



IMPLEMENTING PRINCIPLE 10 AND THE BALI GUIDELINES IN AFRICA

Major Groups / Civil Society Consultation Forum
15th Session of the African Ministerial Conference on the Environment
(AMCEN)
March 1 2015
Cairo, Egypt

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15th regular session of the African Ministerial Conference on the Environment, 2-6 March 2015- Cairo , Egypt

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Outline

1. Introduction: Principle 10 of the Rio Declaration
2. Putting Principle 10 into action: the UNEP Bali Guidelines
3. Main elements of the Bali Guidelines
4. UNEP's efforts to advance Principle 10
5. Implementation of the Bali guidelines: National experiences
6. Challenges and opportunities

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Introduction

June 1992-United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro, Brazil

Rio Declaration is a statement of 27 broad principles

Principle 10 outlines one of the most important sets of considerations, sets out three fundamental rights in relation to the environment:

- i. Access to information;
- ii. Access to public participation; and
- iii. Access to justice.



Putting Principle 10 into action: the UNEP Bali Guidelines

The Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines)

- ❖ Adopted in February 2010 at the Special Session of the UNEP GC in Bali, Indonesia, they are voluntary guidelines and countries are invited to take the guidelines into consideration in the development or amendment of national legislation.
- ❖ The Guidelines seek to assist countries in:
 - Filling possible gaps in their respective legal norms and regulations; and
 - Facilitating broad access to information, public participation and access to justice in environmental matters

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Unpacking P10: Access to Information (AI)

- ❖ Enables meaningful, informed and effective citizen participation by availing environmental information including:
 - environmental quality;
 - environmental impacts on health and factors that influence them; and
 - legislation, policy and advise on how to obtain the information.

Specifically, the Guidelines require States to:

- I. Define in their law provisions for denying environmental information;
- II. Ensure public authorities regularly collect and update relevant environmental information, including information on environmental performance and compliance by operators;
- III. Prepare and periodically disseminate State of Environment (SoE) information, including quality and pressures on the environment;
- IV. In the event of an imminent threat to human health and the environment, ensure that information is made available to the public to take preventive measures.

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Unpacking P10:Public Participation (PP)

Governments to adopt policies and enact laws that take community needs into account.

1. Disseminate information in an objective, effective and understandable and timely manner;
2. Take due account of the comments of the public in the decision-making process, and/or in preparation of legally binding rules, policies, plans, programmes related to the(ir) environment;
3. Make the decisions public;
4. Ensure participation of the public in environmental review processes (in many countries EIA provides a good entry point for stakeholder consultation – refer here to the ladder of participation);
5. Ensure capacity building, including environmental education and awareness raising.



Unpacking P10: Access to Justice (AJ)

- ❖ This is the remedy and redress component of Principle 10. States have an obligation to:
 - I. Ensure that a person who considers her/his request for information or her/his right for participation has been unreasonably refused, has access to a review procedure before a court of law or other independent and impartial body to challenge such a decision, act or omission by the public authority in question.
 - II. Ensure procedures to challenge decisions in an effective and timely manner;
 - III. Ensure frameworks for prompt, adequate and effective remedies are in place;
 - IV. Ensure timely and effective enforcement of decisions in environmental matters;
 - V. Make public court procedures in relation to environmental issues;
 - VI. Make available court decisions relating to the environment; and
 - VII. Encourage the use of alternative dispute resolution mechanisms when possible.



UNEP's efforts to advance Principle 10

UNEP Bali Guidelines Project:

Objective:

Enhance the Capacity of Governments, Major Groups and other stakeholders in developing countries and in countries with Economies in Transition to implement Principle 10 and the Bali Guidelines

Activities:

1. Bali Guidelines Implementation Guide;
2. Regional Workshops and Legal Practitioners Training Course; and
3. National Capacity Building Projects.

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Implementation of Bali guidelines: National experiences

Areas of progress

- Freedom of information acts
- Environmental legislation that ensures public participation
- EIA
- Enhanced court access, environmental remedies and jurisprudence
- Better institutions

