

# *Principle 10 of the Rio Declaration on Environment and Development and its implementation in Africa*

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# Outline of Presentation

- ▶ Principle 10 of the Rio Declaration
  - ▶ Elements of Principles 10
  - ▶ Principle 10 from Rio to the Present
  - ▶ Importance of Principle 10
  - ▶ The Access Initiative (TAI)
  - ▶ TAI in Africa
  - ▶ Looking into the Future
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# Principle 10 of the Rio Declaration

- ▶ “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”

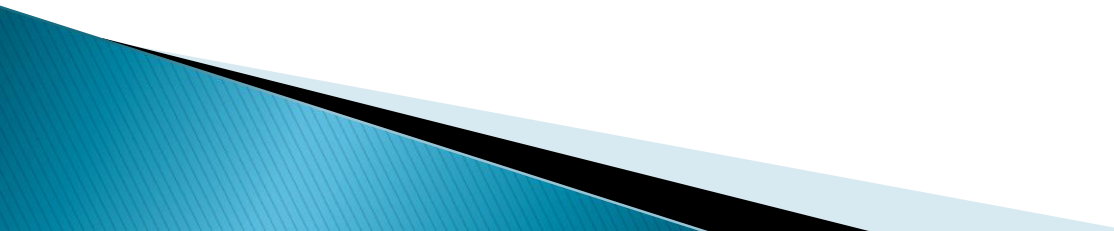
# The Access Rights – From 1992 to the Present

- ▶ 1998: The United Nations Economic Commission for Europe's Convention on Access to Information, Public Participation in Decision Making, and Access to Justice in Environmental Matters – Aarhus Convention.
  - ▶ 1999: The Inter-American Strategy for the Promotion of Public Participation in Decision Making for Sustainable Development.
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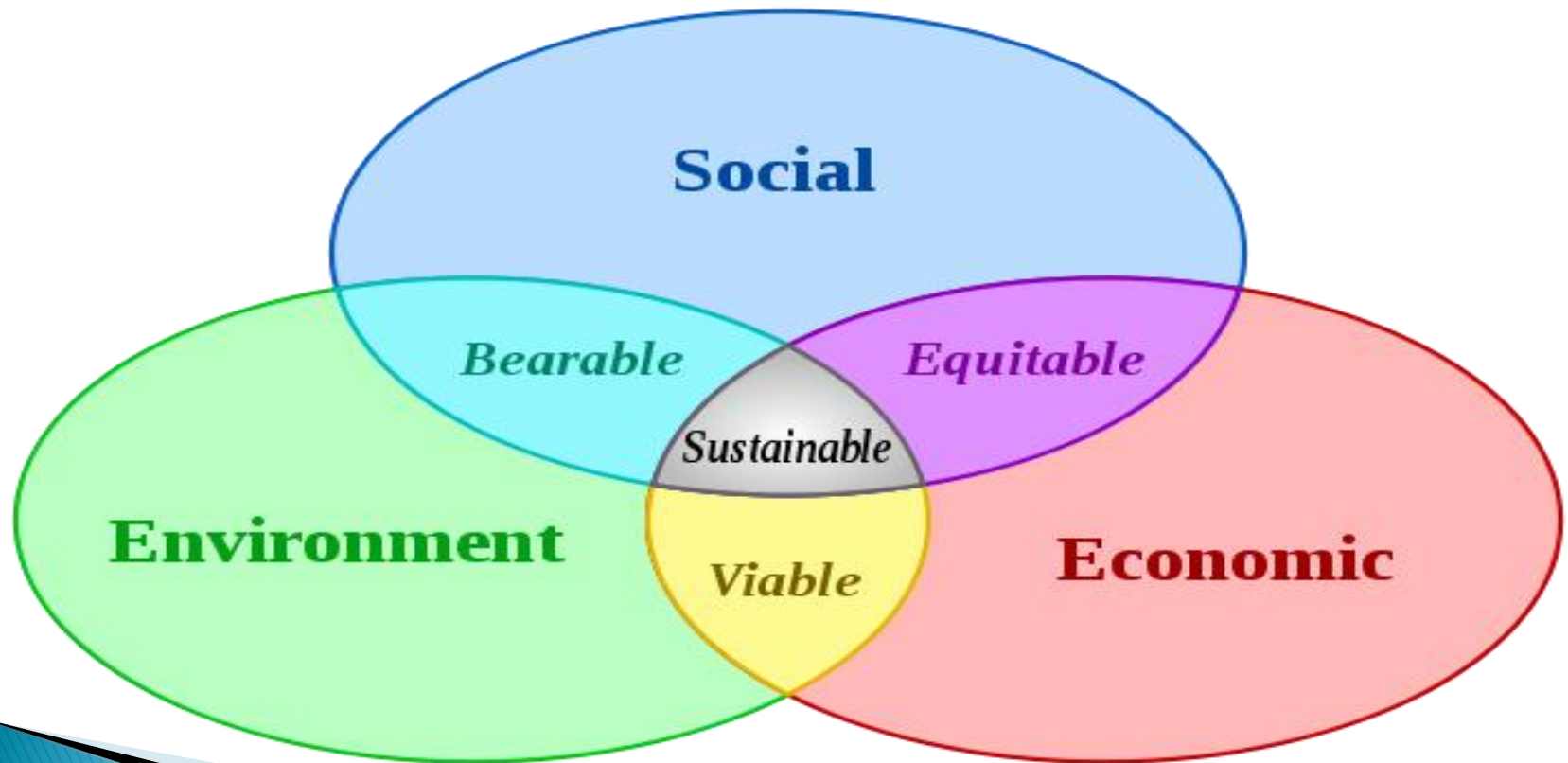
# The Access Rights – From 1992 to the Present

