

EXECUTIVE SUMMARY

“The Current Situation of Access to Information, Social Participation and Justice in Environmental Decision-Making in Bolivia”



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The project was developed by a multidisciplinary team with expertise in areas such as economics, legal sciences, social communication, sociology, biochemistry, engineering, agronomy, biology and anthropology.

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1. Introduction.-

The “Access Initiative Bolivia” Coalition is made up of the Bolivian Association for the Defense of Nature (PRODENA), the Ecological Association of the Orient (ASEO), the Potosí Ecology Association (SOPE) and the Environmental Defense League (LIDEMA), all non-profit organizations with the common goal of initiating actions that contribute to sustainable development in Bolivia.

The coalition formed by PRODENA, ASEO, SOPE and LIDEMA is part of the project “Access Initiative—Latin America,” a network of civil society organizations working to promote and improve principles and practices associated with access to information, social participation and justice in decision making related to the environment.

The “Access Initiative” was created by civil organizations from various continents and developed a methodology that permits the independent evaluation of governmental performance on rights associated with information access, social participation and justice related to the environment and as established by Principal 10 of the 1992 Rio Declaration.

Bolivia is a signatory of the Rio Declaration as well as other international legal instruments related to the environment and subscribed to in the 1992 Earth Summit. For this reason the implementation of Principle 10 as well as national environmental legislation are imperatives.

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Special recognition is owed to the various professionals that participated in the project, as well as staff from the different institutions that contributed to the work, without whose contributions the investigation would not have been possible.

Study Objective.-

The objective of the study is to determine the actual state of access to information, social participation and justice in environmental matters. To do so, various case studies were selected for analysis, using the methodology developed by project coordinators. A description of the methodology can be found in the website of the Access Initiative, www.accessinitiative.org

Using the case studies as a starting point, current national legislation and its application were reviewed with the goal of improving the implementation of Principal 10 of the Rio

¹ The Access Initiative (TAI) is a coalition of civil society organizations. TAI is led by the World Resources Institute, the Environmental Management and Law Association, Participa Corporation, Advocates Coalition for Development and the Thailand Environment Institute.

Declaration in general and Bolivian legislation in particular. While a variety of case studies were analyzed, it is not possible to generalize about access conditions in the entire country. Research was carried out in the second half of 2004 with additional work in the beginning months of 2005.

A fundamental intention of the study is to incorporate in the future practices related to access as described by the Millennium Goals, so that over the long term the quality of life of Bolivians can be improved, primarily for excluded sectors of the society and populations who have fewer economic resources and who many times directly suffer from the consequences of environmental deterioration such as poor health and health care services and reduced availability of natural resources, all of which are essential for human well-being.

In addition, PRODENA, through interactions with professionals that participated in the study, has been able to incorporate into a Law of the Necessity for Reforms to the Political Constitution of the State 2002, the right to a clean environment and access to information of interest to the public. At the present time the Political Constitution of the State, as modified in February 2004, does not include such rights. Nevertheless, the Access Initiative Bolivia Coalition is preparing for the writing of a new Political Constitution of the State, to be developed via a Constituent Assembly to be held in 2006. The coalition will promote and integrate concepts of sustainable development throughout the new constitution, including access rights, with the objective of achieving a public administration that is more inclusive and possesses transparent policies.

2. Synthesis of chapter results

The methodology used to assess access considered four categories: access to 1) information; 2) social participation; 3) justice; and 4) capacity strengthening.

Chapter 1 - Access to Information

Information access is essential for the development of societies, as it is the basis through which populations acquire knowledge and exercise opportunities to participate in public administration in such a way that they can direct their actions and goals in a responsible and effective manner and thereby make government more effective and efficient. Information access can also counteract and prevent corruption, which is fundamental for the transparency of governmental activities.

In the present study, information access refers to environmental management in the following five subcategories:

- **A: Information/Legislation.** - Refers to the general legal framework that supports information access.
- **B: Information/Emergencies.** - Refers to the development of information related to environmental emergencies.
- **C: Information/Monitoring.** - Refers to information related to regulatory monitoring of air and drinking water quality.

