

Mexico's Right-to-Know Movement

AMERICAS PROGRAM, INTERHEMISPHERIC RESOURCE CENTER (IRC)

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As Latin American countries move toward consolidating democratic societies, grassroots groups are championing the issue of freedom of information as a basic element in achieving participatory governance.

In Mexico, decisionmakers have long operated behind closed doors, and access to both government and corporate information has been extremely limited. For years, citizens and activists have been insisting on greater transparency and the unlocking of official records, company data, and government archives. In the early 1990s, as Mexico's environmental movement began to rally around the issue of the North American Free Trade Agreement (NAFTA), public demands for more access to environmental statistics emerged as a distinct right-to-know (RTK) movement. After NAFTA's implementation, organized Mexican civil society renewed its efforts to push for reforms to Mexico's federal environmental law that would enshrine the right to information and require public, site-specific annual reports by industry about wastes produced, stored, and transported. Such requirements have been on the books in the United States since 1986 and in Canada since 1993. Access to specific information



Maria Esther Cortés, member of Colectivo Ecologista de Jalisco, longtime Mexican NGO advocate of comparable North American PRTRs.

Photo by Talli Nauman

CHALLENGES IN IMPLEMENTING MEXICO'S ENVIRONMENTAL RIGHT-TO-KNOW LEGISLATION

- Government-held information is traditionally well guarded in Mexico.
- Insufficient federal funding has been allocated for application of RTK rules.
- Government and industry face technical difficulties in the implementation of new RTK legislation.
- Turnover in government employees complicates implementation of new rules.
- Lack of funding for coordinated follow-up on RTK work hampers NGO effectiveness.
- Weak coverage of the issue by conventional media outlets means low public interest.

allows citizens to learn exactly what environmental risks are posed by local industry, helps foster voluntary compliance with environmental regulations and economic efficiency for businesses, and aids policymakers in determining coherent courses of action.

NAFTA's environmental side accord, and the North American Commission on Environmental Cooperation (CEC) that it established, provided an important backdrop for RTK work in Mexico. NAFTA negotiators determined that the CEC could not be involved in lobbying, but regional information sharing and discussions on environmental policy coordinated by the CEC helped put the environmental RTK issue on the official agenda in Mexico.

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RTK ACCOMPLISHMENTS AND SETBACKS

ACCOMPLISHMENTS

- Passage of legislation establishing an environmental toxics release inventory.
- Formation of an NGO-organized National Right to Environmental Information Network focused on PRTR issues.
- Passage of a Federal Transparency and Governmental Public Information Access Law.
- Creation of two new NGOs aimed at watchdogging implementation of the Federal Transparency and Governmental Public Information Access Law.
- Creation of a multi-sector PRTR advisory committee that includes NGO representation.

SETBACKS

- Delays encountered in implementation of the new PRTR law.
- Final list of substances subject to PRTR reporting still being developed.
- Environmental NGOs on PRTR advisory committee still outweighed by industry.
- SEMARNAT announcements for meetings on rulemaking still made with short notice.
- Scuttling by corporate interests of NGO recommendations for sanctions against factories that falsify reports.
- PRTR information only available via written, paid request.

In 1997, Mexico established a voluntary pollutant reporting system nationwide, but fewer than 5% of Mexican industrial sites used the system to share information on their operations. Then, Mexico's 2000 elections brought a new political party to the presidency for the first time in 71 years, initiating a period of democratic reform. With CEC programs providing important, nonpartisan input to the RTK debate, coordinated advocacy by environmental groups helped build the political will to make the pollutant reporting system mandatory. On December 15, 2001, Mexico's Congress passed a reform of the environmental law calling for the creation of a Pollutant Release and Transfer Register (PRTR) comparable to

those in the United States and Canada and stipulating mandatory participation by industry. The measure set a precedent by making the environmental law the first federal law in Mexico to include a clause requiring public access to information in government registers. Among the pioneers in the campaign for the Mexican PRTR were Informa, Proyecto Fronterizo para la Educación Ambiental, Enlace Ecológico de Agua Prieta, and Comité Cívico de Divulgación Ecológica.

