

**THE ROLE OF CIVIL SOCIETY IN THE RECOGNITION OF ACCESS
TO INFORMATION AS A FUNDAMENTAL HUMAN RIGHT IN THE
AMERICAS**

DARIO SOTO ABRIL*

* Deputy Director, the Trust for the Americas. NGO affiliated with the Organization of American States.

Introduction

This article discusses the role of NGOs in the recognition of access to information as a fundamental human right following on the discussions held during the Rio conference on August, 2008. It analyzes a particular advocacy model, which consists of a mixture of coalition building and strategic litigation by civil society groups. The document describes how a group of Chilean Civil Society Organizations took a case from the domestic courts all the way up to the Inter American Court of Human Rights resulting in the landmark decision of *Reyes v. Chile*. In the decision, the court sided with the NGOs by declaring the right of Access Public Information as a fundamental human right. I will further discuss how CSOs in the Western Hemisphere are using the same model to advocate for the recognition of this fundamental human right at the domestic level.

I. Purpose Statement

Civil Society Organizations (CSOs) are traditionally recognized for their role as promoters of compliance with existing human rights by calling upon governments for violations of such rights-. However, they also play an important –yet *not as generally recognized* role- in human right norms building.

The former role has made CSOs famous. CSOs contribute to the enforcement of existing norms, and advocate for victims and those vulnerable groups whose possibility to accessing the justice system is limited. A typical example is the case of Human Rights Watch, an international NGO that investigates and exposes human rights violations and aims to hold abusers accountable while challenging those governments to persistently incur in abusive practices.

But a less recognized role of CSOs, it their capacity to decisively influence the process of formation international rights norms and standards through collaborative and coordinate efforts. Such efforts include creation of national and international efforts, advocacy, and coordinated litigation (both at the domestic and international setting).

The broader question this article expects to answer is whether CSOs can play a relevant role in the “recognition” (or formation) of “new” human rights norms, particularly in what regards to Access to Information. To answer this question, we analyze two instances in which CSOs participated in the process that ultimately lead to the express recognition of access to information as a fundamental human right that up to that point had been subject to discussion in its nature (whether was a fundamental right, and even whether it was a matter of international law).

D. SOTO ABRIL

In one case, we discuss the recognition of a Fundamental Human Right of Access to Information in Mexico, through the action of what was called the “Grupo Oaxaca”. The other instance discussed here, analyzes the role of CSOs in the process that lead to the decision *Reyes v. Chile* of the Inter American Court of Human Rights. In this landmark decision, the Inter American Court expressly recognizes that Access to Public Information is not only a fundamental Human Right, but also an essential condition for democracy.

II. Civil Society Organizations and the Recognition of Access to Information as a Human Right in the Western Hemisphere.

There seems to be a regional consensus among the States that are members of the Organization of American States (hereinafter “the OAS”) about the importance of access to public information and the need to protect it. This right has been the subject of specific resolutions issued by the OAS General Assembly. In the latest Resolution of June, 2008, the OAS General Assembly decided, “To urge member states to respect and promote respect for everyone’s access to public information and to promote the adoption of any necessary legislative or other types of provisions to ensure its recognition and effective application.”¹ The Resolution also recognizes “the important role civil society can play in promoting broad access to public information.”

Additionally, Article 4 of the Inter-American Democratic Charter passed by OAS Member States during the 90s, emphasizes the importance of “[t]ransparency in government activities, probity, responsible public administration on the part of Governments, respect for social rights, and freedom of expression and of the press” as essential components of the exercise of democracy. Moreover, Article 6 of the Charter states that “[i]t is the right and responsibility of all citizens to participate in decisions relating to their own development. This is also a necessary condition for the full and effective exercise of democracy”; therefore, it invites the States Parties to “[p]romot[e] and foster[...] diverse forms of [citizen] participation.”²

Later, in the Nueva León Declaration, adopted in 2004, the Heads of State of the Americas undertook, among other matters, “to provid[e] the legal and regulatory framework and the structures and conditions required to guarantee the right of access to information to our citizens,” recognizing that “[a]ccess to information held by the State, subject to constitutional and legal norms, including

¹ Ag/Res. 2418 (Xxxviii-O/08) Access To Public Information: Strengthening Democracy.

