

BACKGROUND: RESTRICTION OF SPACES FOR PUBLIC PARTICIPATION

Public participation in decisions that affect human health and the environment is essential in a democracy, as this is crucial to ensure individuals' right to engage in decision-making processes that impact their lives at local, national, and global levels. While participation considerations vary among different forums, meaningful participation requires the ability to intervene in developing policies, resolutions, and laws and to track the development of each negotiation. Only in this way may global policies reflect the views of those affected by policy decisions, who ultimately should be involved in their implementation.

In recent years, the participation of civil society in international decision-making has been constrained, raising concerns about inclusivity and transparency. Despite being key stakeholders, civil society organizations (CSOs), Indigenous Peoples, and representatives from affected communities have been sidelined in forums that shape critical policies. For example, the Fifth Intergovernmental Negotiating Committee (INC5) process for a Plastics Treaty involved numerous closed-door meetings that excluded CSOs, undermining public participation without any justification being provided for closing meetings. At the Sixth United Nations Environment Assembly (UNEA) in 2024, limited speaking rights for CSOs hindered their meaningful contributions to urgent environmental discussions.

This decline in civil society engagement weakens accountability and risks overlooking essential diverse perspectives in decision-making. Worse, it creates conditions for the development of less effective policies that fail to incorporate the deep knowledge and experiences of people who know the problems best: those whose lives are most affected by environmental problems.

WHAT IS PUBLIC PARTICIPATION?

Public engagement in governance is essential as it involves stakeholders who directly or indirectly contribute to decisions regarding policies, plans, or programs that impact their lives. This may include individuals and groups who are positively or negatively affected by proposed actions, such as legislation or project policies. During UN negotiations, CSOs typically engage in the decision-making process by providing resources containing relevant research, ranging from the latest science to legal analyses, position papers (for example, the IPEN quick views), organizing informational events, and attending plenary meetings and contact group sessions where the text of conventions, decisions, resolutions, and guidance is developed. CSOs can contribute analyses and observations on proposed text in development, providing unique input in support of decisions made by Member States.

It can be challenging to make public participation accessible on an international scale. Factors such as the complexity of logistics, costs associated with attending negotiations, rules around accreditation, visa requirements, and the substantial financial investments needed can all create barriers for participants. The UN Office of the High Commissioner for Human Rights recommends that States create and maintain a safe and enabling environment conducive to exercising the right to participate in public affairs.¹



¹ See para. 19, "Guidelines for States on the effective implementation of the right to participate in public affairs," United Nations High Commissioner for Human Rights, 2018

Members of the public have differentiated capacities, resources, socio-cultural circumstances, and economic or political influence, thus special measures should be taken to ensure a balanced and equitable process. Processes and mechanisms for international access should be designed to promote transparency, minimize inequality, avoid the exercise of undue economic or political influence, and facilitate the participation of those constituencies that are most directly affected and might not have the means for participation without encouragement and support.²

THE COST OF CLOSED-DOOR DECISION-MAKING AND BENEFITS OF PARTICIPATION

Participation enhances human rights by promoting democracy, rule of law, social inclusion, and economic growth. It reduces inequality and social conflict, empowering individuals and groups and forming the basis of human rights approaches against marginalization. While public authorities bear ultimate decision-making responsibility, societal involvement offers insights into specific issues, identifies gaps, and assesses policies and their impacts, balancing conflicting interests. This makes decision-making more informed and sustainable, boosting the effectiveness, accountability, and transparency of public institutions, legitimizing state decisions, and fostering societal acceptance. Despite their international importance, the workings of international decision-making bodies remain opaque to many people. Ensuring that environmental decisions account for the views of those who are affected by them increases public support, promotes sustainable development, and helps to protect the enjoyment of rights that depend on a safe, clean, healthy, and sustainable environment.³

Restrictions on participation lead to processes that exclude essential scientific input in decisions regarding environmental and health issues, as well as the on-the-ground knowledge of people affected by environmental and health stressors. The involvement of civil society experts and rights-holders including women, children and youth, and trade unions ensures that negotiations are informed by independent scientific knowledge and brings crucial lived experience from individuals whose health and human rights are most at risk due to environmental degradation.

Participation also facilitates the inclusion of Indigenous Peoples who, despite being sovereign rights-holders, do not have their views and cultural values adequately represented in the decision-making processes concerning land, seascapes, and biological resources. Moreover, the participation of Indigenous Peoples can potentially mitigate harmful impacts and maximize the benefits of projects implemented on and around their ancestral lands.

Restrictions on public participation benefit countries that attempt to hinder progress by facilitating closed-door maneuvers that occur outside the view of independent observers. In addition to providing this oversight function, CSOs make unique contributions that strengthen democratic and effective policies. For example, in recent years, IPEN's active participation in international negotiations has helped:

- Debunk the myth that plastics do not adversely impact human health, by disseminating independent studies on the harms to health and the environment from hazardous plastic chemicals during the Plastics Treaty INC proceedings.
- Expose the promotion of chemical recycling by the petrochemical industry, as a way to avoid restrictions on plastic production. This was achieved through IPEN's and other CSO's engagement with whistleblowers at the highest level of the plastics industry, whose voices would otherwise not be heard in international forums.
- Provide independent scientific data and input during chemical evaluations during the review of highly toxic substances such as dioxins, PCBs, UV-328, and chlorinated paraffins, among others, in the work of the Persistent Organic Pollutants Review Committee (POPRC) under the Stockholm Convention.