- **D: Information/Reporting.** - Refers to information about environmental conditions included in reports related to environmental conditions.
- **E: Information/Industry.** - Refers to information about the environmental performance of industry.

Principal Results:

A: Information/Legislation. - Evaluates legislation developed in this category, whose most relevant results are the following:

- 1) While the Political Constitution of the State refers to fundamental human rights and establishes the right to “formulate individual or collective petitions”² as well as “freely emit ideas and opinions via any media” (art. 7), it does not mention access rights to information considered to be of public interest.
- 2) With respect to legal norms related to information access in general, there exist diverse legal instruments that facilitate citizens’ rights to obtain information of a public nature. Some of these possess more restrictions than others. The most important of these are the Law of the Public Functionary and Supreme Decree (SD) 26564/02, about participation and social control.³
- 3) In legislation related to information access there exist restrictions related to areas such as military activities, territorial integrity, financial information, industrial and intellectual property and the private life of citizens.
- 4) There exists a “Pre-project of the Law of Access to Public Information” that is currently under review by the National Congress.
- 5) With respect to information related to environmental themes, there exists one important norm, the Law of the Environment No. 1333/92 and the associated regulations found in SD 24176/95. In particular the Law presents the General Regulations for Environmental Management, which describe procedures for information solicitation and permits citizens to contest a denied request for information. Nevertheless, while such norms represent important advances in the National Sustainable Development System, there remains much work in order to assure the adequate functioning of a National Environmental Information Service (see the following point, 6).
- 6) An important instrument that considers the General Regulations for Environmental managements is the National Environmental Information Service, which should be comprised of a national network made up of departmental authorities, municipal governments and other bodies. One of the primary objectives of the National Environmental Information Service (SNIA) is to organize, collect, systematize, register, and distribute environmental information.

² The right to petition constitutes a mechanism to operationalize information access rights.

³ Following the completion of the present study, Supreme Decree 28168 (5/16/2005) that “Guarantees access to information and transparency in the execution of Executive Powers as a fundamental rights,” was passed.

- 7) Among sectorial regulations, it is worth mentioning the Environmental Regulations for the Industrial Manufacturing Sector (RASIM), established by the SNIA to oversee environmental regulation instruments such as the Evaluation and Disclosure System for Industrial Environmental Information, which in turn is responsible for the distribution of information on advances and problems related to industry and environment.

In reference to the valuation assigned according to the indicators used for the study, this subcategory received on average a strong classification. This does not indicate that legislation related to information and legislation should not be improved.

B: Information/Emergencies. - This subcategory measures the degree of access to information that existed in two cases of environmental emergencies. While the cases selected are from the 1990s, they were chosen for the significance of their social and environmental impacts.

The cases are the following:

B.1. - Mining Contamination in the Pilcomayo River. - The departments of Potosi, Chuquisaca and Tarija comprise the Pilcomayo watershed. The evaluation for this study was carried out in the department of Potosi where the greatest concentration of mines and ore processing plants are found and where the economy is highly depressed. The contamination of the watershed is of a considerable magnitude in terms of environmental impacts and affects crops and soils as well as flora and fauna and has negatively impacted populations of fish and livestock and human health. While the level of contamination is extensive and in many cases permanent and the entire area has on several occasions been declared in a state of emergency, due to the study methodology the investigation was restricted to an evaluation of contamination caused by a ruptured tailing dyke in the area of Porco in Potosí (SOPE 2004).

B.2. - Industrial contamination of the Piraicito River. - The Piraicito River, which is a tributary of the Pirai River, is located in the department of Santa Cruz. The contamination of this river is the result of untreated residues produced by industrial sugar cane farms in the area. The greatest contamination occurs in periods of low rainfall, during the harvest and processing of sugar cane, via the deposition of organic matter in waterways, which reduces the availability of oxygen in the water and results in the death of large quantities of fish. Contamination has occurred up to three times per year in the years 1974, 1995, 1996 1997 y 1998. (ASEO, 2004)

Principal results:

- **Pilcomayo case study:** According to the study carried out by SOPE, during periods of emergency there has been no information generated by the government at national and departmental levels. Similarly, local populations state that the neither the entities responsible for contamination nor local public institutions have communicated verbally or through other means about the possible effects of contamination on water, crops, flora, fauna and humans.