² Inter American Democratic Charter. Available at: http://www.oas.org/charter/docs/resolution1_en_p4.htm.

those on privacy and confidentiality, is an indispensable condition for citizen participation [...].”³

In 2006, the Inter American Court of Human Rights, prompted by the actions of a group of Civil Society Organizations (CSOs) working with lawyers and scholars in its *Reyes v. Chile*, discussed the scope of access to information. Some of the particular questions on Access to Information that were discussed by the Court included:

- Whether access to information was simply an ancillary right, or a tool to exercise other rights.
- Whether it was indeed a fundamental human right. The latter with entitle expedite access to courts in majority of countries through writ of Amparo or Tutela.
- Whether it was an autonomous right or conceptually part of freedom of expression.

Finally, at the domestic level different countries have taken steps towards the recognition of access to information as a right. Mexico passed the Federal Access to Information Law in 2002, and most Central American countries with the exception of Costa Rica and El Salvador, have followed that trend. New Access to Information laws have also been enacted in Chile and Uruguay.

Throughout this process Civil Society Organizations have played an active role both at the domestic and international level. Through organized advocacy efforts, they made sure access to information became part of the public agenda. CSOs consistently called for a change in mentality from public officials, from secrecy towards openness. Finally, CSOs fostered a collaborative effort with different governments to promote the passage to access to information laws. These efforts include training of government officials.

III. The Role of CSOs in the recognition of Fundamental Human Rights. General Overview

Under the classical view of international law, CSOs have no role in the formation and recognition of human right norms. This, as international law was considered basically as a law for States. Under this view, the decisions are made at the highest levels of government and negotiated with other states. At the domestic level each State is called to follow its own process of internalizing

³ Cf. Declaration of Nueva León, adopted on January 13, 2004, by the Heads of State and Government of the Americas, during the Special Summit of the Americas, held in Monterrey, Nuevo León, Mexico.

D. SOTO ABRIL

Human Rights norms by recognizing which rights are to be considered fundamental and then deal with their enforcement and protection.

However, a much more progressive view, abandons the conception that States are simply unitary actors and that international law focuses on States as such. Under a more progressive view, States are made up of large number of actors with different interests. These actors include not only citizens, but also Civil Society Organizations that can effectively participate in the process that lead to the discussion and ultimately adoption and respect of human rights at the domestic level.⁴

Furthermore, the theory of Transnational Human Rights Advocacy Networks recognizes that networks created by international civil society organizations, working with domestic NGOs and other groups (media, academia, community based organizations) can and do contribute greatly in the process of internalizing human rights practices by promoting at the State level, a change of discourse, attitude and changes of behavior with respect to a particular right.⁵ What differentiates these “networks” from occasional group meetings of different entities is that the CSO networks are made of relevant actors working internationally on an issue of common interest, who are bound together by shared values, a common discourse and dense exchanges of information and services.⁶

Under the transnational human rights advocacy view, CSOs working as a network not only contribute to internalization of existing human right norms, but more importantly, CSOs also foster the actual formation of human right norms at the domestic and international levels. To explain the model of Transnational Human Rights Advocacy Networks Risse and others developed a “spiral model” for what they call “socialization of human rights.” This spiral model can also be predicated to the recognition of new human right norms not previously recognized in the international arena. Such is the case of access to information prior to the *Reyes v. Chile* decision. The model goes through five Phases:

- *Phase I: Repression.* During the first phase, States enact/maintain policies of oppression with regard to a particular right. The Theory

⁴ Moravcsik, Andrew. Explaining International Human Rights Regimes: Liberal Theory and Western Europe, *European Journal of International Relations*.1995; 1: P. 157-189.

⁵ Risse, Thomas and Sikkink ,Kathryn “The Socialization of International Human Rights Norms into Domestic Practice: Introduction. <http://assets.cambridge.org/97805216/50939/sample/9780521650939wsc00.pdf>.

⁶ For more information consult Activists Beyond Borders: Advocacy Networks in International Politics, a book from Margaret E. Keck, Kathryn Sikkink, Kathryn Sikkink. Risse, Thomas/ Ropp, Stephen C./ Sikkink, Kathryn (eds.) (1999): *The Power of Human Rights: International Norms and Domestic Change*. Cambridge: Cambridge University Press.

