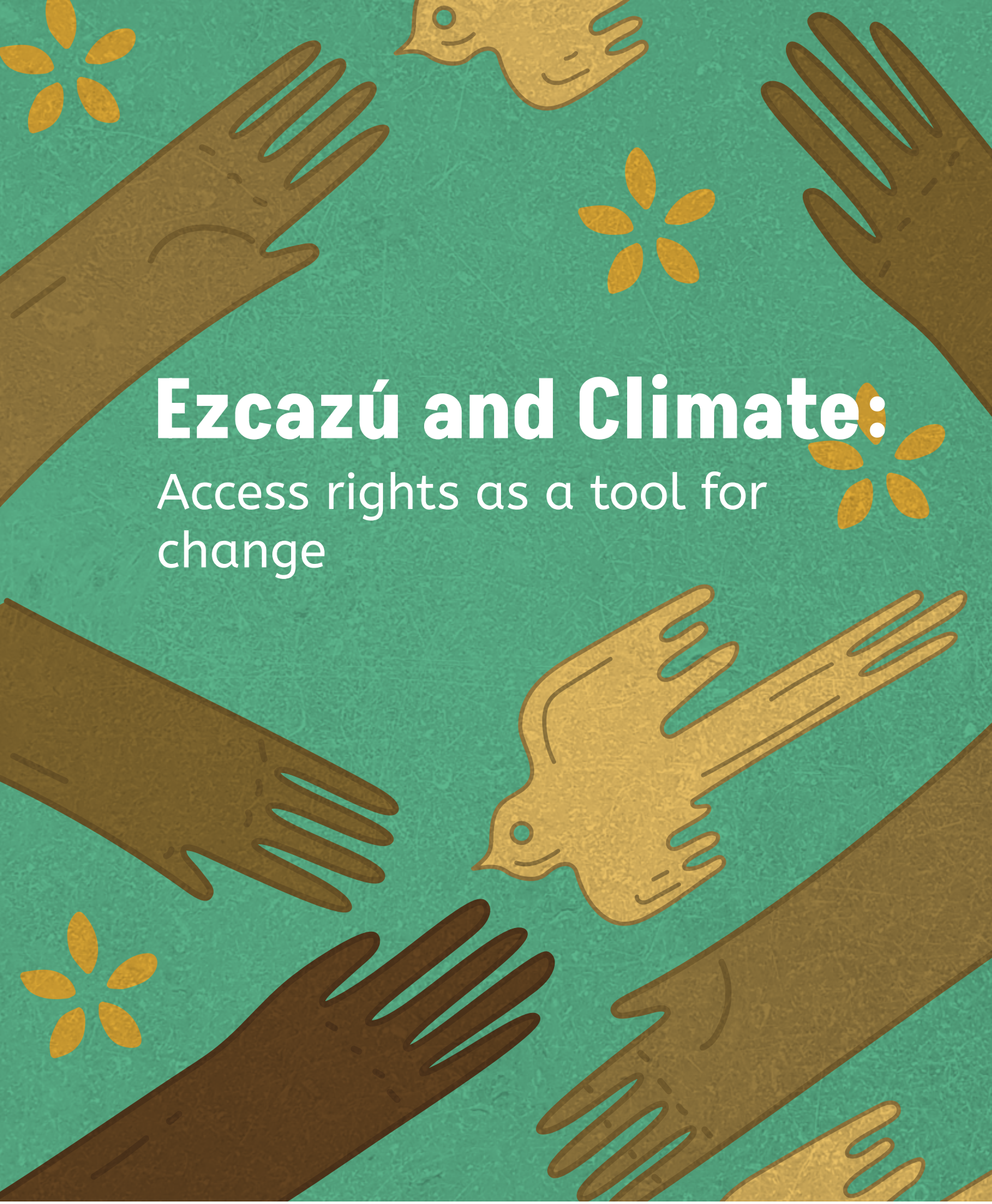


Ezcazú and Climate:

Access rights as a tool for change

ASOCIACIÓN AMBIENTE | SOCIEDAD

CANARI

FARN
FUNDACIÓN AMBIENTE Y RECURSOS NATURALES

Derecho al ambiente
FIMA
ONG

GRENADA LAND ACTORS

Ezcazú and Climate: Access rights as a tool for change

ISBN: 978-956-09618-7-7

Cita:
Dougnac, C. Simonetti, G. (ed.) (2026), Ezcazú and Climate: Access rights as a tool for change. 96 pp. Santiago, Chile.

Contents

Climate and Environmental Democracy: Two Intertwined Paths

There is an idea that runs through environmental discourse—so often repeated that it seems like a cliché—and yet it has never been more true: the climate crisis is a crisis of justice and social inequality. Every decision regarding the environment—including, among other things, the information provided and how it is provided, the actual opportunities for participation, and the way in which those who defend nature are treated and protected—puts at stake the commitment of governments to their citizens, especially those in the most vulnerable situations.

The understanding of the climate crisis as a technical problem—one that can be solved through emissions inventories, mitigation pathways, adaptation funds, and international commitments—continues to hold strong sway among governments in the region. The texts that make up this book challenge that perspective. They do not deny this perspective, but they lead us to recognize its other half: climate action is also, and above all, a matter of democracy. This is because decisions about how we produce energy, how we plan land use, how we regulate tourism, or how we distribute the burdens of the transition define the kind of society we want to live in. We are talking about decisions that are made—or avoided—within specific institutional and political spaces, where certain voices are present and many others are absent.

In legal and political terms, environmental democracy can be understood as the set of conditions that enable socio-environmental decisions to be made in an informed, participatory, and inclusive manner, balancing the power relationship between the State, the market, and society. Under the Escazú Agreement - adopted in Costa Rica in 2018, the first regional treaty to enshrine these rights for Latin America and the Caribbean - environmental democracy is based on three rights of access.

The first is access to environmental information, understood as the right of citizens to obtain, in a timely and understandable manner and without having to demonstrate a special interest, data on the state of the environment, natural resources, and the associated risks that may affect them. It has two dimensions: passive transparency, which requires responding to requests, and active transparency, which requires proactively disseminating relevant information. When it comes to climate issues, this is the gateway. Without timely data on emissions, projects, measures, and vulnerabilities, any participation becomes a mere formality, and any legal oversight comes too late.

The second right is public participation. Not just any form of participation is sufficient: the standard requires that the public be able to have an impact from the early stages, when it is still possible to influence strategic choices, and that the processes be open, inclusive, and appropriate to the cultural context of each community. Participating at the end, when the project is already designed and the decision is almost made, does not constitute participation within the meaning of the Agreement.

The third pillar is access to justice. This pillar requires that there be effective administrative and judicial channels to challenge decisions that violate environmental regulations or to seek compensation for damages, and that the State remove economic, technical, and cultural barriers that prevent vulnerable groups from defending their environment. This is the pillar that makes the law an effective tool.

In addition to these three rights, Escazú adds a groundbreaking component: the protection of human rights defenders in environmental matters. There can be no talk of environmental democracy when defenders are persecuted, murdered, or criminalized. They are often seen as a threat to economic projects, because what is at stake is, at its core, a way of understanding life and development. These four components operate in an interdependent manner. Participation loses meaning without timely information; access to justice is weakened if there are no genuine opportunities for participation; and the protection of those who defend the environment is what enables all of the above to exist in practice. When one component fails, the others suffer. When they fail simultaneously—as several chapters of this book demonstrate—the climate crisis is exacerbated in an additional way: it ceases to be conceivable in democratic terms.

Along these lines, climate justice shifts the technical perspective on climate change toward an ethical, political, and human rights issue: the impacts of global warming are not neutral; they disproportionately affect those who contributed least to emissions and those who already suffer from pre-existing structural inequalities. The question "What climate policy should we implement?" is always accompanied by others: At what cost and for whom? How are the burdens distributed? Which voices are heard in a timely manner?

In its Advisory Opinion OC-32/25, the Inter-American Court of Human Rights brought together several elements that had been developing in a fragmented manner. It recognized substantive equality and non-discrimination as the cornerstone of the climate response: women, girls, Indigenous peoples, communities of African descent, and people living in poverty face heightened risks and greater barriers to adaptation, and States must adopt differentiated and enhanced measures to protect them. It affirmed intergenerational equity—present generations cannot jeopardize the ability of future generations to live on a habitable planet—and established that the prohibition against causing irreversible damage to the climate system constitutes an inescapable obligation for all States, with no possibility of derogation by agreement to the contrary. It recognized the right to a healthy climate as a stand-alone human right and as a precondition for the exercise of all other human rights. And it articulated the obligation to provide compensation for loss and damage, both financial and non-financial, based on the "polluter pays" principle. This opinion was joined, in the same cycle, by the advisory opinion of the International Court of Justice in July 2023 and that of the International Tribunal for the Law of the Sea. Together, they set a new normative threshold and raise the bar for both states and those of us who monitor them.

Environmental democracy and climate justice are not two divergent agendas; rather, they are complementary, and one cannot function without the other. The former provides the procedural tools—information, participation, justice, protection—that make it possible to achieve the substantive objective of the latter. There can be no just transition without participatory processes that incorporate traditional knowledge; there can be no effective adaptation if data on risks and emissions remain fragmented; and there can be no legitimate climate policy if those who sustain the land are killed for doing so. Viewed the other way around: without a climate justice horizon, environmental democracy runs the risk of being reduced to procedures that lack direction.

This book explores what happens when the Escazú pillars encounter vastly different national realities. This is where interesting tensions emerge, which have been tested by organizations with highly diverse legal, political, and cultural traditions that are paving the way to make these intersections visible and to promote them.

With this premise, the Escazú and Climate project was launched, coordinated by the NGO FIMA with support from the Waverley Street Foundation. The aim is to explore and promote the implementation of the Escazú Agreement as a tool for addressing the climate crisis. This has resulted in a series of advocacy, research, litigation, and training initiatives aimed at highlighting the link between environmental democracy and climate action, using a comparative perspective that captures the realities of different countries in the region and can serve as an example for other states. The project brings together organizations that understand their contexts from the inside: Fundación Ambiente y Recursos Naturales (FARN) in Argentina, the NGO FIMA in Chile, Asociación Ambiente y Sociedad in Colombia, and, from the Caribbean, Grenada Land Actors at the local level and the Caribbean Natural Resources Institute (CANARI) at the regional level. The chapters that follow present some of the work that each of these organizations has carried out within the framework of the project.

The journey begins in Argentina with "Essay on Climate Blindness," by Andrés Napoli and Cristian Fernández (Fundación Ambiente y Recursos Naturales, FARN). The subtitle—"On how the Escazú Agreement can act as a remedy against climate denialism"—already sets the tone for the argument: the

text describes a country whose presidency has chosen a deliberate form of climate blindness, and explores how the pillars of Escazú can serve as a remedy. The Framework Law, the Incentive Regime for Large Investments (RIGI), the dissolution of the Ministry of the Environment, and Decree 780/2024 – which restricts access to public information – are interpreted as systematic setbacks. In this context, Escazú serves as a key to demand that INPRES provide information on seismic data in Vaca Muerta, to request a climate-related precautionary measure against offshore exploration, and to explore litigation over lithium in Salinas Grandes and Guayatayoc. The principle of non-regression runs through the entire text like a legal waterline. This is the chapter that most starkly illustrates what is at stake when a government decides that environmental democracy is superfluous, and what civil society can do when it decides otherwise.

From Chile, "Climate Transparency in Chile: From the Escazú Agreement to Advisory Opinions as Standards for Improvement," by Mariana Carrasco Uribe, Carolina Palma Correa, and Macarena Martinic Christensen (NGO FIMA), provides the most technical perspective in the volume. Using a matrix of four categories—process and quality, content, format, and dissemination—the authors apply the standards set by Escazú and recent advisory opinions to Chile's climate instruments: the Framework Law on Climate Change No. 21,455, the Long-Term Climate Strategy, the NDC 2025–2035, and the National System for Access to Information. The assessment is significant: Chile has a robust regulatory framework; however, climate information is still updated irregularly, provided in inconsistent formats, poorly accessible to Indigenous peoples, and difficult to reuse. Periodic reports are lacking, information is persistently out of date, and it is published in non-interoperable files. The Chilean lesson is uncomfortable but necessary: it is not enough to comply on paper to comply in a democracy. And without good climate information, climate ambition lacks empirical support.

Colombia follows with "From Paper to Practice," by María Paula González Espinel and Karol Sanabria Rodríguez (Asociación Ambiente y Sociedad). The subtitle —"Progress and Challenges of Colombia's National Environmental Licensing Authority in Implementing the Escazú Agreement"— already poses the question: What happens when an environmental authority takes the Agreement seriously and begins to translate it into administrative procedures? The answer includes a readiness roadmap with 125 actions organized into four pillars, the "ABC of Escazú" as an educational tool, increased use of public hearings, and, as of August 2025, the obligation stemming from Ruling C-280/2024 and Constitutional Order OC-32/23 to incorporate the climate variable into environmental impact assessments. This is a clear example of Escazú being implemented through administrative procedures. At the same time, there is a painful paradox: Colombia is the deadliest country in the world for those who defend the environment. You can have the best institutional architecture, but without effective protection, environmental democracy will remain a promise with bodies at its feet. The chapter emphasizes this asymmetry and the need to make parallel progress on clear language, substantive inclusion, and strengthened protection measures.

From Grenada, "Escazú as a Lever: Rethinking the Influence of Policies on Environmental Governance," by Kriss Davies (Grenada Land Actors, GLA), brings the discussion down to earth. This is the book's most local-focused perspective: mangroves, coastal management, contested tourism developments in La Sagesse, Mt. Hartman, and Levera; legal actions to ensure transparency and participation; and Hurricane Beryl in 2024 as a backdrop. GLA bases its strategy on the Privy Council's ruling on Barbuda and on the advisory opinion of the International Court of Justice, having obtained judicial recognition of its standing to bring legal action. What this shows is that Escazú can serve as a lever even in small jurisdictions with limited resources and high development pressure, provided there is a community willing to sustain the litigation and a regional network to support it. It also highlights the costs of judicial delay: without deadlines, the Agreement is eroded by procrastination, and community voices continue to be left out of the projects that affect them most.

The book concludes by broadening its focus to the Caribbean. "Escazú Agreement: Supporting Climate Justice in the Caribbean," by Nicole Leotaud and Dylis McDonald (Caribbean Natural Resources Institute, CANARI), shines a spotlight on the region. Nine[1] of the seventeen States Parties to the Agreement are Caribbean, and the Caribbean faces a dual challenge: it contributes minimally to global emissions and suffers disproportionately from their impacts. The chapter reviews experiences in Antigua and Barbuda, Guyana, Jamaica, and Trinidad and Tobago, and focuses on the launch of the Caribbean Network of Environmental Defenders in April 2025. In this context, Escazú is presented as a regional solidarity infrastructure. It is positioned as a common foundation on which to build capacity, networks, and protection in small, dispersed jurisdictions with highly unequal implementation conditions.

These five chapters feature very different approaches and contexts, as well as diverse areas of reflection, but that is precisely what makes them even more interesting. At the same time, it is possible to find similarities between the texts, as they all address the gap between norms and practice. All of them are based, explicitly or implicitly, on the conviction that climate justice is not an add-on to environmental democracy but rather an essential component of it. All of them have worked to ensure that their legal and political systems incorporate the standards of recent international law, in particular the obligations that OC-32/25 and the ICJ advisory opinion have reinforced. And behind each chapter are individuals and communities who bear concrete costs—legal, political, sometimes physical—to sustain these discussions. That is the book's least visible thread, but also its strongest.

Rather than an obstacle, diversity is a virtue. For better or worse, the region learns in parallel.

This book stems from that conviction and from the idea that more democratic societies are better positioned to tackle the climate crisis. Not because democracy is in itself sufficient—it is not—but because without information, without participation, without justice, and without protection, the crisis is always tackled from a position of inequality, and in climate terms, that is the worst possible starting point. The experiences gathered here are not recipes— the contexts are too different for that—but they do provide material from which to learn. They show what civil society can do in the face of a government that decides to close down democratic space, what can be demanded of an orderly but opaque climate system, what happens when an environmental authority takes the Agreement seriously, what a small group in the Caribbean can achieve, and how a regional network begins to support those who defend the land. Together, they open a conversation that we need to have.

Constanza Dougnac Correa and Gabriela Simonetti Grez, Editors

1 At the time of this book's publication, 11 Caribbean States have joined the Escazú Agreement, and the total number of States Parties stands at 19.

1 Essay on Climate Blindness: On how the Escazú Agreement can serve as a remedy to climate denialism

Authors:

Andrés Napoli, attorney, graduate of the School of Law and Social Sciences (UBA). Master's Degree in Environmental Law, University of the Basque Country. Master's Degree in Metropolitan Environmental Management (UBA). Master's Degree in Urban Economics (UTdT). Professor of Professional Practice at the Environmental Law Clinic (UBA). Executive Director of the Environment and Natural Resources Foundation (FARN). Elected public representative to the Negotiating Committee of the Escazú Agreement on Access to Information, Public Participation and Access to Justice in Latin America and the Caribbean; term of office completed. Vice Chair of the Escazú Agreement Implementation and Compliance Committee.

Cristian Fernández, attorney, graduate of the School of Law and Social Sciences (UBA). Specialization in Environmental Law (UBA). Lecturer at the UBA in the courses "Environmental and Climate Litigation," "Rights of Nature," and "Environmental Impact Assessment." Legal Coordinator at the Environment and Natural Resources Foundation (FARN).

Abstract: In a context of climate denial, the Escazú Agreement and Advisory Opinion 32 of the Inter-American Court of Human Rights represent opportunities to strengthen environmental democracy, while also serving as tools to advance climate action.

Keywords: climate denial; environmental democracy; environmental defenders

1.- Introduction

The year 2025 will mark the 30th anniversary of José Saramago's unforgettable novel, "Blindness." Just as the Portuguese author introduced us three decades ago to an imaginary world afflicted by a global epidemic of blindness, in the real world today, we can speak of a pandemic of climate blindness. In this dystopian-like reality, various world leaders deny the existence of the climate crisis that is affecting humanity, ecosystems, and the planet as a whole. As a result, the virus of climate denial is spreading rapidly.

Democracies are weakened when leaders claim that climate change does not exist.

Environmental democracy involves guaranteeing the rights of access to information, participation, and justice in environmental matters. In this regard, the preamble to the Escazú Agreement states: "Access rights contribute to strengthening, among other things, democracy, sustainable development, and human rights."

In Argentina, President Javier Milei labels environmental organizations as "enemies of progress"[1] and disregards the fact that human activity is the main cause of climate change. His administration has taken measures in line with this view, moving away from international commitments and environmental policies focused on climate change mitigation and adaptation.

In this essay, we aim to explore the journey of access rights in Argentina and the challenges faced by human rights defenders in environmental matters. To this end, we will focus on setbacks in environmental policies, restrictions on access to public information, simulated social participation, and recurring obstacles to access to environmental justice. We will also focus on the dangers involved in defending the environment at the local level.

Based on this overview of the situation and in the current context of climate denial at the local, regional, and global levels, we will analyze how the Escazú Agreement and the recent Advisory Opinion of the Inter-American Court of Human Rights represent opportunities to strengthen environmental democracy and prevent the consequences that could result from the spread of ecosystem and climate blindness. We will also discuss the strategies implemented by FARN, in which the Escazú Agreement was used as a tool for climate action.

2.- Environmental setbacks in Argentina

The principle of non-retrogression stems from the link between the environment and the field of human rights (Art. 2.1 of the International Covenant on Economic, Social and Cultural Rights), which states that, beyond interim targets for achieving environmental objectives, progressivity also means that, once progress has been made in that direction, there can be no backsliding, but rather the level of protection achieved must be maintained[2]. If the legal obligation is to move forward, the rule states that it is prohibited to move backward[3].

1 FARN press release: "Organizaciones socioambientales rechazan el discurso del presidente a favor de la explotación de los recursos naturales sin contemplar la dimensión ambiental," July 10, 2024 https://farn.org.ar/wp-content/uploads/2024/07/Respuesta-organizaciones-al-discurso-de-MIlei-y-Pacto-de-Mayo-10-de-julio.pdf

2 Berros, María Valeria, "Construyendo el principio de no regresión en el derecho argentino," JA 2011-IV-994/1001, AP 0003/015709.

3 Rosatti, Horacio, "Progresividad y operatividad de los derechos económicos, sociales y culturales en una sociedad en conflicto," in Constitución de la Nación Argentina, a 25 años de la reforma de 1994, Ed. Asociación Argentina de Derecho Constitucional - Hammurabi, p. 34.

Within the framework of the Environmental and Climate Observatory for the implementation of the Escazú Agreement in Argentina, Valeria Berros, Dabel Franco, Marianela Galanzino, and Gastón Medici Colombo, members of the Meulen Project at the National University of the Littoral (UNL), have conducted a detailed monitoring of setbacks in Argentine environmental regulations[4]. To this end, as part of their working methodology, the authors have reviewed the Official Gazette of the Argentine Republic on a daily basis, identifying regulatory and institutional setbacks that impact environmental democracy. This experience is an experience to that which took place during Donald Trump's first term in the United States, when the Sabin Center for Climate Change Law at Columbia University developed a platform to monitor what they called climate deregulations. This database identified deregulations in U.S. federal law related to climate change mitigation and adaptation[5]. For Trump's second term, a new platform for climate-related regressions was created[6].

In this context, and in the face of Argentina's first climate change-denying government, the UNL research team monitored environmental setbacks since the inauguration of Javier Milei's administration, in light of the principle of non-regression set forth in Article 3 of the Escazú Agreement.

Among the main setbacks in environmental policies, the Meulen Project highlights the following:

- The elimination of the governmental organizational structure of the Ministry of the Environment and Sustainable Development, with its functions being assumed by the Ministry of the Interior[7].
- Repeal of tools for promoting the distributed generation of electricity from renewable sources and for supporting the domestic industry in the manufacture of related systems, equipment, and inputs[8].
- Amendment of the Administrative Procedures Act to allow for the discretionary replacement of public hearings with "other mechanisms," which could lead to a weakening of public participation in administrative proceedings, including those of an environmental nature (e.g., environmental impact assessments and environmental land-use planning)[9].
- Delegation of regulatory powers in environmental matters to the Executive Branch: Article 163 of the Framework Law (Law 27,742) empowers the National Executive Branch to develop, with the agreement of the provinces, harmonized environmental legislation with the primary objective of applying best environmental management practices for the exploration, exploitation, and/or transportation of hydrocarbons. This delegation of powers could be considered an exception to the system of minimum environmental budget laws (Article 41 of the National Constitution), which must be approved by the National Congress and are directly applicable throughout the territory of the Republic.