The movement to achieve reform in the environmental arena was more than an outgrowth of the trend, initiated under NAFTA, to achieve parity in environmental regulations between Mexico, Canada, and the United States. It was also grounded in the larger tendency in Mexico toward citizen-led democratic transparency and reform. Though long in coming, recent high-profile manifestations of this citizen effort include the Institutional Revolutionary Party (PRI) loss of its political monopoly and Fox's fulfillment of his campaign pledge to open classified files on government human rights violations during Mexico's "Dirty War."

A number of other Fox campaign promises were put on the back burner, including creation of a new national law establishing each citizen's right to obtain access to information. But taking their cue from the environmental RTK movement, a group of Mexican academics and journalists successfully lobbied on behalf of a measure allowing such public access, which Fox signed into law in June 2002. The *Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental* (Federal Transparency and Governmental Public Information Access Law) fills gaps in the environmental law, giving Mexico the best of only three laws of this nature in Latin America. Now citizen groups are hard at work making sure that both the environmental and the general RTK laws receive adequate governmental attention and are effectively implemented.

Setbacks, Accomplishments

Early in the Fox administration, NGOs had no trouble extracting a commitment to create a mandatory PRTR from Fox's new Environment and Natural Resources Secretary Victor Lichtinger. While serving as the first executive director of the CEC, Lichtinger had been an outspoken advocate for full access to environmental information. His public pledge as environment secretary to put the mandatory register into law within the Fox administration's first year was the only green agenda item that enjoyed such status.

Nonetheless, his staff repeatedly fell behind in efforts to put teeth into the reform. They claimed that a lack of resources and turnover of employees slowed down the process. Communication between different government offices was also a problem. As a result, long-established plans for PRTR development fell through the cracks. Additionally, media coverage of the PRTR drive was scant, since environmental reporting is usually given short shrift in Mexico, and the specific topic was difficult to explain to a general audience.

As Mexican NGOs met official resistance, PRTR progress lagged, and Canadian and U.S. NGO members of the North American PRTR Advisory Group began to have doubts. At a roundtable on the subject, sponsored by the CEC in March 2001, NGOs from north of the border questioned whether the Mexican government was serious about creating a PRTR and whether they should continue to divert energy and resources to the cause. For their part, Mexican NGOs expressed a desire for ongoing cross-border exchange of information and orientation. The CEC responded by initiating a trilateral Ad Hoc Group of 12 volunteers from NGOs, academia, and industry as an adjunct to its advisory group in order to promote what it called innovative uses of the PRTRs throughout North America. The upshot was a mountain of publicity, leaflets, balance



sheets, workbooks, studies, and electronic resources demonstrating the utility of PRTR reporting to all sectors.

By the time Mexico's Environment and Natural Resources Secretariat (SEMARNAT) submitted its proposal for the PRTR reform to Congress in late 2001, Mexican NGOs had developed enough experience and cohesiveness to lobby federal deputies and senators to improve upon the proposal before passing it. Greenpeace Mexico parleyed with legislators to achieve wording that other groups had been promoting for several years.

In the first week of December 2001, when the reform passed overwhelmingly in both chambers of the legislature, the National Ecologists Encounter was in session to celebrate. Representatives of 54 NGOs from 26 different states voted unanimously to form a broader electronic National Right to Environmental Information Network to involve more people in making the PRTR work to increase access to government archives. Helping Presencia Ciudadana Mexicana and the Centro Mexicano para el Derecho Ambiental (CEMDA) organize the new network were the nonprofit groups Alternativa Ciudadana 21 and Unión de Grupos Ambientalistas.

However, the new network suffered from a lack of administrative capacity, and the previous PRTR core network lost steam when its

SEMARNAT Secretary Victor Lichtinger reporting to the Commission on Environment, Natural Resources, and Fisheries of the Mexican Senate, October 15, 2002.

Photo courtesy of SEMARNAT.

funding dwindled. This breakdown in communications and support, coupled with a number of technical difficulties that SEMARNAT and industrialists confronted in



John Block, Regina Barba, Laura Durazo, and Erica Phipps at CEC PRTR meeting, March 2001, Mexico City.

