



THE
CARTER CENTER



E-Newsletter on Access to Information and the Environment

November- December 2004 VOL 2

Welcome to volume 2 of the access to information *e-newsletter*, with this month's focus on access to environmental information. The objective of this *e-newsletter* is to create a forum for the exchange of information and ideas about Jamaica's Access to Information Act and to provide an opportunity to focus on specific issues, themes, and news relating to the public's "Right to Know." We hope that through the distribution of this *e-newsletter* we can raise awareness of the Access to Information Act in Jamaica and encourage people to use this new right.

With support from The Carter Center, the Jamaica Environment Trust has prepared volume 2 of this *e-newsletter*. In this volume, they share the importance of environmental information for all people and the experiences of environmental nongovernmental organisations all over the world in their use of "right to know" laws.

We invite all civil society organisations and individuals to provide articles and comments for future *e-newsletter* editions, and thus produce a newsletter that focuses on your issues of interest, whether housing benefits, women and children's rights, education, human rights, crime, welfare benefits, infrastructure, health, etc. The Carter Center will provide editorial support and can assist you in developing story ideas. Please feel free to forward this *e-newsletter* to friends, colleagues and relatives.

In this edition you will find articles and case studies on:

Have you ever wondered about the quality of the water you drink or the beach

There is a whole host of environmental information that, without making a request for information under the new law, would not easily be obtained.

Such information might include:

1. The policy rationale and background to decisions made related to permits and licenses, and their conditions. For example, why one company is required to monitor their environmental impact monthly and another similar company only asked to do so on a quarterly basis.
2. Information on proj7con tea78T3Nhivdites()TJ0 Tc 0.2282 Tw 1837.7 0 Td[tha causey

Akila Anderson, JET

Select information relating to the Jamaican environment already is available to the public. A quick reconnaissance of any “environmental organisation” in or out of government will likely reveal an overwhelming array of reports, studies, compendiums, policy papers, and other documents. There also are a growing list of local Web sites, some courtesy of foreign-funded projects such as the Ridge to Reef (USAID), and a proliferation of leaflets, booklets, CDs, and other material geared toward public education.

Governmental Web sites are great resources for current environmental information. See

National Environment and Planning Agency (<http://www.nepa.gov.jm/>)

Forestry Department (<http://www.forestry.gov.jm/>)

Ministry of Agriculture (<http://www.moa.gov.jm/>)

Ministry of Health (<http://www.moh.gov.jm/>)

The Government of Jamaica and the NGO environmental community have generally initiated the publication of large amounts of environmental information. In 1995, the (then) Natural Resources Conservation Authority (now National Environment and Planning Agency or NEPA) started a series of State of the Environment reports that give a wide range of information on aspects of the Jamaican environment. See

<http://www.nrca.org/publications/SoE/SOE/soe.htm>. In 2001, the quality of these reports received a significant boost when the Statistical Institute of Jamaica (STATIN), which compiles an impressive collection of quantitative data on anything from incidences of landslides to water quality in wells, became

Information Act is an important tool that can be asserted by environmentalists and persons with related interests in advocating for a cleaner, healthier, and more prosperous Jamaica.

Investigative Journalism: the Environment and the Public's Right to Know

“Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

Principle 10, Rio Declaration
United Nations Conference on Environment and Development
Rio de Janeiro, Brazil June 1992

When the nations of the world came together in Rio de Janeiro in 1992 for the United Nations Conference on Environment and Development (UNCED), they agreed on 27 principles thought to be critical in reversing worldwide environmental degradation. Called the Rio Declaration, this set of principles covers a wide range of legal, ethical, economic, and governance issues

acknowledging the importance of sustainable development for the world's peoples and our reliance on the ecological integrity of our planet.

Principle 10, quoted above, speaks to the importance of public participation in decision-making and the right of a citizen to access environmental information held by public authorities. In order to bring this principle into force, a range of legal and other instruments have been adopted all over the world, including access to information laws, pollution registers, toxic releases inventories, mandatory public participation, and mandatory environmental impact assessments for certain types of large projects.

The press plays a vital role in ensuring government accountability, transparency, and responsiveness to citizen concerns, whatever the issue. However, a journalist interested in doing investigative work may face various hurdles, both internal and external. Many media houses are reluctant to invest resources in investigative journalism, and some claim Jamaica's libel laws are an obstacle. In addition, until the recently passed Access to Information Act in 2002, journalists were simply not able to get sufficient information from government agencies to conduct and publish investigative stories. My own experience in writing opinion columns, which sometimes sought to probe and expose various environmental problems, was that the information was not available in the time frame required for deadline writing.

Hurdles notwithstanding, good investigative journalism can be achieved by asking the right questions and can now be facilitated through the use of access to information requests. I offer as an example the coverage by all three Jamaican newspapers on the recently announced "rehabilitation" project for Kingston Harbour.

Since November 2003, many media houses, both print and electronic, have covered a story about Inter-American Development Bank funding to rehabilitate Kingston Harbour. The stories variously mention the components of the project as follows: development of a physical plan for the harbour; improving the environmental performance of industries discharging into the harbour; development of the documentation and tender documents for a ship-generated waste reception facility; public outreach, education, and training; and institutional strengthening. The news stories are crammed with sentences like this one: "The broad objectives of the project are to create the institutional setting needed to ensure coordination of the diverse stakeholders and their activities that impact on the environmental condition of the harbour and support pre-investment efforts to address major pollution sources." Or: "The funds will assist in developing structural options for implementing strategies for the government to consider..." These provide neither analysis nor clear delineation of the terms of reference for the funding and anticipated outcomes .