4 Berros, María Valeria; Franco, Dabel; Galanzino, Marianela; Médico-Colombo, Gastón, "Seguimiento del principio de no regresión" in "Coordenadas para una democracia ambiental en Argentina. Primer informe del Observatorio Ambiental y Climático para la implementación del Acuerdo de Escazú en Argentina," 2025, Talleres Trama, Chapter 1, p. 15 et seq. https://farn.org.ar/wp-content/uploads/2025/06/Coordenadas-para-una-democracia-ambiental-en-Argentina-Observatorio-de-Escazu.pdf

5 Sabin Center for Climate Change Law, Columbia University (n.d.). Climate Deregulation Tracker. Available at: https://climate.law.columbia.edu/climate-deregulation-tracker

6 Sabin Center for Climate Change Law, Columbia University (n.d.). Climate Backtracker. Available at: https://climate.law.columbia.edu/content/climate-backtracker

7 Articles 4 and 7, Emergency Executive Order No. 8/2023

8 Executive Order No. 70/2023: Repeal of Articles 16 to 37 of Law No. 27,424 on the Framework for the Promotion of Distributed Generation of Renewable Energy Integrated into the Public Electricity Grid.

9 Art. 25, Law on the Foundations and Starting Points for the Freedom of Argentines (Law 27,742).

- Possible precedence of the Incentive Regime for Large Investments (RIGI) over environmental regulations: Article 165 of the Framework Law (Law 27,742) states that "without prejudice to the legitimate exercise of local jurisdictions and powers, any regulation or de facto measure that limits, restricts, violates, hinders, or undermines the provisions of this title... shall be null and void, and the competent judicial authority shall immediately prevent its application."[1.1][2.1] In practice, this means that projects participating in the RIGI could have the ability to ignore or override provincial or municipal environmental regulations that impose barriers on them, as the privileges granted to companies under the RIGI would take precedence over such regulations.
- Elimination of the Trust Fund for the Environmental Protection of Native Forests (FOBOSQUE)[10].
- Dissolution of the National Entity for Water and Sanitation Works (ENOHSA)[11].
- Transfer of the Federal Fire Management System to the Ministry of Security[12].

Regulations that violate the principle of non-regression are unconstitutional, given that the Escazú Agreement is a regional treaty, ratified by Argentina in 2021[13], which takes precedence over laws[14]. In this regard, national laws and decrees must respect and avoid contradicting the principle of non-regression set forth in the Escazú Agreement.

In its recent Advisory Opinion No. 32 on the climate emergency and human rights, the Inter-American Court of Human Rights established a standard that links the principle of non-retrogression to the obligation to respect human rights. Indeed, States "must refrain from any conduct that causes a setback or that slows down or undermines the outcome of measures necessary to protect human rights in the face of the impacts of climate change[15]." With regard to the obligation to respect, the Inter-American Court has stated that States must refrain from adopting regressive measures and has required that "any setback in climate or environmental policies that affects human rights be exceptional, duly justified on the basis of objective criteria, and meet the standards of necessity and proportionality[16]."

In short, the principle of non-retrogression is a fundamental tool for placing limits on environmental deregulation policies and defending the gains made in environmental and climate matters.

3.- Access to public information vs. disinformation

The right of access to information imposes on States the obligation to establish appropriate systems and mechanisms for the production, collection, analysis, and dissemination of information relevant to the protection of human rights in the context of the climate emergency. This includes comprehensive, general, and specific information, disaggregated by population and sector; early warning systems that provide timely information on disaster risks; and data necessary to establish, implement, and update mitigation and adaptation targets, plans, and strategies. This information should be used to encourage maximum public participation in climate action[17].

10 Executive Order 888/2024

11 Executive Order 1020/2024

12 Executive Order 1136/2024

13 Law 27,566

14 Article 31 of the Constitution of the Argentine Nation

15 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 221.

16 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 222.

17 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 505.

Within the framework of environmental impact assessments, States must produce information that enables public participation and, where applicable, free, prior, and informed consultation with indigenous and tribal peoples in assessing the environmental and climate impact of projects or activities that may contribute to climate change[18].

Advisory Opinion 32 of the Inter-American Court states that disinformation represents one of the most serious challenges currently facing the international community[19]. The Court holds that States must ensure that information related to the climate emergency issued by authorities is clear, truthful, accessible, timely, and supported by science, so that citizens can exercise democratic and critical scrutiny over its content[20].

Contrary to this crucial standard, in Argentina, Executive Order 780/2024 regulated the Law on Access to Public Information[21] but restricted the principles set forth in that law and in the Escazú Agreement. By limiting the concept of "public information" and expanding the discretionary powers of public officials to determine what type of information is provided and what is not, the system of obligations established by law is reversed, shifting responsibilities to those who request information and threatening to impose penalties on those who repeatedly request information[22]. The aforementioned decree fundamentally violates the principles of maximum transparency of government actions, non-discrimination, and the free exercise of the right of access to information.

What strategy are we adopting in this context of setbacks in access to public environmental information?

At FARN, we continue to submit requests for access to public information in order to assess the level and quality of government responses. Specifically, on January 20, 2025, we submitted a request for access to public information, asking the National Institute for Seismic Prevention (INPRES) for complete records of all seismometers from 2012 to the present, data from all stations within 100 kilometers around the boundaries of the Neuquén Basin, and a complete record of all earthquakes, including their latitude, longitude, depth, time, and magnitude, among other information[23]. This request arose in response to the unprecedented seismic activity being experienced by communities near the Vaca Muerta fields[24].

The official response to this request was that they did possess this information, but that it could not be disclosed due to a confidentiality agreement signed with the province of Neuquén. The aforementioned agreement violates the Law on Access to Public Environmental Information (No. 25,831), the Law on Access to Public Information (No. 27,275), and the Escazú Agreement. Consequently, FARN filed a complaint with the Agency for Access to Public Information to ensure that information about earthquakes affecting communities living in or near the Neuquén Basin is no longer kept secret[25].

---

18 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 514.

19 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 524.

20 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 525.

21 Law 27275.

22 Vázquez Giménez, Lisandro, "El acceso a la información pública en la Argentina dentro del Acuerdo de Escazú," in "Coordenadas para una democracia ambiental en Argentina. Primer informe del Observatorio Ambiental y Climático para la implementación del Acuerdo de Escazú en Argentina," 2025, Talleres Trama, Chapter 2, p. 44 https://farn.org.ar/wp-content/uploads/2025/06/Coordenadas-para-una-democracia-ambiental-en-Argentina-Observatorio-de-Escazu.pdf

23 Fundación Ambiente y Recursos Naturales (FARN) (2025). Request for access to public information from INPRES. Available at: https://drive.google.com/file/d/1C8vGbiCwg1bPyOXGu53HcFMQ0zGLL0BC/view

24 Fundación Ambiente y Recursos Naturales (FARN) (n.d.). 10 años y más de 400 sismos de Vaca Muerta (10 years and over 400 earthquakes in Vaca Muerta). Available at: https://farn.org.ar/10-anos-y-mas-de-400-sismos-de-vaca-muerta/https://farn.org.ar/10-anos-y-mas-de-400-sismos-de-vaca-muerta/

25Fundación Ambiente y Recursos Naturales (FARN) (2025). Complaint to the Agency for Access to Public Information. Available at: https://drive.google.com/file/d/1PhKIUl9KUOiIJgI0_ZVXISaFRijHEkkU/viewhttps://drive.google.com/file/d/1PhKIUl9KUOiIJgI0_ZVXISaFRijHEkkU/view

The Agency for Access to Public Information concluded that INPRES did not provide adequate grounds for denying the requested information. Indeed, the request for information fell within the scope of the obligations arising from the Law on Access to Public Information. Therefore, the agreed-upon confidentiality regarding seismic activity does not apply, and it was ordered that the information be made available[26]. However, this never happened. Therefore, we filed an amparo action for access to public information in order to obtain the seismological information that is being withheld under the pretext of confidentiality.

Information serves as an instrument of institutional oversight that is closely linked to the participatory concept of democracy and to respect for fundamental rights. Within the republican and democratic institutional framework, public officials are accountable for the decisions they make, and private individuals have the right and the duty to monitor and evaluate the making of such decisions.

In order for individuals to make informed political decisions, they must have as much information as possible, and this is not feasible if, at the institutional level, no concrete measures are taken to ensure the availability of and easy access to such information. The information that the State holds and produces belongs to the community.

Public environmental information is a powerful remedy for combating climate blindness.

4.- Genuine social participation

Experience has shown that public hearings at which environmental impact assessments are presented are viewed by companies, consultants, and environmental enforcement authorities as mere obstacles to the progress of risky projects or activities.

One of the main challenges for civil society is to prevent the use of public hearings and citizen participation as formal pretexts and excuses to legitimize decisions already made by governments prior to public debate and social scrutiny of the information. In this regard, the Escazú Agreement provides a roadmap for pursuing participation in open and inclusive forums, starting from the early stages of the decision-making process[27], with access to the information needed to effectively exercise the right to participate.

The Escazú Agreement, the Aarhus Convention, and the Bali Guidelines all agree in requiring that public participation begin from the earliest stages of decision-making, ensuring the opportunity to effectively influence the design of environmental projects and policies[28]. Participatory processes help democratize public policies and increase their effectiveness and efficiency by improving the quality of public decisions[29].

The Escazú Agreement stipulates that the public participation process must provide for reasonable timeframes that allow sufficient time to inform the public and for the public to participate effectively[30]. A reasonable timeframe must allow not only for a genuine opportunity to read an environmental impact assessment of activities or projects that pose a risk to the environment, which may consist of thousands of pages of technical and scientific information, but also for that information to be processed and analyzed

26 Fundación Ambiente y Recursos Naturales (FARN) (n.d.). Access to information on earthquakes in Vaca Muerta. Available at: https://farn.org.ar/acceso-a-la-informacion-sismos-vaca-muerta/https://farn.org.ar/acceso-a-la-informacion-sismos-vaca-muerta/

27 Art. 7.4 Escazú Agreement.

28 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 533.

29 Ministry of the Environment and Sustainable Development, Argentina, "Guide on Public Participation in Environmental Assessment," p. 7 https://servicios.infoleg.gob.ar/infolegInternet/anexos/390000-394999/394037/res23mad_2.pdf

30 Art. 7.5 Escazú Agreement.

in detail. Failure to ensure a reasonable period of time between the publication of an environmental impact assessment and the public hearing to discuss that assessment will foster an unequal public conversation, thereby undermining the democratic credentials that the proponents of the production, technology, or extraction project in question claim to possess[31].

Indeed, early participation and a reasonable timeframe are fundamental tools for building genuine participation that moves away from the logic of simulating social participation as a mechanism to legitimize decisions previously made top-down by the authorities.

Advisory Opinion 32 of the Inter-American Court of Human Rights underscores the importance of participation for climate action[32]. Therefore, States must ensure public participation on climate issues with regard to policy development and direct participation in decision-making processes concerning the mitigation goal and strategy, the adaptation and risk management plan and strategies, financing, international cooperation, and the remediation of damage in the context of the climate emergency[33]. It is essential for civil society to demand this effective and comprehensive participation in order to influence climate governance.

At FARN, we have used litigation as a tool to demand broad public participation in the authorization of oil projects in Argentina's Patagonia region. Together with tourism associations and environmental and territorial organizations, we filed a precautionary measure against the Vaca Muerta Oil Sur project, which involves the installation of an oil pipeline to transport hydrocarbons from Vaca Muerta (Neuquén province) to a port terminal with monobuoys in the San Matías Gulf. Public participation in the public hearing where the environmental impacts of this project were discussed was restricted exclusively to individuals residing in the province of Río Negro, despite the fact that the megaproject also directly and indirectly affects the territories of the provinces of Neuquén, where the first section of the pipeline will be located, and Chubut, which will be impacted by the increase in maritime traffic to the terminal and the serious threat of spills. The Environmental Impact Assessment presented during the aforementioned public hearing focused on the specific impacts on the area potentially affected by the port, ignoring the fact that there is a strong oceanographic and biological connectivity between the San Matías Gulf, the San José Gulf, and the Nuevo Gulf, the latter two being key components of the Valdés Peninsula environment located in the province of Chubut. Península Valdés is protected at the provincial and international levels by the Ramsar Convention and by UNESCO as a World Heritage Site. The proposed injunction seeks to halt the Vaca Muerta Oil Sur project until inclusive public participation is guaranteed in accordance with the Escazú Agreement, through the holding of a new public hearing at which the citizens of Chubut can express their views on the environmental impacts of the pipeline and the port terminal[34].

The environment, climate, and biodiversity do not recognize geographical boundaries. The logic of artificially constructing borders works for people, but not for natural systems that extend beyond the boundary where the power of a local community ends. Ignoring this reality also implies climate and ecosystem blindness. Therefore, it is essential to ensure maximum participation without discriminating on the basis of the origin of those who wish to take part in the participatory process.

---

31 Fernández, Cristian, "Audiencias públicas, de su trascendencia discursiva hacia un horizonte de eficacia vinculante," in FARN Environmental Report, Chapter 4.3, 2018, p. 402.

32 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 534.

33 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 535.

34 FARN press release: "Península Valdés y Golfo San Matías: organizaciones reclaman audiencia pública por puerto petrolero" (Valdés Peninsula and San Matías Gulf: organizations demand a public hearing regarding an oil port), November 26, 2024, https://farn.org.ar/peninsula-valdes-y-golfo-san-matias-organizaciones-reclaman-audiencia-publica-por-el-puerto-petrolero/

Modern democratic life requires increasingly active participation by the population. Community members need to participate in making collective decisions that may affect them. It is worth recalling Principle 10 of the 1992 Rio de Janeiro Declaration, the outcome of the United Nations Conference on Environment and Development (UNCED 92), which states: "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 notion that citizens only take action when it comes to electing their representatives, without any opportunity to engage with them, has become obsolete. Indeed, participation transforms the democratic system, making it more dynamic and enabling joint action between the State and the people to result in decisions based on broad consensus. This is essential in environmental and climate matters.

5.- Climate justice: an unfinished business

Climate blindness does not affect only politicians. On numerous occasions, this harmful virus has spread to judges, who must make decisions when the other branches of government, through action or inaction, infringe upon environmental rights. Environmental and climate-related litigation is more complex than the average cases that courts of law are accustomed to resolving. Furthermore, most judicial officers lack theoretical training and specialization in environmental law. Regarding access to environmental justice, in most Argentine provinces, there are no courts specialized in environmental litigation. This clearly makes it difficult to resolve these structural and complex cases, in which collective rights are at stake.

The Supreme Court of Justice of the Nation has a Secretariat for Environmental Litigation and two judges, Horacio Rosatti, the current President of the Court, and Ricardo Lorenzetti, who have specializations and publications in environmental law. Although the Supreme Court has issued numerous environmental rulings that have established important environmental jurisprudence, at present, there is a significant number of cases awaiting judgment that are not receiving an effective and timely judicial response. This is mainly due to the Court's heavy workload and to financial and staffing constraints.

In Argentina, the development of climate litigation is still in its infancy, making it difficult for judges to issue rulings focused on climate change law. In 2019, the Supreme Court of Justice of the Nation referred for the first time to the Paris Agreement, to climate change law, and to the concept of "climate justice." It did so in the context of a case in which a Canadian mining company sought a declaration of the unconstitutionality of the Glaciers Act (Act No. 26,639)[35].

Based on climate change law, the Supreme Court reinforced the proposed polycentric approach to collective rights. It also referred to the concept of "climate justice," understood as "the perspective that seeks to bring together a variety of stakeholders to address the protection of ecosystems and biodiversity in a more systemic manner[36]." The fact that Argentina's highest court has introduced this concept is significant in view of future strategic litigation, in which judicial claims will extend beyond current time horizons to consider how present-day activities and pollution will impact climate change in the future.

The Escazú Agreement provides us with guidelines to ensure access to environmental justice. Among

35 Supreme Court Rulings, "Barrick Exploraciones Argentinas S.A. et al. v. National State on an action for the declaration of unconstitutionality," June 4, 2019.

36 Supreme Court Rulings, "Barrick Exploraciones Argentinas S.A. et al. v. National State on an action for the declaration of unconstitutionality," June 4, 2019, Recital 21.

these, we can highlight the importance of having "a) competent state bodies with access to specialized environmental expertise; b) effective, timely, public, transparent, impartial, and affordable procedures; c) broad standing to bring environmental actions, in accordance with national law; d) the possibility of obtaining precautionary and provisional measures to, among other purposes, prevent, cease, mitigate, or repair environmental damage; e) measures to facilitate the production of evidence of environmental damage, where appropriate and applicable, such as the reversal of the burden of proof and the dynamic burden of proof; f) timely enforcement and compliance mechanisms for relevant judicial and administrative decisions; and g) reparation mechanisms, as appropriate, such as restoration to the condition prior to the damage, restoration, compensation or payment of a monetary penalty, satisfaction, guarantees of non-repetition, care for affected persons, and financial instruments to support reparation[37]."

A similar approach is outlined by the Inter-American Court in its Advisory Opinion 32, which states that the essential aspects of access to justice that States must ensure are: the provision of sufficient resources for the administration of justice in the context of the climate emergency; the application of the pro actione principle; the guarantee of a reasonable timeframe; and adequate provisions regarding standing, as well as evidence and redress[38].

With regard to the rules of evidence, the Inter-American Court emphasizes the need for them to be interpreted flexibly in order to avoid creating an unjustified procedural barrier for victims[39]. Climate justice requires the adoption of alternative evidentiary standards that make it possible to establish a causal relationship, based on the best available science, based on the creation or toleration of significant risks due to the failure to take preventive measures, and the actual exposure of individuals or groups to such risks, without necessarily requiring proof of a direct causal link[40].

In August 2023, FARN initiated a climate-related precautionary measure against offshore exploration and exploitation in Argentine waters, demanding a Strategic Environmental Assessment (SEA) to analyze the cumulative impacts of the various projects and the overall climate impact. Furthermore, the case's argument focused on the principle of non-regression set forth in the Escazú Agreement, on the grounds that the authorizations for 3D seismic exploration threaten the health and life of the southern right whale, a national natural monument.

The petition was filed in response to the need to halt the oil industry's encroachment into the Argentine sea. Currently, offshore exploration and exploitation activities are being carried out based on incomplete environmental studies, without considering either the irreversible and permanent damage that will be caused to the marine ecosystem or the climate commitments made by the country.

The purpose of the precautionary measure, which aims to protect marine biodiversity and address the climate crisis, is to ensure that the national government refrains from granting permits for offshore seismic exploration and hydrocarbon exploitation, issuing statements, approving environmental impact studies or assessments, and authorizing seismic or exploitation surveys until their cumulative and climate impacts have been assessed and an SEA has been published that also considers energy alternatives and the costs and benefits within the framework of a just transition.

In addition, the precautionary measure calls for the immediate halt of already authorized exploration and exploitation projects, such as the "Fénix en Cuenca Marina Austral (CMA-1)" project and the "Argerich-1 Cuenca Argentina Norte (Block CAN_100)" project[41].

37 Art. 8.3 Escazú Agreement.

38 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 541.

39 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 554.

40 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 553

41 FARN press release: "FARN presentó una medida cautelar para suspender la exploración offshore y las autorizaciones de exploración en el mar argentino" (FARN filed a precautionary measure to suspend offshore exploration and exploration authorizations in Argentine waters), August 2, 2023 https://farn.org.ar/farn-presento-una-medida-cautelar-para-suspender-la-explotacion-offshore-y-las-autorizaciones-de-exploracion-en-el-mar-argentino/

To date, this strategy of linking the Escazú Agreement to climate action has not yielded favorable results. Indeed, the injunction was denied by all judicial instances. Currently, it is being reviewed by the Argentine Supreme Court based on an appeal filed[42]. [3.1][4.1]Consequently, there are hopes that the Supreme Court will reverse the course of this case and write a new chapter in the history of climate litigation. Let us not lose sight of the fact that climate litigation is taking its first steps in Argentina. There is still a long way to go. It represents an outstanding issue for our country's courts to seriously address climate-related matters. We are confident that the Escazú Agreement and the Advisory Opinion will serve as a roadmap for achieving climate justice in the near future.

Access to environmental and climate justice is an effective remedy for overcoming the climate blindness that afflicts our societies.

6.- Human rights defenders working on environmental issues at a crossroads

In Argentina, environmental and land defenders face multiple forms of violence perpetrated by both state and non-state actors. The risks to which they are exposed vary depending on whether they belong to certain particularly vulnerable groups, such as Indigenous peoples, women, and rural communities[43].

The Regional Action Plan on Human Rights Defenders in Environmental Matters, adopted at COP 3 in Escazú, sets out a series of measures aimed at ensuring the comprehensive protection of those who defend the environment in Latin America and the Caribbean. This plan includes actions such as establishing national protection mechanisms, promoting safe environments for defenders, training authorities on human rights and the environment, and improving access to justice for those facing threats or attacks. The aim is to provide a minimum framework that State parties can adopt and adapt to their local contexts in order to comply with the provisions of Article 9 of the Escazú Agreement, which establishes the obligation to protect environmental defenders and to guarantee them a safe and enabling environment in which to operate without restrictions or threats. In Argentina, however, the current government has shown no signs of making progress in implementing this action plan[44].

In its Advisory Opinion 32, the Inter-American Court noted that "environmental rights defenders face an heightened risk of violations of their rights due to the activities they carry out in the context of the climate emergency." This risk manifests itself through the censorship of environmental and climate debates, violence online and in other spaces, the suppression of protests and public gatherings, arbitrary detention, and strategic lawsuits against public participation brought by private actors and public authorities (known as 'SLAPPs')[45]."