CIVIL SOCIETY AND ACCESS TO INFORMATION

recognizes that transnational Advocacy Networks of CSOs attempt to document violations and take them to the international community.

- *Phase II: Denial:* Transnational Advocacy Networks of CSOs denounce violations of a right with the international community. The denounced State denies such allegations.
- *Phase III: Tactical Concessions.* Under pressure from CSOs from the Transnational Networks and vulnerability from external pressure from International community of States, individual countries make small concessions with the goal of not give the sense of compliance or apace contradictors.
- *Phase IV. Prescriptive.* States are confronted with massive mobilization by Transnational Advocacy Networks of CSOs. In response, States engage in a major change that requires them to recognize a human right, by including it in the constitution or by enacting laws that outline a mechanism for recognition and protection.
- *Phase V. Consistent behavior.* In this final phase, there is widespread State acceptance of the exercise of a human right and generalization of compliance.

These five phases of recognition of a human right by States at the domestic level should be cross referenced with the Life Cycle of Norms outlined by Finnemore and Sikkink⁷:

- *Emergence:* At this stage, norm entrepreneurs “create” issues by framing them. This might take place at the domestic level.
- *Cascade:* An emergent human right norm reaches a threshold and becomes institutionalized in specific sets of international rules and organizations. Without such institutionalization, norm diffusion from bottom up becomes more difficult. This is carried through:
 - *Critical Mass.* A large number of States adopt the same consistent view with regard with a specific human right in a way that it becomes a “norm” for the group.
 - *Critical States adopt the norm:* States without which the achievement of the substantive norm goal is compromised, recognize a given human right.

⁷ Finnemore, Martha and Kathryn Sikkink (1998). “International Norm Dynamics and Political Change” in *International Organization* 52:4, PP. 887-917.

D. SOTO ABRIL

- *Internalization.* Human right norms that have been recognized at the international level, find their way into the domestic setting.

Both “the spiral” and the “norm cycle” models can be applied to explain the role played by CSOs in the recognition of Access to Information as a fundamental human right at the regional level by the Inter American Court of Human Rights, and the domestic level via the passage of access to information laws in more than 15 countries of the Western Hemisphere in the past 10 years.

IV. Particular Instances of CSO participation in the recognition of Access to Information as a Fundamental Human Right

A. At the Domestic Level

1. Mexico: The Oaxaca Group Case

In 1977 Mexico introduced Constitutional Article 6 under which the “right to information is recognized by the State”. This article was interpreted up to the mid 90s as giving a right of the political parties to disseminate political information. Other limitations such as *Ley de imprenta* (Printing Tax), and TV and Radio Laws ensured restriction in the free flow of information from the government to the public. During that time “Secrecy laws” were the common norm, limiting citizens’ right to information and hindering the capacity of community and civil society groups to more actively engage in oversight of public expenditures, privatization of public companies and government activities in general.⁸

In 2000, PAN (National Action Party) came into power with President Vicente Fox. There was hope for a change, and the promise of democracy, and with that higher transparency and accountability. Later, in May 2001, a group of NGOs, media groups, academia, and journalists met in a conference organized in the State of Oaxaca. It was planned purely as an academic event with low expectations of producing further impact. However, at the end of the conference, participating organizations issued to create a technical commission to explore the feasibility of a right to public information law. The commission became known as Grupo Oaxaca.⁹

The Declaration called for among others to:

- Promote a reform of art 6. Constitutional to make clear that public information was owned by citizens and that access to it was a right bestowed to all citizens.

⁸ Taraciuk, Tamara. “Lost in Transition”. Human Rights Watch publication. 2006. P. 38.

⁹ Id. P. 38.

CIVIL SOCIETY AND ACCESS TO INFORMATION

- Promote the passage of a law so that government agencies at the federal level would have clear guidelines on how to act when faced with a request for information.
- Create a set of sanctions to government officials who deny a request for information without cause, and setting a regime of exceptions.
- Participant CSOs were also tasked with the creation of a Technical Commission that would take on the task to draft a model law that could then be proposed to the government. This as under Mexican law only the government or the congress itself have can take the initiative in presenting draft legislation for approval.¹⁰

In response to an apparent lack of interest in the proposed legislation by the government, the Technical Commission of Grupo Oaxaca organized a series of awareness activities in the country. The group also issued the Bill of Principles of Access to Information that included the recognition that Access to Information:

