

INTERNATIONAL COUNCIL ON ARCHIVES

SECTION ON ARCHIVES AND HUMAN RIGHTS

Promoting Environmental Democracy: Procedural elements of the human right to a clean, healthy and sustainable environment

United Nations Human Rights Council, October 2023

Comments submitted by the International Council of Archives
(Section on Archives and Human Rights)

The International Council on Archives [ICA], an international association created in 1948 to promote the development of archives, with advisory status to UNESCO in the field of archives and documentary heritage, commends the preparation of a comprehensive report by the Special Rapporteur on Human Rights and the Environment on 'Promoting Environmental Democracy: procedural elements of the human right to a clean, health and sustainable environment' (for 55th session of the Human Rights Council)

Supporting this initiative, the International Council on Archives, informed by the work of its Section on Archives and Human Rights [SAHR], is pleased to share experiences and recommendations that relate to archives in the context of environmental democracy

In addressing the questions set in the call for comments, SAHR has focussed on answering questions 1, 5 and 6

Question 1:

1.1 What are States' obligations—and businesses' responsibilities—related to the rights to access information, public participation and access to justice with effective remedies in environmental matters?

The role of the state is to design, develop and enforce laws and policies based on scientific evidence and transparent debate that protect the environment directly or indirectly. Such protection must balance current needs with the future societal demands, in local and global contexts. A second obligation of the state is to monitor the observance of laws, to enforce them, to channel the resources necessary to support environmental policies, to follow the evolution of environmental affairs and to educate the public

The responsibility of businesses is to abide by the law, to follow the evolution of environmental affairs, to keep accurate records of the impact of their activities on the environment and to respond truthfully to enquiries about these activities, in compliance with the *UN Guiding Principles on Business and Human Rights* (which implicitly require reliable record-keeping throughout the business cycle)

To underpin this essential compact between the state and business, it is critical to record social memory through the medium of trustworthy archives, to make information accessible, to encourage public participation, and to widen awareness through education and access to effective justice.

1.2 What are the major barriers to the full enjoyment of these rights?

Access to information is achieved through the availability of infrastructure and the necessary income to pay for connected services. Poverty, government budget cuts, lack of investment in telecommunications, states of war, violence, restricted mobility or physical limitations, incomplete or inaccessible records and information, are barriers to enjoying these rights

Public participation can grow only from awareness and literacy. Restricted or low-quality education as well as information and technology misuse and underuse, reduce the possibility of mass participation in environmental matters

1.3 How can these barriers be overcome?

(a) Active transparency

Active - not passive - transparency is essential to the promotion of justice and the enforcement of law. To do so, an efficient legal system built on

- reliable records and archives
- secure processing systems running on open-data and proprietary-free architecture.
- interoperability between law-enforcement agencies and government in general, so the action of justice is clear, and transparent

must be created

(b) The use of social memory structures

Social-memory structures such as archives, repositories and libraries are critical to preserving records about problems affecting the environment, and removing barriers to the exercise of information rights associated with them. Curation and diffusion of physical and digital sources is a must for long term phenomena like environmental problems to be studied and controlled by humanity (see for instance the UNESCO *Charter on the Preservation of the Digital Heritage*).

The network of Archive Services across the world, many of which already hold extensive historic data on land use and exploitation, ownership and management, could be used in a more co-ordinated way to support the work of scientists and statisticians

(c) The need for multiple literacies

The users of information, whether citizens, activists, advocates, businesses or the state and businesses themselves, are hampered by the lack of information infrastructure and diffusion of archives and other sources. There is also limitation on the multiple literacies necessary to be competent to use these technologies and information. Digital platforms have turned into innocuous or sometimes dangerous sources for environmental rights protection as public opinion can be manipulated, and environmental defenders can be targeted or discredited through the use of this technology

(d) Recording environmental changes over time

The creation and funding of special programmes to record environmental changes over time in areas where it hasn't been done would be a useful step in overcoming these difficulties: a 'Doomsday/Domesday Book', to which parties could refer in different ways

These barriers can and should be removed

Question 5:

5.1 To what extent have the two regional treaties on environmental democracy—the [Aarhus Convention](#) and the [Escazu agreement](#)—been effective in advancing human rights related to access to information, public participation, access to justice with effective remedies, environmental education, freedom of expression and association, and safe spaces for environmental human rights defenders?

The Aarhus Convention and the Escazu agreement were important steps in crystallising what needs to be done to defend environmental human rights. So far, however, the local impact of these agreements has not been effective in making citizens around the world aware of human rights related to environmental protection. Limitations in income, in access to infrastructure and in education remain, while the monitoring of governmental action in the localities is weak or non-existent

Protocols such as the Aarhus Convention and the Escazu agreement must create a direct channel across the world, to educate and make citizens aware of the situation, to form local leaders and movements that make governments accountable. They also need to create unambiguous and trusted records about the whereabouts of local advocates and practitioners and their activities, to protect them from violence or legal threats, and to support their efforts with sufficient funding to continue their quest

Question 6:

6.1 Please provide examples of good practices related to access to information, public participation, access to justice with effective remedies, environmental education, freedom of expression and association, and safe spaces for environmental human rights defenders.

With a world-wide membership, the International Council on Archives could cite a large number of examples. To illustrate our thinking, however, we will mention two instances of particular relevance, where access to information, and the use of records, was useful

- As an example of long-term records preservation shaping our environmental consciousness today, we can cite the recording of “El niño” data over the years and the analysis of the greenhouse effect since the industrial revolution
- The Brazilian Pastoral Land Commission (Comissão Pastoral da Terra) is a good example of a movement that provides education and aid to people that historically hold land, but do not have such rights formalised by law. It was established in June 1975, at a meeting of the Catholic Bishops and Prelates of the Amazon, held in Goiânia Brazil as a response to the situation of exploitation, displacement and abuse affecting rural workers and communities in the Amazon. After the military government ended, the movement acquired an ecumenical character including Evangelical Lutheran Churches among others. The Pastoral Land Commission focuses on access to justice with effective remedies, freedom of expression and association, and access to information, in respect of land distribution

As a general comment, it would be the suggestion of the SAHR, based on its experience of human rights violations, that the topic of land ownership, land use (including mineral extraction) and land management would warrant specialised, single issue, focussed regular updates

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