The Inter-American Court holds that States have an obligation to: "(i) collect and keep updated disaggregated data on the number of verified cases of murders, kidnappings, enforced disappearances, arbitrary

42 Sabin Center for Climate Change Law (n.d.). FARN v. Ministry of the Environment and Sustainable Development. Climate Case Chart. Available at: https://climatecasechart.com/non-us-case/farn-v-ministry-of-the-environment-and-sustainable-development/

43 Centro de Estudios Legales y Sociales (CELS), "La situación de defensores y defensoras de derechos humanos en asuntos ambientales en la Argentina," in "Coordenadas para una democracia ambiental en Argentina. First report of the Environmental and Climate Observatory for the implementation of the Escazú Agreement in Argentina," 2025, Talleres Trama, Chapter 1, p. 170 https://farn.org.ar/wp-content/uploads/2025/06/Coordenadas-para-una-democracia-ambiental-en-Argentina-Observatorio-de-Escazu.pdf

44 Centro de Estudios Legales y Sociales (CELS), "La situación de defensores y defensoras de derechos humanos en asuntos ambientales en la Argentina," in "Coordenadas para una democracia ambiental en Argentina. First report of the Environmental and Climate Observatory for the implementation of the Escazú Agreement in Argentina," 2025, Talleres Trama, Chapter 1, p. 170 https://farn.org.ar/wp-content/uploads/2025/06/Coordenadas-para-una-democracia-ambiental-en-Argentina-Observatorio-de-Escazu.pdf

45 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 568.

detentions, torture, and other harmful acts against environmental defenders, taking into account socioeconomic factors, as well as gender, age, sex, and ethnicity; (ii) design and implement policies and strategies aimed at addressing the structural causes of violence against environmental defenders and preventing future incidents of violence and intimidation. These policies and strategies must involve environmental defenders and take into account the differentiated impacts of violence based on intersectional and structural factors of discrimination; and (iii) adopt appropriate measures to promote the recognition and protection of the right to defend environmental human rights in all spheres of the State, as well as in society at large[46]." It is crucial that the Inter-American Court highlights these obligations and that it has taken into account the standards of the Escazú Agreement when addressing defenders in the context of the climate emergency.

In this regard, the submission of observations on the request for an Advisory Opinion, filed on December 18, 2023, jointly by the Asociación Defensoría Ambiental, the Mexican Center for Environmental Law (CEMDA), the Center for International Environmental Law (CIEL), Comunicación y Educación Ambiental, Cultura Ecológica, the Center for Economic, Social and Cultural Rights (CDES), Derecho Ambiente y Recursos Naturales (DAR), the leadership of the International Center for Research on Environment and Territory (CIIAT), FARN, the Foundation for the Development of Sustainable Policies (FUNDEPS), Protección Internacional, the International Service for Human Rights (ISHR), Operación Amazonía Nativa (OPAN), the International Platform against Impunity, Vecinas Unidas en Defensa de un Ambiente Sano (VUDAS), Public Representatives of the Escazú Agreement, and individual and community defenders, was successful[47]. This submission focused on treaty obligations regarding the protection and prevention of harm to individuals, groups, and organizations defending the environment and land in the context of the climate emergency. FARN submitted its observations with the endorsement of the signatory Indigenous communities of the Salinas Grandes Basin and Guayatayoc Lagoon, Jujuy Province, Argentina. As part of these observations, it was explained that the production of minerals needed for the energy transition, such as lithium, must not replicate the exploitation patterns of the fossil economy; on the contrary, it must ensure accessible, transparent, and participatory environmental impact assessment and management processes and address the cumulative effects of projects. We brought before the Inter-American Court the lithium extraction projects in Jujuy and Salta that are profoundly affecting the communities in these provinces. Jujuy and Salta share the Salinas Grandes – Guayatayoc water basin. This is an endorheic basin, whose rivers and streams feed the high-altitude wetland known as Salinas Grandes and the Guayatayoc Lagoon. The aforementioned wetland is a salt flat where lithium is found. Together with the national government, the provinces have been promoting lithium mining activities in this salt flat. However, given that the water balance of the basin is highly fragile and that the ongoing mining activity is extracting huge amounts of water from the system, there are serious risks of the basin drying up. The activity has been proceeding with environmental forecasts that have been strongly challenged by communities and civil society organizations. Despite this, the implementation of the project continues, proceeding with little transparency and circumventing free, prior, and informed consultation.

In its Advisory Opinion 32, the Inter-American Court drew attention to the need to protect human rights from violations that may occur in connection with the extraction of the rare and critical minerals required for the energy transition[48].

The Inter-American Court cites the Escazú Agreement when referring to the right to defend human rights, recognizing that the importance of human rights defenders is heightened in the context of the climate emergency due to the urgency, severity, and complexity of the measures required to address it,

46 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 575.

47 Inter-American Court of Human Rights (2023). Joint Observations on the Request for Advisory Opinion OC-32. Available at: https://corteidh.or.cr/sitios/observaciones/OC-32/7_asoc_defen_amb_otros.pdf

48 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 342.

as well as the essential nature of the participation and involvement of society at large[49]. Based on this Advisory Opinion, environmental defenders could also be referred to as climate defenders. Their role is essential in driving climate action, and it is the duty of states to create safe environments so that they can fully exercise their right to defend rights.

7. Right to a healthy climate and right to science

Advisory Opinion No. 32 considers that climate impact constitutes a form of environmental harm that is distinct from other forms of environmental harm, such as those resulting from pollution or impacts on biodiversity[50]. In this regard, and given the context of the climate emergency and the complexity of the actions required to protect the climate at the global level, the Inter-American Court holds that the right to a healthy climate must be recognized as a human right that is distinct from the right to a healthy environment. The purpose of this is to clearly define the specific obligations of States in the face of the climate crisis and to demand compliance with these obligations. The Court understands that a healthy climate is one that results from a climate system free from interference by human activity that is dangerous to human beings themselves and to nature as a whole[51].

In turn, the Court emphasizes that the right to science encompasses access for all individuals to the benefits of scientific and technological progress, as well as to opportunities to contribute to scientific activity, without discrimination[52].

States must (i) provide science education and disseminate information on major scientific discoveries and their applications, without regard to borders; (ii) ensure an environment conducive to the preservation, development, and dissemination of science and technology; (iii) promote participation in science, which entails the right to acquire a scientific education, access to scientific professions, the opportunity to contribute to scientific progress, and participation in science-related policy decisions; (iv) encourage the development of science in relation to key aspects of the climate emergency; (v) ensure that the benefits of science are physically available and economically accessible without discrimination; and (vi) ensure that technological innovation measures are not implemented in a manner that adversely affects the most vulnerable individuals and groups[53].

In turn, the Court explains that, in order to be realized, the right to science requires a significant commitment from States in terms of international cooperation, particularly with regard to technology transfer[54].

At a time when climate science is being denied and underfunded, it is crucial to defend its value as a means of fostering debate rather than shutting it down.

49 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 563

50 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 299.

51 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 300.

52 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 473.

53 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 474.

54 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 475.

8. Conclusions

Throughout this essay, we have discussed the opportunities that the Escazú Agreement and Advisory Opinion 32 of the Inter-American Court of Human Rights present for climate action in relation to access rights. We have also discussed the strategies implemented by FARN to promote the Escazú Agreement in Argentina. It is easy to see that the strategies that have yielded the best results are those implemented through networking with organizations and communities. This reveals a valuable lesson. In times of fragmentation, collective work pays off.

We agree with the Inter-American Court when it notes that the impacts of climate change, such as food insecurity, economic decline, migration, water scarcity, and extreme weather events, pose a challenge to democracy[55]. We also agree that the interdependence between democracy, the rule of law, and the protection of human rights forms the foundation of the entire inter-American system[56].

In this regard, environmental democracy entails fully guaranteeing the rights of access to information, participation, and justice in environmental matters. Likewise, it involves preventing setbacks in the rights that have been won and ensuring that they are always progressive. The principle of non-regression is a fundamental tool for placing limits on environmental deregulation policies and defending the gains made in environmental and climate matters.

In an era of climate denial, where world leaders turn a blind eye to scientific evidence calling for urgent action to reduce the planet's temperature, the right to science becomes a fundamental right in addressing the climate crisis. Democracies are in jeopardy when world leaders deny the existence of climate change.

To strengthen environmental democracy and combat the epidemic of climate blindness, it is crucial to uphold the standards for the rights and protection of defenders established by the Escazú Agreement and the Inter-American Court of Human Rights. Only in this way can we hope to overcome the disinformation that prevents us from meaningfully participating in the decisions on which the future of the planet will depend.

Climate justice cannot be delayed any longer. We urgently need specialized judges who can issue rulings with an intergenerational perspective.

Without a healthy climate, democracy is not possible. And without democracy, it is not possible to drive the climate action that our planet needs.

55 Inter-American Court of Human Rights, Advisory Opinion No. 32/2025, July 3, 2025, paragraph 97.

56 Inter-American Court of Human Rights, Advisory Opinion No. 6/1986, May 9, 1986, paragraph 34.

Bibliography

Berros, María Valeria (2011). "Construyendo el principio de no regresión en el derecho argentino". JA 2011-IV-994/1001, AP 0003/015709.

Berros, María Valeria; Franco, Dabel; Galanzino, Marianela; and Médico-Colombo, Gastón (2025). "Seguimiento del principio de no regresión." In: Coordenadas para una democracia ambiental en Argentina. First report of the Environmental and Climate Observatory for the implementation of the Escazú Agreement in Argentina. Buenos Aires: Talleres Trama, pp. 15 et seq. Available at: https://farn.org.ar/wp-content/uploads/2025/06/Coordenadas-para-una-democracia-ambiental-en-Argentina-Observatorio-de-Escazu.pdf

Center for Legal and Social Studies (CELS) (2025). "La situación de defensores y defensoras de derechos humanos en asuntos ambientales en la Argentina." In: Coordenadas para una democracia ambiental en Argentina. First report of the Environmental and Climate Observatory for the implementation of the Escazú Agreement in Argentina. Buenos Aires: Trama Publishing.

Inter-American Court of Human Rights (2025). Advisory Opinion No. 32/2025, July 3, 2025. Available at: https://www.corteidh.or.cr

Supreme Court of Justice of the Argentine Nation (2019). "Barrick Exploraciones Argentinas S.A. et al. v. National State on a declaratory action of unconstitutionality," June 4, 2019.

Fernández, Cristian (2018). "Audiencias públicas, de su trascendencia discursiva hacia un horizonte de eficacia vinculante." In: FARN Environmental Report, Chapter 4.3, p. 402.

Rosatti, Horacio (2019). "Progresividad y operatividad de los derechos económicos, sociales y culturales en una sociedad en conflicto." In: Constitución de la Nación Argentina, a 25 años de la reforma de 1994. Buenos Aires: Argentine Association of Constitutional Law – Hammurabi.

Sabin Center for Climate Change Law, Columbia University (n.d.). Climate Deregulation Tracker. Available at: https://climate.law.columbia.edu/climate-deregulation-tracker

Sabin Center for Climate Change Law, Columbia University (n.d.). Climate Backtracker. Available at: https://climate.law.columbia.edu/content/climate-backtracker

Vázquez Giménez, Lisandro (2025). "El acceso a la información pública en la Argentina dentro del Acuerdo de Escazú." In: Coordenadas para una democracia ambiental en Argentina. First report of the Environmental and Climate Observatory for the implementation of the Escazú Agreement in Argentina. Buenos Aires: Talleres Trama, p. 44. Available at: https://farn.org.ar/wp-content/uploads/2025/06/Coordenadas-para-una-democracia-ambiental-en-Argentina-Observatorio-de-Escazu.pdf

2 Climate Transparency in Chile: From the Escazú Agreement to Advisory Opinions as Standards for Improvement

Authors:

Macarena Martinic Cristensen, attorney, University of Chile. Master's Degree in Human Rights and Democratization, joint degree from the University of Deusto and the University of Hamburg. Currently Coordinator of Empowerment and Public Participation at the NGO FIMA.

Carolina Palma Correa, Political Scientist from the Pontifical Catholic University of Chile. Diploma in Environmental Law from the University of Chile. Currently Advocacy Coordinator at the NGO FIMA.

Mariana Carrasco Uribe holds a degree in International Studies from the University of Chile. She holds a Master's Degree in International Strategy and Trade Policy from the University of Chile. She holds a Diploma in Environment and Investment from the University of Chile. Currently, International Advocacy Analyst at the NGO FIMA.

Abstract: This article examines whether Chile's climate policies comply with the standards of the Escazú Agreement, the first regional environmental treaty in Latin America that enshrines rights of access to information, participation, and environmental justice. Despite progress in Chilean policy, such as the Framework Law on Climate Change, the Long-Term Climate Strategy (ECLP), and the Nationally Determined Contributions (NDCs), significant shortcomings have been identified in their implementation, particularly with regard to transparency and access to information.

The analysis is based on the Escazú standards and the advisory opinions of the International Court of Justice (ICJ) and the Inter-American Court of Human Rights (IACHR). The findings suggest that, although the Framework Law establishes a transparency architecture, the lack of regular reports and up-to-date data in the National System for Access to Information and Citizen Participation limits the effectiveness of these policies. Official reports, such as the Biennial Transparency Report, are published late and in formats that prevent reuse and analysis, which runs counter to the principle of active transparency and the use of the best available science.

In conclusion, the study reveals that, despite policy efforts, Chile still does not fully comply with international climate transparency standards. This hampers accountability, informed citizen participation, and the ambition needed to address the challenges of climate change.

Keywords: Climate transparency, Escazú Agreement, Environmental information, Advisory opinion.

1. Introduction

Climate change is a well-known issue in Chile. The loss of glacial ice mass, the prolonged drought affecting the central part of the country, and the collapse of the Mediterranean forest[1] are just a few of the irreversible consequences of this phenomenon in the country. For this reason, over the past few years, the State has made progress in establishing policies to address this civilizational challenge. The Framework Law on Climate Change, the Long-Term Climate Strategy, and the Nationally Determined Contributions (NDCs) committed to under the Paris Agreement are just a few of these instruments.

In parallel, despite its initial refusal, Chile adopted the Escazú Agreement in 2022. This is the first regional environmental treaty in Latin America and the Caribbean, which establishes the rights to information, participation, and access to justice in environmental matters, in addition to protecting environmental defenders. Its implementation has been enshrined in the National Plan for the Participatory Implementation of Escazú 2024–2030 and the Protocol for the Protection of Human Rights Defenders.

Although environmental and climate issues are closely related, and countries are expected to implement policies that are aligned with meeting the objectives of Escazú and the Paris Agreement, there is no direct link between the two international treaties. Therefore, the purpose of this article is to analyze whether the climate policies that Chile has adopted in recent years are complying with the standards set forth in the Escazú Agreement, particularly with regard to the right of access to information and transparency.

This exploratory document will use as a reference the standards proposed by the Advisory Opinion of the International Court of Justice (ICJ) on the obligations of States in relation to climate change and the Advisory Opinion of the Inter-American Court of Human Rights (IACHR) requested by Chile and Colombia on the Climate Emergency and Human Rights.

In this regard, in this paper, we argue that progress in access to information and climate transparency in Chile is still far from meeting the international standards set out in both advisory opinions.

2. Access to environmental information and climate transparency: Why are they important?

Access to climate information refers to the availability of "any information, whether written, visual, audio, electronic, or recorded in any format, concerning the environment and its components, as well as natural resources, including information related to environmental risks and potential associated adverse impacts that affect or may affect the environment and health, and information related to environmental protection and management[2]."

This is complemented by the concept of climate transparency, which is understood as the process of monitoring compliance with climate commitments by governments and companies[3]. Climate transparency also entails open access to information and is implemented through mechanisms and institutions responsible for collecting, measuring, reporting, and verifying data, ensuring that it is disseminated in

1 La Tercera (2024). Report warns that climate change has already caused 7 irreversible consequences in Chile and around the world https://www.latercera.com/que-pasa/noticia/informe-advierte-que-cambio-climatico-ya-provoco-7-consecuencias-irreversibles-en-chile-y-el-mundo/DXWCP3VUZJFWREC2O6CNLW6XGY/ ; University of Chile (2025). Research reveals that Chile's Mediterranean forest is on the verge of collapse https://uchile.cl/noticias/231700/bosque-mediterraneo-chileno-esta-al-borde-del-colapso

2 ECLAC (2022). "Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean," https://repositorio.cepal.org/server/api/core/bitstreams/a6049491-a9ee-4c53-ae7c-a8a17ca9504e/content

3 UNEP (n.d.). "What is climate transparency and why is it important?", UNEP, available at: https://www.unep.org/news-and-stories/story/what-climate-transparency-and-why-it-important

an accessible manner[4]. As Tian Wang and Xiang Gao point out, this transparency constitutes a manifestation of the right of access to climate information.

Both concepts are fundamental to environmental governance, as they ensure accountability and lend legitimacy to climate commitments[5]. Thus, they enable objective verification of compliance with targets, thereby instilling confidence in the processes of negotiating and implementing climate policies[6]. Monitoring, reporting, and verification (MRV) systems provide strategic stakeholders with information to assess progress and identify areas where further efforts are needed[7].

Transparency also builds trust between institutions, civil society, and countries, which is essential for sustaining international cooperation and raising collective ambition, as recognized in the Paris Agreement[8]. This trust is even more critical in a context where the impacts of climate change affect different regions unequally and require coordinated commitments.

In addition, national transparency and information access systems collect reliable data that support decision-making[9], improve the consistency of projections, and enable the evaluation of climate change management tools. They also promote mutual learning among institutions, facilitate cross-sectoral collaboration, and enable the development of comparable indicators for monitoring climate policies and programs[10].

Open data democratizes information and supports the planning and monitoring of targets, helping to set measurable objectives, adjust action plans, and implement solutions tailored to the national context. At the aggregate level, the effectiveness of mitigation and adaptation actions is assessed, stakeholders are held accountable, and priorities in areas such as capacity building are identified[11]. Taken together, this strengthens the entire process of public climate policy, from its formulation to its monitoring.

Climate transparency is also essential for citizen participation. It enables the assessment of government performance, the demand for accountability, and participation in policy formulation, monitoring, and evaluation[12]. Access to clear and understandable information strengthens environmental democracy, enhances climate education and awareness, and empowers communities and organizations to contribute to

4 Wang, T. & Gao, X. (2023). "How Does Enhancing Transparency Contribute to Reduced Risks in Climate Change Policy Making?" In: Zhuang, G., Chao, Q., Hu, G., Pan, J. (eds.) Annual Report on Actions to Address Climate Change (2019). Research Series on the Chinese Dream and China's Development Path. Springer, Singapore, https://doi.org/10.1007/978-981-19-7738-1_6

5 Konrad, S., van Deursen, M., & Gupta, A. (2021). Capacity building for climate transparency: neutral 'means of implementation' or generating political effects? Climate Policy, 22(5), 557–575. https://doi.org/10.1080/14693062.2021.1986364

6 UNEP (n.d.). "What is climate transparency and why is it important?", UNEP, Available at: https://www.unep.org/news-and-stories/story/what-climate-transparency-and-why-it-important

7 United Nations Climate Change (2023). "Technical Paper: Benefits of Climate Transparency," United Nations Climate Change, https://unfccc.int/sites/default/files/resource/Benefits-of-Climate-Transparency_2023.pdf

8 UNEP (n.d.). "What is climate transparency and why is it important?", UNEP, Available at: https://www.unep.org/news-and-stories/story/what-climate-transparency-and-why-it-important

9 United Nations Climate Change (2023). "Technical Paper: Benefits of Climate Transparency," United Nations Climate Change, https://unfccc.int/sites/default/files/resource/Benefits-of-Climate-Transparency_2023.pdf

10 Grinspan, D., & Worker, J. (2021). "Implementing Open Data Strategies for Climate Action: Suggestions And Lessons Learned for Government and Civil Society Stakeholders," World Resource Institute, DOI https://doi.org/10.46830/wriwp.19.00093

11 Wang, T. & Gao, X. (2023). "How Does Enhancing Transparency Contribute to Reduced Risks in Climate Change Policy Making?" In: Zhuang, G., Chao, Q., Hu, G., Pan, J. (eds.) Annual Report on Actions to Address Climate Change (2019). Research Series on the Chinese Dream and China's Development Path. Springer, Singapore, https://doi.org/10.1007/978-981-19-7738-1_6

12 Grinspan, D., & Worker, J. (2021). "Implementing Open Data Strategies for Climate Action: Suggestions And Lessons Learned for Government and Civil Society Stakeholders," World Resource Institute, DOI https://doi.org/10.46830/wriwp.19.00093

the fulfillment of commitments. Thus, transparency becomes a tool for social empowerment and the co-creation of climate solutions.

This principle has been repeatedly recognized through the principle of public access to information and democratic control over it, as highlighted in Advisory Opinion 32/25 of the Inter-American Court of Human Rights[13]. It was also consolidated in the case of Claude Reyes et al. v. Chile (2006)[14], where the Court ruled that the State had violated the right to freedom of expression and to judicial protection by withholding information about a forestry project. This ruling sets a precedent regarding the State's obligation to guarantee access to public information and is considered a milestone in the region.

Similarly, in Advisory Opinion 32/25, the Inter-American Court recognized that access to climate information is an instrumental right for protecting other human rights, such as the rights to life, health, the environment, and a safe climate, as well as for ensuring public participation, transparency, and redress for environmental damage.

Given its importance, countries have made global transparency commitments under the United Nations Framework Convention on Climate Change and the Paris Agreement. Within this framework, countries are required to submit information on annual emissions, mitigation and adaptation plans, progress toward climate targets, and support needs[15]. The implementation of transparency at the global level is structured through the Enhanced Transparency Framework (ETF), which unifies reporting by developed and developing countries, incorporating flexibility for those with limited capacities, such as least developed countries and small island developing states[16].

To fulfill these commitments, starting in 2018, countries are required to issue Biennial Transparency Reports (BTRs) – a document that consolidates the previous Biennial Reports and Biennial Update Reports – and they continue to be obligated to issue National Communications (NCs) every four years[17]. The modalities, procedures, and guidelines set out in the Katowice Package (2018) and the Glasgow Climate Pact (2021) establish the technical standards, reporting periods, and necessary processes. The first BTRs were submitted at the end of 2024 and will serve as a guide for new climate commitments and the setting of more ambitious targets. These national reports are crucial, as they provide key information for the global assessment of collective progress (Global Stocktake), ensuring that transparency directly contributes to achieving the goals of the Paris Agreement.