- Is a Human Right.
- That information belongs to all citizens.
- That there is an obligation by the State to voluntarily disclose information and publish it in available means.
- That restrictions to information should be exceptional, clear and well justified.¹¹

The Government responded by preparing its own proposed bill on access to information that did not meet the standards set by the Oaxaca group. Recognizing the role of civil society, the Mexican government called for civil society participation in the discussion of its own proposed Bill. The Oaxaca Group built pressure from public opinion. In an act without precedents in the history of Mexico, the opposition parties, including PRI adopted the proposed bill from Oaxaca Group as their own. Since there were two competing bills related to the same subject matter, the Mexican Congress called for negotiation between the government and representatives from the Oaxaca group to reach a unified Bill. This was achieved and the draft legislation proposed by the Oaxaca Group was adopted. The legislation was then passed into Federal Law in April 2002. The law

¹⁰ Id. P. 39.

¹¹ Id. P. 42.

D. SOTO ABRIL

recognizes the right of each person to access information held by the state, its three branches and agencies.¹²

2. Practical application of the Spiral Model of the internalization of norms in the Mexican Case: How Civil Society got Access to Information to become a recognized right

Phase	Landmark	Civil Society Role
Repression	Up to 1968, Tlatelolco Protest/policies of oppression	CSOs were often demonized. Limited group of domestic CSOs and student groups work together. Call for international action, counter by generalized denial, portrayed as CSOs are considered mostly left wing.
Denial	Up to around 1990	International pressure builds up. Mexico is recognized as a country where transparency could be improved. In response, the Mexican government denies corruption and asserts transparency in its decisions Constitutional Article 6. Right to Information is adopted. Yet it is interpreted as a right of political parties not as a citizens' right.
Tactical Concessions	1990-2000	CSOs, students and Media begin to work together to assert need for greater transparency and access to info. External Factors such as the passage of the North American Free Trade Agreement and the fact that Mexico had recently joined the World Trade Organization prompted the government to take small steps towards openness in information.

¹² See also Hughes, Sallie. "Newsrooms in Conflict: Journalism and the Democratization of Mexico". Pittsburgh: University of Pittsburgh Press, 2006. 256 pp.), ISBN 978-0-8229-5928-1.

CIVIL SOCIETY AND ACCESS TO INFORMATION

Regime Change	2001-2002	Grupo Oaxaca-CSOs works with congress to foster the passage of Federal Access to Information Law. Access to Information as the right of all individuals in Mexico.
Consistent Behavior	2002-	Grupo Oaxaca dissolved but NGOs work together to promote Access to Information legislation at the state and municipal level. Training of Journalists and media, awareness campaign. Mexican Government creates the Mexican Institute on Access to Information -IFAI-. Citizens' requests for information increase. IFAI is now recognized as one of the most efficient / respected Mexican Agency.

B. Role of CSOs in the recognition of Access to Information at the Inter American Level. The *Reyes V. Chile* Decision

1. Background of the Case¹³

In 1988 Marcel Reyes on behalf of the Chilean environmental NGO Terram Foundation, requested the Chilean's Foreign Investment Committee information related to a massive logging project know as the "Condor River Project" being undertaken by a U.S. Company, Trillum Ltda¹⁴.

The project "included the development of a forestry complex that those requesting the information thought would have "considerable environmental impact. The project had also engendered much public discussion".¹⁵

¹³ Inter-American Court of Human Rights case of Claude-Reyes *et al.* v. Chile (2006).

¹⁴ The US corporation Trillium invested in a large-scale project to harvest timber from the lenga forests of the Mallaganes Region (XII) of Chile. The project, named Rio Condor, plans to harvest both lenga and the coigue de Magallanes (*N. betuloides*) on the Island of Tierra del Fuego. Consequently, a great deal of effort has been expended by Trillium to show that the project is in fact "sustainable", but many Chilean NGOs insists that the company's efforts do not suffice.

¹⁵ García Sayan, Diego, Inter-American Jurisprudence and Access to Information. Presentation during the International Conference o the Right to Public Information, The Carter Center, February, 2008.

