

Principle 10: justice, equity and the environment

Current status, international debate and future prospects

Jonas Ebbesson
ECLAC Principle 10 Initiative
Santiago, 5 November 2014



Rationales for public participation: 1

- To improve the *effectiveness* of environmental laws
- To improve the *quality* of environmental decision-making:
 - by adding knowledge, expertise, local views, perceptions
 - by strengthening control of the public administration
- To further and adapt established *human rights*
- To promote *legitimacy, fairness* and *justice* in decision-making; and thus promote *trust* in government



Rationales for public participation: 2

- As social-ecological contexts expand geographically, these rationales apply in *international* and *transboundary* settings;
 - environment protection
 - human rights
 - legitimacy
- This is **not** a *zero-sum game* of political power
- Public participation does **not** *reduce* the responsibility of governments and public administrations

Principle 10 in International Law *before 1992 Rio*

- --
- --
- --
- OK, Espoo Convention, 1991



Principle 10 in International Law *at/after* 1992 Rio: global regimes

1992 UNFCCC

1994 UNCCD

1998 Rotterdam Conv (PIC)

2002 Stockholm Conv (POP)

2010 Nagoya Prot (ABS)

1994 Nuclear Safety

2001 ILC Draft Articles

1992 CBD

1997 Kyoto Prot

2000 Cartagena Prot

2013 Minamata Conv (Hg)

1997 Nuclear Wastes

2010 UNEP Guidelines (Bali)



Principle 10 in International Law *at/after* 1992 Rio: Europe & C Asia

1998 Aarhus Convention

General features: eg no harassment, non-discrimination

Three pillars: A2I; PP; A2J

Compliance Committee

1991 Espoo Convention – transboundary EIAs

1991 Industrial Accident Convention

1992 Water Convention

1999 Water & Health Protocol



Principle 10 in International Law *at/after* 1992 Rio: Americas

1993 North American Agreement on Env'l Cooperation

Bilateral treaties

201X ECLAC Treaty ?



Principle 10 in International Law

at/after 1992 Rio: Africa, Asia, Pacific

Africa: 2003 African Nature Cons Conv? (not in force)

Asia & Pacific: 1985 ASEAN Agreement? (not in force)



Principle 10 in International Law: Human Rights Regimes

Global Regimes

1966 ICCPR

1966 ICESCR

Europe & Central Asia

1950 ECHR

Americas

1969 AmCHR

1988 Add Prot ESCR

Africa

1981 African Charter

Asia & Pacific

--

ACCC: features and processes

- Not a court. Not a remedy.
- Independent and impartial
- Examines compliance by the parties
- Promotes compliance by
 - identifying non-compliance
 - making findings of non-compliance; making them public
 - facilitating compliance and building capacity
 - following up on non-compliance
- Reports to MOP, which endorses findings of non-compliance
- MOP follow ups



ACCC: Capacity-building: 1

- *ACCC findings*: identify gaps in national implementation
- *ACCC recommendations*: concrete guidance (generally with clear steps and timeframes) on how to come into compliance
- *ACCC monitoring*: follow up of recommendations; ongoing expert technical assistance
- *ACCC review procedures*: add to continuing dialogue and awareness among members of the public and public administrations



ACCC: Capacity-building: 2

- *Findings and recommendations*: can be used to mobilize funds from international organizations and bilateral donors to carry out capacity building
- *Findings and recommendations*: can be used by international organizations when designing and implementing projects and capacity-building activities, eg:
 - OSCE capacity-building projects
 - EBRD project implementation (ACCC findings are considered)



Form matters: Status of instrument

- Treaty provides a better *level playing field* – for all
- Treaty promotes *long term* international cooperation and commitments – it creates a platform
- Treaty promotes *trust* among parties and the public
- What will be achieved by LAC P 10 without a treaty?

- Text: General principles and specific minimum standards
- Dynamics: Some issues may be further developed *after* entry into force (eg details on compliance mechanism)



Conclusions

- Crucial rationales for public participation
- Support for public participation in several int'l env'l and human rights regimes
- Compliance Committee important tool for capacity-building
- Thus far Aarhus Convention most advanced on Principle 10
- But maybe LAC P 10 treaty will go further?

Further information:

www.unece.org/env/pp/pubcom.html

public.participation@unece.org

Aarhus Convention Implementation Guide (2nd ed.)