Photo by Miguel Ángel Torres

the reform implementation process, has diminished the potential for the new PRTR to live up to hopes for maximum effectiveness. Industrial facilities are expected to report their 2002 toxic discharges during the July-September quarter of 2003 (delayed several times from earlier proposed dates), but the official standards for substances to be itemized are still undetermined. For the time being, industry will document substances included in a list the government established when reporting was still voluntary; that list is attached to the regulations adopted under the reform of the environmental law creating the mandatory, public PRTR system.

The regulations were hashed out with input from a multi-sector PRTR advisory committee, a body that Mexican environmental organizations in the RTK movement had worked long and hard to establish. Through this committee, NGOs are making their recommendations known to authorities, as rules, standards, and reporting methods under the law are discussed.

But getting to this point has been a tortuous process, and the current level of participation is modest, as environmental NGOs are heavily outweighed by industry on the advisory committee. NGOs have fewer resources than

the business sector participants, and most are located far from Mexico City, where SEMARNAT convokes the committee meetings. Members also note that SEMARNAT's invitations to attend meetings and to submit comments are sent on short notice, not allowing participants adequate time to respond.

Due to these structural and functional flaws, many NGO representatives have been unable to take part, and others have not been fully involved, hampering input. In fact, it's questionable if NGO participation has been more than symbolic in the current phase of PRTR implementation. Green NGO recommendations for language requiring sanctions against factories that falsify reports were included in the second draft of the regulations but were strongly opposed by corporate interests. Grassroots suggestions that PRTR information should be available without written request and at no cost were ignored in the second draft. This attitude implies that drafters of the regulations are inclined to do business as usual, without challenging Mexico's legal legacy of requiring information requests in writing at the expense of the solicitor.

NGO participants have repeatedly asked—to no avail—that authorities help defray travel expenses to make their participation feasible. They have also requested a clause in the regulation that would provide government funding for their participation in the two-year reviews of the standards dictating what substances must be detailed in the PRTR. Financial support for a similar committee was key to its functionality at the beginning of the effort to establish the Mexican PRTR. And aid from the UN Institute for Training and Research (UNITAR) for the National Coordinating Group was the catalyst for the creation of the multi-stakeholder collaboration that brought to fruition the reform of the register. The aid resulted from an initiative of the Organization for Economic Cooperation and Development (OECD), after 150 heads of state at the Earth Summit

in Río de Janeiro adopted Agenda 21 and its Chapter 19, calling for PRTRs and promoting people's right to know.

Similarly, the CEC has provided key support for NGOs involved in the PRTR effort since 1995, when the NAFTA countries first declared their determination to achieve comparable registers. It underwrote Emisiones Virtuales, a project of the Mexico City-based group La Neta that set up an internet site about toxic wastes, created a listserv for organizations working on toxic reporting issues, and held workshops to broaden the PRTR movement. The CEC also financed the Colectivo Ecologista de Jalisco workshops for industrialists about filling out government paperwork to conform to the PRTR and helped Presencia Ciudadana Mexicana convene a conference on environmental RTK issues and similar meetings that brought other sectors to the table. These organizations and others, including Fronteras Comunes, Greenpeace Mexico, Cemda, and Periodismo para Elevar la Conciencia Ecológica, have also garnered support from the CEC to take part in its North American PRTR Advisory Group.

As citizen groups work on PRTR implementation, the June 2002 publication of the Federal Transparency and Governmental Public Information Access Law is expected to help them gain access to environmental documentation and other data. The content of the law is the result of an alliance between academics, media organizations, and human rights NGOs initiated in February 2001 with a series of 15 meetings organized by the Program in Freedom of Information at the Ibero-American University in Mexico City. Members of the alliance, dubbed the Oaxaca Group, drafted a bill on the right to information, prompting the Fox administration to submit its own proposal on the subject to Congress. The Oaxaca Group deemed the administration's version faulty, however, and successfully lobbied Congress to sponsor the Oaxaca initiative instead. Due to media involvement in the Oaxaca Group process,

ample news coverage was instrumental in the bill's passage and its ratification by the president.

