

Economic Commission for Latin America and the Caribbean

Sustainable Development and Human Settlements Division

Principle 10 of the Rio Declaration of 1992 within the context of implementation of the BPoA and MSI



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Regional Workshop on the implementation of Rio
Principle 10 in the Caribbean Region
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The normative world: two paths through Post-2015 Agenda

SUSTAINABLE DEVELOPMENT PATH

- 1972. United Nations Conference on the Human Environment
- 1987 Our Common Future
- 1992 United Nations Conference on Environment and Development
- 1994 Global Conference on the Sustainable Development of Small Island Development States
- 1997 Río +5

MILLENNIUM DEVELOPMENT GOALS PATH

- 1990 World Summit for Children
- 1990 World Conference on Education for all
- 1992 International Conference on Nutrition
- 1993 World Conference on Human Rights
- 1994 International Conference on Population and Development
- 1995 World Summit for Social Development
- 1995. Fourth World Conference on Women
- 1996. United Nations Conference on Human Settlements (HABITAT II)
- 1997. Kyoto Protocol

2002 International Conference on Financing for Development

- 2002. Río+10 Johannesburg World Summit on Sustainable Development

2000 Millennium Summit

2003 Phase One of World Summit on the Information Society

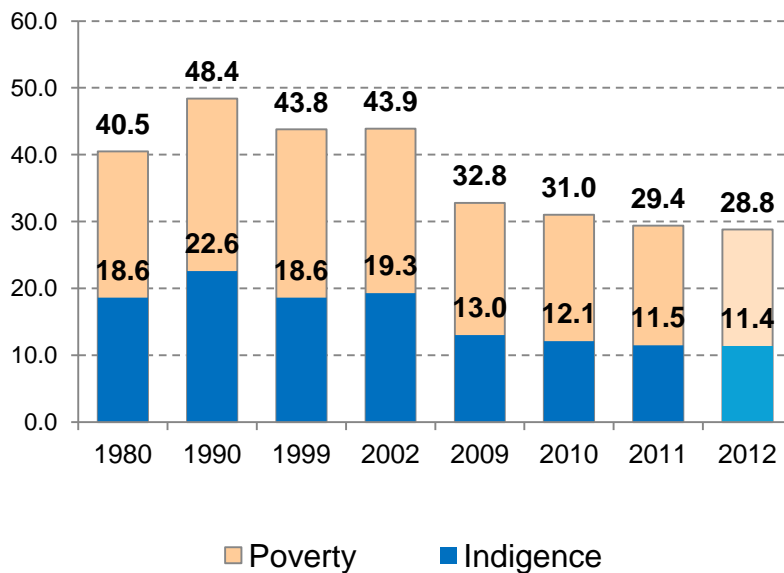
- 2012 Río +20

2013 Post 2015-General Assembly

A life with dignity: accelerating progress towards the MDGs and advancing the UN development agenda beyond 2015

Poverty and extreme poverty are at their lowest rates in 20 years. But LAC is still the most unequal region in the world, in spite of some recent progress in decreasing income inequality

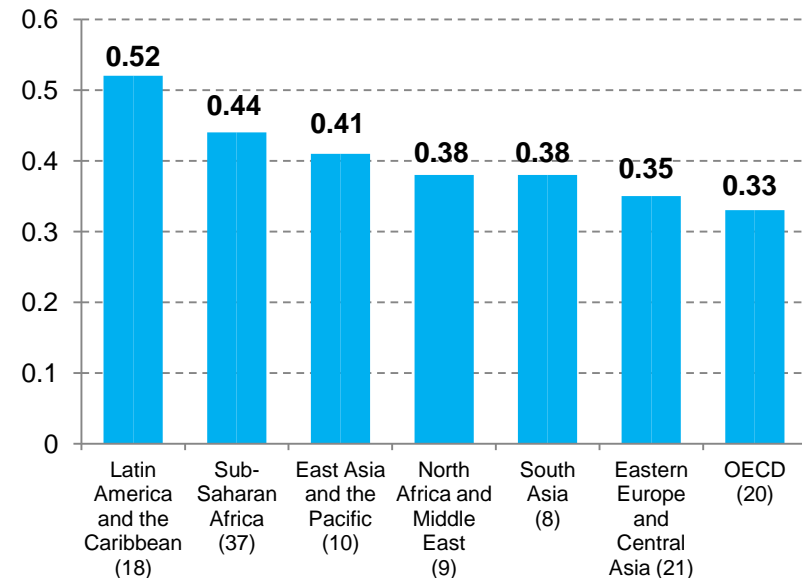
LATIN AMERICA: POVERTY AND INDIGENCE, 1980-2012 ^a
(Percentages)



Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of special tabulations of household surveys conducted in the respective countries.

