GLOBAL INFORMATION SOCIETY WATCH **2020**

Technology, the environment and a sustainable world: Responses from the global South

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APPROACH TO THE ESCAZÚ AGREEMENT ON THE USE OF NEW TECHNOLOGIES AND THE PROTECTION OF DIGITAL RIGHTS

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Introduction

Transparency and access to information are now green too. The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, commonly referred to as the Escazú Agreement, promotes the development of a healthy and safe environment, guaranteeing the rights of people and their participation in decision making that affects their lives and environment. It also provides for the creation and strengthening of capacities and cooperation, contributing to the protection of the human being, thus framing the definition of sustainable development.

Considering that the percentage of internet penetration of the Panamanian population was 70.3% in 2019,[1] we will focus on the environmental impact that information and communications technologies (ICTs) may cause in the development and implementation of this agreement. We will cover the "before and after" of the ratification of the agreement in Panama, and how the country has been working on environmental matters using ICTs for the dissemination of information, decision making, citizen participation, and the inclusion of vulnerable peoples. We consider both environmental and digital law and their compliance with human rights.

The governmental entities of the signatory countries of this agreement, in charge of the management and conservation of natural resources, must provide interested parties and citizens in general with information on key areas of interest, such as water, air, soil and biodiversity. This information should include issues to do with problems faced, projections, and data on quality, among others.

Communication channels such as virtual communities, print media and television, as well as e-government channels, should be used for sharing this information.

Panama ratifies the agreement

The Escazú Agreement, adopted on 14 March 2018, currently has 24 signatory countries and 12 ratifications,[2] requiring 11 at the United Nations for entry into force. It is the first environmental affairs agreement in the region, and the first in the world to contain provisions for the defence of human rights on environmental matters.

This agreement originated at the United Nations Conference on Sustainable Development (Rio+20) in 2012, and is based on Principle 10 of the 1992 Rio Declaration, a document produced at the 1992 United Nations Conference on Environment and Development (informally known as the Earth Summit).[3] Panama guarantees its implementation at the national level, being the eighth country to ratify the agreement through Law No. 125 of 6 February 2020.[4] This law pledges to comply with the three pillars of the agreement: the right of access to environmental information, citizen participation in environmental decision-making processes, and access to justice in environmental matters. The latter marks a milestone in the defence of environmental activists, who in recent years have been victims of violation of their rights.

It is a challenge for the signatory countries to guarantee the right of the population to access the environmental information that they develop. For example, for a country like Panama, while more than half of the population has access to the internet, most of its use is for entertainment rather than citizen responsibility.

This fact motivates organisations such as ourselves to use new technologies to disseminate environmentally relevant information. The promotion of agreements of this type using technology is vital to achieve the involvement of the interested parties and to make data openly available, to support sustainable development. Yet it is important to do this without leaving behind the 37% of the Panamanian population who live in rural areas, many of them Indigenous peoples, who are the

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1   https://www.asep.gob.pa/wp-content/uploads/telecomunicaciones/estadisticas/2019/211_2019.pdf

2   https://www.cepal.org/en/escazuagreement

3   http://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf

4   https://www.gacetaoficial.gob.pa/pdfTemp/28956_A/GacetaNo_28956a_20200206.pdf

most vulnerable to impacts on the environment and its natural resources, and who rely on the environment for their daily livelihoods. They are limited when it comes to citizen participation in decision making on projects or other activities that may alter their engagement with the environment they depend on.

This report takes the above as its main focus, as well as the obligation governments have through the Escazú Agreement to collect and make available to the public the relevant environmental information in a systematic, proactive and accessible way, including updating it periodically and disaggregating it at the local and national level.

ICTs and sustainable development

The impact of ICTs on the environment is questionable from the point of view of the waste generated and the fact that most users are unaware of its correct disposal, reuse or recycling; but from the climatic point of view, more and more people point to the effectiveness of these technologies to reduce CO_2 emissions, through reducing the carbon footprint of a person or organisation and its cause in terms of greenhouse gas emissions.

ICTs have also demonstrated their effectiveness as tools for environmental sustainability, especially in saving natural resources, and for communication. In Panama, the government has started using online platforms, including reporting information on their efforts in achieving the country's Transparency Law of 2002. For this reason, the Ministry of Environment, in charge of environmental protection in the country, is turning to ICTs to consolidate and disseminate environmental information in terms of the Escazú Agreement.