However, given the importance of environmental information in combating climate change, the Escazú Agreement has incorporated it as one of its main pillars. Therefore, it is considered one of the access rights that contributes to democracy, sustainable development, and human rights. To this end, it sets out standards that States must meet to ensure effective and adequate access to environmental information in the face of global challenges, in an interrelated manner with the rights to public participation and access to justice in environmental matters.

13 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025, para. 500, https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf

14 Inter-American Court of Human Rights, Case of Claude Reyes et al. v. Chile, September 19, 2006, https://www.corteidh.or.cr/docs/casos/articulos/seriec_151_esp.pdf

15 UNEP (n.d.). "What is climate transparency and why is it important?", UNEP, available at: https://www.unep.org/news-and-stories/story/what-climate-transparency-and-why-it-important

16 United Nations Climate Change (2023). "Technical Paper: Benefits of Climate Transparency," United Nations Climate Change, https://unfccc.int/sites/default/files/resource/Benefits-of-Climate-Transparency_2023.pdf

17 United Nations Climate Change (2023). "Technical Paper: Benefits of Climate Transparency," United Nations Climate Change, https://unfccc.int/sites/default/files/resource/Benefits-of-Climate-Transparency_2023.pdf

3. Progressive standards on access to information and participation in environmental and climate matterss

Recently, at the international level, three normative and jurisprudential sources have set out standards that represent significant progress in this area: the Escazú Agreement, Advisory Opinion OC-32 of the Inter-American Court of Human Rights (IACHR)[18] on the obligations of States to respond to the climate emergency, adopted on May 29, 2025, and the Advisory Opinion of the International Court of Justice (ICJ)[19] on the obligations of States in the face of climate change, issued on July 23 of the same year.

The analysis that follows organizes the identified standards relevant to the right of access to information and climate transparency into four categories: i) process of obtaining the information and quality of the information, ii) content of the information, iii) format of the information, and iv) dissemination of the information, without prejudice to the fact that there are other standards that are also applicable and useful for the right of access to information.

3.1. Information collection process and quality

Chile's Framework Law on Climate Change No. 21,455 of 2022[20] represents the first national body of legislation aimed at establishing an institutional, regulatory, and management framework to address the climate crisis in the country. In addition to creating various systems and repositories that contribute to climate transparency, Article 33 of the Law stipulates that certain bodies[21] must periodically submit information to the Ministry of the Environment regarding their activities, projects, instruments, and budgets related to climate change. The law requires that this information be timely, up-to-date, complete, and reported on a regular basis[22], thereby laying the foundations for a centralized state system for collecting and managing climate information, although it does not establish quality verification mechanisms or specific standards regarding format.

For its part, Chile has been a party to the Escazú Agreement since September 11, 2022. Although it was enacted in Chile only a few months after the Framework Law, its content undoubtedly represents a step forward and a further development of the standards that Chile already had under Law No. 21,455. In particular, the Agreement makes progress by requiring States to generate and compile environmental information "in a systematic, proactive, timely, regular, accessible, and understandable manner, and to periodically update this information and encourage the disaggregation and decentralization of environmental information at the subnational and local levels" (Art. 6.1). Furthermore, it establishes the obligation to provide information in a manner that makes it reusable, machine-readable, and accessible, without restrictions on its reproduction or use (Art. 6.2). This represents more robust standards than the Framework Law, as it links the obligation of state bodies with an explicit mandate to ensure that information is accessible and usable by anyone.

At the inter-American level, the Inter-American Court of Human Rights (IACHR), in its Advisory Opinion 32-25, established relevant standards from the perspective of human rights and communities affected by the consequences of climate change and environmental damage. It established that, in the context of a climate emergency, States have a positive obligation of active transparency; to this end, they must actively generate and disseminate environmental and climate information that is timely, clear,

18 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025, https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf

19 International Court of Justice, "Advisory Opinion on the Obligations of States in Relation to Climate Change," July 23, 2024, https://icj-web.leman.un-icc.cloud/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf

20 Law No. 21,455, Climate Change Framework (2022), https://bcn.cl/32l1s

21 The obligated bodies are specified in Title IV and comprise the climate change institutional framework established by law: national climate change bodies; regional climate change bodies; and collaborating agencies involved in climate change management.

22 Law No. 21,455 on the Climate Change Framework (2022), https://bcn.cl/32l1s, Article 33

truthful[23], sufficient, coherent, and disaggregated, including local data and consultation processes with affected communities[24].

Likewise, the Court has emphasized that the generation of climate information must be carried out through inclusive, participatory, and intersectional processes, incorporating both scientific knowledge and local, community, and indigenous knowledge, which is a fundamental aspect in territorial matters. To this end, States must have accountable bodies with adequate resources, independence, and impartiality in the performance of these functions[25].

For its part, the International Court of Justice (ICJ) made progress regarding the link between climate information and the availability of technical and scientific information. In this regard, the ICJ has held that scientific and technological information is key to assessing the likelihood and severity of environmental harm, which determines the level of due diligence required of states. Accordingly, when there is strong scientific evidence of a high risk, the standard of due diligence is raised proportionally. Consequently, States have a duty to actively seek the necessary information, although a lack of resources may limit the scope of their responsibility[26].

Finally, the ICJ has recognized the dynamic nature of this standard, as it evolves in line with scientific and technological advances, with the reports of the Intergovernmental Panel on Climate Change (IPCC) serving as a central reference.

3.2. Content of the information

Regarding the information that States are required to generate, the Framework Law on Climate Change specifies that the information to be submitted must pertain to the actions, programs, projects, instruments, and budgets of the relevant State agencies[27]. This broad scope is significant, as it links climate management not only to technical variables but also to budgetary and planning decisions. However, the law does not establish a mandatory minimum content or uniform criteria for reporting.

For its part, although the Escazú Agreement is not an instrument limited exclusively to climate issues, Article 6, regarding the content of environmental information, requires States to have up-to-date information systems; to maintain up-to-date records of emissions and transfers of pollutants to air, water, soil, and subsoil, as well as of materials and waste (Art. 6.3), and to regularly publish a national report on the state of the environment (Art. 6.7).

For its part, the Inter-American Court of Human Rights has established the most detailed standard to date regarding the production of climate information, specifying not only the general obligation of States but also the minimum content that such information must include. First, States must generate information on the causes and effects of climate change, the mitigation and adaptation measures adopted, environmental impact assessments with a climate dimension, and mechanisms for access to information, participation, and environmental justice[28].

23 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025, para. 495, https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf

24 Inter-American Court of Human Rights, Advisory Opinion OC-23/17, "State Obligations regarding the Environment within the Framework of the Protection and Guarantee of the Rights to Life and to Personal Integrity," para. 496, https://www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf

25 Inter-American Court of Human Rights, Advisory Opinion OC-23/17, "State Obligations regarding the Environment within the Framework of the Protection and Guarantee of the Rights to Life and to Personal Integrity," para. 506, https://www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf

26 International Court of Justice, "Advisory Opinion on the Obligations of States in Relation to Climate Change," July 23, 2024, https://icj-web.leman.un-icc.cloud/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf

27 Law No. 21,455 on the Climate Change Framework (2022), https://bcn.cl/32l1s, Article 33

28 Inter-American Court of Human Rights, Advisory Opinion OC-23/17, "State Obligations regarding the Environment within the Framework of the Protection and Guarantee of the Rights to Life and to Personal Integrity," paragraph 507, https://www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf

With regard to indicators, States must have systems in place to measure progress in sustainable development strategies, including statistics disaggregated by gender, ethnicity, and socioeconomic status, as well as assessments of the socioeconomic impacts of climate change in key sectors such as agriculture, fisheries, and tourism, and to identify conflicts or synergies between climate policies and development goals[29].

With regard to mitigation, there is a requirement to produce technical information that supports and updates emission reduction targets, in line with the goal of limiting the increase in global temperature to 1.5°C and based on the best available science. At a minimum, this requires sector-specific GHG inventories, modeling of future emissions scenarios, assessment of the technical and economic feasibility of mitigation strategies, cross-sectoral impacts of mitigation strategies, mapping of natural carbon sinks and identification of practices that optimize their sequestration, and estimation of the financial and technological resources required to implement mitigation measures and capacity-building needs[30].

In the area of adaptation, States must produce assessments of vulnerability, exposure, and climate impacts on human rights, with a particular focus on vulnerable communities and environmental defenders[31]. Finally, they must produce information on disaster risks, the resilience of critical ecosystems, impacts on health, food and water security, human mobility, and impacts on cultural heritage[32].

Another interesting point highlighted by the Court is the duty to establish systems of disaggregated climate and socioeconomic indicators, assessing the differentiated impacts of the climate emergency and the obstacles to sustainable development[33].

In particular, with regard to the Nationally Determined Contributions (NDCs) instrument, both the Inter-American Court and the International Court of Justice are making progress on important standards for states. The ICJ ruled that the obligations under Article 4 of the Paris Agreement regarding NDCs, namely to prepare and communicate them every five years, are not merely procedural obligations but also performance obligations[34].

Furthermore, the ICJ emphasized that a Party's NDCs must become increasingly ambitious over time and must reflect "its highest possible ambition." In this regard, the Court was clear in stating that the content of NDCs is not discretionary, but is conditional on them making an effective contribution to the objectives of the Paris Agreement and to the temperature targets[35].

---

29 Inter-American Court of Human Rights, Advisory Opinion OC-23/17, "State Obligations regarding the Environment in the Framework of the Protection and Guarantee of the Rights to Life and to Personal Integrity," paragraph 508, https://www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf

30 Inter-American Court of Human Rights, Advisory Opinion OC-23/17, "State Obligations regarding the Environment within the Framework of the Protection and Guarantee of the Rights to Life and Personal Integrity," paragraphs 509–510, https://www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf

31 Inter-American Court of Human Rights, Advisory Opinion OC-23/17, "State Obligations regarding the Environment in the Framework of the Protection and Guarantee of the Rights to Life and to Personal Integrity," paragraphs 511–512, https://www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf

32 Inter-American Court of Human Rights, Advisory Opinion OC-23/17, "State Obligations regarding the Environment within the Framework of the Protection and Guarantee of the Rights to Life and to Personal Integrity," para. 513, https://www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf

33 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "State Obligations in the Context of the Climate Emergency," May 29, 2025, para. 508, https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf

34 International Court of Justice, "Advisory Opinion on the Obligations of States in Relation to Climate Change," July 23, 2025, para. 235, https://icj-web.leman.un-icc.cloud/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf

35 International Court of Justice, "Advisory Opinion on the Obligations of States in Relation to Climate Change," July 23, 2025, paragraphs 241–242, https://icj-web.leman.un-icc.cloud/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf

According to the Court, the formulation of NDCs requires due diligence, assessed on a case-by-case basis, but which, given the context of the climate emergency, is now of a stringent nature: each Party must do its utmost to ensure that its NDCs express its highest possible ambition in order to achieve the objectives of the Paris Agreement, i.e., to keep the increase in the global temperature below 1.5°C[36].

3.3. Format of the information

The LMCC does not provide clear guidance on the format of the information, beyond the requirement that it be complete and up-to-date. In contrast, the Escazú Agreement sets out a number of standards in this regard. It stipulates that information must be available in formats that are understandable, open, and accessible to all (Art. 6.7), taking into account vulnerable groups, including disseminating the information in the various languages used in the country and in understandable alternative formats, through appropriate communication channels (Art. 6.6. Escazú). This standard introduces the obligation to take proactive measures to ensure that access is effective and not merely formal.

Regarding format, the Inter-American Court has elaborated on this in Advisory Opinion 32/25, stating that States must proactively provide the maximum amount of information, which must be comprehensive, clear, accessible, up-to-date, and useful for different segments of the population[37]. It further states that information must be provided in appropriate and culturally relevant formats, ensuring the participation of Indigenous communities and historically excluded groups[38]. Thus, the Court directly linked format to equality and non-discrimination in the exercise of human rights.

This standard had already been enshrined in the Escazú Agreement, Article 6 of which obliges States parties to ensure that individuals and groups in vulnerable situations have access to environmental information that affects them, by disclosing it in various languages and in understandable and culturally appropriate formats (Escazú Agreement, Art. 6). In its Advisory Opinion 32, the Inter-American Court further elaborated on this principle by requiring that climate information expressly identify disproportionately vulnerable communities and groups, including human rights defenders, in order to prevent violations in the context of the climate emergency[39].

Along the same lines, the Court established that States must produce and disseminate comprehensive, regular, and disaggregated information on the current and projected impacts of climate change on life, health, food and water security, and cultural and community integrity, taking into account factors such as age, gender, disability, and ethnicity[40]. This duty includes locally differentiated data and consultations with affected communities to ensure an intersectional approach that accurately identifies the differentiated impacts of the climate crisis, as well as the assessment of specific risks to indigenous and tribal peoples, displaced persons, and cultural heritage, in order to ensure their protection in adaptation and disaster management measures[41].

---

36 International Court of Justice, "Advisory Opinion on the Obligations of States in Relation to Climate Change," July 23, 2025, paras. 246–247, https://icj-web.leman.un-icc.cloud/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf

37 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025, para. 489, https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf

38 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025, para. 226-228, https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf

39 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025, para. 511 https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf

40 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025, para. 512, https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf

41 Inter-American Court of Human Rights, Advisory Opinion OC-23/17, "State Obligations regarding the Environment within the Framework of the Protection and Guarantee of the Rights to Life and to Personal Integrity," para. 496, https://www.corteidh.or.cr/docs/opiniones/seriea_23_esp.pdf

3.4. Dissemination of Information for Citizen Participation

Both the Framework Law on Climate Change and the Escazú Agreement recognize the importance of State agencies preparing information and presenting it in a timely and accessible manner, in accordance with the principle of maximum environmental disclosure for citizen participation, and, correspondingly, the right of any person or group to participate in the preparation, review, and updating of climate management instruments (Article 34 of the Framework Law on Climate Change and Article 5 of the Escazú Agreement). This is linked to the long-recognized principle of openness and transparency and the ability of citizens to exercise democratic control over information[42].

The Escazú Agreement reinforces this standard by requiring States to ensure public participation "from the earliest stages" of environmental decision-making processes, guaranteeing that public input effectively influences the outcome (Article 7 of the Escazú Agreement). The Escazú Agreement also introduces the principle of non-discrimination and establishes specific mechanisms for inclusive participation.

In this regard, the Inter-American Court links the duty of maximum publicity to the context of the climate emergency, an issue that entails a positive, reinforced obligation for states to ensure active transparency[43] and to guarantee that information on the state of the environment, mitigation and adaptation policies and measures, current legislation, and the results of impact assessments is disseminated using multiple platforms and accessible formats in order to ensure public participation and oversight and to prevent greenwashing practices[44].

4. Implementation of standards for access to information and climate transparency in Chile's climate change management instruments

4.1. National System for Access to Information and Citizen Participation

The National System for Access to Information and Citizen Participation on Climate Change is the cornerstone of Chile's climate transparency architecture. Established by Article 27 of Law No. 21,455, the Climate Change Framework, and regulated by Decree No. 17/2023 of the Ministry of the Environment, it is designed as a public platform that collects, systematizes, and makes climate information available in a timely manner. The aim is to facilitate and promote access to and dissemination of climate information; to ensure that this information is provided in language that is understandable to the public; to facilitate and promote informed public participation throughout the lifecycle of climate change management instruments; and to support both decision-making and the monitoring and evaluation of climate change management instruments[45].

This System serves as a common platform for all the climate change management instruments recognized by the Law, such as the Long-Term Climate Strategy, the Nationally Determined Contributions, and the Sectoral Mitigation and Adaptation Plans. In addition, it plays an enabling role in informed citizen participation by facilitating free, digital access to the files used to develop and update climate instruments and enabling the submission of comments and responses via electronic means.

This platform is made up of subsystems that feed into its data repository, including the National Greenhouse Gas Inventory, the National Foresight System, and the Climate Adaptation Platform, among oth-

42 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025, para. 488 https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf
43 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025, para. 495, https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf
44 Inter-American Court of Human Rights, Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025, para. 521, https://www.corteidh.or.cr/docs/opiniones/resumen_seriea_32_es.pdf
45 Decree No. 17/2023, Ministry of the Environment, https://bcn.cl/6y7Esf

ers[46]. Although most of these subsystems are operational, some are lagging behind in terms of updates (for example, the Greenhouse Gas Inventory is published through 2022), which may affect the timeliness of information for decision-making. In this regard, Advisory Opinion 32/25 of the Inter-American Court of Human Rights has highlighted the importance of these systems as essential elements for assessing progress towards mitigation targets. The challenge facing Chile in this regard is to consolidate interoperability between subsystems, standardize data, and ensure regular updates.

However, from the perspective of the international standards discussed in the third section of this article, the System requires State Administration bodies to submit information on a regular, timely, complete, and up-to-date basis (Article 10), which is consolidated in Annual Monitoring Reports (Article 11)[47]. This monitoring structure for climate change management instruments is in line with Article 6.1 of the Escazú Agreement, which requires the systematic, proactive and periodic generation of environmental information, and with the standard set out in Advisory Opinion 32/25 of the Inter-American Court on active transparency, which mandates the production and dissemination of clear, truthful and sufficient information, involving communities in the information generation process. However, to date, no Annual Monitoring Reports have been submitted for the instruments mandated by the Framework Law on Climate Change, which suggests a gap between the regulations and their implementation that needs to be addressed.

In addition, with regard to the generation and quality of information, the System must operate in accordance with the principles of accuracy, completeness, and coverage, as set out in Article 3 of its regulations[48]. In turn, mechanisms are established for quality control and quality assurance in the various subsystems. This indicates the existence of common guidelines to ensure that the information is robust and of high quality, although at present, it does not go far enough to meet the standards that call for independent verification of the reported data, nor is there any explicit reference to the use of the best available science, as required by the International Court of Justice[49]. Furthermore, no measures have been implemented to address disinformation, as suggested by Advisory Opinion 32/25 of the Inter-American Court, in order to ensure access to reliable information.

Regarding the content of the information, the Information Access System requires the bodies responsible for each instrument to report not only the measures adopted, but also monitoring, reporting, evaluation, and verification indicators, as well as compliance percentages and progress assessments (Article 12). Although the regulatory design appears to be robust in line with international standards, the available platform does not yet integrate this data into an accessible progress dashboard. In fact, information on compliance with the Long-Term Climate Strategy and the Nationally Determined Contribution can only be found in a document submitted to the United Nations Framework Convention on Climate Change. This document corresponds to the Fifth National Communication and the First Biennial Transparency Report that Chile submitted in December 2024 as part of its commitments under the Convention and the Paris Agreement; it is not an interactive resource or continuously updated, and these documents have not been integrated into the platform.

One point to highlight in this regard is the socio-demographic disaggregation standard required by the Inter-American Court, which states that States must produce and disseminate comprehensive, disaggregated, and periodic information, paying special attention to vulnerability factors (age, sex, gender, disability, and ethnicity) (paragraph 512, Advisory Opinion 32/25). In this regard, there is a significant gap

46 Law No. 21,455, Climate Change Framework (2022), https://bcn.cl/32l1s

47 Decree No. 17/2023, Ministry of the Environment, https://bcn.cl/6y7Esf, Articles 10 and 11

48 Decree No. 17/2023, Ministry of the Environment, https://bcn.cl/6y7Esf, Article 3

49 International Court of Justice, "Advisory Opinion on the Obligations of States in Relation to Climate Change," July 23, 2025, https://icj-web.leman.un-icc.cloud/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf

in the disaggregation of data integrated into the System, as acknowledged in the 2024 Annual Report on the Participatory Implementation Plan of the Escazú Agreement[50].

However, the standards are also clear regarding the format and accessibility of the information. In this regard, the System guarantees digital, direct, and free access to information, in language that is understandable to the public (Article 7)[51], in accordance with the guidelines set forth in Article 6.6 of the Escazú Agreement. However, there are gaps in terms of publishing information in open, reusable, and culturally relevant formats, as recognized by the Inter-American Court. This point is crucial, as Article 6.2 of the Escazú Agreement requires that information be able to be reused without restrictions, as it is a fundamental element for researchers, civil society, and the private sector to be able to analyze, cross-reference, and generate knowledge based on official data.

In this regard, one of the significant gaps in Chile's case, compared to current international standards, concerns the incorporation of specific universal accessibility measures—such as translations into indigenous languages or other languages, easy-to-read materials, and access to non-digital information. This has a limiting effect on the effective reach of information in multicultural contexts and in the presence of digital literacy barriers. In fact, the 2024 Annual Report on the Implementation of the Escazú Agreement in Chile indicates obstacles in terms of territorial accessibility, the persistence of digital divides, and the translation of its commitments into active inclusion policies[52]. Therefore, it identifies the need to supplement the measures being developed with "in-person, multi-format strategies adapted to the country's sociocultural diversity[53]." The aim is to ensure effective participation, access, and protection, taking into account specific contexts.

Furthermore, access to the information provided by the System is considered the foundation of the citizen participation process enshrined in the Law, which stipulates that the development and updating files shall be permanently available and that consultation processes shall be channeled through the platform, enabling the submission of comments and responses (Article 9)[54]. This represents a significant step forward in ensuring participation from the early stages, a principle reinforced both in the Escazú Agreement and in Advisory Opinion 32/25 of the Inter-American Court. However, there is still a lack of mechanisms for tracking comments in order to verify their impact on the final outcome.

