Principle 10: justice, equity and the environment

Current status, international debate and future prospects

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ECLAC Principle 10 Initiative
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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

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- OK, Espoo Convention, 1991
**Principle 10 in International Law**

*at/after 1992 Rio: global regimes*

<table>
<thead>
<tr>
<th>Year</th>
<th>Treaty/Protocol</th>
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<td>1992</td>
<td>UNFCCC</td>
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<td>1994</td>
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<td>1998</td>
<td>Rotterdam Conv (PIC)</td>
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<td>2002</td>
<td>Stockholm Conv (POP)</td>
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<td>2010</td>
<td>Nagoya Prot (ABS)</td>
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<td>1994</td>
<td>Nuclear Safety</td>
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<td>2001</td>
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<td>1992</td>
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<td>1997</td>
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<td>2000</td>
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<td>2013</td>
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<td>2010</td>
<td>UNEP Guidelines (Bali)</td>
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<td>1997</td>
<td>Nuclear Wastes</td>
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2010 Nuclear Wastes
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 paying 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.)