^a Estimates for 18 countries in the region plus Haiti. The figures at the top of the bars represent the percentage and total number of poor people (indigent plus non-indigent poor). The figures cited for 2011 and 2012 are projections.

LATIN AMERICA AND OTHER REGIONS OF THE WORLD: GINI CONCENTRATION COEFFICIENT, AROUND 2009 ^a



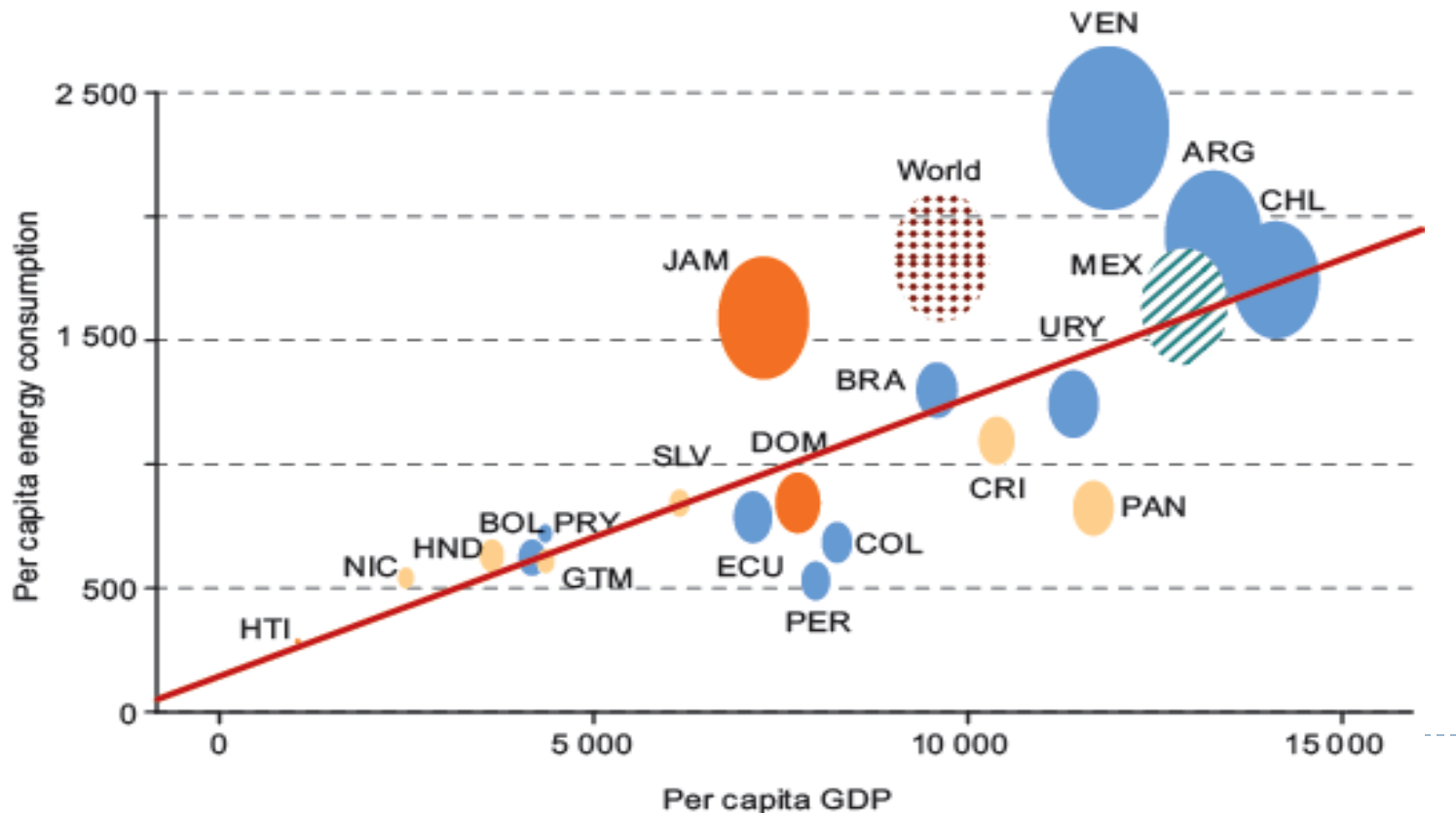
Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of special tabulations of data from household surveys conducted in the respective countries; World Bank, World Development Indicators [online].