Furthermore, it should be noted that the System's operation implies the preparation and integration into the platform of an Annual Monitoring Report for each climate change management instrument (Article 11)[55] and of the National Action Report. This would represent a significant step forward in terms of contributing to the evaluation of climate policies and would enhance traceability in the achievement of climate targets. However, these documents have not yet been integrated into the platform, and to date, only the Long-Term Climate Strategy and the Nationally Determined Contribution have been monitored in the First Biennial Transparency Report submitted to the Convention in December 2024[56]. In

50 Ministry of the Environment (2025). "2024 Annual Report. National Plan for the Participatory Implementation of the Escazú Agreement 2024–2030," Ministry of the Environment, https://escazu.Ministerio de Medio Ambiente.gob.cl/wp-content/uploads/2025/05/Reporte_PIPE-2024_26-05-25_final.pdf

51 Decree No. 17/2023, Ministry of the Environment, https://bcn.cl/6y7Esf, Article 7

52 Ministry of the Environment (2025). "2024 Annual Report. National Plan for the Participatory Implementation of the Escazú Agreement 2024–2030," Ministry of the Environment, https://escazu.Ministerio de Medio Ambiente.gob.cl/wp-content/uploads/2025/05/Reporte_PIPE-2024_26-05-25_final.pdf

53 Ministry of the Environment (2025). "2024 Annual Report. National Plan for the Participatory Implementation of the Escazú Agreement 2024–2030," Ministry of the Environment, https://escazu.Ministerio de Medio Ambiente.gob.cl/wp-content/uploads/2025/05/Reporte_PIPE-2024_26-05-25_final.pdf

54 Decree No. 17/2023, Ministry of the Environment, https://bcn.cl/6y7Esf, Article 9

55 Decree No. 17/2023, Ministry of the Environment, https://bcn.cl/6y7Esf, Article 11

56 Ministry of the Environment (2024). First Biennial Transparency Report and Fifth National Communication to the United Nations Framework Convention on Climate Change, https://unfccc.int/sites/default/files/resource/1IBT_INFORME_final_Errata.pdf

this regard, there is a gap in meeting the objectives set out in the Regulation on the evaluation of climate instruments, and the existing report is based on the country's compliance with its obligations under the Convention and has not yet been integrated into the platform.

In this regard, a notable achievement by Chile relates to its commitment to regularly publish and disseminate a national report on the state of the environment, as stipulated in Article 6.2 of the Escazú Agreement, which the country has been doing annually since 2016[57]. Even so, this document has not been integrated into the System, and its format still falls short of international standards, as it is not user-friendly and does not guarantee access for vulnerable groups, which limits its potential as a tracking and monitoring tool.

4.2. Long-Term Climate Strategy

The Long-Term Climate Strategy (ECLP) is an instrument that defines the country's overarching 30-year horizon for addressing the challenges posed by climate change and the transition to low greenhouse gas emissions development, with the aim of achieving and maintaining carbon neutrality. This instrument was created based on Chile's commitments under the Paris Agreement and aims to achieve its objectives by 2050 at the latest. Currently, the Long-Term Climate Strategy in force dates from 2021, prior to the enactment of the Framework Law on Climate Change, and it will be updated by 2025. For the purposes of this article, we will use the current LTCS.

For the monitoring, reporting, and verification of the various measures of the Strategy, a range of actions are envisaged to address the need for monitoring indicators, reporting requirements, and verification actions, as well as a clear definition of roles and responsibilities at each stage of the process, with specific responsibilities assigned to the institutions involved.

For monitoring purposes, the Strategy provides for the creation of a series of climate information platforms, which are not up to date as of this date: the Greenhouse Gas Inventory System, the latest version of which dates from 2022; the National Foresight System (SNP), which has been operational since 2023; the HuellaChile - VU RETC System, which has been established and is operational, with the most up-to-date figures as of 2023; and finally, the Adaptation Platform – Climate Risk Atlas (ARClima), which is up to date as of 2023. In this regard, the Escazú Agreement stipulates that the State must have up-to-date environmental information systems (Art. 6.3). Furthermore, according to the standards proposed in the IACHR's advisory opinion, States must periodically evaluate their climate policies, identifying progress and obstacles, and ensure that they are implemented with the highest possible level of ambition (Advisory Opinion 32/25, paragraph 518).

To report on progress in climate policies, the country is required to submit certain documents on a biennial basis or within a specified timeframe. First, the Biennial Transparency Report[58]: submitted to the United Nations Framework Convention on Climate Change (UNFCCC) in December 2024. However, the report was prepared based on the country's figures for the year 2022. Secondly, the National Communication, which must be prepared every four years[59]; the last version submitted on its own was in 2021, and the last update was submitted in December 2024, together with the First Biennial Transparency Report. However, the data contained in this submission pertains to the year 2022.

---

57 Ministry of the Environment (n.d.). "State of the Environment Report," https://sinia.Ministerio de Medio Ambiente.gob.cl/estado-del-medio-ambiente/

58 Ministry of the Environment (2024). "1st Biennial Transparency Report and 5th National Communication to the United Nations Framework Convention on Climate Change," https://unfccc.int/sites/default/files/resource/1IBT_INFORME_final_Errata.pdf

59 Ministry of the Environment (2021). "4th National Communication of Chile to the UNFCCC," https://cambioclimatico.Ministerio de Medio Ambiente.gob.cl/wp-content/uploads/2021/12/4-CN.pdf

In addition, measures are proposed to coordinate the monitoring, reporting, and verification of the Strategy in the public sector by the various sectoral ministries. In this regard, first, there is a Monitoring, Reporting and Verification (MRV) website for mitigation policies and actions promoted by Chile's public sector[60], although it does not yet contain the data needed to monitor and report on compliance with climate policies under the mitigation pillar. Secondly, there is a monitoring platform for the ECLP and the NDCs, which aims to implement and operate an NDC monitoring database based on the conceptual model developed by the Office of Climate Change, designing the necessary indicators for monitoring and training potential users of the system. However, no concrete progress has been observed in this regard, and the platform has not been created or made operational, which is one of the main shortcomings in the progress of the ECLP, as it prevents its monitoring, reporting, and verification. In fact, the proper evaluation of a climate policy instrument depends on this type of progress, and the monitoring of the Chilean government's long-term climate actions must be subject to adequate periodic follow-up.

4.3. Nationally Determined Contribution 2025-2035

The Nationally Determined Contribution (NDC) is one of the national climate change management instruments recognized in Law No. 21,455 and updated every five years. It incorporates Chile's commitments to the international community to meet the Paris Agreement goal of limiting the increase in global temperature to 1.5˚C. To date, Chile has submitted three versions of its contributions: the first in 2017, the second in 2020, and the most recent one, published in September 2023 as part of the third global round of NDCs[61].

As part of the System of Climate Change Instruments, its monitoring and evaluation are regulated by Law No. 21,455, the Climate Change Framework, the Regulations of Decree No. 16/2023, and Decree No. 17/2023 of the Ministry of the Environment. These regulations detail both the NDC cycle - from the preparation of the dossier based on "the best available scientific information," public consultation, and scientific reports, to its approval - and the requirement for an Annual Monitoring Report to be published in the National System for Access to Information and Citizen Participation, as well as the mechanism for assessing its progress, which is to be incorporated into the National Action Reports as part of Chile's climate policy framework[62].

The NDC architecture in Chile indicates progress in terms of the procedural obligations for creating this instrument, defining its content, and disseminating its proposal, but also reveals significant gaps in monitoring, reporting, and evaluation. In this regard, although the Escazú Agreement does not specifically address this instrument and, therefore, the general guidelines on access to information apply, the advisory opinions of the International Court of Justice and the Inter-American Court include some specific guidelines.

First, within the NDC cycle, Decree No. 16 establishes good practices that are aligned with certain international standards. This is specifically achieved by including the requirement for a public dossier containing technical, scientific, economic, and social studies based on the best available evidence, early public consultation with dissemination in understandable language, and the prior opinion of the Scientific Advisory Committee on consistency with the latest evidence[63]. These requirements are in line with Article 6.1 of the Escazú Agreement on the systematic, proactive, regular, accessible, and understandable generation and

60 Ministry of the Environment (n.d.). Monitoring, Reporting and Verification (MRV) of mitigation policies and actions https://cambioclimatico.Ministerio de Medio Ambiente.gob.cl/monitoreo-reporte-y-verificacion-mrv-de-politicas-y-acciones-de-mitigacion/herramienta-de-gestion-de-datos/

61 Government of Chile (2025). "Chile's Nationally Determined Contribution (NDC). 2025 Update", https://cambioclimatico.Ministerio de Medio Ambiente.gob.cl/wp-content/uploads/2025/09/NDC-2025-2035.pdf

62 Decree No. 16/2023, Ministry of the Environment, https://bcn.cl/3hb1b

63 Decree No. 16/2023, Ministry of the Environment, https://bcn.cl/3hb1b, Titles III and IV

dissemination of information, and with the Inter-American standard of active transparency. Furthermore, it is in line with the International Court of Justice's guidelines on the need to ensure the quality and scientific robustness of the information provided and that the content of the NDC should not be discretionary.

However, there are gaps regarding an independent mechanism for verifying the quality of the data, such as external audits or cross-checks. Furthermore, Chile faces a significant challenge in monitoring progress on the commitments under this instrument, given that Annual Progress Reports have not been published for the previous versions; only the Biennial Transparency Report has been submitted to the Convention. At the same time, there is a need to strengthen multilevel coordination to ensure consistent reporting and the proper integration of these reports, as recognized by the Regulations, into the Information Access System platform.

However, the update of the third version of the 2025–2035 NDC is based on the National GHG Inventory, which contains data from 1990 to 2022 and was prepared using the 2006 IPCC Guidelines and the 2019 Refinement, which ensure international consistency and comparability. The emission budgets for the mitigation pillar were developed on this basis, which suggests the possibility that they may be out of date with respect to the current emissions scenario. In turn, the NDC incorporates targets, means of implementation, and direct links to the Long-Term Climate Strategy, and Decree No. 16 requires the latter to update national and sectoral budgets within 30 working days of submitting the NDC to the UNFCCC, so it should be in the process of being updated.

The configuration described above indicates partial compliance with Articles 6.3 and 6.7 of the Escazú Agreement, which require updated systems and periodic reports on the state of the environment. Furthermore, it should be noted that the monitoring process of tracking progress has not yet established a standardized set of disaggregated and territorialized indicators, nor have adequate monitoring, reporting, and verification indicators been incorporated to enable continuous tracking of progress in meeting the NDC measures, which is currently dependent on abstract reports submitted to the Convention. Similarly, modules on climate risks, loss, and damage are not systematically integrated, nor is the consistency of the trajectories with the 1.5°C target, as reinforced by the International Court of Justice, explicitly stated. These gaps limit the traceability of the measures, which are supposed to aim for the "highest possible level of ambition,"[64] and the nature of the performance obligations that the Court imposes on NDCs.

On the other hand, Decree 17/2023 establishes free, public digital access to the System and to the files, and authorizes the issuance of guidelines to ensure understandable language. These rules are consistent with the Escazú Agreement (Articles 6.2, 6.6, and 6.7) and with the inter-American standard of maximum informal publicity and cultural relevance. However, most of the information is published in PDF format, without open datasets or standardized metadata, which limits its reuse. Furthermore, there are still no versions in indigenous languages, no easy-to-read materials, and no formal universal accessibility guidelines.

With regard to NDC tracking specifically, there is a requirement to report annually on progress in terms of monitoring, reporting, evaluation, and verification indicators. In this regard, Article 67 of Decree 17/2023 stipulates that the Annual Monitoring Report must detail the percentage of progress achieved on the indicators compared to the previous year, the actions or targets with insufficient performance, and the proposed corrective measures, along with defined timelines and responsible parties. This structure is consistent with the transparency standard, which requires regular, comprehensive, and comparable reporting on emissions, removals, and implementation progress. Furthermore, the

64 International Court of Justice, "Advisory Opinion on the Obligations of States in Relation to Climate Change," July 23, 2025, https://icj-web.leman.un-icc.cloud/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf

public nature of these reports, their submission to the Ministry of Foreign Affairs, and their inclusion in the Information Access System would enable Chile to comply with the principle of maximum publicity established by the Escazú Agreement and the obligation of enhanced active transparency set forth by the Inter-American Court.

However, the practical application of these procedures reveals a significant gap in implementation, as these reports have not been published to date. In turn, the current format of the reports could still be refined to fully comply with international accessibility and comparability standards. While progress percentages should be included, these could be supplemented by standardized indicators and data visualizations in open, citizen-friendly formats, enabling their replicability and the reproduction of calculations to assess trends. Similarly, it is essential to include a critical analysis of the adequacy of the measures in relation to the emission trajectories required to keep the temperature rise below 1.5°C, a target reinforced by the International Court of Justice, where the NDC as an instrument has become central. Such adjustments should strengthen the link between the National Information Access System, adapt the currently weak monitoring, reporting, and verification indicators in the 2025 NDC, and the international transparency framework, thereby facilitating accountability and the early identification of implementation gaps.

5. Conclusions

Chile has made significant progress regarding the right to access environmental information and climate transparency as key elements for advancing global climate action. In this regard, a central component of its efforts stems from the enactment of Law No. 21,455 on the Climate Change Framework, which, on the one hand, institutionalizes the System of Climate Change Management Instruments at various levels, recognizing the Long-Term Climate Strategy, the Nationally Determined Contributions, and the Sectoral Mitigation and Adaptation Plans. On the other hand, it establishes the National System for Access to Information and Citizen Participation on Climate Change, which, through its successive regulations, sets out the methods for monitoring and evaluating climate management instruments, as well as the operation of the climate information system. Progressively, in 2022, Chile adopted the Escazú Agreement, which establishes clear standards for the rights of access to information, participation, and access to environmental justice. Finally, in light of the latest advisory opinions issued by the International Court of Justice and the Inter-American Court of Human Rights, the rights of access to climate information have been strengthened.

Therefore, this article analyzed the measures adopted by Chile regarding access to environmental information and climate justice, particularly for the monitoring of its climate management instruments, in light of the international standards established by the Escazú Agreement and subsequent advisory opinions. In this regard, and without prejudice to the existence of other standards, it was observed that, although Chile has made significant progress, it is still far from meeting the standards reinforced by the advisory opinions of the Courts on climate change with respect to: i) the process of obtaining information and its quality; ii) the content of the information; iii) the format of the information; and iv) the dissemination of the information. This is without prejudice to the fact that there are other categories of standards that could be added to the analysis of the Chilean case.

Specifically, when analyzing the National System for Access to Information and Citizen Participation on Climate Change, the Long-Term Climate Strategy, and the Nationally Determined Contribution, a significant gap is observed between what the regulations stipulate and the effective implementation of their guidelines. Although the law mandates the creation of systems and the obligation to report information periodically, in practice, reports and data have not been published or updated consistently, which limits their usefulness. Despite the existence of well-developed platforms and reports, the infor-

mation available does not fully meet the standards of quality, disaggregation, and accessibility required by the Escazú Agreement and the advisory opinions of the International Court of Justice and the Inter-American Court of Human Rights. Documents such as the Biennial Transparency Report or the Annual State of the Environment Reports are presented in non-reusable formats, which hinders the ability of civil society, academia, and even businesses to analyze and verify progress.

Similarly, failure to comply with the Annual Monitoring Reports on climate change management instruments required by law and the need to improve their monitoring, reporting, and verification (MRV) guidelines have hindered the monitoring of the implementation and achievement of Chile's climate targets. This lack of traceability and accountability undermines the credibility of Chile's climate commitments, and achieving its targets depends on rigorous monitoring to identify gaps, challenges, and opportunities for improvement in order to align its policies with the 1.5°C target of the Paris Agreement.

In short, this article reveals that Chile's main challenge lies not in regulating access to environmental information and climate transparency, but in implementing these measures in accordance with the progressive standards set forth in the Escazú Agreement, which the advisory opinions reinforce by calling for even greater ambition. Addressing this issue is imperative, given that it has been recognized that the right of access to information is intertwined with the effective enjoyment of other human rights; it sets an invaluable precedent for effective citizen participation; and it is a necessary element for achieving Chile's climate goals.

Bibliography

Economic Commission for Latin America and the Caribbean (ECLAC) (2022). "Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean." Santiago: ECLAC. Available at: https://repositorio.cepal.org

Inter-American Court of Human Rights (2006). Case of Claude Reyes et al. v. Chile, September 19, 2006. Available at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_151_esp.pdf

Inter-American Court of Human Rights (2017). Advisory Opinion OC-23/17, "State Obligations regarding the Environment within the Framework of the Protection and Guarantee of the Rights to Life and to Personal Integrity," November 15, 2017. Available at: https://www.corteidh.or.cr

Inter-American Court of Human Rights (2025). Advisory Opinion OC-32/25, "Obligations of States in the Context of the Climate Emergency," May 29, 2025. Available at: https://www.corteidh.or.cr

International Court of Justice (2025). "Advisory Opinion on the Obligations of States in Relation to Climate Change," July 23, 2025. Available at: https://www.icj-cij.org

Government of Chile (2025). "Chile's Nationally Determined Contribution (NDC). 2025 Update." Santiago: Ministry of the Environment. Available at: https://cambioclimatico.mma.gob.cl

Grinspan, D., and Worker, J. (2021). "Implementing Open Data Strategies for Climate Action: Suggestions and Lessons Learned for Government and Civil Society Stakeholders." Washington, D.C.: World Resources Institute.

Konrad, S.; van Deursen, M., and Gupta, A. (2021). "Capacity building for climate transparency: neutral means of implementation or generating political effects?" Climate Policy (22), 5.

Ministry of the Environment of Chile (2021). "4ta Comunicación Nacional de Chile ante la CMNUCC." Santiago: MMA. Available at: https://cambioclimatico.mma.gob.cl

Ministry of the Environment of Chile (2024). "1er Informe Bienal de Transparencia y 5ta Comunicación Nacional ante la Convención Marco de las Naciones Unidas sobre el Cambio Climático." Santiago: MMA.

Ministry of the Environment of Chile (2025). "2024 Annual Report. National Plan for the Participatory Implementation of the Escazú Agreement 2024–2030." Santiago: MMA.

United Nations Environment Programme (UNEP) (n.d.). "What is climate transparency and why is it important?" Available at: https://www.unep.org/news-and-stories/story/what-climate-transparency-and-why-it-important

United Nations Climate Change (2023). "Technical Paper: Benefits of Climate Transparency." Bonn: UNFCCC. Available at: https://unfccc.int

Wang, T. and Gao, X. (2023). "How Enhancing Transparency Contributes to Reduced Risks in Climate Change Policy Making?" In: Zhuang, G. et al. (eds.). Annual Report on Actions to Address Climate Change. Springer.

3 From Paper to Practice: Progress and Challenges Faced by Colombia's National Environmental Licensing Authority in Implementing the Escazú Agreement

Authors:

María Paula González Espinel is a lawyer from Universidad del Rosario, a specialist in Mining and Oil Law from Universidad Externado de Colombia, and holds an LL.M. in Environmental Law and Policy from Vermont Law and Graduate School. She is currently the coordinator of the Alternatives to Development program at the Environment and Society Association.

Karol Sanabria Rodríguez is a lawyer from Universidad del Rosario, with a specialization in constitutional law, human rights, and criminal law; she is also a specialist in Environmental Law and holds a master's degree in Environmental Law and Management from the same university. She is a senior researcher in the Alternatives to Development program of the Environment and Society Association.

Abstract: The Escazú Agreement is the first regional treaty on human rights and the environment in Latin America and the Caribbean, and it represents a milestone for environmental democracy in Colombia. Its entry into force in Colombia in 2024 established a framework of binding obligations regarding access to information, public participation, environmental justice, and the protection of human rights defenders. In this context, the National Environmental Licensing Authority (ANLA) plays a strategic role, as it is the entity responsible for evaluating and making decisions on projects with a high socio-environmental impact in the country. This chapter analyzes the ANLA's readiness path for implementing the Agreement, specifically its institutional actions, plans, and guidelines, with a particular focus on citizen participation mechanisms during environmental permitting processes. This chapter identifies progress made, such as the creation of educational tools, the expansion of public hearings, and the strengthening of information and protection protocols, as well as ongoing challenges related to the clarity of language, the effective inclusion of communities, and the social legitimacy of environmental decisions. The ANLA's experience serves as a key laboratory for understanding and demonstrating how international commitments can be translated into institutional practices, providing replicable lessons for other countries in the region interested in consolidating environmental democracy through the ratification of the Escazú Agreement..

Keywords: Escazú Agreement, National Environmental Licensing Authority (ANLA), Environmental democracy, Public participation, Access to environmental information, Environmental justice, Protection of environmental defenders, Environmental permitting in Colombia.

1. Introduction: Brief overview of the ratification of the Escazú Agreement in Colombia and its significance

The Escazú Agreement represents a historic milestone for Latin America and the Caribbean, as it is the first regional treaty on human rights and the environment. In Colombia, the ratification process involved several institutional stages: first, the agreement was signed in 2018; then, the bill was introduced and successfully passed as Law 2273 of 2022. This was followed by the Constitutional Court's declaration of enforceability in August 2024 and, finally, the deposit of the instrument with the United Nations in September of the same year. Its ratification marked the beginning of a new era for environmental democracy in the country. With the entry into force of the Agreement on December 24, 2024, binding obligations and provisions were established to guarantee access to information, public participation in environmental decision-making, access to justice, and the protection of individuals, groups, and organizations defending the environment.

Even before the ratification of the Escazú Agreement[1], the 2022–2026 National Development Plan (NDP) had already set out guidelines for its implementation. Since 2022, these provisions have made the Agreement a government priority, incorporating actions aimed at ensuring its core principles. First, the NDP provided for the creation of the Inter-Institutional Commission, tasked with developing the implementation plan and ensuring the sustainability of investment projects at the national level. Likewise, the NDP called for the democratization of knowledge, as well as environmental and disaster risk information, through the creation of the National System for Dialogue and Transformation of Socio-Environmental Conflicts. This mechanism aims to generate early warnings and preventive actions in response to conflicts, encouraging women's leadership in environmental issues and promoting their active participation in water governance and environmental justice.

These provisions are aligned with the other cross-cutting pillars of the NDP, such as Total Peace, understood as a participatory, broad and inclusive strategy, and with the principle of environmental justice, which, since the Agreement, has been promoting environmental democracy. In this context, the National Environmental Licensing Authority (ANLA) holds a strategic position, as it is the entity that makes decisions on projects that are often at the heart of socio-environmental conflicts in the country, due to their scale and potential environmental impacts.

The objective of this chapter is to analyze the ANLA's readiness pathway for the implementation of the Escazú Agreement in Colombia, based on the chronology of actions, plans, and established guidelines, specifically in relation to participation. It also seeks to identify the best practices and challenges of this process, so that it can serve as a reference experience for other countries in Latin America and the Caribbean interested in strengthening environmental democracy as promoted by the Agreement.