At the time of writing, a critical assessment of this "rehabilitation" project has not been published. Yet, a journalist could develop an excellent investigative piece by asking the following questions: How many rehabilitation plans for Kingston Harbour have been announced

been spent on various plans and projects without any reduction in the pollution in Kingston Harbour? What is the main environmental problem facing Kingston Harbour and will this project address it?

Over the years, it has been reported exhaustively that approximately 20 million gallons of inadequately treated or untreated sewage flows into Kingston Harbour each day. A journalist might ask: Why doesn't this new project have provisions for the treatment of sewage? Or, What kind of education message will this project deliver? If the main problem affecting the Harbour is sewage, what will the public awareness component of the project ask the public to do?

Journalists could ask what institutions will be strengthened and what will happen to those institutions when the funding comes to an end. They could explore the likelihood of actually building a ship waste facility, once the tender and bid documents for a ship waste facility were completed. Will the necessary funding be put in place? What has been our experience in this regard with other projects? Journalists could also look at the many studies, which have been conducted over the years, including those that assessed the economic value of a restored Kingston Harbour. The Access to Information Act could be a useful tool to obtain answers to many of these pertinent questions and create a real understanding of the future of the Kingston Harbour and what this project can accomplish, if anything.

A free press is a critical agent for the public's right to know. But it not enough merely to have a free press; all too often in Jamaica, the media are filled with little more than press releases or uncritical he said/she said stories. In order to ensure the rights embraced by Principle 10 of the Rio Declaration, the press needs to do a much better job of investigating and reporting on environmental issues.

Did you know that there is a Society of Environmental Journalists? For their Web site go to <http://www.sej.org/foia/>. For more resource material on investigative reporting and the environment see <http://www.icfj.org/publications.html>

Internationally, there have been a number of developments in the area of environmental rights, including the right to environmental information and provisions for requiring public participation in environmental decision-making. Of primary importance is the development of the Aarhus Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (Aarhus Convention). For the full text of the Aarhus Convention see <http://www.unece.org/env/pp/documents/cep43e.pdf>.

This Convention was signed in 1998 and came into force on Oct. 30, 2001. Secretary-general of the United Nations Kofi Annan in describing this convention stated "Although regional in scope, the significance of the Aarhus Convention is global. It is by far the most impressive elaboration of Principle 10 of the Rio Declaration, which stresses the need for citizens' participation in environmental issues and for access to information on the environment held by public authorities. As such it is the most ambitious venture in the area of environmental democracy so far undertaken under the auspices of the United Nations." (<http://www.unece.org/env/pp/>)

This convention falls under the U.N. Economic Commission for Europe (UNECE) and establishes a right for the public to have access to environmental information to be informed and participate in decision-making about the environment, and to have access to the courts to enforce these rights. This Convention allows a right to information on the state of the environment, on policies or measures taken, and on the state of human health and safety where this can be affected by the state of the environment.

Another new development, the discussion of Pollutant Release and Transfer Registers (PRTRs), is being led by the Organization for Economic Cooperation and Development and the North American Commission for Environmental Cooperation (CEC). <http://www.chem.unep.ch/prtr/default.htm>. These PRTRs are being promoted to enhance public access to information through the establishment of registers containing information on pollutants and their release in the environment, as well as specific information on the companies that generate and release significant quantities of pollutants. Registers can serve different purposes. Apart from simply making information available for public scrutiny, they have been found to act as behavioral restraints to companies that do not want to be known to their investors or customers as polluters. A protocol also has been developed under the Aarhus Convention to further support the PRTRs development throughout Europe <http://www.unece.org/env/pp/prtr.htm>.

In the United States, the establishment of such a toxic release registry via the Emergency Planning and Community Right to Know Act has reportedly resulted in a 50 percent decrease in emissions by the affected industries (<http://www.iht.com>)

that are refused information and that do not have the means to hire a lawyer. At the close of the meeting, a number of lawyers joined the Volunteers Attorneys Panel, and there are now 25 lawyers and one law firm signed up to work on the panel.

The Carter Center, Media Association of Jamaica, Press Association of Jamaica, and MSI – CIV JAM hosted a two-day workshop November 19-21 titled “Creating a Culture for Investigative Journalism in Jamaica and the Use of Access to Information.” Over 50 media representatives attended, including owners, journalists, and news editors. The workshop discussed both the state of investigative journalism in Jamaica and the constraints to investigative journalism and how the Access to Information Act could be used as a tool for investigative journalism. Training manuals on how to conduct investigative journalism were handed out to all the media houses that attended.

The Carter Center conducted a training session for final-year communications students from CARIMAC on November 19, 2004, on investigative journalism and the Access to Information Act. The training session was well attended, and an award has been offered to final year students for the best story produced in print, TV and radio using the ATI Act.

Jamaicans for Justice sponsored a civil society networking workshop on the use of the Access to Information Act, held on Thursday November 18, 2004. A large number of NGOs were invited to attend to discuss how they could use the Access to Information Act to advocate for their causes and issues. Interested civil society organisations are asked to contact Jamaicans for Justice about the network of organisations working on this issue.

Also on November 18, 2004, a workshop was held on environmental advocacy. This workshop, with more than 50 in attendance, including civil society and government representatives, addressed the use of access to information requests as a critical tool in all environmental advocacy efforts.

Public Forum

The Carter Center is currently planning its first awareness-raising event for lawyers on