^a The regional data are expressed as simple averages, calculated using the latest observation available in each country for the 2000-2009 period.

^b Organisation for Economic Co-operation and Development.

The current development evidences strong correlation between GDP growth, energy consumption and pollutant emissions

LATIN AMERICA: PER CAPITA GDP AND PER CAPITA ENERGY CONSUMPTION, 2008 ^a
(Kilograms of oil equivalent and 2005 purchasing power parity dollars)



AN ADDITION CONCERN IN THE REGION IS THE GROWING NUMBER OF SOCIO-ENVIRONMENTALLY RELATED CONFLICTS. THESE ARE RELATED WITH THE USE OF NATURAL RESOURCES

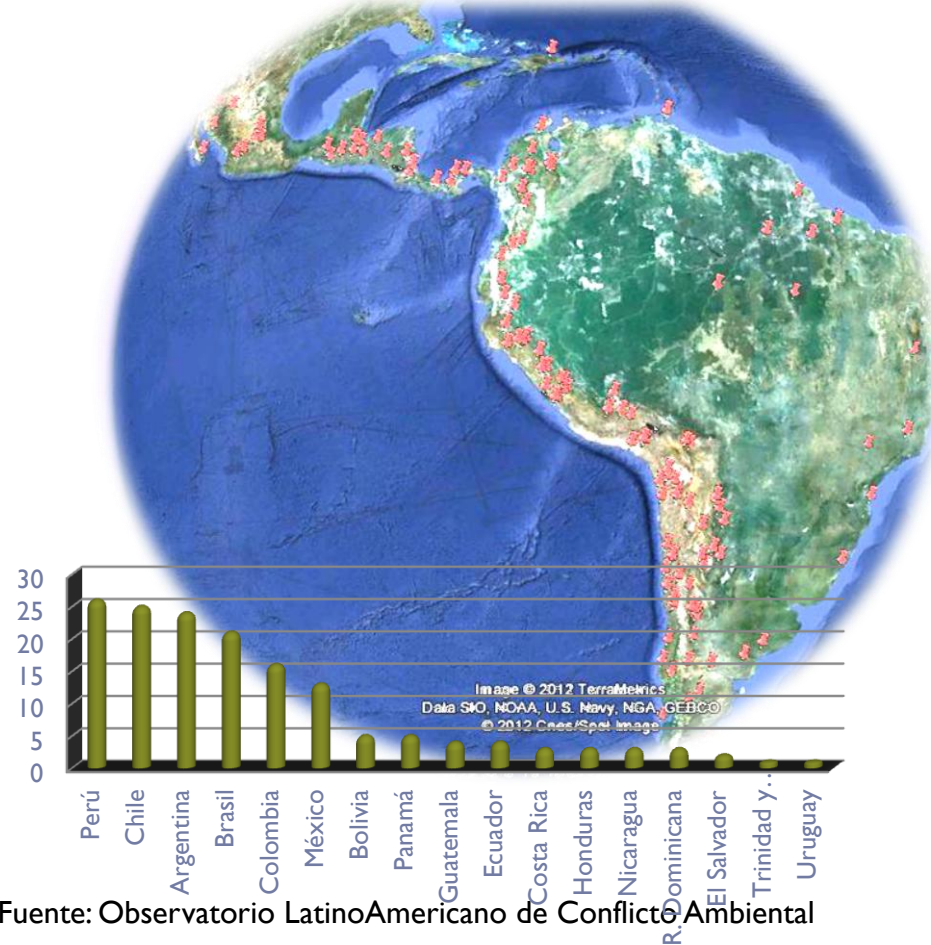
Causes for social conflict:

- Lack of opportunity to set out consequences not taken into account in the first stages of decision-making.
- Lack of official information about the adopted decision.

Why avoid conflict?