After emergency periods, the scarce information presented by authorities has been insufficient in regards to environmental impacts and human health impacts. In some cases, newspapers have reported on the contamination, in corroboration with the research conducted by NGOs and universities (SOPE 2004). The contamination of the Pilcomayo River has been the subject of diverse studies and communication programs.

- **Piraicito Case Study:** In the years 1995, 1996 and 1998, when contamination by sugar cane harvesting and processing resulted in the death of fish, during the actual emergency a number of reports were produced that in some cases identified responsible parties and in others initiated legal processes directed at the contaminating entities. In 1997, due to a technical report emitted by the Environmental Unit of the government of the department of Santa Cruz, responsible parties were identified and fined for the death of more than 50 tons of fish (ASEO, 2004).

During the emergency of 1996, public entities that carried out investigations did not distribute information. After the emergency, governmental authorities made public declarations, however not via written information produced specifically for public information.

It is important to clarify that there exists a legal mandate that requires the diffusion of information generated during public emergencies.

The valuation of this subcategory has an intermediate average.

C: Information/Monitoring.- *Considers information related to the monitoring of air and drinking water.* The case studies selected are:

C.1. - Monitoring of drinking water in the cities of La Paz and El Alto.

C.2. - Monitoring of air quality in the cities of La Paz and El Alto.

Principal results:

- *Drinking water monitoring.* The company responsible for monitoring water quality in the cities of La Paz and El Alto is “Aguas Del Illimani S.A.” Water quality monitoring occurs via the measurement of 74 parameters. The reports produced from the monitoring program are highly technical and difficult to interpret by the general population. Explanatory summaries based on monitoring programs are not produced and disseminated to the public. Nevertheless it is important to mention that there are currently no legal requirements that oblige water providers to distribute results of water quality monitoring programs.

Communication media also do not appear to take an interest in water quality monitoring results. As a result, the reports generated by Aguas Del Illimani are stored in the offices of the Basic Services Superintendents and are not distributed.

- *Air quality monitoring.* There is an important quantity and diversity of parameters used to monitor air quality. In La Paz the regularity of monitoring is bi-monthly.

The project of the foundation Swisscontact, in coordination with the municipalities of La Paz and El Alto, published the results of their air quality monitoring project in 2003. The project did not carry out a broad distribution of results via the internet or the production of educational materials or other forms of mass media.

The average valuation of the information related to monitoring of water and air is *strong*.

D: Information/Reporting. - Refers to information about environmental conditions included in government reports on the environment.

D1. - Sustainable Development in Bolivia, National Report 2002, presented at the Sustainable Development Summit in Johannesburg.

D2. - Bolivian Report to the International Workshop of the CAD/OECD, held in Santa Cruz de la Sierra, Bolivia, as part of the Dialogue between Donors and Countries on the Path to Development.

Principal Results:

The reports mentioned above contain interesting information however they are insufficient. For example, both texts were prepared for presentation at international events and as a result their contents respond to requirements established by international organisms rather than those of the national government (such as the General Environmental Management Regulations, which clearly stipulates the elements that such reports should contain including approval by Supreme Decree).

In reference to the contents of the reports, in general they are insufficient and contain few tables, graphics and maps. In this sense they do not comply with the level of quality demanded by Bolivian legislation for reports related to the state of the environment. In addition, the reports were not subject to a broad diffusion and only the first (Case Study D1) is available in libraries of institutions working on environmental issues.

The valuation of the both cases averages intermediate.

E: Information/Industry. - Develops information related to the performance of industry in environmental areas.

Principle results. –

The industries that were analyzed as case studies (Universaltex, Polar Textil, Industrias Fatima, and Eximel) are all subject to the Regulations System presented via SD 24176 of Law 1333. In general all of the companies make available the environmental information required in respect to monitoring of air, water, noise and other environmental factors. Nevertheless, such reporting does not occur for all companies affected by the legislation.

