



University  
of Dundee

## Freedom of Environmental Information: Aspirations and Practice

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# Freedom of Environmental Information

Aspirations and Practice

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Freedom of Environmental Information



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# Right of Access to Environmental Information – An Introduction



Right to access environmental has two elements

1. Proactive disclosure of environmental information
2. Disclosure of environmental information on request

Reflected in the legal instruments which guarantee the right

- United Nations Conference on Environment and Development (The Rio Declaration), Principle 10
- UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention)
- EU Directive 2003/4/EC on Public Access to Environmental Information
- Environmental Information Regulations 2004 and the Environmental Information (Scotland) Regulations 2004

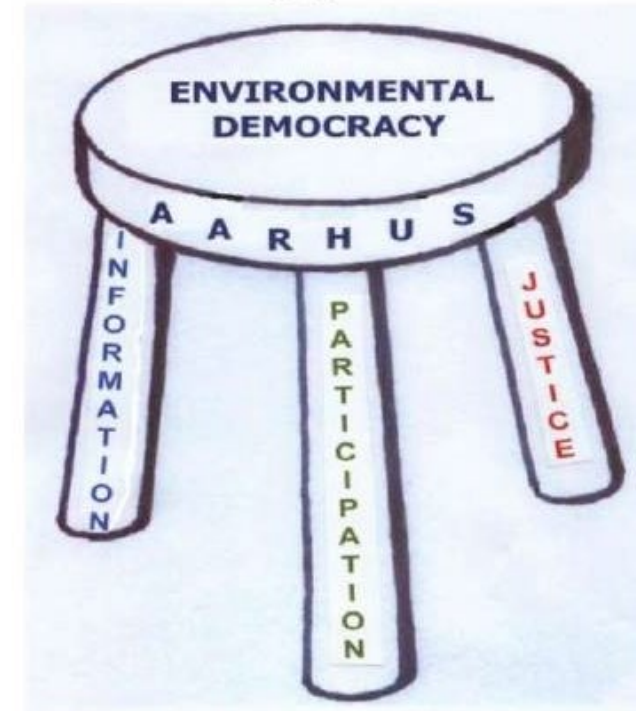
# Benefits Underpinning the Right

Connection between environmental information and public participation

Enhancing environmental protection efforts and protecting the right to a healthy environment

Enable individuals to fulfil their moral duty to “protect and enhance the environment”

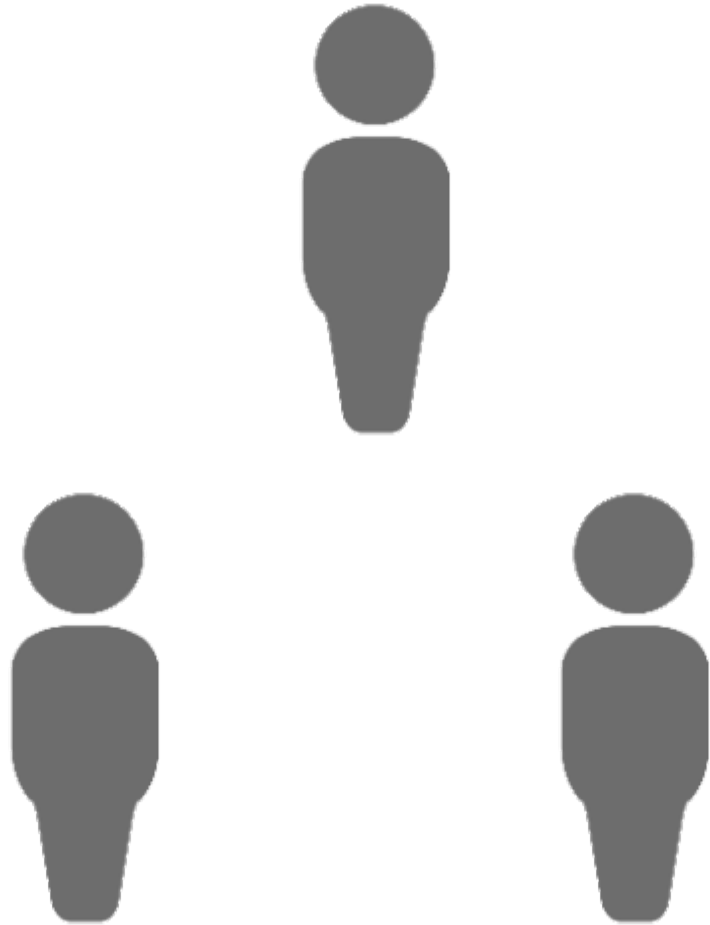
## The Three Legged Convention



[www.environmentalpillar.ie](http://www.environmentalpillar.ie)  
[www.environmentaldemocracy.ie](http://www.environmentaldemocracy.ie)