- Challenge legitimacy
- Save resources aimed at solving them
- Avoid damages and losses

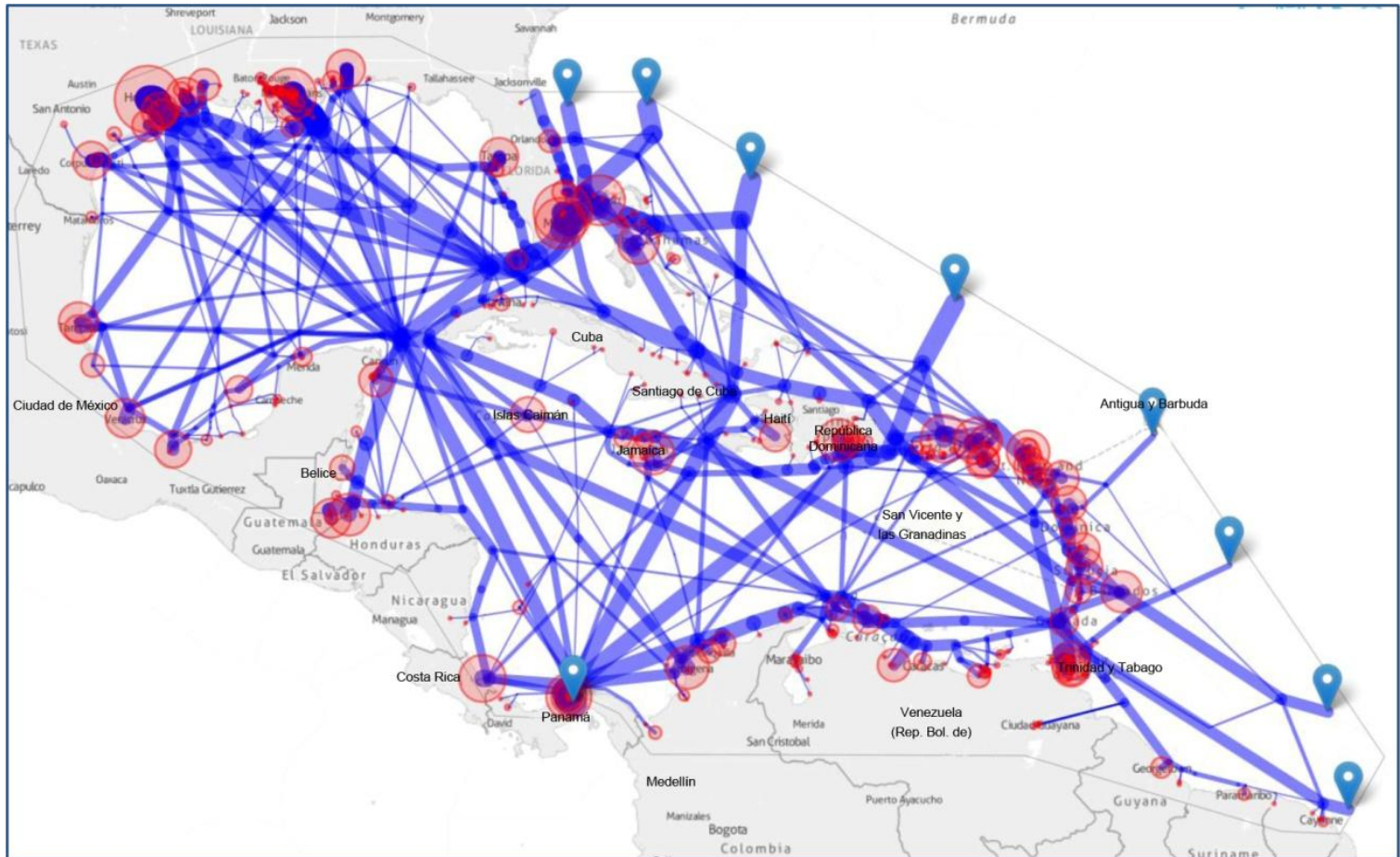
LAC: socio-environmentally related conflicts in the mining sector: 2004-2012



Fuente: Observatorio Latinoamericano de Conflicto Ambiental

AN ADDITION CONCERN IN THE REGION IS THE GROWING NUMBER OF SOCIO-ENVIRONMENTALLY RELATED PRESSURES. THESE ARE RELATED WITH THE USE OF NATURAL RESOURCES

