

**Oregon State Bar
Sustainable Future Section**

Photo: J. Michael Mattingly

The Long View

Principle 10: Beyond Rio + 20



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The United Nations Conference on Sustainable Development (“UNCSD”) took place in Rio de Janeiro, Brazil, on June 20-22, 2012 (“Rio + 20”), marking the 20th anniversary of the 1992 United Nations Conference on Environment and Development. Secretary General Ban Ki-Moon compared Rio + 20 to a “revolution of the free market for a world sustainability, calling to the Conference inspiring innovation to orient the world to more sustainable levels toward economic growth and development.” The President of the UN Commission for Sustainable Development, Shah Zukang, explained that the principle difference between Rio + 20 and past conferences “would be the accent placed on renewing political engagement and execution...and the strong and unprecedented engagement of large social groups, non-state actors, whose role is fundamental in constructing ‘the future that we want’.” Following Rio + 20, a report that serves as the basis for this article was made to the government of Madagascar. The report focuses on implementing Principle 10 of the 1992 Rio Declaration through the Access Initiative.

Principle 10:

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.

In other words, the access to information, public participation and access to justice, a.k.a. “environmental access rights”, are critical for sustainable development and require transparent, participative, and responsible governance.

One feature of Rio + 20 was the important participation of civic organizations in the proceedings. The Access Initiative is an important example. A global network of 250 such organizations in 50 countries, the Access Initiative seeks to implement Principle 10 by promoting access to information, public participation, and access to justice. The Access Initiative is dedicated to ensuring that citizens have



Oregon State Bar Sustainable Future Section

Beyond Rio + 20 (continued)

the right and the ability to influence decisions about the natural resources that sustain their communities. The Access Initiative Network saw Rio + 20 as an opportunity for each member country to reaffirm its engagement and support for Principle 10 and to take new and novel measures to put to work this cornerstone of environmental governance. Each country was asked to identify the most important steps necessary to improve public participation in environmental decision-making processes in managing forests, pollution control, and decisions creating laws and regulations.

Led by the Access Initiative, each participating country submitted a list of “Three Demands” or “3Ds” along the lines of Principle 10 to their national governments. In general, the 3Ds concerned the following:

- Growing call among civil society organizations for a global convention process regarding Principle 10, in addition to regional conventions,
- Repeated demands to improve systems of environmental data collection, and
- Improving aspects of public participation of various environmental protection laws including forestry legislation, environmental impact assessments, and natural resource contracts.

For Madagascar, the objective of the 3D campaign was to call on the Malagasy government authorities to consider the access rights identified by Principle 10. The Access Initiative of Madagascar specified these three demands:

1. Integrating the Rio Declaration into national law so that there is truly an environmental democracy in Madagascar with statutes requiring periodic reports between elected and other government leaders and citizens;
2. Reinforcing public participation and putting in place a legal structure to follow up on regulatory compliance including statutes guaranteeing representation of local communities in the decision making structures governing natural resource management; and
3. Repairing procedural injustice and strengthening the place of civil society organizations specializing in environmental issues, in the “COAP” as potential guardian of biodiversity heritage, with statutes granting civil organizations standing

in court and creating environmental or “green” tribunals.

For the Africa region generally, the 3Ds focused on:

1. Creating and implementing a program to focus on the Bali guidelines, integrating access rights into different national and regional legislation,
2. Concentrating more on the extractive industries, and
3. Engaging regional organizations, such as (Southern African Development Community (SADC), on Principle 10 in a regional convention.

After the Rio + 20 Summit, the Access Initiative refined its objectives, articulating the following goals:

1. Track the recent declaration of 10 countries from Latin America and the Caribbean called to a Regional Convention on Principle 10;
2. Promote a Global Convention on Principle 10 following the final document “The Future We Want”;
3. Promote the democratization of the United Nations and other international processes.

Beyond Rio+20 it is hoped that the processes of engagement will continue, especially at the national level. Each government should respond to its engagements defined in the final document. ■

*The Development and Environmental Law Center in Madagascar (DELIC) is the lead organization for Madagascar’s Access Initiative organizations. DELIC’s Team Leader is Dr Lalaina R. Rakotoson, who has a Masters of Studies in Environmental Law from Vermont Law School, a Doctorate in International Legal Studies from Golden Gate University of San Francisco, and substantial experience working with environmental law issues and cases in Madagascar and beyond.

Special thanks to Diane Henkels, a close colleague of Dr. Rakotoson and a member of the SFS Executive Committee, for helping with the translation and editing of this article.