The specific norms that oversee the manufacturing sector (RASIM 02) are just beginning to be applied in Bolivia. There are presently time limits placed on manufacturers during which they are expected to obtain environmental licenses and within one year they must present their first report. Due to the recent inscription of most businesses, very few reports have been presented.

Current legislation does not oblige manufacturers to disseminate reports to the general public. Industry is required to submit reports on the emission of contaminants to the Environmental Authority. According to the Law 1333 and its regulations (SD 24176/95), the reports can be accessed by the public via a written request.

A notable accomplishment in this subcategory is the dissemination of results achieved by the project “Sustainable Technologies Production Center and Cleaner Production,” sponsored by the Chamber of Industry, that produced and disseminated texts presenting improved technologies used by several Bolivian companies.

Nevertheless, the general public does not have access to reports on monitoring carried out by industry. Manufacturers do not make an effort to distribute information showing whether they are complying with legal requirements.

This subcategory received an average valuation of intermediate.

Chapter II – Access to Social Participation

Social participation permits people to exercise their capacity to express opinions, integrate social initiatives in government decision-making, manage conflicts via the participation of all involved parties, question decisions made by others and modify policies that can affect communities and the environment.

The subcategories that comprise this category are:

- **A: PARTICIPATION/ LEGISLATION.** - Refers to the legal framework that conditions participation.
- **B: PARTICIPATION/POLICIES.** - Evaluates levels of participation in policy making, strategy developing, planning and national and local legislative processes.
- **C: PARTICIPATION/ PROJECTS.** - Considers participation in decision making regarding projects.

Principal results.-

A: PARTICIPATION/ LEGISLATION.-

In Bolivia citizen participation in public affairs is regulated by stipulations established in the Juridical Norms of the National Planning System (SISPLAN), SD 216779/96, the Law of Popular Participation 1551/94, the Law of National Dialogue 2000 and other legal instruments.

There exist flaws in legislation related to participation in processes of the development and approval of legal instruments, for example the only document that specifically addresses the issue is the Technical Norms Manual (R. Min. 034/99) which contains an annex with questions related to the consultation of social sectors (communities, companies, syndicates, etc.) affected by legal projects.

The Political Constitution of the State, as reformed in 2004, achieved important advances in citizen participation such as the presence of referendums, constituent assemblies and citizen initiatives in the formulation of legislation. The Law of the Environment (1333) and its regulations establish specific rules regarding citizen participation and access to information.

As the current legal framework regarding citizen participation is considerably developed, this subcategory receives a valuation of strong, particularly taking into account the Political Constitution of the State, special laws referring to access to participation and specific laws related to participation in environmental affairs.

B: PARTICIPATION/ POLICIES. -

Despite possessing an interesting and advanced legal framework for public participation, it is necessary to recognize that regulations do not exist for all sectors or for participatory processes regarding the development of policies, strategies, plans programs and legislation. The following cases, which included participatory processes in their execution, were selected to assess advances in such processes.

- B.1. Law 1715 of the National Agrarian Reform Service
- B.2. Distribution and Rural Human Settlement Policy
- B.3. National Strategy for the Conservation of Biodiversity in Bolivia
- B.4. Municipal Development Plan 2001-2005, La Paz City

In general, in all of the above named cases there occurred a diversity of workshops with ample participation by different sectors. In practically all of the cases, groups representing different social strata participated, although weaknesses in communications directed to indigenous and rural groups were observed.

In many of the cases it is impossible to gain access to records regarding periods and means of notification and documentation related to initiating and assuring participation and to information regarding the incorporation of inputs generated by processes of consultation and their incorporation in final products. The exception is Law 1715, which obliges public access to land distribution processes, in part due to pressure from indigenous groups in the Bolivian lowlands to incorporate modifications related to land tenure. The degree of public participation required by the Law 1715, while perhaps not as extensive as envisioned, shows results of considerable participation.

While legislation is often accessible in various places (for example, web pages, libraries, and bookstores) and is required to be accessible for the generation of public knowledge, access is not equal for all types of documentation, for example policies. In the case of the National Strategy for the Conservation of Biodiversity in Bolivia, the document can be found in public libraries however a limiting factor in its further distribution is the high

cost of publication. The Municipal Development Plan 2001-2005 for La Paz City was distributed by the press in a summarized version.