Members of the Oaxaca Group have now gone on to form two NGOs, the Fundación Información y Democracia (FIDAC) and Libertad de Información México (LIMAC). These NGOs are working on the implementation of RTK legislation scheduled to take effect on July 12, 2003. By that date, the government is supposed to be ready to respond to citizen requests for information, and the new NGOs want both the parties who solicit and those who must respond to get ready. FIDAC's role is to promote the RTK tool by analyzing its importance to democracy in studies, seminars, publications, interdisciplinary workshops, educational program designs, and congresses that root the issue in a comparative, international context. LIMAC's tasks overlap some with FIDAC's; in addition, they include monitoring and contributing to right-to-know rulemaking, training journalists in using right-to-know clauses, developing a system of documentation and publication on the subject, and instigating state chapters to make right-to-know legislation work at the local level. FIDAC and LIMAC are also working to broaden involvement in their efforts by other stakeholders.

Local and Global Linkages

The CEC is continuing both its program on PRTRs and its support of NGOs raising RTK issues on the premise that public participation in strengthening pollutant registers is crucial to minimizing negative impacts of free trade, especially in developing parts of North America that are most susceptible to such impacts. The commission is also linking participants in the PRTR program with those in its other programs, reasoning that access to environmental information is a necessary underpinning for the decisionmaking and action needed to achieve cooperation in conservation.



CEC PRTR meeting,
November 2000, Tijuana.

Photo by Talli Nauman

The track record of U.S. and Canadian nonprofit groups in using PRTRs as an organizing tool points the way for Mexican organizations to use PRTR data to clean up local communities. For example, Environmental Defense runs a website that shows how the register reflects on any given U.S. community. The Working Group on Community Right-to-Know and the Washington, DC-based Right-to-Know Network send speakers armed with information packets to trilateral conferences to share their experiences in practical applications of the U.S. register's information. Similarly, the Canadian Institute for Environmental Law and Policy publishes a citizen guide to Canada's register that explains how to convert PRTR knowledge into environmental action. Institute representatives are meeting with Mexican NGO counterparts to discuss how they have involved groups in employing the register at local and national levels.

The ongoing efforts to make the Mexican PRTR a truly effective mechanism for environmental protection are in sync with global trends. Most developing nations still don't have guarantees of mandatory, public pollution reporting. UN and OECD initiatives are promoting this worldwide as part of their mandate to bolster the concept of sustainable development defined at the Earth Summit a decade ago. An OECD survey found that eight member countries have PRTRs, and eight more are developing them. Across the

Atlantic, the Aarhus Convention of the Economic Commission for Europe has created a PRTR Task Force to promote integration of national registers and each citizen's right to know. Meanwhile, a multi-country group known as the Intergovernmental Forum on Chemical Safety is encouraging industrializing countries to design pollutant registers.

However, international support for Mexican PRTR development pales in comparison with efforts aimed at encouraging effective application of the new *Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental*. A number of foreign institutions concerned with democracy building have been backing the effort to create an overarching RTK framework in Mexico. The World Bank and USAID were among the first international agencies to lend their expertise and money to the Oaxaca Group. Not far behind came such organizations as the British Program in Comparative Media Law and Policy, the Washington, DC-based International Center for Journalists, the National Endowment for Democracy, and the Konrad Adenauer Foundation.

Although the effort to achieve an effective freedom of information access law is much better-funded than the PRTR drive, the Oaxaca Group's spin-off organizations are hoping to use their financing to support the environmental RTK campaign, to oversee effective implementation of the general law, and to improve access to government information.

Pressure from the grassroots was crucial in putting both the general and green RTK measures on the books. Now that these right-to-know guarantees are finally on paper, the remaining challenge is translating them into reality.