D. SOTO ABRIL

Mr. Reyes indicated in a letter to the Vice President of the Foreign Investment Committee that the information was being requested for two purposes:

- “To evaluate the commercial, economic and social aspects of the [Río Condor] project, assess its impact on the environment [...]
- To exercise social control regarding the actions of the State entities that are or were involved in the development of the Río Cónдор exploitation project.”¹⁶

Mr. Reyes particularly asked for financial information pertaining to Terream to “ensure the soundness and suitability of the investor(s) and the agreements of the Committee recording that this information was sufficient.”¹⁷ Mr. Reyes’ request was ignored by the Committee. While he received a general response on some ancillary questions, the Chilean government failed to disclose the financial information requested. It also failed to provide a written explanation of why such request had been denied.

Later, “Mr. Reyes, personally and in representation of the Terram Foundation, Sebastián Cox Urrejola, personally and in representation of the NGO FORJA filed for a writ of protection with the Court of Appeals of Santiago. They requested the Court of Appeal to order the Foreign Investment Committee to respond to the request for information and make the information available to the alleged victims within a reasonable time. The appeals Court delivered a ruling in which it declared the application for protection inadmissible, because “from the facts described [...] and from the background information attached to the application, it is clearly without grounds.”¹⁸

On July 31, 1998, the alleged victims’ lawyer filed a remedy of complaint before the Supreme Court of Chile. Such remedy was declared inadmissible by the Supreme Court.

2. The Proceedings before the Inter American Commission of Human Rights¹⁹

Frustrated with the decisions at the domestic level, Mr. Reyes decided to take the case to the Inter American System of Human Rights. By that time, the case had gained notoriety both domestically and regionally. A group of CSOs composed of the “*Clínica Jurídica de Interés Público*” of the Universidad Diego

¹⁶ Inter-American Court of Human Rights case of Claude-Reyes *et al.* v. Chile (2006), Section 57 (13).

¹⁷ Id. Section 57 (13)-3.

¹⁸ Id. Section 57 (25).

¹⁹ Inter-American Court of Human Rights case of Claude-Reyes *et al.* v. Chile (2006).

CIVIL SOCIETY AND ACCESS TO INFORMATION

Portales; the Chilean organizations “FORJA,” the “Terram Foundation” and “*Corporación la Morada*”; the *Instituto de Defensa Legal* of Peru; the “*Fundación Poder Ciudadano*” and the *Asociación para los Derechos Civiles* (Argentine organizations); and individual citizens submitted a petition to the Inter American Commission of Human Rights.

This was possible because Article 44 of the American Convention gives the power to any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, to present petitions with the Commission containing denunciations or complaints of violation of this Convention by a State Party.²⁰

The conditions allowing for this type of petition had been made. Namely, that the remedies under domestic law have been pursued and exhausted by virtue of the submission and subsequent reject by Chilean Courts.

On March 7, 2005, pursuant to Article 50 of the Convention, the Commission adopted Report No. 31/05, in which it concluded that Chile had “violated the rights of the petitioners of access to public information and to judicial protection established in Articles 13 and 25 of the American Convention, respectively, in relation to Articles 1(1) and 2 of the Convention, by denying them access to information held by the Chilean Foreign Investment Committee and by not granting them access to Chilean justice to contest this refusal.” The Commission recommended to the State that it should “disclose the information requested and grant adequate reparation for the violation of the human rights, including providing them with the requested information.”²¹

On April 8, 2005, the Commission forwarded this report to the State and granted it two months from the date of transmittal to provide information on the measures adopted to comply with the recommendations made therein. On July 1, 2005, “in the understanding that the State had not adopted its recommendations satisfactorily,” the Commission decided to submit the case to the consideration of the Inter American Court’s consideration.

3. The Proceedings before the Inter American Court of Human Rights²²

The Commission submitted the application for the Inter American Court of Human Rights to declare that by denying the information requested by Mr. Reyes, the Chilean State was responsible for the violation of the rights embodied in

²⁰ American Convention on Human Rights, O.A.S.Treaty Series No. 36, 1144 U.N.T.S. 123, article 44.

²¹ Id. Sections 8 and 147.

²² Inter-American Court of Human Rights case of Claude-Reyes *et al.* v. Chile (2006).

D. SOTO ABRIL

Articles 13 (Freedom of Thought and Expression) and 25 (Right to Judicial Protection) of the American Convention, in relation to the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the original petitioners.