The valuation of this subcategory is strong.

C: PARTICIPATION/PROJECTS.- In reference to legislation about Environmental Impact Studies, a gap can be observed in relation to Strategic EEIA. In this subcategory the following case study was selected:

C.1. - Project of the Reconstruction of the Santa Rosa Plant, COBEE, Zongo, Community of Coscapa, La Paz.

Current environmental legislation requires public consulting in order to take into consideration the observations, suggestions and recommendations of local populations that might be affected by the implementation of projects, work or other activities. In cases where Environmental Impact Evaluations do not include public consultations, authorities are required to subject evaluations to public review. If petitioned by the public, authorities can convene a public audience to discuss the evaluation.

The Project of the Reconstruction of the Santa Rosa Plant, located in the Zongo Valley in the department of La Paz demonstrated that while the public was consulted as part of the execution of the Environmental Impact Evaluation, the information gathered from rural populations where the project was developed was not carried out in an adequate manner, for example local linguistic and cultural characteristics were not considered.

The subcategory receives an average valuation of strong.

Chapter III – Access to Justice

This chapter highlights areas where improvements can be made in regards to access to justice.

*The **Subcategories** are:*

- **A. - Legislation.** - The legal framework related to the following subcategories is reviewed.
- **B. - Access to information.** - Cases related to access to information are reviewed, particularly those where access is not adequate.
- **C. - Access to participation.** - Cases where access to participation was questioned are reviewed.
- **D. - Environmental damage.-** One case of environmental damages is reviewed.

Principle results

A. - Legislation.-

Current environmental legislation considers procedures that permit access to public information without legal accreditation, however written requests are required.

There exists a procedure in the Agrarian Superintendent for the presentation of denouncements and complaints, which according to the case study responds positively to land tenure and titling processes.

Following Bolivia's legal system, complaints are resolved through administrative resources and procedures that permit state authorities to issue decisions related to the complaints. Constitutional resources inserted before tribunals whose rulings are definitive complement these administrative processes. Among the most important tribunals are the Supreme Court of Justice and the Constitutional Tribunal of the Republic.

B. Access to information.-

Cases studies:

B.1. Request for information related to impacts in the Pilcomayo watershed.-

In the case of the request for information placed by environmental organizations related to environmental impacts in the Pilcomayo watershed, the Competent Sectorial Organism provided information about the *Manifiesto Ambiental*⁴ situation however it was incomplete.

Despite the fact that the Competent Sectorial Organism requested the presentation of modifications and additions to the document from representatives of the ore processing plants located in Potosi, they did not respond. The "Report on Contamination in the Pilcomayo River" produced by the People's Defendant alleged that the lack of response was due to the absence in the legislation of a specific time period by which the companies involved should have responded.

B.2. Lack of access to reports during processes of technical-legal land titling.

There exists an adequate and specific mechanism for the investigation of denouncements and complaints in the Agrarian Superintendent, through the "National System of Denouncements and Complaints," regulated by RA No. 045/2002. The general procedure is established by SD 26389 and SD 27171.

C. Access to Participation.-

Cases Studies

C.1. Lack of access to participation in land titling processes.-

Representatives of the INFORCASA syndicate, in the department of Pando, opposed the land titling phase referred to as the "public presentation of results" due to lack of accessibility in the participation on land titling processes.

Their complaint was responded to by INRA in Pando, which annulled the third phase of the titling process due to defects in its execution. The decision was published in a newspaper.

C2. Citizen participation related to land titling and the superposition of forestry concessions.

Based on the Administrative Resolution 98/99, in certain areas of Bolivia existing land tenure and titling processes established by the Law INRA are not applicable, in many

⁴ The Manifiesto Ambiental is a legal document, through which the representative of a Project, public work or other activity under implementation, operation or abandonment must inform environmental authorities with current information on the environmental condition of the activity and propose mitigation plans, if necessary.

cases due to the fact that they are presumed to be areas uninhabited or unclaimed by anyone other than the state. However, in some instances they are actually inhabited by indigenous groups.