—Talli Nauman

Resources

NATIONAL AND INTERNATIONAL AGENCIES

Canada—National Pollutant Release Inventory (NPRI)

Tel: +(819) 953-1656
Web: http://www.ec.gc.ca/pdb/npri/npri_home_e.cfm
Email: npri@ec.gc.ca

Mexico—Registro de Emisiones y Transferencias de Contaminantes (RETC)

Semarnat, Dirección de Gestión Ambiental
Tel: +(52 55) 5624-3470
Web: <http://www.semarnat.gob.mx/>
Email: sesanchez@semarnat.gob.mx

North American PRTR Project, Commission for Environmental Cooperation (CEC)

Tel: +(514) 350-4300
Web: <http://www.cec.org/>
Email: info@ccemtl.org

United States—Toxics Release Inventory (TRI)

Tel: (202) 260-1531
U.S. toll-free: (800) 424-9346
Web: <http://www.epa.gov/tri/>
Email: tri.us@epa.gov

MEXICAN NGOS

Alternativa Ciudadana 21

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Web: <http://www.alternativa21.org.mx/>
Email: alternativa@alternativa21.org.mx

Asociación Civil Libertad de Información-México A.C. (LIMAC)

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Web: <http://www.limac.org.mx/>
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Centro de Derecho Ambiental del Noreste de México

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Centro Mexicano de Derecho Ambiental (CEMDA)

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Web: <http://www.cemda.org.mx/>
Email: general@cemda.org.mx

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Email: presenci@prodigy.net.mx

Proyecto Fronterizo de Educación Ambiental

Tel: +(52 664) 630-0590
Email: ambiente@proyectorfronterizo.org

Unión de Grupos Ambientalistas (UGAM)

Tel: +(52 55) 5574-0217
Web: <http://www.union.org.mx/>
Email: ugam@laneta.apc.org

U.S. AND CANADIAN ORGANIZATIONS

Canadian Institute for Environmental Law and Policy

Tel: +(416) 923-3529
Web: <http://www.cielap.org/contact.html>
Email: cielap@cielap.org

RTK-NET

Tel: (202) 234-8494
Web: <http://www.rtk.net/>
Email: helpdesk@rtknet.org

Working Group on Community Right to Know

Tel: (202) 544-9586
Web: <http://www.crtk.org/>
Email: paul_orum@yahoo.com

WEBSITES

Aarhus Convention

<http://www.unece.org/env/pp/>

Environmental Defense Scorecard

<http://www.scorecard.org/>

Fundación Konrad Adenauer

<http://www.kas.de/stiftung/spanisch/intro.html>

PRTR Project, Organization for Economic Cooperation and Development (OECD)

<http://oecd.org/ehs/prtr/index.htm>

United Nations Institute for Training and Research (UNITAR)

<http://www.unitar.org/>

Universidad Iberoamericana Santa Fe Ciudad de México

<http://www.uia.mx/>

ONLINE READING

“La participación ciudadana en el RETC: Una experiencia para hacer efectivo el ‘derecho a la información’” |

Gildardo Acosta, Enlace Ecológico

http://www.laneta.apc.org/emis/carpeta/tarjeta_emisiones.htm

Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental (Federal Transparency and Governmental Public Information Access Law)

[http://www.limac.org.mx/leyes/LeydeTrasparenciayAccesoalaInformaciónPúblicaGubernamental\(pub.DOF\).doc](http://www.limac.org.mx/leyes/LeydeTrasparenciayAccesoalaInformaciónPúblicaGubernamental(pub.DOF).doc)

Ley General del Equilibrio Ecológico y Protección al Ambiente (General Ecological Equilibrium and Environmental Protection Law)

http://www.semarnat.gob.mx/marco_juridico/index.shtml

“Manual para el Acceso y Uso de la Información sobre Emisiones Contaminantes” | Presencia Ciudadana Mexicana

<http://www.presenciaciudadana.org.mx/accesoderecho1.html>

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<http://www.ombwatch.org/execreport/>

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<http://www.laopinion.com/editorial/?rkey=00030131200300722117>

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“Taking Stock: North American Pollutant Releases and Transfers” | North American PRTR Project, CEC

<http://www.cec.org/>

Other CEC publications on PRTRs

http://www.cec.org/pubs_docs/scope/index.cfm?varlan=english&ID=13

Text of the decree that created the mandatory, public PRTR in Mexico

http://www.semarnat.gob.mx/marco_juridico/federal/ref-legepa.shtml

“The World’s Right to Know” | *Foreign Policy*, July/August 2002

<http://www.foreignpolicy.com/>

“¿Un tóxico nos ataca?” | Emisiones-La Neta

<http://www.laneta.apc.org/emis/carpeta/>

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