2 Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums ('Almaty Guidelines'), in: Aarhus Convention, Decision II/4, Promoting the Application of the Principles of the Aarhus Convention in International Forums (UN Doc. ECE/MP.PP/2005/2/Add.5, 20 June 2005)

3 See paragraph 23 of the "Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/37/59, 2018

LEGAL PRINCIPLES UNDERLINING PUBLIC PARTICIPATION IN ENVIRONMENTAL MATTERS

Article 21 of the Universal Declaration of Human Rights⁴ and Article 25 of the International Covenant on Civil and Political Rights⁵ affirm that everyone has the right to participate in their government, directly or through chosen representatives, promoting public involvement in governance. The Human Rights Committee's general comment No. 25 states that this right extends to making and implementing policies at international and regional levels, influencing national legislation, policies, and practices. Hence, such decision-making must be transparent and accountable, involving those affected, and upholding public freedoms, which should be protected internationally.

Further, civil society participants in regional and international meetings must be safe and not be subject to acts of reprisal.⁶ Also, Principle 10 of the Rio Declaration emphasizes that environmental challenges are best addressed through the involvement of all concerned citizens. This principle includes three components: access to information, public participation, and access to justice. Although it outlines the responsibilities of States regarding domestic participation, its implications for international decision-making are not well defined. Agenda 21, which was adopted in Rio, called upon UN agencies and intergovernmental organizations to strengthen the role of NGOs in the “policy design, decision-making, implementation, and evaluation” processes of international policy forums.

The 2012 Rio+20 Conference on Sustainable Development reaffirmed Principle 10, thereby reinforcing States' commitment to involving major groups and stakeholders in decision-making processes at all levels. Governments also emphasized their dedication to enhancing the participation and effective engagement of relevant stakeholders in international forums, promoting transparency, public involvement, and partnerships to advance sustainable development practices.

The Aarhus Convention of 1998⁷ and the Escazú Agreement of 2018 elaborate a rights-based approach for each of the three pillars of Principle 10: access to environmental information, public participation in decision-making, and access to justice. Both agreements require that Parties to the Conventions promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.⁸

Additionally, the Stockholm Convention requires each Party to promote and facilitate public participation in addressing persistent organic pollutants and their health and environmental effects and in developing adequate responses.⁹

INTEGRATING ENVIRONMENTAL JUSTICE PRINCIPLES IN INTERNATIONAL DECISION-MAKING SPACES

Restrictions on public participation risk jeopardizing environmental justice for communities who already face unequal burdens from environmental damage and are often excluded from decision-making forums. Existing legal principles can help define environmental justice principles where “the rights of Indigenous peoples and affected communities to represent and speak for themselves” and “the right of Indigenous peoples and local communities to participate effectively at every level of decision-making” are upheld.¹⁰

4 General Assembly resolution 217 A of 10 December 1948

5 General Assembly resolution 2200A (XXI) of 16 December 1966

6 Guidelines for States on the effective implementation of the right to participate in public affairs, paragraph 96.

7 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus, 25 June 1998; in force 30 October 2001) (‘Aarhus Convention’)

8 Aarhus Convention, Article 3(7) and Escazú agreement Article 7(12).

9 Article 10(1)(d)

10 See the 2002 [Bali Principles of Climate Justice](#) and the 1991 Principles of Environmental Justice

The Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums set basic standards on how public participation should be conducted. The Guidelines state that participation in international negotiations needs to be inclusive, transparent, and timely, noting that:

- The participation of the concerned public in the meetings of international forums, including their subsidiary bodies, should be permitted at all relevant stages of the decision-making process, unless there is a reasonable basis for excluding such participation according to transparent and clearly stated standards.
- Efforts should be made to proactively seek the participation of relevant actors in a transparent, consultative manner appropriate to the forum's nature.
- Participation of the public should include, at meetings of international forums, the entitlement to have access to all documents relevant to the decision-making produced for the meeting, to circulate written statements and to speak, without prejudice to the ability of international forums to prioritize their business and apply their rules of procedure.

Additionally, meeting agendas must allow adequate time for CSOs to contribute, as their input is frequently limited due to time constraints, particularly when they are only allowed to speak last. In such instances, their views become an afterthought rather than integrated into the discussion. Additionally, meeting planners must consider observers' participation, ensuring sufficient seating and space for all involved processes.

CONCLUSIONS AND RECOMMENDATIONS

For international meetings:

- Promote meaningful public participation as vital for the legitimacy and efficacy of decisions
- All meetings, including informal gatherings and contact groups, should remain accessible to civil society and rights-holders.
- Civil society groups should be allowed to meaningfully participate in negotiations, including in discussions around options for the text, and should be allowed to provide their observations on text development and have their views reflected in the meeting reports.
- Restrictions on participation should be specifically discussed and justified. Any limitation to participation should be interpreted narrowly.
- Specific, dedicated space and seating should be provided for observers.
- When organizing a meeting, consideration should be given to the location, visas, and any administrative burdens that may impede broader participation.

For National authorities:

- Parties of the Aarhus Convention should coordinate with the corresponding focal points of MEAs and focal points of UNEA and other ongoing negotiations to ensure they are promoting the implementation of Article 3(7) in all international forums, as specified by the Almaty Guidelines, including through its Compliance Committee.
- Parties of the Escazú agreement should review the enforcement of the obligations to promote participation in international forums as provided by Article 7(12) of the agreement, including through their Compliance Committee.
- National delegations should consider broad representation of stakeholders and rights-holders in their delegations to facilitate participation.