The Administrative Resolution 98/99 affected areas demanded by the Chiquitano Indigenous People (CIP) of Monte Verde for the establishment of the “Monte Verde Tierra Comunitaria de Origen (TCO)”. The area claimed by the CIP, according to the Law INRA, was categorized as *tierra inmovilizada*, for which reason in Monte Verde, new claims to the territory should not have been allowed. However, despite the fact that the area’s legitimate owner is still undetermined, the state has authorized forestry concessions in the area.

The CIP is pursuing administrative and legal procedures that to date have resulted in decisions opposed to their interests. As a result, they have resorted to the use of social pressure tactics that have led to the repealing of Administrative Resolution 98/99.

The emission of the INRA Administrative Resolution 98/99 was not participatory and the means employed for its diffusion are not clear. Such practices put in jeopardy the effectiveness of Agreement 169 of the International Labor Organization (ILO), ratified in Bolivia via the Law of the republic 1257 (11/7/91) that established the right of indigenous populations to participate in decision-making that affects their interests.

The CIP also presented its complaints before the ILO, whose Administrative Council carried out a report that recommended to the government of Bolivia that the procedures of the Agreement 169 be complied with.

D. Environmental Damages.-

Case Study

D.1. Oil spill in the Desaguadero River

For the theme of environmental damages, the case of an oil spill in the Desaguadero River by the TRANSREDES Company was analyzed. The oil spill was caused by a rupture in the OSSA II pipeline and resulted in a crude oil spill that covered an area of 171 km² and affected 127 communities in the Bolivian *altiplano* in the departments of La Paz and Oruro.

As a response to complaints regarding the spill, the Viceminister of Environment initiated an administrative process against TRANSREDES for environmental infractions, supported by Article 114 of the Environmental Law. TRANSREDES used legal means to attempt to avoid the regulations however a Constitutional Tribunal denied their efforts.

In this case, legal action was initiated via administrative procedures. For the plaintiffs (rural communities of the department of Oruro), access to the Tribunal was difficult for its distance as well as to linguistic differences. Their demands were not processed in a timely manner due to delays in the preparation of an environmental audit, which was not completed until a full year after the oil spill.

The Viceminister of the Environment placed a sanction with fines against TRANSREDES. The company, in response to demands from the populations affected and from authorities, repaired the pipeline and committed to providing compensation for damages to property, forage for livestock and projects that benefit the communities such as irrigation systems.

The research conducted for the case study demonstrated the scarce legislation that exists to regulate environmental impact audits.

In reference to the valuation assigned according to the indicators used for the study, this category received on average a strong classification. This does not indicate that legislation and the enforcement should not be improved

Chapter IV—Capacity strengthening

Indicators used for this category evaluate the legal framework and efforts of the government to strengthen its own capacities to facilitate access to information and guarantee that individual and private groups possess the knowledge, capacities and support necessary to obtain environmental information, participate in decision-making and demand justice, particularly when their access rights have not been respected.

The Subcategories that comprise this category are:

- A. Legislation
- B. Strengthening the capacities of the state
- C. Strengthening the capacities of the citizenry

Principle results

A. - Legislation.-

The Political Constitution of the State (CPE) does not specifically establish the right to a clean environment, a characteristic that is a severe omission in the law. Nevertheless, citizens can exercise their right to a clean environment through their constitutionally recognized rights to life and health. The freedom of association of groups and individuals is guaranteed by the (CPE). Law 1333 of the environment should also be highlighted, as well as all valid regulations associated with it.

The condition of the norms and regulations related to the functioning of NGOs that work on environmental matters are reasonable, and there are few restrictions on their activities as long as their work is within the law. There exist tax exemptions for NGOS when they do not carry out commercial activities.

Bolivian legislation does not restrict philanthropy however nor does it encourage it and the vast majority of philanthropic efforts are of a private nature.

This category receives a strong valuation.

B. - Strengthening of government capacities:

The notable advances in Bolivia at legal levels contrasts with the limited knowledge of

public entity functionaries, most clearly in regard to judicial powers. Training of government personnel in environmental themes is isolated and unusual. Judicial functionaries receive little training in this area as well.