Regions/Countries

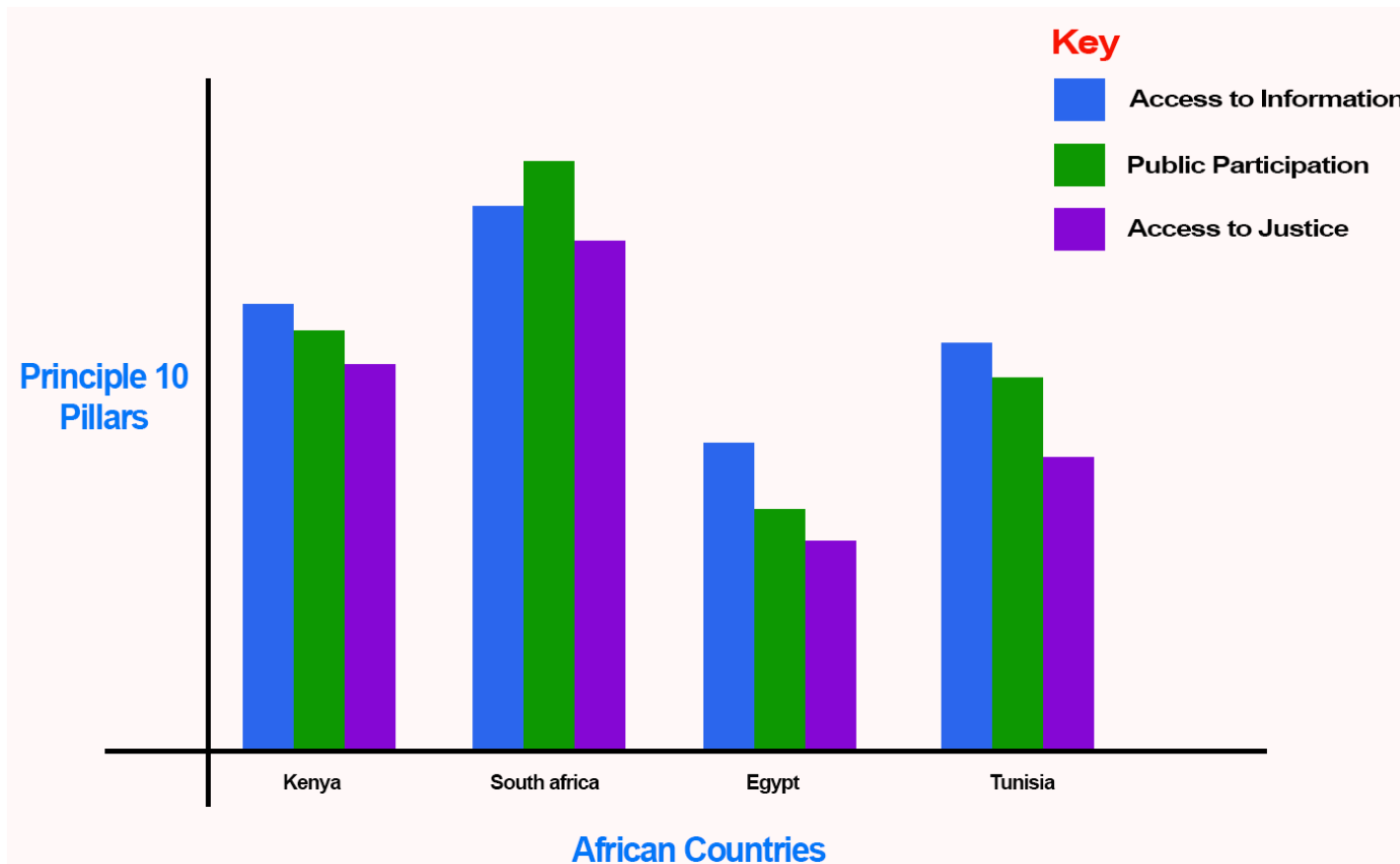
- LAC, with the Principle 10 Declaration adopted at Rio+20, with 17 signatories to date
- Kenya
- Uganda
- South Africa
- Nigeria (in particular AI)
- China

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Implementation of Bali guidelines: National examples



CHALLENGES FACING AFRICAN COUNTRIES IN IMPLEMENTING PRINCIPLE 10 AND THE BALI GUIDELINES

- Lack of national legislative and policy tools in some countries
- Lack of adequate capacity on the part of governments
- Lack of adequate capacity on the part of civil society and citizens
- Corruption, impunity and lack of institutionalised democracy
- Institutional weaknesses
- Weaknesses related to processes involved in implementing the principles e.g. deficiencies in the production and dissemination of information; deficiencies in the presentation, processing and disclosure of environmental offenses; *locus standi* restrictions etc
- Lack of experts to represent the public
- Lack of adequate, accessible, affordable court facilities and processes

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Useful links on Principle 10

<http://www.unep.org/civil-society/Implementation/Principle10/tabid/105013/Default.aspx>

<http://www.unep.org/civil-society/Implementation/Principle10/tabid/105013/Default.aspx>

<https://papersmart.unon.org/unea/sites/papersmart.unon.org.unea/files/K1401614.pdf>

<http://www.unep.org/roa/Portals/137/AMCEN15Docs/Issue%20Paper%20on%20P10%20and%20Bali%20Guidelines%20in%20Africa.pdf>

Thank you

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