- ▶ 2000: Malmo Declaration of UNEP –endorsed a declaration acknowledging that the role of CSOs should be strengthened through freedom of access to environmental information by all, broad participation in environmental decision making, and access to justice on environmental issues.
- ▶ 2000: EAC MoU on the Environment – contained elaborate provisions on access to information, participation and access to justice.
- ▶ 2002: WSSD reaffirmed the global commitment to access rights.

# The Access Rights – From 1992 to the Present


- ▶ UNEP Governance Council Decisions and the Guidelines on access rights.
  - ▶ 2010: UNEP Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters.
  - ▶ Rio + 20 commitments on access rights.
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Not environmental information but rather, information on matters concerning the environment.





# Why are Access Rights Important


- ▶ Mobilizing support for environmental governance – the crisis in the ENR sector can only be addressed when every citizen is engaged.
  - ▶ Building a foundation for business –Effective governance, based on transparent decision-making and public access to government decisions is the foundation for fair, legitimate and sustainable economic and development choices.
  - ▶ Empowering citizens and strengthening citizenship.
  - ▶ Finding corruption – ENR is a potential corruption safe heaven.
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# The Global Access Initiative (TAI) 2000– To Date



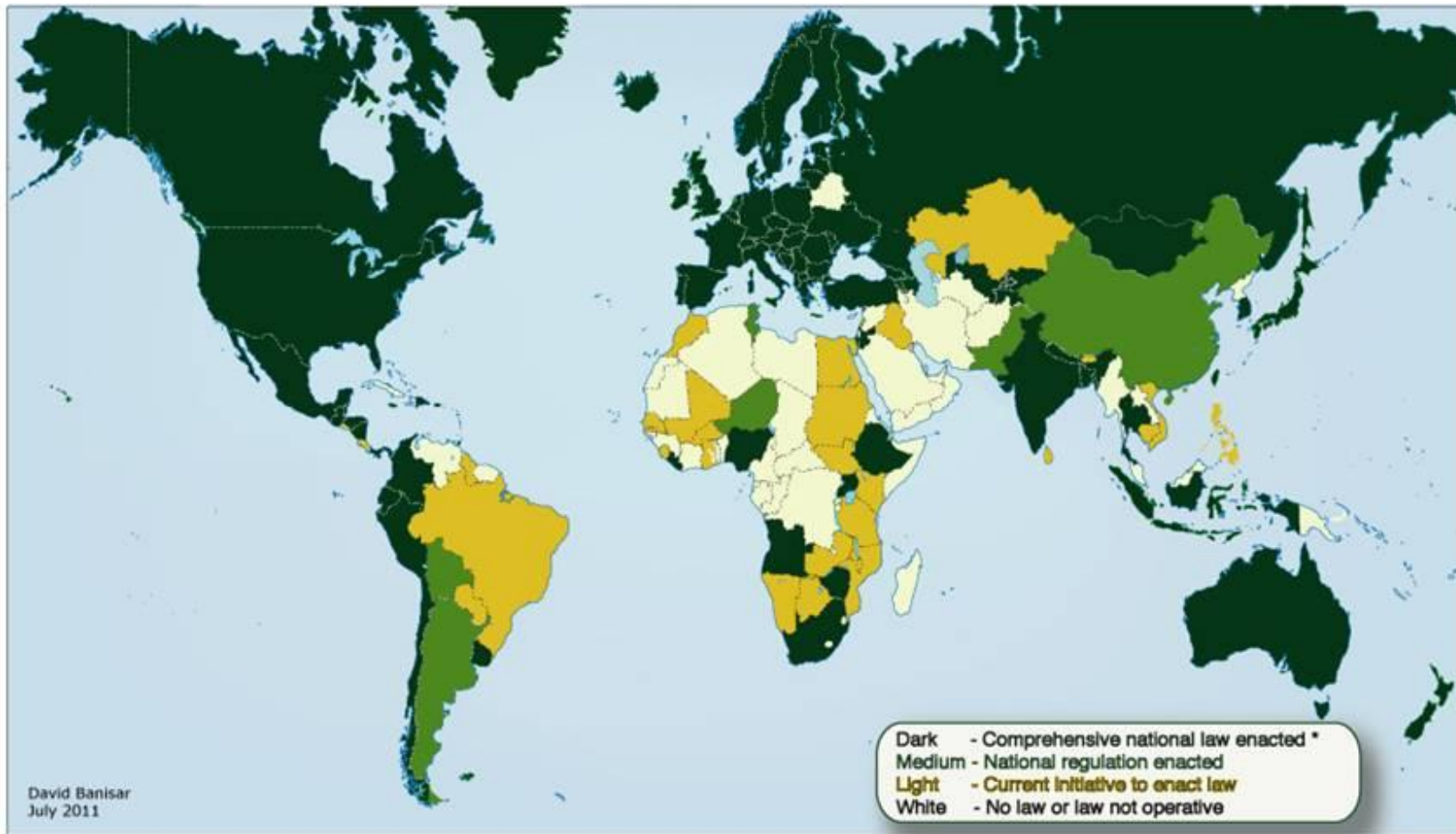