The path that the ANLA has charted for the implementation of the Escazú Agreement has strengthened mechanisms for citizen participation in environmental matters through public hearings and other institutional initiatives. Although these advances serve as a national and regional benchmark, challenges remain in incorporating these mechanisms into climate action processes. For example, there is a lack of clear language, effective participation by all individuals who may be affected by projects authorized by this entity, and effective protection for those who defend the environment.

The ANLA's experience provides a key testing ground for analyzing how to move from theory to practice in the implementation of the Escazú Agreement in Colombia, and it can serve as an example for other countries in the region.

1 Document that serves as the foundation for and provides the strategic guidelines for public policies formulated by the President of the Republic.

2. Methodology

To develop the proposed content, this chapter was prepared using a deductive method and a socio-legal approach with an analytical and explanatory scope. The chapter draws on a review of national and international regulations, the case law of the Constitutional Court, and the advisory opinions of the Inter-American Court of Human Rights, as well as ANLA institutional documents related to the readiness pathway.

The analysis is structured into four sections: first, the general context of the ratification of the Escazú Agreement in Colombia and the role of the ANLA within the environmental institutional framework is presented; second, the ANLA's readiness pathway for the implementation of the Agreement is described, including its timeline and guidelines; third, progress and challenges are assessed based on the national regulatory framework in terms of participation; and, finally, recommendations and lessons learned with potential for replication in other Latin American and Caribbean countries are formulated.

3. Environmental Administrative Organization and the Role of the National Environmental Licensing Authority – ANLA

LThe core of Colombia's environmental administrative organization is the National Environmental System (SINA), established through Law 99 of 1993. This system was created in response to both the 1991 Constitution, which introduced a decentralized, participatory model with a strong environmental focus, and the influence of international commitments made by the country, especially the 1972 Stockholm Conference and the 1992 Rio Declaration, which set global guidelines on sustainable development and environmental management.

At the central level, the SINA is led by the Ministry of Environment and Sustainable Development (MADS), which establishes policies, plans, and programs in this area; the ANLA, which is responsible for licensing, permitting, and monitoring large projects; and the National Natural Parks Unit, which is responsible for managing and conserving the country's protected areas. These entities form the backbone of the central environmental sector, with responsibilities ranging from strategic planning to the technical and operational management of environmental protection.

The ANLA was established as part of the 2011 administrative reform through Law 1444. It was established as a Special Administrative Unit attached to the SINA, without legal status, but with administrative and financial autonomy[2]. In other words, its actions and decisions do not depend on any other environmental authority, and it can decide independently whether or not to grant an environmental license. The ANLA is the authority responsible for evaluating and deciding on environmental licenses, permits, and procedures for certain projects, works, or activities[3] (Art. 1.1.2.2.1 of Decree 1076 of 2015).

2 Its creation was formalized through Decree 3573 of 2011, consolidated by Decree 1076 of 2015.

3 The exhaustive list of functions assigned to the ANLA includes: "[...] 1. To grant or deny environmental licenses, permits, and procedures falling within the purview of the Ministry of Environment and Sustainable Development, in accordance with the law and regulations. 2. To monitor environmental licenses, permits, and procedures [...]" These functions fall within the core objective for which the ANLA was created: to issue licenses for projects, works, and activities with the greatest environmental impact throughout the national territory. Additionally, it is responsible for carrying out and completing investigative, preventive, and punitive procedures in environmental matters, in accordance with the provisions of Law 1333 of 2009; approving administrative acts related to environmental licenses for mining operations and road infrastructure construction, as well as forestry use permits and concessions pursuant to Articles 34, 35, and 39 of Law 99 of 1993; managing the Environmental Licenses, Permits, and Procedures System (SILA) and the Comprehensive Online Environmental Procedures Window (Vital); and assuming the judicial and extrajudicial representation of the Nation in matters within its purview, pursuant to Decree 376 of 2020.

Subsequently, the internal structure of the ANLA was modified to align with the objectives of the 2018–2022 National Development Plan ("Pact for Colombia, Pact for Equity") through Decree 376 of 2020. It is worth noting that one of the purposes of this reform was to promote citizen participation in environmental licensing processes[4].

Furthermore, as a result of this reform, the ANLA significantly expanded its workforce (by more than 500%) and structured its operations into six main areas: General Directorate, Sub-Directorate for Environmental Citizen Participation, Sub-Directorate for Environmental License Assessment, Sub-Directorate for License Monitoring, Sub-Directorate for Environmental Instruments, Permits and Procedures, and Sub-Directorate for Administration and Finance (Jiménez, 2024).

In organizational terms, the central sector of the SINA retains characteristics typical of a centralized bureaucratic model (Jiménez, 2024). Although progress has been made, longstanding challenges such as the duplication of functions and the fragmentation of responsibilities persist, which hinders coordination and administrative simplification (Mora Ruiz, 2014). These problems show that, despite regulatory and institutional adjustments, significant challenges remain in achieving more effective environmental management within the framework of a decentralized state with growing demands for citizen participation.

4. ANLA's readiness path for Escazú: Timeline, plans, and guidelines

The ratification and implementation of the Escazú Agreement in Colombia have entailed a process of institutional preparation across various entities. Among these entities is the ANLA, which has served as a benchmark for the other entities due to its role in the licensing, permitting, and monitoring of projects with a high environmental impact. Its decisions are often at the heart of socio-environmental conflicts, where the rights of access to information, participation, and justice are crucial.

This readiness process did not arise in a vacuum. As mentioned, it is part of national policies such as the 2022–2026 National Development Plan, as well as of the need to strengthen the legitimacy of environmental decisions in a context of high territorial conflict and risk for individuals, groups, and advocacy organizations. Therefore, it can be interpreted as an effort to achieve institutional adaptation and to democratize environmental management.

The journey began in 2020, when ECLAC supported a consultancy to identify gaps in relation to the Escazú standards. This assessment enabled the ANLA to formally begin its readiness phase in 2023, even before the Constitutional Court's ruling on the enforceability of the agreement. Among the initial measures taken were the formation of a working group comprising the agency's 12 departments, the development of the "Escazú ABC" as an educational tool, and the design of a work plan with 125 actions distributed across the Agreement's four pillars (ANLA, 2024).

In addition, the update of ANLA's Strategic Plan was incorporated into institutional planning, a quarterly monitoring system was established, and specific roles were defined to coordinate implementation. Beyond fulfilling a requirement, this process laid the foundation for internal governance of the Escazú Agreement within the agency, which included specific roles: implementation leaders, departmental liaisons, activity managers, and component leaders. It also included a process aimed at raising awareness of the Agreement among the agency's employees through interactive virtual meetings, participatory educational sessions, and experiences with each department, such as communication strategies, among others. Similarly, ANLA conducted a quarterly monitoring of the implementation of the Work Plan, with four cut-off dates (March 31, June 30, September 30, and December 31, 2024) (ANLA, 2024).

4 This reform also aimed to simplify and streamline the licensing and permitting processes, including those related to tax incentives for environmental investments

Within the framework of the 2025 Implementation Plan, ANLA defined a series of strategic actions organized under the four pillars of the Agreement. These actions, divided into over 30 specific activities are intended to operationalize the Agreement's commitments within the environmental assessment, monitoring, and permitting processes. The following table summarizes the main lines of action planned:

Table 1. ANLA's main actions for the implementation of the 2025 Escazú Agreement

Pillar	**Strategic objective of the component**	**Representative actions**
Access to environmental information	Ensure that the information related to the process of evaluating and monitoring environmental permits and procedures, which is required for effective participation, is disseminated in accordance with the principle of maximum publicity and is effectively communicated through the appropriate channels, using clear language and tailored approaches for all our stakeholder groups.	Conduct an assessment of the environmental permitting evaluation strategy, taking into account the guidelines for implementing the Agreement
		Engage with ANLA's value groups regarding the progressive implementation of the Agreement in internal and external instruments.
		Review the associated documents, from the need for an environmental assessment of alternatives to the actual environmental assessment of alternatives.
		Publish information on prioritized projects, from the initiation order to the decision, using clear language.
		Conduct a self-diagnosis to prepare the single file.
		Publish on the calendar the visits and participation mechanisms for the evaluation and monitoring of licenses and non-license permits.
		Update the microsites for prioritized projects, works, and activities.
		Publish the applications and administrative actions prioritized as a result of the evaluation and monitoring process for out-of-license permits.

		Provide step-by-step information on the right to challenge and appeal the failure to provide information, as well as the requirements for exercising this right.
		Develop the microsite on the Escazú Agreement.
		Publish court rulings that impose obligations on the National Environmental Licensing Agency (ANLA).
		Assessment of the applicability of the Escazú Agreement to environmental permits and procedures.
Public participation in environmental matters	Strengthen mechanisms for effective and inclusive participation in decision-making processes related to the evaluation and monitoring of ANLA's environmental licenses, instruments, permits, and procedures.	Integrate the Agreement's approach in forums where the Agency is a speaker.
		Support the MADS, in response to the public consultation on the General Methodology for the Preparation and Submission of Environmental Studies, in incorporating considerations related to the implementation of the Agreement.
		Develop opportunities for expanded participation in prioritized projects.
		Review the feasibility of creating a forum for effective participation with communities and other local stakeholders prior to the adoption of the follow-up decision by the ANLA, i.e., between the Technical Opinion and the administrative act.
		Review the feasibility of designing a participatory forum for the closure and decommissioning process, in order to ensure that no issues remain outstanding (this includes the completion of prior consultations on environmental matters).

		Analyze the results of the public consultation on the General Methodology for the Preparation and Submission of Environmental Studies in order to compile recommendations aimed at strengthening the implementation of the Agreement.
Access to environmental justice	Improve the quality of the assessment and monitoring processes for environmental permits and procedures, as well as the effectiveness of the management of preventive and punitive environmental measures and the response to environmental complaints.	Promote and implement the pilots for the permits and obligations manager.
		Provide the course for the participation of third-party stakeholders.
		Disseminate the process for public participation and the submission of material evidence.
		Update and offer the lesson series on the environmental enforcement process.
		Promote spaces for enhancing participation, with a focus on community knowledge management.
		Develop the institutional strategy for environmental justice.
		Prepare the document for the management and follow-up of environmental complaints.
		Include the flow of environmental complaints in the Business Process Management for Petitions, Complaints, Claims, and Suggestions.
Protection of human rights defenders, groups, and organizations	Ensure proper management before the competent authorities for the protection of human rights in the context of the assessment and monitoring processes for licenses and permits other than environmental licenses, in safe and conducive environments where the rights of human rights defenders are recognized and protected.	Disseminate and implement the Protocol for the receipt, analysis, and referral of alleged situations placing human rights defenders at risk in environmental matters.
		Prepare the document for mainstreaming the focus on human rights defenders, groups, and organizations in environmental matters into the assessment and monitoring procedures carried out by SELA, SIPTA, and SSLA.

Source: 2025 Escazú Agreement Implementation Plan

According to official information (right to petition, September 2025), the ANLA reports progress in each pillar: strengthening of the Environmental Permit Information System (SILA) and the institutional portal, including a dedicated microsite on Escazú[5]; expansion of public hearings and virtual participation spaces; protocols for handling complaints; and dissemination of the protocol for the protection of human rights defenders.

When asked whether there was an additional plan, roadmap, strategy, or guideline, the agency responded that the roadmap has been implemented through the following instruments:

Table 2.

Pillar	Instrument
Information	Internal protocols for managing environmental information and guidelines for publishing public information and active transparency
Participation	Strategies for citizen participation
Institutional strengthening	Internal and external training and awareness-raising plans related to the implementation of the agreement

These advances reflect the agency's effort to translate the commitments of the agreement into day-to-day procedures, although challenges related to coordination, sustainability, and impact assessment still remain. These measures are particularly relevant in a country considered the most dangerous in the world for those who defend the environment. This places a dual responsibility on the ANLA: to technically evaluate projects and, at the same time, to ensure that participation takes place in safe and legitimate environments.

As Munévar-Quintero and Gonzaga Valencia-Hernández (2020) point out, the environmental permit, originally conceived as a preventive mechanism, has become a setting where conflicting interests converge and where perceptions of exclusion in the access processes exacerbate conflict. In many cases, the problem does not lie in the illegality of the projects, but in the fact that, even with formal permits, communities perceive violations of their rights and impacts on their territories. This reveals a gap between the formal legality of state decisions and their social legitimacy.

Therefore, the incorporation of the Escazú principles—maximum transparency, early participation, and protection of defenders—is strategic: rather than international obligations, these principles serve as tools to prevent the escalation of conflicts and to strengthen environmental governance. However, these objectives face structural obstacles, such as the excessive technification of procedures, the difficulty of accessing comprehensible information, and the limited effectiveness of environmental justice.

In short, the ANLA's experience shows that Escazú is not an abstract treaty, but rather an opportunity to transform environmental management based on trust and democracy. The challenge is to ensure that plans and protocols do not remain on paper, but are translated into effective practices that redefine the relationship between communities, the State, and projects in the territories.

5 https://www.anla.gov.co/nosotros/institucional/acuerdo-de-escazu

5. Strengthening mechanisms for citizen participation in environmental matters during the Environmental Permit process:

5.1. General environmental licensing process in Colombia

To address public participation mechanisms, it is first necessary to contextualize the concept of the environmental permit within the Colombian legal framework. Pursuant to the provisions of Law 99 of 1993[6] and as determined by the Constitutional Court, an Environmental License has been defined as the authorization granted by the environmental authority for the execution of a project or activity that could potentially cause serious damage to natural resources or the environment, or introduce significant or noticeable changes to the landscape. This authorization empowers its holder to act within certain limits, under the regulation and control of the competent authority, in order to prevent, mitigate, correct, compensate for, and manage the environmental impacts that the project or activity may cause. In this regard, the environmental permit is essentially preventive and precautionary in nature, aimed at avoiding, reducing, or reversing, to the extent possible and based on technical and scientific criteria, adverse effects on natural resources and the environment (Constitutional Court, 1999).

Title VIII of Law 99 of 1993, along with subsequent regulatory decrees—Decrees 1753 of 1994, 1180 of 2003, 1220 of 2005, 2820 of 2010, 2041 of 2014, and Decree 1076 of 2015 (consolidating and currently in force)—have regulated the procedure for granting and monitoring environmental licenses in Colombia. These regulations establish an exhaustive list of projects, works and activities (PWAs) that are required to obtain an environmental permit. These include activities such as seismic exploration and drilling in the hydrocarbon sector, mining, projects in the electricity, maritime, and port sectors, nuclear power generation, the use of pesticides, as well as projects that affect areas within the National Natural Parks System (within the scope of the activities permitted there), among others.

Pursuant to this regulatory framework, as a prerequisite for granting or denying a license for PWAs, the environmental authority requires the submission of the environmental studies specified in the law and its regulations. These studies enable the assessment of the project's feasibility and include measures and activities aimed at preventing, correcting, mitigating, and/or compensating for any impacts that may be generated. These include the Environmental Diagnosis of Alternatives (DAA), where applicable, and the Environmental Impact Assessment (EIA)[7].

Finally, WAPs must have an environmental management plan, and the applicant is required to submit the corresponding EIA. This EIA must be prepared in accordance with the current Terms of Reference (ToR) and following the established methodology for the preparation and submission of environmental studies.

Within the framework of the environmental permitting process, the evaluation of the Environmental Impact Assessment (EIA) constitutes a key stage. Once the permit application has been filed and all requirements have been met, the competent environmental authority issues an administrative document initiating the process, which must be notified and published in accordance with the provisions of Law 1437 of 2011 and Law 99 of 1993.

From this point forward, the authority proceeds to verify that the study meets the minimum requirements set forth in the Environmental Study Assessment Manual. To this end, the authority may conduct a site visit to the project – if the nature of the project so requires – or, alternatively, convene a meeting

6 Law 99 of 1993, which establishes the Ministry of the Environment, restructures the Public Sector responsible for the management and conservation of the environment and renewable natural resources, organizes the National Environmental System (SINA), and sets forth other provisions.

7 Article 2.2.2.3.3.1 of Decree 1076 of 2015

with the applicant. At this meeting, and on a one-time basis, any additional information deemed necessary may be requested. Any decision taken must be recorded in a document, against which an appeal for reconsideration may be filed, to be resolved during the same proceeding.

The applicant has one month to provide the requested information, which may be extended by an additional month in exceptional cases. If the applicant fails to do so, the application is closed by means of a reasoned administrative decision. If the information is provided in a timely manner, the environmental authority may request technical opinions from other entities, which must respond within twenty business days. In the case of projects falling within the competence of the ANLA, the regional autonomous corporations and other authorities with jurisdiction in the project area must issue their opinions within fifteen business days.

Once the information has been consolidated, the authority has thirty business days to issue the decision granting or denying the environmental permit, which must be notified and published in accordance with the terms of the Law. The appeals provided for by the Law may be filed against this decision.

The decree also provides for specific situations that may affect the deadlines, such as the holding of public environmental hearings, the removal of forest reserves, or the need to carry out prior consultation processes. In these cases, the time limits are suspended until the corresponding action is completed. A crucial aspect is that under no circumstances may an environmental permit be granted without prior consultation having been formalized, where such consultation is required[8].

5.2. Participation mechanisms in environmental matters under Colombian law

The 1991 Constitution enshrines the principle of participatory democracy, which expands the concept of participation beyond the mere act of voting. This principle implies that the right to participate is not limited to the formal political sphere, but extends to all spaces—public, private, social, family, and community—where decisions are made that affect the community (Constitutional Court, 2025).

In Colombia, the Constitution recognizes various forms of participation. These include: (i) the participation of ethnic communities[9]; (ii) participation in the management or exercise of public functions[10]; (iii) participation through administrative or judicial actions aimed at overseeing state activity or defending collective rights[11]; and (iv) direct citizen participation as an expression of popular sovereignty[12] (Law 1757 of 2015).

One example of how democracy and the principle of participation have expanded is citizen participation in environmental matters. Article 79 of the Constitution stipulates that the law must guarantee the participation of the community in decisions that may affect it. According to constitutional jurisprudence, this participation is a key element in achieving sustainable development and ensuring proper environmental management, thereby anticipating potential irreversible damage (Constitutional Court, 2025).

Pursuant to this provision, Title X of the General Environmental Law, Law 99 of 1993, established the methods and procedures for citizen participation and defined the mechanisms for third-party intervention in environmental administrative proceedings, public environmental hearings, environmental nullity actions, the right to file environmental petitions, and prior consultation (Muñoz Ávila, L., 2016):

a. Third-party intervention in environmental administrative proceedings: Article 69 stipulates that any person or entity, without having to demonstrate a special legal interest, may participate in proceedings in which the authorities decide whether to issue, modify, or revoke permits or licenses

8 Art. 2.2.2.3.6.3 of Decree 1076 of 2015

9 Articles 330 and 93, with reference to ILO Convention 169

10 Articles 26, 45, 49, 79, 116, 123, and 210 of the Political Constitution

11 Articles 23, 87–89, 92, and 241 of the Political Constitution

12 Articles 3, 155, 170, 377, and 378 of the Political Constitution

for activities that affect or may affect the environment. They may also intervene when reviewing whether to impose or lift penalties for non-compliance with environmental regulations.

b. Public administrative hearings on pending environmental decisions: Article 72 stipulates that public hearings on pending environmental decisions may be requested by the Attorney General of the Nation or the Attorney General's Delegate for Environmental and Agrarian Affairs, the Ombudsman, the Minister of Environment and Sustainable Development, the directors of other environmental authorities, governors, mayors, or at least one hundred individuals or three non-profit entities. This applies when a project or activity is planned or carried out that may have an impact on the environment or natural resources and that requires an environmental license, permit, or concession. A hearing may be requested during the process of issuing or modifying the authorization and up until the issuance of the administrative act that decides whether or not to grant said authorization.

   Petitioners, interested parties, competent authorities, experts, and non-profit organizations that have previously filed documents relevant to the discussion may participate in the public hearing. At the hearing, any information and evidence deemed relevant may be presented. The administrative decision must be reasoned, taking into account the statements made and the evidence gathered during the hearing.

c. Action for nullity in environmental matters: Article 73 stipulates that this action may be brought against administrative acts through which an environmental permit, authorization, concession, or license for an activity that affects or may affect the environment is issued, modified, or revoked.

d. Right to request environmental information: Article 74 stipulates that any natural or legal person has the right to directly request information regarding elements capable of causing pollution and the dangers that the use of such elements may pose to human health, as well as regarding the amount and use of financial resources allocated for the preservation of the environment. Such a request must be answered within 10 business days.

e. Prior consultation for ethnic groups: Article 76 stipulates that the exploitation of natural resources must be carried out without harming the cultural, social, and economic integrity of traditional indigenous and Afro-descendant communities, and that decisions on this matter shall be made after consulting the representatives of these communities. As a requirement for submitting an environmental permit application, the prior consultation process must have been completed.

   The fundamental right to prior consultation has been extensively developed in case law, with the Constitutional Court specifying that it is necessary to identify, in each specific case, those administrative or legislative measures that may affect the rights and interests of ethnic communities. In this context, the Plenary Chamber, relying primarily on Ruling SU-123 of 2018[13], reiterated that there are various mechanisms aimed at guaranteeing the right to participation of ethnic peoples, the application of which depends on the degree of impact in each situation. Thus, (i) when the impact is direct and significant, free, prior and informed consent is required; (ii) in the case of a direct impact, a prior consultation process must be carried out; and (iii) in the case of minor impacts, the participation of ethnically distinct communities must take place on an equal footing with the general public. Furthermore, the Court stated that "the requirement of an environmental permit to carry out an activity is a strong indication of the need for prior consultation."