► Total Vessel Traffic Concentration

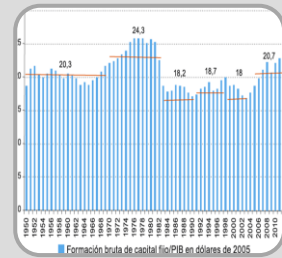
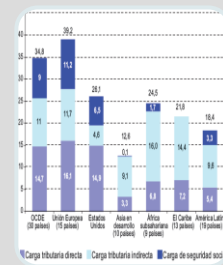
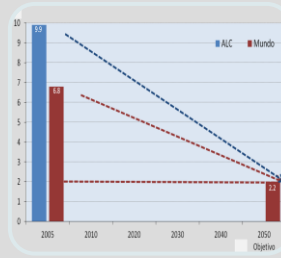
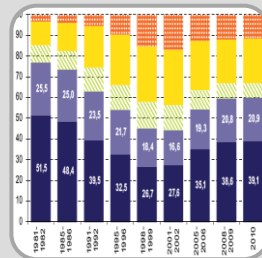
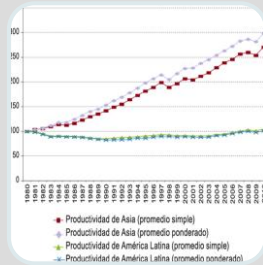
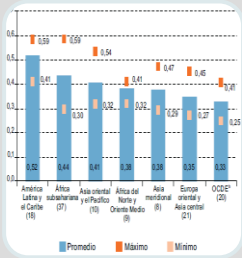


Source: IMO 2012

The current model is unsustainable

- **Economic growth is not enough:** growth is needed for equality just as equality is needed for growth
- **Poverty reduction is not enough** if structural inequalities based on gender, ethnicity and territory persist;
- **Higher productivity is not enough** unless it is associated with innovation and high value added, decent jobs, sustainable use of natural resources lower carbon intensity and reduced waste;
- **It is not enough to provide education** unless it is quality education and provides entry into the labour market;
- **It is not enough to have gender education parity** if women do not have access to the labour market on an equitable basis and full physical and political autonomy and empowerment;
- **Higher social spending by the State** is not enough unless development is underpinned by sound macroeconomic fundamentals;
- **It is not enough to have a targeted welfare policy** if it is not accompanied by public policy for universal social protection;
- It is not enough to act sporadically against **environmental degradation** without a paradigm shift in production and consumption.

A structural change is necessary



Inequality

For the first time in recent history there have been advances in combating inequality

Productivity

Closing the external gap (with the technological frontier) and the internal gap (between sectors and actors)

International linkages

Risk of “reprimarization” of the export structure, with low value added and little investment in technology

Environmental sustainability

Move towards sustainable production and consumption patterns

Taxation

Regressive tax systems; weak non-contributory pillar

Investment

Investment, at 22.9% of GDP, is insufficient for development

- Equal rights as fundamental framework. Equality as condition.
- Sustainable Development the pathway to the future
- State policies: Social (fiscal) Covenants / multi-stakeholders partnerships
- State safeguarding rights by taking action



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WHY PRINCIPLE 10?

- ▶ Access to information, participation and justice in environmental matters is a key issue for environmental protection and sustainable development.
 - ▶ Contributes to mitigate market and policy failures.
 - ▶ Is a public good and a fundamental right
 - ▶ Principle 10: better democracy, better economy and more justice
 - ▶ New equation: State – productive sector – society to trigger the structural change
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PRINCIPLE 10: REGIONAL AND INTERNATIONAL COMMITMENTS

- 1992 • Rio Declaration
- 1992 • Agenda 21
- 1994 • **Declaration of Barbados and Programme of Action SIDS**
- 1998 • Aarhus Convention
- 1999 • Inter-American Strategy for the Promotion of Public Participation in SD
- 2002 • Johannesburg Plan of Implementation
- 2005 • **Mauritius Declaration and Strategy of Implementation**
- 2006 • Declaration of Santa Cruz / Derecho humano fundamental
- 2010 • Bali Guidelines
- 2010 • **Mauritius Strategy of Implementation Review (MSI+5)**
- 2010 • Model Inter American Law on Access to Information (OAS)
- 2011 • Conclusions of the LAC countries Rio+20 preparatory meetings
- 2012 • Rio+20 outcome document “The future we want” (p. 43, 44, 99)
- 2012 • Declaration on the application of Principle 10 in LAC
- 2013 • Santiago Declaration CELAC / Santiago Declaration CELAC - EU
- 2013 • **Caribbean Preparatory meeting for the III Conference on SIDS**



PRINCIPLE 10 OF THE RIO DECLARATION (1992)

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

At the national level, each individual shall have **appropriate access to information** concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the **opportunity to participate in decision-making** processes.