4. Civil Society Organizes

Taking advantage of the opportunity to obtain a ruling from the Inter American Court of Human Rights, civil society organizations designed a joint strategy to push for the recognition of access to information as a fundamental human right. While the Court had tangentially referred to the right of access to information in previous decisions²³, such right had never been at the center of a case.

Other institutions such as the *Asociación por los Derechos Civiles* (ADC) from Argentina, the Center for Legal and Social Studies (CELS) and Damián M. Loreti and Analía Elíades (professors, the UNESCO Freedom of Expression Chair of the School of Journalism, Universidad Nacional de La Plata), and by Gastón Gómez Bernales (professor of the Law School of the Universidad Diego Portales) submitted amicus curiae brief in support of the request for information.²⁴

5. The Decision of the Inter American Court of Human Rights²⁵

The Court sided with the arguments of Civil Society Organizations, and decided that Access to Information is a Fundamental Human Right. In the decision, the Court makes clear that Article 13 of the American Convention of Human Rights recognizes the right of all individuals to search, receive and in relation to the facts of the instant case, the Court finds that, by expressly stipulating the right to “seek” and “receive” “information,” Article 13 of the Convention protects the right of all individuals to request access to State-held information, with the exceptions permitted by the restrictions established in the Convention.

Consequently, the Court concluded that Article 13 of the Inter American Convention protects the right of all individuals to receive public information and establishes a positive obligation of States to provide it. The Court further indicates that States can only deny or restrict access to information when there is a clearly established set of exceptions. Such exceptions should be consistent with the restrictions permitted by the Inter American Convention.

²³ Advisory Opinion No. 5, regarding mandatory schooling for Journalists.

²⁴ Inter-American Court of Human Rights case of Claude-Reyes *et al.* v. Chile (2006), sections 37 and on.

²⁵ Inter-American Court of Human Rights case of Claude-Reyes *et al.* v. Chile (2006).

CIVIL SOCIETY AND ACCESS TO INFORMATION

Furthermore, the Court indicates that upon receiving information from the State, an individual could at his own option, keep it, use for whatever purpose it deems proper or circulate into the community. In this way, it is understood that the right to freedom of thought and expression includes the protection of the right of access to State-held information.

As such Access to Information becomes a right not just a right for journalists or the media. Indeed, it is a right for all citizens and its fundamental in a democratic society. For this purpose, The Inter American Court said that democratic control by society, through public opinion, fosters transparency in State activities and promotes the accountability of State officials in relation to their public activities.²⁶ Hence, for the individual to be able to exercise democratic control, the State must guarantee access to the information of public interest that it holds. By permitting the exercise of this democratic control, the State encourages greater participation by the individual in the interests of society.

Since Access to Information is a Fundamental Right, States are responsible for guaranteeing compliance and free exercise. Accordingly, States should (i) Amend or abolish existing laws that restrict access to information. (ii) Pass necessary legislation that ensures compliance with this fundamental right by the Government.

With regards to the Chilean government the Court indicated that it:

- Must provide the information requested.
- Should provide training to government officials in Access to Information.
- Should also enact domestic legislation that ensures protection of this right. Article 2 of the American Convention.²⁷
- Publish the decision Government Gazette.

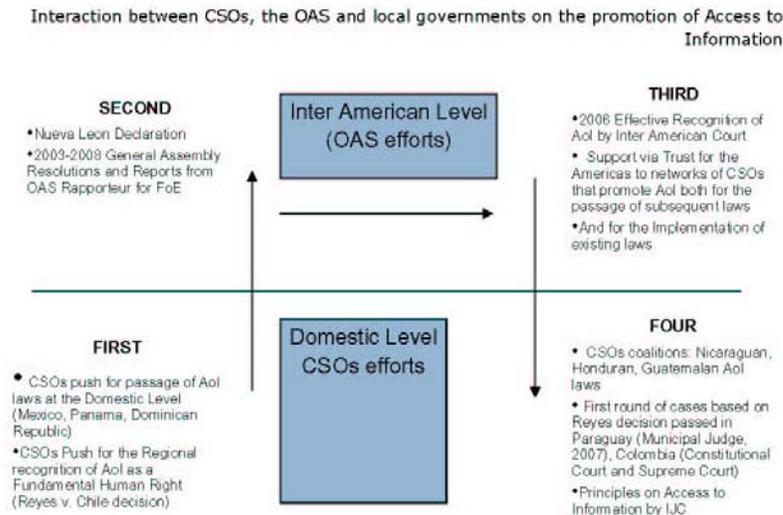
²⁶ Cf. . *Case of Palamara Iribarne*, *supra* note 72, para. 83; . *Case of Ricardo Canese*, *supra* note 72, para. 97; and . *Case of Herrera Ulloa*, *supra* note 72, para. 127. Likewise, cf. *Feldek v. Slovakia*, no. 29032/95, § 83, ECHR 2001-VIII; and *Surek and Ozdemir v. Turkey*, nos. 23927/94 and 24277/94, § 60, ECHR Judgment of 8 July, 1999.