Taking into account the key points of this agreement, and considering the availability of digital information on the country's current platforms in terms of natural resources and the environment, we detail the current situation, and consider how effective it has been.

Access to environmental information

With the entry into force at the national level of Law No. 6 of 21 January 2002, which dictates the rules for transparency in public management, government entities agreed to report their management periodically both on paper as well as on digital platforms. This is relevant to the Escazú Agreement since it provides an international legal tool available to the general public on the right to access information on the environment that public authorities have.

In the case of the Ministry of Environment, information has been made public for more than a decade, for example, with the environmental impact assessments of any project whose activity generates an environmental risk, based on the International Standard Industrial Classification.[5] More recently, this system of information sharing was consolidated through a platform in June 2019 called the Environmental Assessment and Inspection Process of the Inter-Institutional System of the Environment (PREFASIA),[6] whose online services include environmental impact studies, strategic environmental evaluations, registration and updating of the registry of environmental professionals, wastewater discharge permits, and surveillance and diagnosis of human activities, allowing both citizens and inter-institutional personnel to access environmental administrative procedures and information throughout the national territory.

It is a reality that this system has not been fully implemented. Currently, it is suspended due to changes being made to the system, since there have been many complaints from users about issues of technical compatibility and a lack of resources being updated regularly. This is due to a lack of training, limited local government budgets and very little outreach and stakeholder participation.

Another tool which has great potential in this area is the National Environmental Information System (SINIA),[7] which was created through Law No. 41 of 1998 and is strengthened through Law No. 8 of 2005. The objective of the SINIA is to collect, systematise and distribute environmental information held by the state, among the agencies and their dependencies, and public and private organisations, in an appropriate, factually correct and timely manner. The SINIA works closely with the Inter-Institutional Technical Committee on Environmental Statistics (COTEA) created in 2018.

Generation and disclosure of environmental information

Following the ratification in Panama of the Escazú Agreement, the SINIA includes a list of public entities with competence in environmental matters. It contains direct links to the digital platforms of ministries, decentralised institutions and other entities identified as having environmental matters as part of their scope of work. On these platforms, the disclosure of environmental activities can be seen, but

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5   https://en.wikipedia.org/wiki/
    International_Standard_Industrial_Classification

6   http://prefasia.miambiente.gob.pa

7   https://www.sinia.gob.pa/index.php

not environmental information such as information focused on social responsibility. You can, however, find precise technical and environmental data, and quality indicators.

The SINIA contains a well-defined structure within the framework of the need for environmental information: a documentation centre, environmental statistics and geospatial data, whose thematic nodes range from data on forests, soil and water to sanitation and energy, among others.

However, some of this data is incomplete. For example, the data on the area of forest cover runs between 1992 and 2019, but some data is missing from specific periods, due to the lack of data collection in the field, in a country that has lost around 2% of its forests in the last seven years.

A sensitive issue for the Panamanian population is water, due to the interrupted supply to various areas of the country, including the capital city. The National Institute of Aqueducts and Sewers (IDAAN) is in charge of the production and distribution of drinking water. Beyond the use of water concessions registered by the Ministry of Environment, citizens would need to have periodic information on production in the different water purification plants, as well as the quality of water that is supplied to people. IDAAN's website, however, lacks this type of data.

Data that is currently widely used by citizens, especially in education and research, is contained in the hydrological database of the Panama Electric Transmission Company (ETESA), which is useful for monitoring levels in hydrographic basins at national level. This is especially useful for Indigenous groups, because they are in areas vulnerable to landslides and overflowing slopes, among others. However, due to the lack of accessible internet connectivity and tools capable of downloading this type of information, as well as a lack of awareness, the benefits to these groups is not that tangible.

Though the Escazú Agreement seeks to create a proactive community in environmental matters through access to and disclosure of data, in reality technology does not reach everyone, and often limits citizens to their geographical location or economic resources.

Public participation in environmental decision-making processes

Environmental organisations or activists have encouraged citizens to participate in the activities that arise from the environmental impact assessment process of projects, often focusing on their own benefits, instead of focusing on common

sustainable development goals. There are local boards organised for sharing information, and ensuring representation in decision making on these issues. However, we believe there remains a lack of environmental orientation for potential participants.