# Assessing Progress on Access Rights

- ▶ Regional and sub-regional instruments
  - ▶ National constitutions
  - ▶ Access to information legislation
  - ▶ Framework environmental laws
  - ▶ Sectoral legislation
  - ▶ Judicial decisions
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# Access Rights in Africa

- ▶ African Charter on Human and People's rights article 9(1) on right to receive information
- ▶ Adoption of the Declaration of Principles of Freedom of Expression in Africa(2002)
- ▶ NEPAD/ Africa Peer Review Mechanism enhancing ATI
- ▶ Africa model law on access to information.
- ▶ South Africa; Ghana; Kenya; Uganda; Mozambique; Nigeria

## National Right to Information Laws, Regulations and Initiatives 2011



\*Not all national laws have been implemented or are effective. See <http://www.article19.org/>

# Trends and Practices: Information

- ▶ All the new legal instruments are more likely to contain provisions on access rights than not.
- ▶ Governments interpreted access to information to refer to official government policy and programme documents.
- ▶ There is deliberate effort on the part of government agencies to withhold or hide commercial information e.g on concessions, land allocations, etc.
- ▶ The health sector is more advanced in providing information regarding health emergencies than sectors that deal with environmental emergencies.
- ▶ Access to information is a product of democracy.



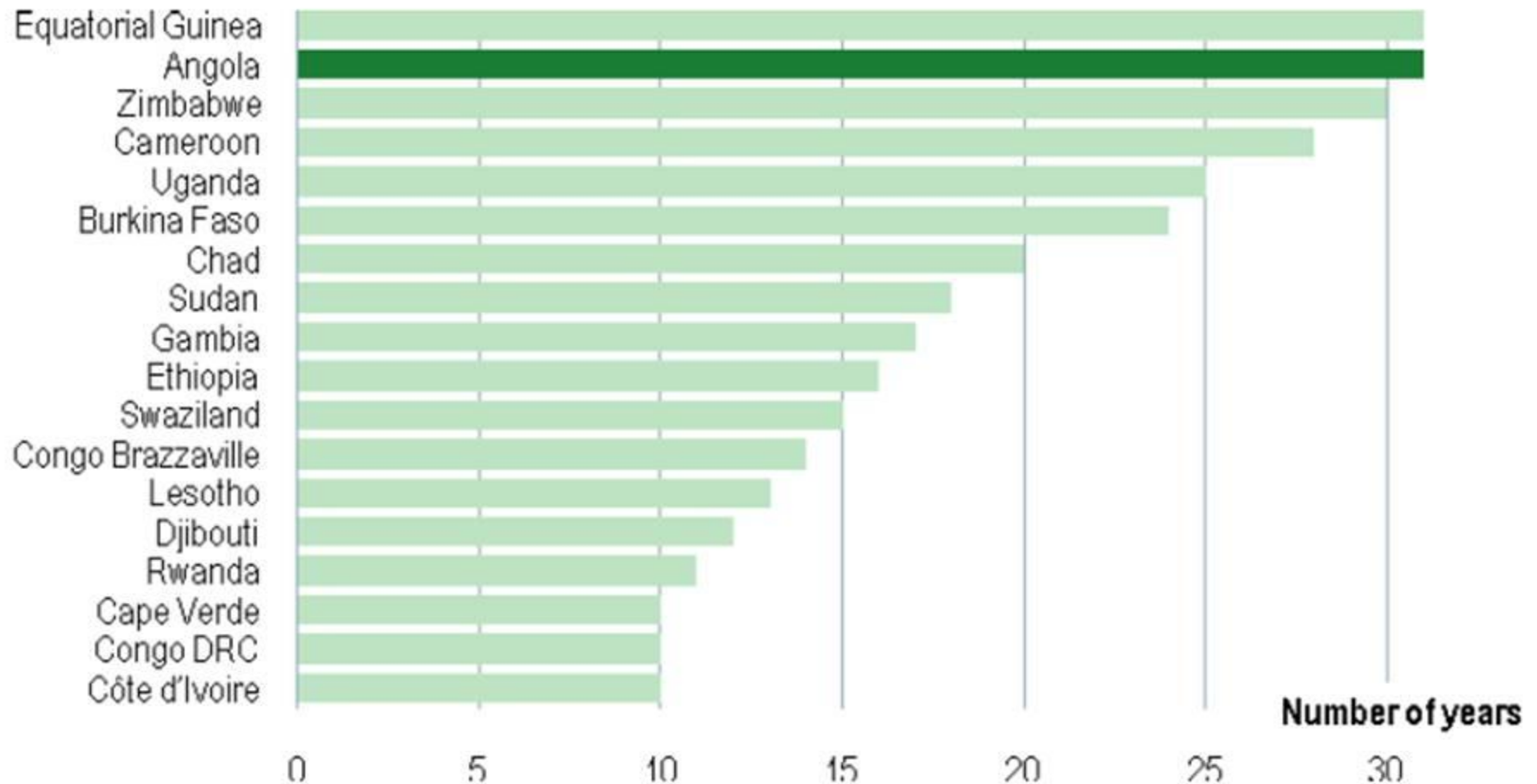
# The Future of Access Rights is Directly Linked to the Future of Democracy in Africa