13 More recently, in Ruling SU-121 of 2022, the Court established a series of substantive and procedural criteria to supplement those already set forth in Ruling SU-123 of 2018, in order to "determine the intensity, permanence, and exclusivity with which an ethnic group has occupied a given territory" and to "establish the degree of impact" caused by the legislative or administrative measures adopted regarding that territory.

f. Citizen oversight committees: These are social control mechanisms recognized by Law 850 of 2003, which allow citizens or various community organizations to monitor public administration with regard to administrative, political, judicial, electoral, legislative, and supervisory authorities, as well as public or private entities and national or international non-governmental organizations operating in the country that are responsible for implementing a program, project, or contract or for providing a public service. The ANLA has established that social oversight of environmental licensing is a right and a duty through which the ANLA's work can be monitored in order to influence the assessment of environmental licensing and the follow-up of environmental management and control instruments.

g. Complaints regarding potential environmental impacts: These have also been recognized as a forum for citizen participation and advocacy. Although environmental management and control instruments aim to prevent negative impacts resulting from licensed projects, works, or activities, when potential impacts are identified, institutional mechanisms are activated to address them. In this regard, any individual or community that believes it has been adversely affected may submit complaints, reports, or petitions to the environmental authority through various communication channels, such as the website, the AnlaApp mobile application, the institutional chat function, the telephone hotline, physical mail, email, or through the assistance of regional environmental inspectors.

In addition to the formal mechanisms established by environmental regulations, the ANLA has promoted a series of non-regulatory mechanisms aimed at strengthening citizen participation and advocacy. These forums aim to enable various stakeholders – communities, social organizations, academia, trade associations, and public entities – to openly express their concerns, provide technical information, or make suggestions, with the goal of having their input taken into account in institutional management and environmental decision-making processes (ANLA, 2018).

Notable among these mechanisms are the Constructive Dialogue Spaces, designed as forums for technical and deliberative exchange with experts, organizations, and other social stakeholders, which enable the gathering of input and perspectives to improve environmental permitting processes and inter-institutional coordination. Similarly, Territorial Dialogue Forums have been developed as tools to contribute to the positive transformation of socio-environmental conflicts in the territories, bringing together the various stakeholders involved to analyze the contexts of conflict and jointly develop alternative solutions. These forums are led by the Regional Environmental Inspectors, who represent the institutional presence of the ANLA in areas with the highest tensions stemming from licensed projects (ANLA, 2018).

According to the ANLA, the Environmental Inspectors strategy has enabled a more responsive handling of citizen complaints and requests (PQRSD), in addition to strengthening territorial analysis and the preventive management of socio-environmental conflicts. In addition, there is the Citizen Service Center, which consolidates various communication channels and technical guidance services, including spaces for consulting case files and receiving environmental complaints (ANLA, 2018).

As part of this institutional evolution, in 2021 the ANLA updated its Environmental Citizen Participation Policy, with the aim of reviewing its strategic and theoretical scope every five years, recognizing the dynamic nature of social participation processes and the specific characteristics of stakeholders and local contexts. The policy incorporates components aimed at consolidating more effective and substantive participation, including the dissemination of technological tools, the use of one-stop shops to facilitate access to information, a differentiated approach that recognizes cultural specificities, and training and education for both public officials and social stakeholders.

As can be seen, citizen participation in environmental matters in Colombia has both a constitutional and a legal basis. The 1991 Constitution established a participatory democratic model that recognizes individuals and communities as key stakeholders in decisions that affect the territory. In implementation of this

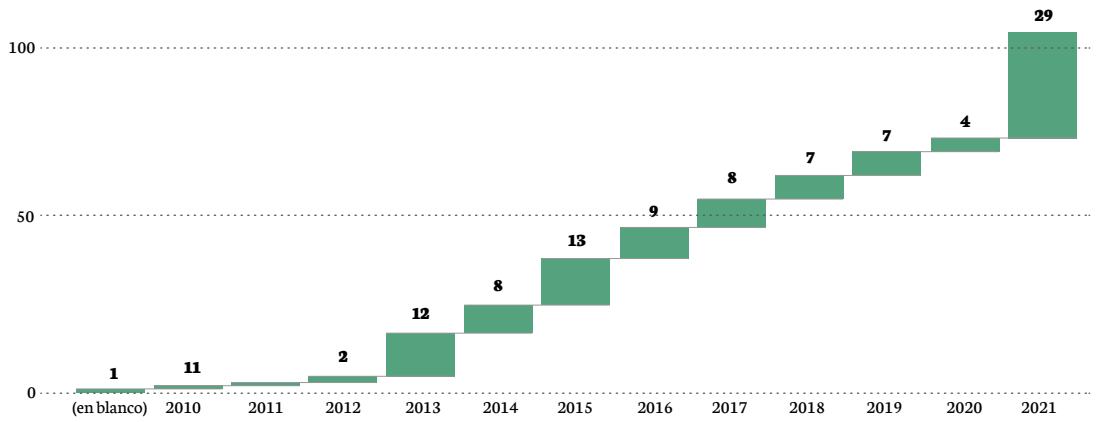
mandate, Law 1715 of 2015—legislation aimed at strengthening democratic participation—stipulated that all development plans must include specific measures to ensure citizen participation and support for forms of social organization.

These mechanisms demonstrate that the Colombian legal system has recognized the importance of establishing channels for participation, although in practice, there remain limitations related to the accessibility of information, the digitization of procedures, and the lack of follow-up on citizen feedback.

With regard to the participation strategy developed by the ANLA, it is clear that this environmental authority intends to move away from a vision in which citizen participation is understood solely as a procedural requirement and towards a more proactive approach, in line with the standards of the Escazú Agreement (ANLA, 2024, p. 23).

However, a significant challenge remains: public participation mechanisms in environmental permitting are not mandatory—with the exception of prior consultation—which limits their scope. In this regard, Ávila, Ciodaro, López, and Peñaranda (2024) propose that the public hearing be made mandatory, in order to strengthen its role as a forum for providing feedback on projects and to ensure that the environmental authority clearly explains how the public's comments were taken into account.

Figure 1. Public environmental hearings held from 2010 to 2024



Source: ANLA – Public Environmental Hearing Control Dashboard - https://www.anla.gov.co/participacion-ciudadana/durante-el-proceso/audiencias-publicas-ambientales

In response to this situation, the ANLA has intensified its efforts to promote the holding of public hearings, seeking to strengthen opportunities for dialogue between communities, project owners, and environmental authorities. However, the increase in these forums has also revealed an additional challenge: not all participation takes place in conditions of safety and trust, which are essential for it to be truly effective and democratic.

In this regard, it is important to note that, in recent years, concerning incidents have been documented during environmental hearings, in which social leaders have been subjected to threats, harassment, and smear campaigns. One of the most recent cases occurred in May 2025 in the municipality of La Calera, during a public hearing on the granting of a groundwater concession to a Coca-Cola bottling company. During the event, anonymous pamphlets containing intimidating messages were circulated against

community leader Herminia Cristancho and councilor Javier Cifuentes, who subsequently received death threats. The José Alvear Restrepo Lawyers' Collective (CAJAR) requested that these events be included in the administrative file, citing national and international standards that oblige the State to guarantee safe conditions for the exercise of the right to defend rights (El Espectador, 2025).

These cases are not isolated incidents. According to the most recent Global Witness report (2025), covering events that occurred in 2024, Colombia remains one of the most dangerous countries in the world for environmental and land defenders, with at least 60 documented lethal attacks, accounting for nearly 30% of global cases. Latin America continues to be the most affected region, accounting for over 80% of the recorded murders, which shows that environmental advocacy is carried out in contexts of high structural risk.

Ensuring safe environments is therefore a prerequisite for public participation, not an ancillary condition. Citizen participation [3.1][4.1][5.1]cannot flourish in environments characterized by fear or violence. Although the ANLA can promote prevention and support measures, the comprehensive protection of environmental defenders goes beyond its direct remit. This duty involves coordination with entities such as the Ombudsman's Office, the Office of the Attorney General, the National Protection Unit, and the Ministry of the Interior, so that citizen participation mechanisms incorporate components of risk assessment, institutional support, and rapid response to potential threats. Only in this way will it be possible to comply with the standards of the Escazú Agreement, particularly Article 9, which links effective participation to the guarantee of safe and violence-free environments.

5.3. Standards for Public Participation in Environmental Matters under the Escazú Agreement

The right to participate in environmental matters has been extensively developed at the international level, particularly since Principle 10 of the Rio Declaration on Environment and Development (1992). In Latin America and the Caribbean, this mandate was consolidated in the Escazú Agreement, whose Article 7 expressly recognizes participation as an independent right and not merely as a complement to access to information (Gómez, 2022). Thus, progress is being made towards a binding regional framework aimed at ensuring that all individuals can meaningfully influence environmental decisions that may affect them.

Article 7 constitutes the second pillar of the Escazú Agreement and identifies different areas of application: (i) provisions applicable to all environmental decision-making processes (Articles 7.1, 7.4–7.11, 7.14, and 7.15); (ii) provisions that specifically govern projects or activities with significant environmental impacts (Articles 7.2, 7.16, and 7.17); (iii) those relating to other processes of public interest, such as environmental policies, plans, standards, or regulations (Art. 7.3); (iv) those relating to participation in international forums (Art. 7.12); and (v) those governing consultation forums on environmental matters at the national level (Art. 7.13).

In all these scenarios, the Agreement sets out basic elements that States must guarantee: the open and inclusive nature of the processes, participation at early stages, the establishment of reasonable timeframes, the provision of information that is adequate for participation, differentiated attention to individuals and groups in vulnerable situations, the opportunity to submit comments, and the obligation of the authorities to give these comments due consideration.

In particular, three core standards stand out. First, the obligation to ensure early participation, starting from the initial stages of decision-making processes and covering the entire life cycle of projects—assessment, implementation, monitoring, and closure—and not just at specific points, such as public hearings, which continue to be the predominant practice in Colombia (ECLAC, 2023). Second, the requirement for effective and meaningful participation, which means that citizens' input must be genuinely taken into account and that authorities are obliged to justify how it was considered or why it was not incorporated (ECLAC, 2023). Third, the inclusive and safe nature of participation, which

requires culturally appropriate measures—such as linguistic accommodations—for Indigenous peoples, Afro-descendant communities, rural communities, women, and youth, as well as safety guarantees that are directly linked to Article 9 on the protection of individuals, groups, and organizations defending the environment. Thus, the Agreement recognizes that there can be no free and meaningful participation in contexts characterized by violence, intimidation, or stigmatization.

In comparative terms, Article 7 draws on lessons learned from the Aarhus Convention[14] (1998), but adapts them to Latin American realities. While Aarhus focuses on procedural mechanisms in the context of established democracies, Escazú incorporates additional standards, such as the protection of defenders and the inclusion of historically excluded groups. In this regard, it represents a forward-looking standard for the region.

For the purposes of this chapter, the analysis focuses on the provisions applicable to projects or activities with significant environmental impacts. With regard to Article 7.2 of the Escazú Agreement, it stipulates that States must ensure public participation in the processes of re-examining, revising, or updating environmental decisions. In Colombia, mechanisms with this scope already exist: since the 1990s, the Constitutional Court has stated that the environmental permit is a dynamic instrument that can be adjusted, modified, or even revoked without requiring the consent of the permit holder[15].

Similarly, Article 2.2.2.3.9.1 of Decree 1076 of 2015 stipulates that projects, works, or activities subject to an environmental permit or environmental management plan shall be subject to control and monitoring by the environmental authorities in order to verify, among other aspects, the efficiency and effectiveness of the management measures implemented in relation to the environmental management plan and the follow-up and monitoring program. Under these terms, the measures adopted to prevent, mitigate, correct or compensate for environmental impacts must be adjusted to the current reality of the project and, if necessary, modified in the course of the control and monitoring function, thereby ensuring not only environmental protection, but also the effectiveness of these measures in light of the project's operating conditions.

However, Colombian regulations limit the participatory scope of these processes. Actions resulting from monitoring and control are notified only to those who are part of the administrative process—namely, the permit holder and recognized intervening third parties, in accordance with Article 69[16] of Law 99 of 1993[6.1][7.1][8.1]. For other citizens, administrative actions can be consulted on the ANLA platform; however, this presents multiple obstacles.

On the one hand, internet access is not guaranteed for all communities, especially in rural areas; on the other hand, the information is often technical in nature, making it difficult to understand. Furthermore, although the Comprehensive Window for Environmental Procedures (VITAL) allows documents to be consulted, it is not always up to date, which makes it impossible to know in real time what decisions have been made. Consequently, communities located within the area of influence of the projects are rarely notified or adequately informed, in many cases because they are unaware of the concept of an intervening third party. All of this demonstrates that ensuring effective participation in environmental review processes remains a challenge, making it necessary to adapt procedures and strengthen culturally appropriate disclosure mechanisms.

14 Aarhus Convention: Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

15 Rulings such as C-328 of 1995 and C-742 of 2012

16 ARTICLE 69. *On the Right to Participate in Environmental Administrative Proceedings.* Any natural person, legal entity, or private individual, without the need to demonstrate any legal interest, may intervene in administrative proceedings initiated for the issuance, modification, or revocation of permits or licenses for activities that affect or may affect the environment, or for the imposition or revocation of penalties for non-compliance with environmental rules and regulations.

Cuadro no. 3 Información pública según el Acuerdo de Escazú v. información que se exige según el Decreto 1076 de 2015

Article 7.17 of the Escazú Agreement	**Components of the Environmental Qualification Document**	**Components of the EIA**
Description of the area of influence and the physical and technical characteristics of the proposed project or activity	Objective, scope, and description of the project, work, or activity. General description of the location alternatives and environmental characterization of the area of interest.	Characterization of the project's area of influence in terms of abiotic, biotic, and socioeconomic aspects, and application of participation guidelines.
Description of the environmental impacts of the project or activity and, where applicable, the cumulative environmental impact	Identification and comparative analysis of potential risks and impacts on the environment, as well as the use or exploitation of the required natural resources; description of alternative locations and compatibility with land uses under the Territorial Organization Plan (POT).	Information related to the environmental impact assessment and economic valuation. In relation to activities.
Description of the measures planned in relation to these impacts	Not required at this stage of the Environmental Declaration; it is prepared as part of the Environmental Impact Assessment	Project information: location, infrastructure, activities, and resource requirements are also included. Environmental Management Plan: includes prevention, mitigation, correction, compensation, and monitoring measures.
A summary of points (a), (b), and (c) of this paragraph in non-technical, understandable language	No technical summary of the DAA is provided.	There is no explicit requirement for a non-technical summary.
Public reports and opinions from the agencies involved, addressed to the public authority, related to the project or activity in question		

A description of the technologies available for use and of the alternative locations for carrying out the project or activity under assessment, where such information is available; and	General description of the alternative project locations. Selection and justification of the chosen alternative.	Technical aspects and location are mentioned, but an assessment of technological or location alternatives is not required.
Actions to monitor the implementation and the results of the environmental impact assessment measures.	Not applicable in the Environmental Impact Assessment (formulation and selection stage, not the execution stage).	Follow-up and Monitoring Plan

With regard to Article 7.17, concerning public information, this article raises the standard of transparency and accessibility. Although Colombian regulations, particularly Decree 1076 of 2015, provide detailed guidance on the technical components of the DAA and the EIA—such as the characterization of the area of influence, the impact assessment, and the management, monitoring, and compensation plans—their approach remains predominantly technical and administrative, focusing more on control than on participation.

The main gaps are observed in three areas:

1. Lack of analysis of cumulative and synergistic impacts, which are essential for a comprehensive environmental assessment.
2. Lack of non-technical summaries and information that is understandable to the public, which limits effective access to information.
3. Lack of transparency obligations regarding technological alternatives, project location, and opinions from other authorities, which are aspects that Escazú aims to make public in order to support informed and participatory decision-making.

On the other hand, Resolution 1402 of 2018, which adopts the General Methodology for the Preparation and Submission of Environmental Studies, requires that the processes for preparing the DAA and the EIA ensure engagement with communities, social organizations, and institutions in the area of influence. This methodology stipulates that all stakeholders involved should have access to relevant information and participate in an equitable, meaningful, and transparent manner. It also stipulates that educational and instructional resources must be used to facilitate understanding of the project and its impacts, thereby partially aligning with the standard of accessibility and comprehensibility set forth by Escazú.

For its part, Article 2.2.2.3.3.3 of Decree 1076 of 2015 stipulates that "*communities must be informed of the scope of the project, with an emphasis on the impacts and the proposed management measures, and the input received during this process must be assessed and incorporated into the environmental impact assessment, where deemed relevant*." This provision is consistent with Article 7.16 of the Escazú Agreement, in that it allows for the incorporation of input received during the process, but it does not require authorities to report on how the input they received during this stage was taken into account, as stipulated in the Agreement, and although it links the right of access to information with the right of participation. However, its scope is limited, as the treaty goes further by requiring States to "make efforts to identify the public directly affected (...) and promote specific actions to facilitate their participation." In this regard, information is only one component of the effective participation envisaged by the Agreement; however, its practical

implementation continues to face obstacles due to the lack of effective mechanisms to identify the directly affected public and the absence of institutional protocols to ensure their continued participation throughout the project lifecycle.

The *Guide for Public Participation in Environmental Licensing* (ANLA, 2018) represented an initial attempt to unify guidelines on this subject, targeting both project owners and the public. Although its implementation has faced challenges, the fact is that the ANLA has made significant efforts to strengthen participatory mechanisms and, above all, to advance an institutional transformation "from the inside out." In this regard, a significant achievement has been the formulation of a new concept of citizen participation in environmental matters, inspired by the principles of the Escazú Agreement, understood as "*A process of direct or indirect interaction between the public administration and citizens, who, through the involvement of individual or collective actors in the public sphere, seek to influence public decision-making, monitor its management and results, or express their levels of agreement with the decisions made regarding projects, works, or activities subject to environmental licensing by the authority*" (ANLA, 2020).

Although it is beyond the scope of this chapter to assess the effectiveness of the regulatory framework, legal and educational initiatives and support have revealed persistent difficulties in its implementation. These include a lack of awareness of concepts such as the intervening third party, limitations in the accessibility and public availability of information, institutional weaknesses in regional autonomous corporations, failures to recognize the directly affected public—especially indigenous peoples whose presence has been verified—and to ensure the "advocacy" mentioned in the Escazú Agreement. The prevailing perception remains that, even when recommendations are made, there is no follow-up, and there is certainly no effort to create participatory spaces that take into account care work and community time.

Indeed, Ávila, Ciodaro, López, and Peñaranda (2024) point out that, although the regulations require the dissemination of the Environmental Impact Assessment and the Environmental Diagnosis of Alternatives, in practice, these processes are typically focused primarily on sharing technical information, rather than creating genuine opportunities for participation in accordance with the standards of the Escazú Agreement. This is mainly due to the scope defined in the methodology itself, which refers to "dissemination" rather than to "participation mechanisms" in line with all the standards of the Agreement.

In this regard, Colombian constitutional jurisprudence has made progress in stating that participation mechanisms must be adapted to the material and cultural conditions of the communities. Ruling T-413 of 2021 reiterated that public participation forums must respond to the specific realities of the public involved, while Presidential Directive No. 10 of 2013 established guidelines to ensure culturally appropriate processes with ethnic peoples and communities, advances that have also been highlighted by Ávila, Ciodaro, López, and Peñaranda (2024) when analyzing the convergence between the Escazú Agreement, Human Rights, and Business in Colombian Environmental Licensing.

In short, Article 7 of the Escazú Agreement does not merely enshrine the right to participate; rather, it sets out specific international standards that call for a paradigm shift: a move from ritualized, formal participation to transformative, clear, transparent, effective, and safe participation. For this standard to be fully achieved in Colombia, it is necessary to strengthen mechanisms for access to information, ensure the timely identification of the directly affected public, expand participation channels beyond digital procedures, and guarantee that citizen input has a real impact on environmental decisions. However, the journey has already begun: the institutional efforts of the ANLA and the progressive incorporation of the Escazú principles into environmental management represent important steps toward more substantive and democratic participation.

5.4. Assessment, existing challenges, and impacts of the advisory opinions issued by the Inter-American Court of Human Rights and the high courts in Colombia

Colombia's environmental legal system is increasingly influenced by developments in international and inter-American human rights jurisprudence. Recently, the Inter-American Court of Human Rights (IACHR) has issued highly significant advisory opinions that link environmental protection with a special focus on fundamental rights, which has had an impact on the way national courts decide their cases and interpret applicable laws.

In this context, environmental permits—key instruments for preventive control in Colombia—have become points of convergence between national regulations, international standards, and constitutional justice.

Advisory Opinion OC-23/17, requested by Colombia, established that the right to a healthy environment is an autonomous right and that States have an obligation to prevent environmental damage that may affect both their inhabitants and people beyond their borders. This criterion opened the door to understanding that domestic procedures, such as the granting of environmental permits for the execution of works, projects, and/or activities, have not only a national impact but also a regional and global impact.

The I/A Court H.R. also emphasized the importance of public participation and access to information as essential conditions for the validity of environmental decisions. This is directly linked to the provisions of Article 7 of the Escazú Agreement and to what Colombia must implement in its permitting system.

Likewise, Advisory Opinion OC-32/23 of the Inter-American Court of Human Rights on "*Climate Emergency and Human Rights*" represents a milestone in the development of a binding international legal framework for the States of the region. In this Opinion, the Court recognizes that the climate crisis is not only an environmental challenge but also a human rights crisis, with severe and differentiated effects on the life, health, food, water, housing, and culture of the most vulnerable communities.

The Court emphasized that States have enhanced obligations with regard to climate change, including: (i) preventing and mitigating its impacts, (ii) incorporating the climate variable into environmental assessment processes, (iii) ensuring effective and culturally appropriate public participation in decisions with climate implications, and (iv) protecting the rights of future generations under the principle of intergenerational equity. Furthermore, the Court noted that failure to act or to comply with these obligations may constitute a direct violation of human rights, thereby opening the door to international litigation.

At the domestic level, Ruling C-280 of 2024 issued by the Constitutional Court represents a concrete expression of this trend, as it declared that Article 57[17] of Law 99 of 1993 lacked constitutional protection because it omitted the climate variable in environmental impact assessments (EIAs). Consequently, the Court ordered that, as of August 1, 2025, all environmental permit applications, including renewal applications, must assess their impacts in relation to climate change, and called on Congress and the Ministry of Environment and Sustainable Development to update the terms of reference for this process.