According to Panamanian environmental regulations, every project with a significant impact must convene a citizen consultation process, either through written or television media, as part of the environmental impact assessment process prior to the execution of the project. However, the minimum participation necessary is not necessarily proportional to those impacted by the project.

Access to justice in environmental matters

In Panama, a large part of the population is unaware of the means to file complaints about environmental matters. There is a 311 telephone exchange open to the public to communicate, and the scope of the complaints may be aimed at deforestation, burning of grasslands, unauthorised use of water sources, illegal hunting, mining, and inappropriate use of resources, among others.

However, there is low capacity among entities to follow up on their cases. ICTs could play an important role in accessing a fair, expeditious and conclusive process, with a system available at the national level, which would be fast and effective.

Conclusion

Public environmental management should be progressively improved with the aim of decentralising and strengthening the processes both qualitatively and quantitatively. This includes strengthening accountability and information management and improving procedures in order to guarantee that the government becomes a good administrator of natural resources, which allows the fulfilment of the different objectives in Sustainable Development Goal 16 determined by the UN.

New technologies would be an excellent means to promote the inclusion of the country's inhabitants and the reduction of the carbon footprint. But for this we need them to be included at the macro level in public policies and become effective tools that the citizens of a country can access and raise their voice on environmental matters.

Before the Escazú Agreement, Panama had already established platforms for the inclusion of people in environmental issues. It is nevertheless true that this has a long way to go, especially when the government does not allocate sufficient resources to achieve tangible short-term objectives in disclosure and access to information. The

generation of environmental information involves technical personnel capable of collecting and interpreting data for all audiences, and currently government entities do not have the training, tools or personnel to develop the kind of information that is expected.

This agreement marks an international commitment, focusing on goals and indicators related to the right to access environmental information, where the relationship with digital rights will be vital.

Participation in environmental matters that concern their closest environment must be a duty for the population. In the era in which we live, human beings cannot be oblivious to what is going on with the environment; they must question, prevent and act against any risk, however small it may be. Only in this way will governments be pressured to take rapid action in the face of the demands of sustainable development, where equity and decision making will be key actors.

Through technology, we could achieve what is described above, as long as the limitations of internet access in rural or hard-to-reach areas are reduced, and ways of sharing information and data with key points in communities in remote areas can be developed. This will allow communities to consult effectively, interact with authorities, and even request updates on specific topics. In this way we would also be able to prevent environmental risks and incidents that threaten environmental sustainability.

The expansion and continuous improvement of internet projects for public spaces and areas that struggle with internet access at the national level are fundamental to the successful fulfilment of agreements in a digital age.

Action steps

The following advocacy steps can be suggested for Panama:

- Public policies must include the use of ICTs in their processes and procedures, including for disclosure of information, especially for activities that require citizen participation.

- The state must consider resources for the development and updating of access to information in its annual budget, based on international commitments.

- Civil society organisations should create interaction forums with state entities working on the environment in order to monitor compliance with the information that must be processed and published periodically.

- The Ministry of Environment should lead a monitoring and control commission to ensure the compliance of environmental entities with the Escazú Agreement.

- The state must strengthen the existing communication channels for receiving complaints, by allocating more resources to these channels, developing new communication platforms, and developing the capacity of institutions to respond to complaints.

Technology, the environment and a sustainable world: Responses from the global South

The world is facing an unprecedented climate and environmental emergency. Scientists have identified human activity as primarily responsible for the climate crisis, which together with rampant environmental pollution, and the unbridled activities of the extractive and agricultural industries, pose a direct threat to the sustainability of life on this planet.

This edition of Global Information Society Watch (GISWatch) seeks to understand the constructive role that technology can play in confronting the crises. It disrupts the normative understanding of technology being an easy panacea to the planet's environmental challenges and suggests that a nuanced and contextual use of technology is necessary for real sustainability to be achieved. A series of thematic reports frame different aspects of the relationship between digital technology and environmental sustainability from a human rights and social justice perspective, while 46 country and regional reports explore the diverse frontiers where technology meets the needs of both the environment and communities, and where technology itself becomes a challenge to a sustainable future.

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