²⁷ As a consequence of this decision, and following upon the actions of different CSOs, Chile finally passed its Access to Information Law in August, 2008.

C. Validation of these Against the Transnational Advocacy Network Model in Access to Information

Emergence	At the domestic level, a group of CSOs push for the recognition of access to information. The case is taken to the Inter American Court who recognizes access to information as a Fundamental Human Right
Cascade	Critical Mass: <ul style="list-style-type: none">• CSOs pressure states to adopt laws.• Reyes v. Chile calls for states to adopt laws• Critical Mass: Increased number of states adopt Access to Information Laws and recognize it as a Fundamental Human Right• Critical States: Countries such as Chile and Mexico pass AoI laws
Internalization	CSOs press for effective implementation. Training and awareness activities. <ul style="list-style-type: none">• States with Access to Information law pass regulatory frameworks• Other States feel pressure. For example Nicaragua, Honduras. As a result, they also pass Access to Information Laws• In States without laws, CSOs test with the Courts whether the right can be incorporated directly from International Law into the domestic system

CIVIL SOCIETY AND ACCESS TO INFORMATION



5. Conclusions from the Practical Analysis

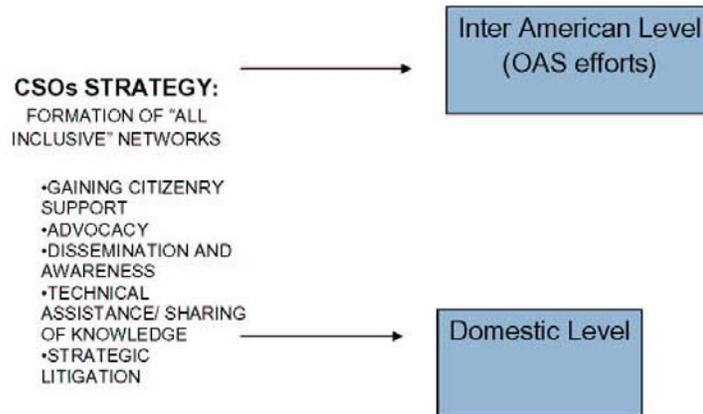
Both the Oaxaca Group and the Reyes v. Chile cases show that CSOs have been essential in the formation of access to information as a generally recognized human right both at the Inter-American and the domestic level. CSOs have provided advice, expertise and –as in the Oaxaca case- have themselves written the drafts of what subsequently became the actual access to information laws.

Actions in both instances are consistent with the Transnational Advocacy Network Theory that gives CSOs a role in the creation of international laws. By working in these transnational networks and using a strategy that combines advocacy and Strategic Litigation, CSOs can effectively influence the process of formation of international human rights norms and their recognition at the domestic and International level.

In this context, NGOs are providing technical expertise and training to journalists in the application of access to information. In turn, journalists have become excellent allies in dissemination of access principles by doing “widespread” outreach to citizens about the issue, by effectively using Access to information tools to do investigative reporting. Finally, NGOs and journalists/media outlets together continue to advocate with governments for changes prompting the passage of new legislation on the issue.

D. SOTO ABRIL

Combined Strategy of CSOs in the Americas with regard to Access to Information



In conclusion, it could be said that when it comes to access to information in the Western Hemisphere, international and domestic NGOs working in coordination with other groups (media, academia, etc) have contributed greatly in the process of internationally recognizing, expanding, and then *internalizing* access to information by promoting a change of discourse and "official" state attitude towards this human right.