# Users – An Aspirational Categorisation



Public authorities hold environmental information, which users seek access to

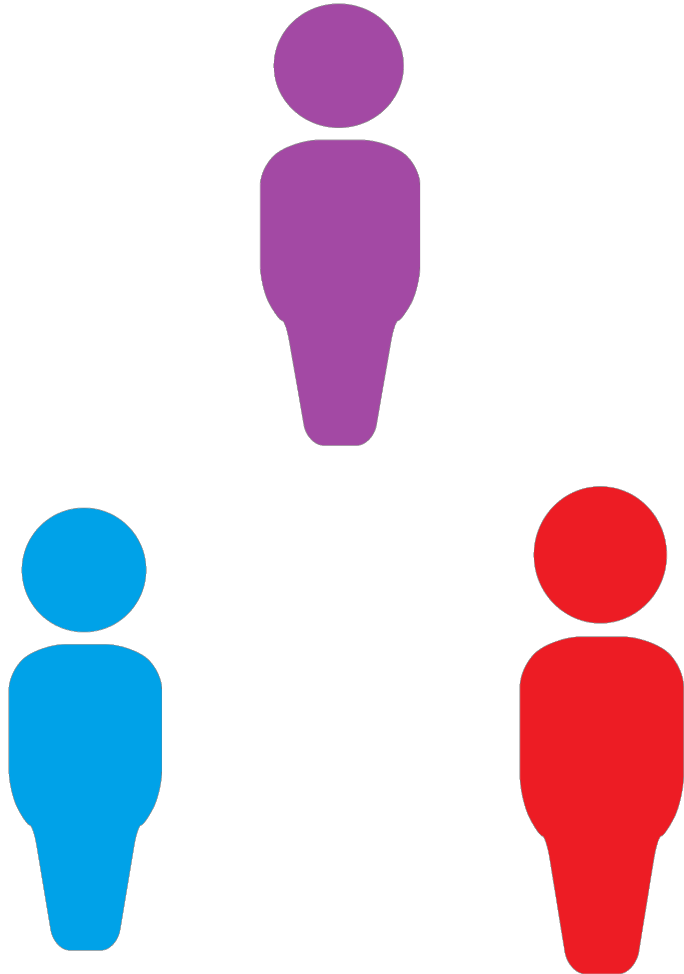
Presumption that all users are (broadly) equally capable of utilising the right to environmental information

- With some notable exceptions (e.g. duty to provide advice and assistance)

Presumption that all users are driven by the same environmental motives

- “Duty to protect and enhance the environment”

# Users in Practice



## Not a single body of similar individuals

- Professional and Personal users
- State-bodies as users

## Expertise and knowledge

- Engaging with public authorities
- Understanding disclosed environmental information

## Motives

- Professionals acting as intermediaries
- A general lack of environmental altruism





# Rationales of Public Participation

## Substantive

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- Improving the quality of the final decision taken
- Incorporating the concerns, views and knowledge of concerned individuals

## Instrumental

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- Concerned with the legitimacy of decisions taken by public authorities
- Opportunity for the public to have their voice heard in the decision-making process

## Normative

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- Promoting active citizenship and engagement with public participation processes
- Broader development of an active civic society



# How is Disclosed Environmental Information Used?

Most visible use was challenging decisions made by public authorities

- Other uses beyond public authorities (e.g. discussing environmental concerns with the community; commercial activities)
- Majority of uses not driven by environmental altruism

Participation in decision-making processes often does not lead to the “desired outcome”

- Can lead to general dissatisfaction with the right to environmental information
- Impossible to satisfy all users, especially with contradictory (but equally valid) desires





# Technology – An Unspoken Yet Impactful Actor

Actor Network Theory (and the importance of non-human actors)

Storage of environmental information

- What does the authority hold, and the shaping of requests

Proactive disclosure

- Easier to do online
- Awareness of the environmental right by users

Impact on communication



# Putting the “Environment” in Environmental Information



Artist: Peter King

A healthy environment is the primary aim of the right of access to environmental information

Yet the environment does not play much of a role in shaping domestic environmental information regimes

- Few exceptions – e.g. refusal to disclose environmental information because doing so would prejudice the protection of the environment

Anthropocentrism and a loss of focus on the right’s environmental aims

- Could place greater emphasis on environmental motives within environmental information regimes – which comes with its own issues
- Is there a need for a separate environmental information regime?



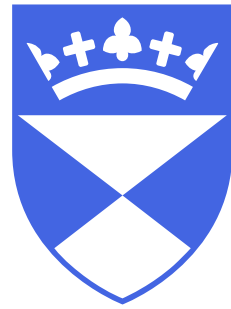
# Conclusion

There is a gap between the aspirations of the right and how the right is used in practice

- Emphasised by not considering the impact of non-human actors on the operation of the right

Yet just because the environmental information regime is not working as intended does not mean it should be abandoned

- Positive impact on the environment and environmental governance
- New perspective on the right, opening possibilities for reconsideration and reform



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