The only institution that facilitated training to personnel during the study is the Viceminister of Industry and Commerce, via the RASIM project, responsible for the diffusion and implementation of the Industrial Manufacturer Environmental Regulations. The training carried out by RASIM with diverse groups implicitly promoted access to information and participation and distributed information about all types of environmental regulation related to industry and manufacturing.

The average valuation obtained in this subcategory is weak.

C.- Strengthening of citizen capacities

The norms most closely associated with training the public about access to environmental information and participation is the Law of the Environment (1333) and the Law of Educational Reform, the latter of which is responsible for training educators on environmental matters. Nevertheless, based on interviews conducted in the Education Ministry, the environment as a theme has tended to be incorporated with other topics such as democracy, citizenship, sexual health and reproduction rather than treated independently.

The Education Ministry has produced support materials for the implementation of training on cross-cutting themes such as those mentioned above but has not developed materials on themes related to sustainable development. There are no educational materials in native languages such as aymará, quechua and others.

In reference to the availability in public offices of administrative information related to requirements and points of contact for requesting environmental information, in some cases written requests are required while in others personal visits and appointments are necessary. While in many cases receptionists are able to provide basic information, there is very little printed material that describes where and how to obtain information. Information on regulations and contact points is not available in native languages. In each entity there are staff members responsible for providing information on environmental themes.

There is no information directed to public that describes the procedures to present complaints and enter into legal and administrative processes, much less government support for persons or communities affected by environmental contamination or damages. There are no programs that offer free legal support. Many of the weaknesses and needs of government entities are being partially attended to by NGOs.

The valuation obtained by this subcategory is intermediate.

3. - Conclusions

In recent years and in the 1990s, advances in Bolivian legislation related to access to information, social participation and justice can be seen. In addition, the development of norms related to the environment is perhaps even greater, primarily as demonstrated in the Law of the Environment No. 1333/92 and its regulations.

However, in regards to the implementation of such legislation, there remains much to do, particularly in terms of the institutional, primarily due to the lack of economic and human resources and an associated lack of training. Weaknesses are especially notable in the area of judicial powers. While at the central government level in Bolivia gradual but important advances have been made, at local levels the application of legal measures related to access in general and environment in particular are just beginning.

It is important to mention that the existing legal framework related to access is in most cases unknown to the general public and poorly understood by public functionaries, for which reason there is little demand for the satisfaction of such rights and the associated obligations. Typically, private citizens and communities only seek assistance and information during emergencies and in such cases they tend to request help from NGOs, which can usually only provide economic resources to address short term needs.

The study provides evidence of the existence of what might be called a “culture of secrets” maintained by public functionaries, who in the majority do not considerate their obligation to extend information to the general public unless requests are backed by a known institution. In addition, many officials believe that problems can be avoided if information is not provided, a situation that hindered the execution of the present study.

Unfortunately, an additional obstacle encountered during the study was the absence of participatory procedures in public administration. While many of the cases reviewed for the study demonstrate some degree of citizen participation, the level of participation rarely approached that suggested by evaluation indicators, particularly in reference to the delivery of documents and the incorporation of stakeholder concerns and suggestions in project. The situation permits the conclusion that from the basic level of legislation there need to be improvements in the mechanisms that permit and facilitate participation, from the generation of legal instruments (laws, supreme decrees, resolutions, etc.) to the approval of the same.

In the area of environmental legislation there are still many issues to resolve. For example, while there exist administrative procedures that appear to be effective in the agrarian sector, there are still multiple problems in the implementation of legislation, particularly in terms of the environment. On the other hand, the lack of training, including for legal practitioners at all levels, is clearly a major obstacle.

The need to incorporate into the constitution the right to access information of public interest, as well as to a clean environment and concepts of sustainable development, is

obvious. With the approval of SD 28168/05, which seeks “to guarantee access to information as a fundamental right of individuals and for the transparency of the administration of the Executive Powers,” a great absence is addressed, however it is also important that legislation is developed to secure citizens right to access information of public interest. While the development of complementary legislation is important, the diffusion of current legislation is fundamental, as well as mechanisms for their total implementation.