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

Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Rio Declaration on Environment and Development (1992)



SIDS COMMITMENTS TO PRINCIPLE 10

Mauritius Declaration (2005)

- Further **reaffirm** our **commitments to the principles of the Rio Declaration on Environment and Development** and underscore that the full implementation of agenda 21 will contribute to the sustainable development of SIDS
- Recognize that good governance within each country and at the international level is essential for sustainable development.

Mauritius strategy (2005)

- [...] There is a need for strengthened **cooperation and partnership in support of sustainable development** of SIDS. Such partnership should be broad-based and ensure the **involvement and participation of relevant stakeholders**.
- Good governance within each country and at the international level is essential for sustainable development
- **Further action is required to improve legislative, administrative and institutional structures in order to [...] facilitate the participation of civil society in all sustainable development initiatives;**



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THE FUTURE WE WANT (RIO +20), 2012

- ▶ 43. We underscore that **broad public participation and access to information and judicial and administrative proceedings are essential to the promotion of sustainable development.**
 - ▶ 44. We recognize that improved participation of civil society **depends upon**, inter alia, **strengthening access to information, building civil society capacity** as well as an enabling environment.
 - ▶ 99. **We encourage action at regional, national, sub-national, and local levels to promote access to information, public participation, and access to justice in environmental matters, as appropriate.**
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CELAC AND PRINCIPLE 10, 2013

- ▶ "Appreciate initiatives for regional implementation of the 10th Principle of the 1992 Rio Declaration, regarding the rights of access to information, participation and environmental justice, as a significant contribution to the participation of organized community committed to Sustainable Development". *Santiago Declaration of the first CELAC Summit, January 27-28, 2013.*
 - ▶ "...The importance of implementing Principle 10 of the 1992 Rio Declaration at the Earth Summit, and reiterate the importance of advancing initiatives in this matter." They reiterated the right of citizens to participate in the formulation, implementation and monitoring of public policies. *Declaration of the CELAC-EU Summit, January 26-27, 2013.*
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ACCESS RIGHTS: THE ROLE OF THE STATES

Capacity-building

- ✓ *Education*
- ✓ *Demand generation*

Information

Environmental
information definition
Production
access

Participation

Informed
Timely
Effective

Justice

Legal framework
Impartial arbitrator
Specialized



ACCESS TO ENVIRONMENTAL INFORMATION

- ▶ Access to environmental information is not only a citizen right but a key part of an effective environmental policy.
 - ▶ When prices do not reflect the social benefits and costs implicit in economic decisions, markets fail and consequently, individual economic decisions produce inefficient resource distribution.
 - ▶ **Asymmetric information.** When a person does not have complete information on the quality of a good or service, this can lead to an adverse selection.
 - ▶ Experience shows that the economic benefits of an open and transparent information policy are greater than its costs.
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ACCESS TO PARTICIPATION

- ▶ In decision-making
 - ▶ **Makes consensus possible** among different actors of society: government – civil society – business
 - ▶ Allows for directly addressing concerns of the population affected: evidence for potential externalities
 - ▶ **Prevents conflicts** (social and economic losses)
 - ▶ **Moreover, participation reduces inefficiencies:**
 - ▶ Improves the quality of decisions
 - ▶ Avoids failures associated with imperfect information in decision-making
 - ▶ Balances factual powers (private benefits / public costs)
-



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ACCESS TO JUSTICE

- ▶ **Guarantees the integrity of public goods**
 - ▶ Access to an adequate environment
 - ▶ Participation of traditionally excluded groups in decision making
 - ▶ **Guarantees measures of access to information and participation**
 - ▶ **Creates a reliable framework where decisions can be questioned before an impartial organ (which prevents conflicts)**
-



