

TOWARDS A REGIONAL AGREEMENT ON PRINCIPLE 10 IN LATIN AMERICA AND THE CARIBBEAN; TRENDS, CHALLENGES & LESSONS LEARNED IN THE IMPLEMENTATION PROCESS; KNOWLEDGE AND PRACTICES RELATED TO ACCESS RIGHTS.

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Objectives of Presentation

- To Introduce in a general way the pillars of Principle 10 in a general way.
- To Examine the distinction between Policy and Law
- To Observe and give an overview of trends, challenges and lessons learned in the implementation process
- To highlight the components of the Facilitation of Access generally
- To Summarize the position of St. Vincent and the Grenadines and the wider Eastern Caribbean
- To Analyze weaknesses of the negotiation process
- Conclusion- reviewing in a practical way areas for consideration in moving forward.



General Introduction of Principle 10


- The concept of access generally is an important aspect of Principle 10, providing the opportunity for citizens to resolve disputes in relation to access to information, public participation and access to justice.
- Within the Declaration itself, the pillars are pivotal in strengthening democracy; facilitating a broad and consistent frame of reference of co-operation for the mutual benefit of members of society, establishing the bases for exchange and interaction between government and members of civil society.

Distinction Between Policy & and The Law

A policy is a set of initiatives, decisions, priorities or guidelines which a government ministry hopes to achieve and the methods and principles it will use to achieve them. It states the goals of the ministry. A policy document is not a law but it will often identify new laws needed to achieve its goals. Laws must be guided by current government policy.

Distinction Between Policy & and The Law Continued

- Laws are legally enforceable rules which set out standards, procedures and principles that must be followed. If a law is not followed, those responsible for breaking them can be prosecuted in court.
- The law is a system of rules that must be obeyed by private citizens, groups and companies as well as public figures, organizations and institutions.



Trends from a Caribbean Perspective

- In smaller Caribbean islands there seems to be a tendency where the human rights aspect of Principal 10 is recognized and for signatory countries, the significance of having a legally binding legal agreement is acknowledged but without recognizing how it will impact areas of climate change, natural disasters, tourism and agriculture. More work must be done to over-ride this conceptual disconnect.
- Attempts to market the concept without understanding the policy or priorities behind these various government departments leads to a vision that is blurred in relation to who should really lead the way in terms of implementation especially as it pertains to opening lines of communication with interest groups relevant to various interest groups in society.

Challenges from a Caribbean Perspective

- Overcoming political tribalism and divides to achieve best practices which reflect the best approach for all citizens concerned.
- Sidelining of Environmental Issues and apathy in relation to the same, ignoring the human rights aspect of the Principle 10 where the concept of Humans Rights is so important it is enshrined in many of the Constitutions in the smaller Countries of the Eastern Caribbean.
- For Caribbean countries who are yet to become signatories to the negotiation process, understanding the mechanisms by which you present a cabinet memorandum to cabinet which allows a swift passage through Cabinet for the approval of signature to the agreement and steps to be taken for active practices in relation to Principle 10.

Lessons Learned in the Implementation Process

- In St. Vincent and the Grenadines, Members of informal environmental groups, village groups and youth organizations are encouraged to engage themselves actively in the affairs which touch and concern new laws.
- Interest groups are usually disorganized in their structures without formal offices etc, however key individuals to various causes are asked to attend workshops which educate in relation to the correct way in which to assert their rights.
- Many times, concerned citizens go to a Legal Practitioner to assert their rights before the Courts or within the context of an arbitration in the interest of compromise for remedy if they believe their rights have been violated or they are aggrieved.
- Invitations are extended to members of the public or interested parties to participate in discussions at select committee level before a bill is passed to ensure the public fully participate before a bill becomes formal law

Facilitation of Access Relevant to all Three Pillars

- Opportunity- the opportunity for access information and justice in St. Vincent and the Grenadines on environmental matters is open and available to any member or organization of civil society who wishes to request it.
- Channels-are readily available and the guidelines for access to justice and judicial review are clearly set out in the Civil Procedure Rules, particularly useful in the absence of one all encompassing piece of legislation on this area in St. Vincent.
- Capacity for best practices in relation to how well and how quickly the public can obtain information is yet to be tried and proven however because environmental cases before the court from groups which are organized are virtually non-existent, however, individuals pursuing remedies through the court with their own Private Lawyer do have a right to disclosure during the natural course of the procedural life span of their case

Facilitation of Access Relevant to all Three Pillars Continued

- The right to appeal and the mechanism by which a citizen who is aggrieved by the decision of an entity may appeal the said decision by asking for Judicial Review.
- The Civil Procedure Rules Lend clear and coherent guidance for practitioners of the Law and members of Civil Society alike in the procedure involved in initiating such a claim and the various steps included in the appeal process.

Summary of Position in St. Vincent and the Wider Eastern Caribbean

- As a general rule MEAs have to be incorporated into domestic legislation to be given effect as local law in St. Vincent and the Grenadines.
- Administrative, technical and financial resources and institutional mechanisms required to meet Treaty objectives must be provided for effective implementation of the same .



Analysis of Experience within the Negotiation Process

- In recognizing the interdependence of the pillars of Principle 10 in negotiating the agreement we cannot secure access to justice or information without due participation of the public in the negotiation process.
- This week as we consider specific articles of the agreement, we must take an all inclusive approach in the negotiation process, ensuring the voice of the smaller Caribbean Nations are heard against the larger countries of Latin America and that the voice of the public is not muted or muzzled so that our efforts become redundant.

Conclusion

- In moving forward in a meaningful way that would give proper effect to a legally binding agreement, we must strike a delicate balance between the standard that should be upheld by Governments in the interest of their citizens and the right of the general public to assert their rights in a general way as it pertains to the environment - We must keep the over-riding objective the three-pillars of Principle 10 seeks to achieve at the forefront of our minds in the negotiation process.