

Justice Institute Guyana Inc



**The legal basis for  
public participation in the Caribbean  
UNEP/ECLAC/UNITAR**

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# The legal basis for public participation in the Caribbean

# Principle 10: Rio Declaration

Environmental issues are best handled with participation of all concerned citizens, at the relevant level.

At the national level, each individual shall have .....the opportunity to participate in decision-making processes.

States shall facilitate and encourage public awareness and participation by making information widely available.

# Why? Rio Declaration

“Recognising the integral and interdependent nature of the Earth, our home”

# Environment: our home

Income

Freedom

Safety

Health.....Life

Quality of life

Physical, material, cultural, spiritual well-being

# WHY

The secret of freedom lies in educating people,  
whereas the secret of tyranny is in keeping them  
ignorant

(Robespierre)

# LEGAL EFFECT

An international declaration.....Rio Declaration

Not a treaty

Not yet part of customary international law

Not binding on States

Cannot be enforced by the public

But not ineffective

has influenced national law:

some quick examples

GUYANA

Environmental Protection  
Act 1996

Public participation at each  
stage



# SCOPING

Section 11(7) & (8) EP Act

Public can participate in the scoping i.e. Can tell the EPA what they want in the EIA and EPA must take this into account.

# Participation in EIA

Person doing the EIA must consult the public & interested bodies/organisations

Public have a right to make submissions on the EIA & EIS (which are publicly available)

EPA must take those submissions into account



## Environmental Protection Agency Notice to the Public

Pharselus Gold Inc. has submitted an Application to the Environmental Protection Agency (EPA) for Environmental Authorization to undertake a large scale Gold Mining Project within the Hicks/Kaburi Concession situated at Black Water Creek, Kaburi Area, Region 7.

This project would entail the development of an open pit mine that involves, clearing of vegetation, removal of topsoil and blasting of hardrock, construction of: processing facility, laboratory, cyanidation facility, power generating facilities, and ground water wells. It would also include upgrading of an existing access road.

In keeping with the Environmental Protection Act, No. 11, 1996, an Environmental Impact Assessment (EIA) is required for this large scale Gold Mining Project before any decision to approve or reject this proposed project is taken, since this development may have significant impacts on the environment.

Members of the public are hereby invited, within twenty-eight (28) days of this Notice, to make written submissions to the Agency, setting out those questions and matters which they require to be answered or considered in the Environmental Impact Assessment.

A summary of the project can be viewed on the EPA's website or uplifted at the Office mentioned below, at a reasonable cost of photocopying.

*Comments should be addressed to:*

The Environmental Protection Agency  
C/o Director – Environmental Management Permitting Division  
Ganges Street, Sophia, Georgetown.  
Phone: 225-0506 / 225-5467-3 / 225-5471-2  
Fax: 225-5481  
E-mail: [epa@epaguyana.org](mailto:epa@epaguyana.org)  
Website: [www.epaguyana.org](http://www.epaguyana.org)





# Other participation rights

Policy, programme or plan: may have a significant effect on the environment: EIA with provisions for public participation

Cumulative effect of small actions: cumulative EIAs with provisions for public participation

# JAMAICA

Forests Act: Public participation

Minister must allow public to make comments before he declares an area to be a forest reserve – and must take the comments into account

# JAMAICA

- Forest management committee must hold
- Discussions
- Meetings and
- Like activities

# Barbados

- Town & Country Planning Act:  
“Preserve and improve amenities”

S9: Development plan

Public participation: right to make submissions;

Public enquiry into any objections



# TRINIDAD

Environmental Management Act 2000

Section 28

Public participation: right to comment on draft rules and minister must take comments into account; May also have a public enquiry

Part V: EIAs – public participation

And other laws in other Caribbean countries

# Environmental Democracy.....

The Rule of Law

Principle 10 can transform  
our system of government

# Constitution

Rights to public participation: to what extent can citizens use the Constitution to ensure that they are included in decision making processes?

# Constitution of Guyana

Article 13: The principal objective of the political system of the State is to create an inclusionary democracy by providing increasing opportunities for the participation of citizens, and their organisations in the management and decision making processes of the State, with particular emphasis on those areas of decision making that affect their well-being

# Litigation

To what extent can concerned citizens challenge decisions that affect them.....

Judicial review: challenge the decision on the basis that it was improperly made because there was not adequate public participation

Questions of locus standi: interest v meddling but there is hope: Justice Hosen's explication of the importance of public participation (Talisman case)

# POWER

- Those making the decisions  
v
- Those affected by the decisions

What are we going to DO  
to protect our planet.....