Source: The Nation Media Group

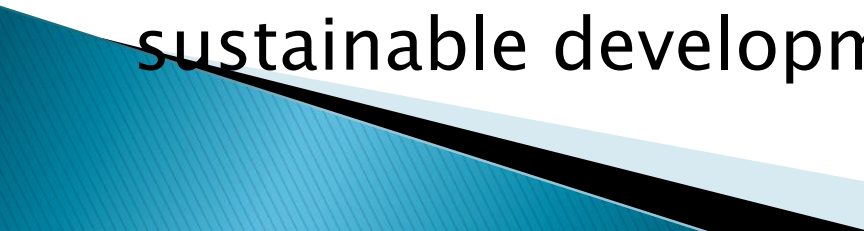
# Building on the Progress towards Access Rights: The Challenges

*Number of years in power (only those with more than 10 years in office)*

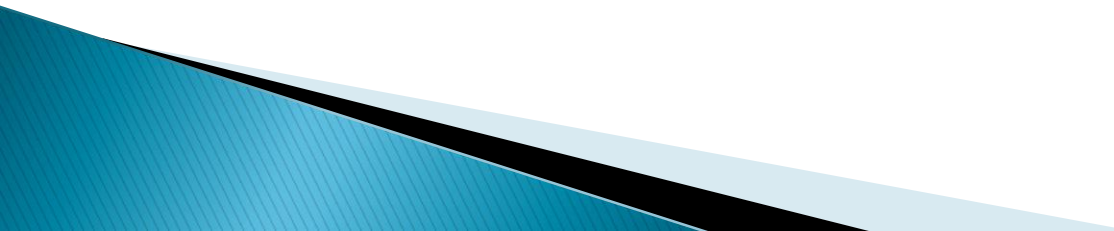




# Trends and Practices: Participation

- ▶ After Rio, participation was embedded in government planning over the last decade.
  - ▶ The PRSP and budget process processes provided the main vehicle for participation.
  - ▶ In the ENR sector, while agencies embraced the concept of participation, they have not been able to demonstrate the value addition envisaged under Principle 10.
  - ▶ Participation is more of a ritual rather than an accepted norm that enhances the attainment of sustainable development objectives.
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# Trends and Practices: Access to Justice

- ▶ In practice, very little progress has been achieved with regard to access to justice
  - ▶ The formal courts are inaccessible by citizens on account of distance, cost, unprecedented delays, complex procedures and lack of legal representation.
  - ▶ Alternative for a such as tribunals are either non-existent or simply do now work.
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# Supply Versus Demand

- ▶ All legislation are build around the supply-side model.
- ▶ Experience shows that progress is more certain when citizens are capable for demanding for information.
- ▶ Building the demand-side benefits from the presence of robust policy oriented CSOs.
- ▶ The general rule is to consider governments/agencies as being reluctant to provide information, facilitate participation and access to justice – proactive disclosure is not guaranteed.

Thank you