas of conferences and coalition work, explaining how the two move toward a common goal. More forums should be held to involve new constituents in cross border cooperation. For all of this, donors and budget makers should break with the prevailing convention of simplistically assigning money to general or environmental RTK. They should explicitly earmark funding to strengthen PRTR progress as part of the community RTK effort.

The pollutant register and the freedom of information act are two spigots that open into the same spout. The sooner they are both turned on all the way, the sooner the pressure will rise to unloose the information that society needs for more participatory governance, and the sooner people will be able to improve their quality of life.

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RESOURCES:

RETC: 27 estudios de caso de solicitud de información ambiental al gobierno federal, Presencia Ciudadana Mexicana

Web: <http://www.presenciaciudadana.org.mx/acceso/acceso.htm>

National Endowment for Democracy

Web: <http://www.ned.org/>

Global Opportunities Fund

Web: <http://www.fco.gov.uk/>

Open Society Institute

Web: <http://www.soros.org/>

The Action Initiative

Web: <http://www.accessinitiative.org/>

Innovación México - Proyecto Atlatl

Web: <http://www.atlatl.com.mx/>

El Colectivo por la Transparencia

(Academia Mexicana de Derechos Humanos; Alianza Cívica; Consorcio para el Diálogo Parlamentario y la Equidad; DECA-Equipo Pueblo; Fundar, Centro de Análisis e Investigación; y Presencia Ciudadana Mexicana)

Web: <http://www.mexicotransparente.org.mx/>

IFAI

Web: <http://www.ifai.gob.mx/>

Centro de Periodismo y Ética Pública Border

Conference: Both Sides of the Story

Web: <http://www.cepet.org/nlarinfo.htm>

Society of Environmental Journalists First Amendment Task Force

Web: <http://www.sej.org/foia/index6.htm>

Development Gateway Foundation

Special Report on Government Transparency: What Works?

Web: <http://topics.developmentgateway.org/special/transparency>

National Security Archive

Web: <http://www.gwu.edu/~nsarchiv>

OMB Watch Working Group on Community Right to Know

Web: <http://www.rtknet.org/>

Aarhus Convention Protocol on Pollutant Release and Transfer Registers

Web: <http://www.unece.org/env/pp/prtr.htm>

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