LAC: ACCESS TO INFORMATION, PARTICIPATION AND JUSTICE IN ENVIRONMENTAL MATTERS

- ▶ **ECLAC document: “Access to information, participation and justice in environmental matters in Latin America and the Caribbean: Situation, outlook and examples of good practice”**
 - ▶ Review of the laws and institutions frameworks that safeguard access to information, participation in decision making and justice in environmental matters in the 33 countries of Latin America and the Caribbean.
 - ▶ The information gathered was complemented with a questionnaire on the implementation at the national level of Principle 10 of the 1992 Rio Declaration, which was filled in by 16 countries and 10 civil society organizations.
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LAC: ENVIRONMENTAL MANAGEMENT TOOLS THAT INCORPORATE ACCESS RIGHTS

Access to information

- Periodic reports
- PRTR
- Emergency information systems (fires, tsunamis, earthquakes, volcanic eruptions, etc.)
- Sistematized monitoring systems of environmental quality (urban national)

Access to participation

- EIA
- EAE
- Prevention and decontamination plans
- Emission standards and environmental quality
- Land use plans
- Hearing and planning permissions
- Legislative hearings

Access to justice

- Litigation
- Alternative resolution of conflicts
- Administrative mechanisms
- Specialized authorities in environmental jurisdiction
- Claim procedure



LAC REGION: ACCESS TO ENVIRONMENTAL INFORMATION (I)

- ▶ Currently, most of the countries of the region grant access to information in their **Constitutions or through specific laws**
 - ▶ Access to information is guaranteed under the Constitution in 15 countries, while in 11 English speaking Caribbean countries there is a Constitutional provision for freedom to receive information
 - ▶ 18 countries have specific legislation on access to public information and 7 others are engaged in adopting or creating such legislation
 - ▶ 2 countries (Argentina and Brazil) have enacted specific laws for the regime relating to access to environmental information
- ▶ In most countries, the parameters that determine access to information on the environment are distributed between the framework **law on the environment and the law on transparency.**



LAC REGION: STATUS OF THE CREATION OF PRTR, 2013





LAC REGION: PUBLIC PARTICIPATION IN ENVIRONMENTAL MATTERS (I)

- ▶ Twenty years on from the Earth Summit, most countries in the region have incorporated provisions on citizen participation into environmental legislation or into thematic or sectoral laws and have created a variety of citizen participation councils.
 - ▶ Most countries also have some degree of citizen participation in environmental impact assessments.
 - ▶ Citizen participation is most limited at the level of policies, plans and strategies, where it is generally at the discretion of the government
-



LAC: PUBLIC PARTICIPATION IN THE EIA OF PROJECTS



- Almost all countries include some level of participation in the EIA
- Different levels of implementation
- Different platforms of participation

	Environmental legislation has specific requirements for public participation in EIA processes.
	The environmental legislation has requirements for public participation in EIA processes but no secondary regulations on it.
	Only sectoral regulations have requirements for public participation in EIA processes
	EIA is in sectorial regulations and participation is discretionary or not regulated.
	EIA has not been legally established as an environmental management tool yet.



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LAC REGION: ACCESS TO JUSTICE (I)

- ▶ Countries in the region have made strides in creating and setting up specialized bodies with jurisdiction over environmental matters both with the framework of the justice system and as entities falling under ministerial or statutory bodies.
 - ▶ Over the last few years, legislation enacted in several of the region's countries has offered a broader range of procedural remedies, and burgeoning jurisprudence is paving the way towards a more functional form of environmental law.
-



LAC REGION: ACCESS TO JUSTICE (II)

- ▶ **Countries have also made progress in establishing authorities to whom citizens can appeal if denied access to information.**
 - ▶ In Chile, the Transparency Committee was set up not just to promote the principle of transparency and public participation, but also to serve as an independent body to which appeals can be brought against an institutional decision to withhold information
 - ▶ In Mexico, the recent reform of the Federal Act on Transparency, Access to Public and Governmental Information and Protection of Personal Data affords the Federal Institute for Access to Information (IFAI) greater autonomy and powers similar to those of the Transparency Committee in Chile.
 - ▶ In Uruguay, the Unit for Access to Public Information, while it does not have the authority to deal with complaints of refusal of information, advises citizens on their rights and the next steps to take in their defence.



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The critical role of the regional space

- ▶ Complementarities between global and regional institutions, in a heterogeneous international community
- ▶ Protection of the weaker players
- ▶ A greater sense of belonging to regional and subregional institutions
- ▶ With interdependence, autonomy shifts to the subregional and regional levels
- ▶ Provision of public goods through a network of global and regional institutions
- ▶ Deeper integration but this means overcoming the tendency of the global order to cause disintegration



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