17 ARTICLE 57. On the Environmental Impact Assessment. An Environmental Impact Assessment is defined as the body of information that an applicant for an Environmental License must submit to the competent environmental authority. The Environmental Impact Assessment shall contain information on the project's location and the abiotic, biotic, and socioeconomic elements of the environment that may be adversely affected by the respective work or activity for which the permit is requested, as well as an evaluation of the impacts that may occur. In addition, it shall include the design of the impact prevention, mitigation, correction, and compensation plans, as well as the environmental management plan for the project or activity.
The environmental authority competent to grant the Environmental License shall establish the terms of reference for the environmental impact assessments within a period not exceeding forty-five (45) business days from the date of the request by the interested party, unless the terms of reference for the activity have been defined in a generic manner by the authority.

The convergence between the two rulings is clear: both the Inter-American Court of Human Rights and the Constitutional Court reaffirm that climate change must be a cross-cutting component of environmental management, and that its omission from assessments constitutes a violation of the fundamental right to a healthy environment (Articles 79 and 80 of the Constitution; OC-23/17 and OC-32/23). While the IACHR establishes a regional obligation with extraterritorial scope, the Constitutional Court sets a specific and enforceable mandate for the Colombian authorities, particularly for the ANLA as the main environmental licensing body.

However, this regulatory harmony also reveals a number of critical challenges for implementation:

- The ANLA and other environmental authorities in Colombia currently lack robust methodologies to measure the potential climate impacts of projects, which may delay or weaken the implementation of the ruling.
- The agency's technical and budgetary capacity is limited in relation to the scale of the task, which requires cooperation with SINA research institutes and the academic community.
- Public participation must be aligned with the Escazú standards and OC-32/23, ensuring that comprehensible information on climate scenarios is provided and that feedback mechanisms are in place.
- The principle of intergenerational equity requires projecting long-term impacts, moving beyond the short-term perspective of most environmental impact assessments.

In this regard, both Constitutional Order OC-32/23 and Constitutional Writ C-280/24 place the ANLA at the center of a process of institutional transformation. Its ability to respond to these demands and challenges will determine not only the legitimacy of the environmental permitting process (meaningful participation by those who may be affected and effective access to information), but also Colombia's compliance with its international commitments on human rights and climate change.

Furthermore, the Supreme Court of Justice has also set precedents in this area. Since the decision rendered in Judgment STC-4360 of 2018 (case of the Amazon as a subject of rights), the Court has required the State to implement effective climate policies and has recognized the principle of intergenerational equity as a guiding principle for environmental policy. These rulings complement the work of the Constitutional Court and reinforce the idea that permitting processes are not mere technical authorizations, but rather arenas for the protection of human rights.

The application of these standards is reflected in the country's environmental judicial practice. Between 1993 and 2016, approximately 8,153 environmental permits were granted in Colombia; of these, 2,136 fell under national jurisdiction, under the responsibility of the then Ministry of the Environment and, subsequently, the ANLA. The remaining approximately 6,017 permits were issued by the Regional Autonomous Corporations (CARs). These decisions have frequently been the subject of legal disputes, both due to challenges to their legality and due to the potential impact on collective rights. At the appellate level, the Council of State has heard 8 cases for simple annulment and 49 cases for annulment and reinstatement of rights related to environmental permits. In addition, the environmental authorities have registered 305 public interest lawsuits filed with the Contentious-Administrative Jurisdiction for alleged violations of collective rights related to the granting of permits.

These figures confirm that environmental permitting procedures represent a sensitive area of environmental and climate litigation in the country. This underscores the urgent need to enhance transparency, citizen participation, and climate assessment, not only as formal requirements, but also as effective guarantees of democratic environmental governance.

This discussion is particularly relevant in the context of the energy transition. The recent draft decree from the Ministry of Environment and Sustainable Development, which proposes an "optimized" process for wind power generation permits between 10 and 100 MW, on the grounds of accelerating the commitments of the Paris Agreement, has raised concerns about the risk of reducing procedural guarantees for public participation. As the UN Working Group on Business and Human Rights (2023) has warned, states must ensure that the energy transition is carried out within a clear, fair, and human rights-based regulatory framework, preventing the climate emergency from leading to the relaxation of environmental controls or the exclusion of communities from the decision-making process.

In short, the interplay between the advisory opinions of the Inter-American Court of Human Rights, the rulings of national high courts, and international climate commitments requires a shift towards an environmental permitting model focused on climate action and environmental justice, where damage prevention, meaningful participation, and the protection of human rights are the cornerstones of a truly just transition.

6. Recommendations for Colombia and Lessons Learned for the Region

In Colombia, the Escazú Agreement is about to mark one year since it came into force and three years since it was ratified by the government. Although this may seem like a short period of time, it has been sufficient for entities such as the ANLA to launch various strategies aimed at implementing the Agreement.

However, this process has been slow, and further institutional cooperation is still needed to ensure that all of its pillars are implemented in the country. In this regard, the key role played by the ANLA is noteworthy, especially with respect to the pillars of effective participation and access to information in the environmental licensing process.

Its citizen participation strategy encompasses most of the elements required by the Escazú Agreement, particularly with regard to early and broad-based participation, a differential approach, and training and education for its officials to ensure that participation processes are effective and not merely formal.

In any case, it is important to ensure that these actions and strategies take into account climate change variables, as suggested by the Inter-American Court of Human Rights and required by the Constitutional Court in its recent decision. Furthermore, although the ANLA promotes prevention and support measures for environmental defenders, it must work in coordination with entities such as the Ombudsman's Office, the Office of the Attorney General, the National Protection Unit, and the Ministry of the Interior, so that citizen participation mechanisms incorporate elements of risk assessment, institutional support, and rapid response to potential threats. Only in this way will it be possible to comply with the standards of the Escazú Agreement, both Article 7 and Article 9, which link effective participation to the guarantee of safe and violence-free environments.

In this same regard, it is important for environmental authorities in general, and the ANLA in particular, to implement innovative measures that take into account the fact that internet access is not guaranteed for all communities, especially in rural areas, and that the information is often technical in nature, making it difficult to understand. This requires the development of (i) capacity-building activities and (ii) forums for dialogue and ongoing collaboration with those who participate in these forums.

Bibliography

National Environmental Licensing Authority (ANLA) (2018). "Política de participación ciudadana ambiental de la Autoridad Nacional de Licencias Ambientales." Bogotá: ANLA. Available at: https://www.anla.gov.co/images/documentos/politicas/participacion/politica-participacion-ciudadana-anla.pdf

National Environmental Licensing Authority (ANLA) (2024). "Sistematización del proceso de alistamiento para la implementación del Acuerdo de Escazú." Bogotá: ANLA.

National Environmental Licensing Authority (ANLA) (2025). "Plan de implementación del Acuerdo de Escazú 2025." Bogotá: ANLA.

Ávila, L. M.; Ciodaro, M. E. P.; López, D. M.; and Peñaranda, P. (2024). "Acuerdo de Escazú, derechos humanos y empresas en el licenciamiento ambiental colombiano."

Economic Commission for Latin America and the Caribbean (ECLAC) (2023). Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean: Implementation Guide (LC/TS.2021/221/Rev.2). Santiago: United Nations.

Constitutional Court of Colombia (1999). Judgment C-035 of 1999. Petitioner: Antonio Barrera Carbonell.

Constitutional Court of Colombia (2024). Ruling C-359 of 2024. Petitioner: Jorge Enrique Ibáñez Najar.

Del Valle Mora, E. (2020). "Acuerdo de Escazú y licenciamiento ambiental."

Global Witness (2025). Annual Report on Environmental Defenders 2024. Available at: https://www.globalwitness.org

Gómez, J. (Ed.) (2022). Commentary on the Escazú Agreement. Mexico City: Mexican Network of Environmental Law.

Jiménez, L. F. G. (2024). Environmental Administrative Organization. A Look at the National Environmental System (SINA). Bogotá: Externado University of Colombia.

Munévar-Quintero, A. C. and Gonzaga Valencia-Hernández, J. (2020). "Los conflictos socio-ambientales en Colombia en el contexto de las Licencias Ambientales y el acceso a la justicia." Revista Jurídica (17) 1, pp. 42-63. https://doi.org/10.17151/jurid.2020.17.1.3

Muñoz Ávila, L. (2016). "Derechos de acceso en asuntos ambientales en Colombia: hacia el desarrollo de una actividad minera respetuosa del entorno y las comunidades."

4 Grenada Land Actors, activists for sustainable land development. "Escazú as Leverage: Rethinking Policy Influence in Environmental Governance"

Author:

Kriss Davies holds a BSc (Hons) from the Open University (UK), an MA from the University of Leicester (UK), and a DSW/CQSW from North London University (UK). She is Chairperson of Grenada Land Actors (GLA), an independent network advocating for equitable, inclusive, and sustainable land development in Grenada. Davies has been active in environmental advocacy in both the UK and Grenada and has worked with civil society organisations focused on community development and child protection. Her work with GLA centres on strengthening transparency, public participation, and access to environmental justice in land-use decision-making.

Abstract: This chapter examines how the Escazú Agreement can strengthen environmental governance in Grenada when civil society actors leverage it to advance climate action and environmental accountability. The Agreement's pillars—access to environmental information, public participation, and access to justice—provide a practical framework to address persistent gaps between formal legal provisions and decision-making practice.

In Grenada, the NGO Grenada Land Actors (GLA) has pursued strategic litigation (judicial review) against the Planning and Development Authority, arguing that statutory obligations related to participation, disclosure, and environmental safeguards were not met in approvals for major developments affecting sensitive ecosystems, including mangroves. The case illustrates recurring barriers: delayed and incomplete information, limited opportunities for meaningful engagement, and the high costs and slow timelines of environmental justice.

In parallel, GLA has developed a community empowerment initiative to increase legal literacy and civic capacity through workshops, participatory forums, and an Environmental Action Toolkit. These interventions aim to reduce asymmetries between affected communities, state institutions, and developers by equipping citizens to request information, document impacts, and engage in planning processes.

By analyzing Grenada's policy and legal landscape alongside these strategies, the chapter identifies transferable lessons for implementing Escazú as a tool for climate action: combining litigation with public education, documenting participation barriers, and institutionalizing citizen monitoring to improve accountability and climate resilience.

Keywords: climate change; public participation; access to information; access to justice; environmental governancel.

1. Country Contextualized: Grenada

Grenada is a Small Island Developing State (SIDS) located in the Eastern Caribbean. It is the southernmost of the Windward Islands, situated directly south of Saint Vincent and the Grenadines and approximately 100 miles (160 km) north of Trinidad and the South American mainland.

The country is composed of the main island of Grenada, together with two sister islands, Carriacou and Petit Martinique, as well as several smaller nearby islets. The principal island covers an area of 344 square kilometres (133 square miles) and has an estimated population of 114,621 as of 2024. Administratively, Grenada is divided into seven parishes, with the capital city, St. George's, located on the southern coast.

Often referred to as the "Island of Spice," Grenada has earned this nickname through its historic and ongoing production of nutmeg and mace. In recent years, the national tourism authority has rebranded the island as "Pure Grenada," a campaign intended to highlight the country's natural beauty and promote authentic visitor experiences.

Grenada's geographical location near the Equator results in a consistently tropical climate throughout the year, with average temperatures ranging between 23 and 28 °C. Historically, trade winds moderated the climate and provided natural cooling; however, these patterns have shown noticeable changes in recent years.

The country's social and political history has been shaped by Indigenous populations, particularly the Caribs and Arawaks, followed by European colonisation, slavery, indentureship, and prolonged struggles for independence. These historical processes continue to influence contemporary governance structures, land relations, and development trajectories.

A defining moment in Grenada's environmental and social history occurred in 1973 at La Sagesse, when community members, together with leaders of the New JEWEL Movement (New Joint Endeavor for Welfare, Education and Liberation), resisted efforts by Lord Brownlow to restrict public access to the beach. Through a symbolic "People's Trial" held under an almond tree, participants affirmed the principle that Grenada's beaches belong to the people. This event remains a landmark assertion of environmental and social rights and continues to inform community claims to land and coastal access.

Grenada achieved independence in 1974, gaining formal sovereignty. However, the subsequent decades were marked by political instability, internal upheaval, and external intervention, all of which have left lasting impacts on the country's institutional capacity and public trust.

Like many small island developing states, Grenada now faces acute challenges arising from climate change, rapid development, and environmental degradation. The country's ecosystems—including beaches, rainforests, mangroves, coral reefs, and coastal wetlands—are critical to climate resilience. They provide protection against flooding and storm surges, support biodiversity, and sustain livelihoods, particularly in fishing and tourism.

These ecosystems are under increasing pressure from unsustainable development practices, weak enforcement of planning and environmental laws, and the accelerating effects of the climate crisis. Mangroves, in particular, play a vital role in buffering coastal communities from extreme weather events while serving as nurseries for marine life. Despite their ecological importance, they remain highly vulnerable to development pressures.

The urgency of these challenges was starkly illustrated by Hurricane Beryl, which struck Carriacou, Petit Martinique, and northern mainland Grenada on 1 July 2024. The scale of devastation underscored the country's vulnerability to climate-related disasters. Although Grenada has produced numerous plans, policies, and frameworks—including the National Sustainable Development Plan 2020–2035, the Integrated Coastal Zone Management Act (2019), and a proposed National Land Policy—implementation

remains limited. Dormant legislation, delayed enforcement, and neglected environmental impact assessments continue to reveal a persistent gap between policy commitments and practice.

2. Escazú: A Treaty with Promise

The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters, commonly known as the Escazú Agreement, is the first regional environmental human rights treaty adopted in Latin America and the Caribbean. It was negotiated and approved in Escazú, Costa Rica, in 2018 and was shaped through the active involvement of civil society organizations, human rights advocates, and environmental experts from across the region.

Despite the progressive nature of the Agreement, ratification across Latin America and the Caribbean has been slow. While the COVID-19 pandemic contributed to delays in several countries, deeper political reluctance has also been evident throughout the region.

Grenada signed the Escazú Agreement in September 2019 but did not ratify it until March 2023, resulting in a four-year gap between signature and ratification. This delay suggests a degree of institutional hesitation. Notably, the signing of the Agreement was undertaken by the Minister for Foreign Affairs rather than by the Department of the Environment, which is housed within the Ministry of Climate Resilience.

This institutional misalignment has persisted into the implementation phase. Invitations to Escazú-related conferences and regional meetings continue to be directed primarily to the Ministry of Foreign Affairs, while departments directly responsible for environmental governance and implementation remain marginal to these processes.

This disconnect has implications for effective implementation. The absence of a clearly designated lead environmental authority limits coordination, weakens accountability, and reinforces a perception that the Escazú Agreement is treated primarily as a diplomatic commitment rather than as a domestic governance instrument.

3. Grenada's Roadmap for Escazú Implementation

In 2024, Grenada began drafting its roadmap for the implementation of the Escazú Agreement. As part of this process, a baseline assessment of existing legislation, policy, and practice was undertaken. The assessment identified key gaps in implementation, as well as relevant stakeholders involved in environmental governance.

A small steering committee was established to guide the preparation of the roadmap. The committee included both government and non-government actors and worked in collaboration with the Escazú Secretariat to outline a series of steps intended to support the ratification and implementation of this transformative regional environmental agreement. As the non-government representative, the author participated in the steering committee process, contributing a citizen perspective. At the time, as a member of Friends of the Earth–Grenada, the author was also able to bring the perspectives of a local non-governmental organisation to inform the proposed actions.

The governance structure for Escazú implementation is currently under review. Interest has been expressed in governance models such as that of Chile, where both governmental and non-governmental entities share decision-making power. Consultations conducted during the roadmap development process highlighted the importance of balance, with particular emphasis on ensuring that environmental defenders are not only included in governance structures but are also meaningfully heard.

The draft roadmap is awaiting review by the Economic Commission for Latin America and the Caribbean (ECLAC) and the Escazú Secretariat. Once this review process is completed, the document is expected to be circulated for public consultation before being submitted to Cabinet for consideration.

4. Challenges to Justice and Participation

Despite the formal progress made toward ratification and the development of an implementation roadmap, significant challenges to justice and public participation persist in practice. Environmental groups and human rights defenders in Grenada have pursued legal action against the Planning and Development Authority in an effort to uphold rights to access information and public participation in environmental decision-making. However, after four years, these cases remain unresolved, illustrating a pattern of delayed justice that, in effect, undermines access to justice.

During the preparation of the Escazú implementation roadmap, a critical gap in public understanding became apparent. Many citizens were unaware of their rights to request environmental information, seek clarification from authorities, or challenge development projects they considered unsuitable. As a result, projects proposed in fragile ecosystems, including multi-story developments in pristine mangrove areas, have often proceeded with limited scrutiny and minimal monitoring.

A dominant narrative within public discourse continues to equate development with progress and job creation, despite limited evidence supporting such claims in many cases. Criticism of these projects is frequently dismissed as partisan or characterised as "anti-development," thereby marginalizing environmental and community voices and restricting meaningful debate.

The baseline assessment conducted as part of the roadmap process, led by Jamaican lawyer Ms. Danielle Andrade, highlighted the existence of constitutional protections for freedom of expression and the right to challenge decisions without discrimination. These findings are significant for public education and advocacy efforts, as they provide a legal foundation for empowering citizens to engage more effectively in environmental governance and to assert their rights under the Escazú Agreement.

Another key finding was that Grenada has yet to enact a Freedom of Information Act, despite repeated commitments by successive administrations. While access to information is recognized within the Constitution, the absence of specific legislation limits its practical accessibility and enforceability. Enacting such legislation remains essential to strengthening transparency and accountability and to supporting the effective implementation of the Escazú Agreement.

5. Escazú's Caribbean Milestone: Defenders Speak Out

The Escazú Agreement marked a historic moment with its first official event held on a Caribbean island: the Third Forum on Human Rights Defenders in Environmental Matters in Latin America and the Caribbean, hosted in Saint Kitts and Nevis in April 2025. This forum focused on advancing the Action Plan for Environmental Human Rights Defenders, adopted at COP 3 of Escazú in 2024.

The gathering provided a crucial space for Caribbean defenders to share lived experiences and build solidarity across the region. Speakers painted a stark picture of the hostile climate many face, ranging from verbal attacks by politicians and corporations to smear campaigns in the press targeting those who oppose extractive industries and tourism projects that threaten ecosystems and livelihoods.

6. Patterns of Intimidation and Criminalization

Participants recounted disturbing patterns of criminalization, including the misuse of legal frameworks to silence dissent and anonymous threats delivered via messaging platforms. A representative from the Jamaica Environment Trust (JET) described reprisals for challenging the bauxite-alumina industry, including verbal abuse and coordinated social media attacks branding them "hysterical," "anti-development," and, an all-too-familiar slur, "tree huggers."

Globally, environmental defenders are increasingly under siege. Their efforts to safeguard natural resources, essential for community survival and climate resilience, often come at the cost of personal safety, freedom, and even life. The Caribbean is no exception.

While Grenadian activists have not yet suffered physical violence, many have come dangerously close. Members of Friends of the Earth–Grenada (FOE-G) have endured threats, harassment, and indirect targeting. One founder received repeated threatening phone calls and was vilified in local media. He was publicly mocked by the then administration at a political rally in Victoria before the 2003 elections, with ridicule aimed at his disability.

Other FOE-G members have faced intimidation in various forms. One was deported without due process despite being a citizen. Another, a medical practitioner, was repeatedly threatened with reassignment to Carriacou, which he resisted due to caregiving responsibilities for an elderly parent.

FOE-G has consistently raised concerns about environmental degradation linked to unsustainable development and sand mining. Their advocacy has triggered economic retaliation, including sanctions against affiliated agencies, job loss, and public dismissals.

In March 2025, the present Prime Minister, in Parliament, dismissed activists as mere "noise-makers," accusing them of spreading mauvais langue, a term connoting malicious gossip and silencing dissent through stigma.

Such rhetoric fuels a dangerous narrative: that environmental defenders are obstacles to progress rather than essential voices for justice. It emboldens those who oppose scrutiny to act with impunity, undermining democratic accountability and civic space.

The Agreement represents a milestone in international environmental law because, in the words of the Executive Secretary of ECLAC, Alicia Barcena, it "aims to reach the most vulnerable, marginalized and excluded sectors through affirmative measures, and it aspires to remove the barriers that impede or hinder the full exercise of [environmental human] rights." One of the most important components of the Agreement states that communities have the right to expect adequate knowledge and assistance to help them effectively exercise the rights specified. This is one of the main objectives of the present project undertaken by GLA and will hopefully be continued in one form or another in collaboration with other entities. The Agreement also offers hope in the face of increasing intimidation, harassment, and murders of environmental and human rights defenders (EHRDs).

7. Grenada's Environmental Commitments—Between Vision and Reality

7.1. A Nation at the Crossroads

Grenada has made bold commitments to environmental protection through national legislation and international agreements such as the Paris Agreement[1]. On paper, its framework appears robust, designed to preserve biodiversity, manage waste, and promote sustainable development. However, a closer examination reveals a troubling gap between policy and practice.

Grenada's environmental laws are shaped by global standards, including the Convention on Biological Diversity and the Paris Agreement. These frameworks offer a blueprint for climate action and biodiversity protection. Grenada has responded by drafting legislation such as the Environmental Management Act[2] and the Fisheries Act, and by creating a Ministry dedicated to Climate Resilience and Environmental Affairs.

Yet, two key policies—the Integrated Coastal Zone Management Act[3] and the Grenada National Land Policy[4]—are conspicuously absent from official listings. Their omission raises questions about the completeness and coherence of Grenada's environmental governance. This disconnect suggests a troubling pattern: the production of polished documents that signal transparency, while actual enforcement and responsiveness remain weak. A full description of legislation pertaining to environmental issues was produced by a company called Generis in November 2024[5].

8. The National Sustainable Development Plan (NSDP): Vision 2035

In 2018–2019, a national consultation led to the development of the National Sustainable Development Plan (NSDP) 2020–2035[6]. The strategic focus of the NSDP 2020–2035 rested on three sustainable development pillars: society, economy, and environment.

The goals were mapped to eight national outcomes, three of which directly addressed climate resilience:

- modern climate- and disaster-resilient infrastructure;
- climate resilience and hazard risk reduction;
- energy security and efficiency.

However, five years into implementation, the emphasis appears skewed toward energy transformation, sidelining urgent ecological concerns such as mangrove protection, water scarcity, and the carbon footprint of gas and oil. In August 2025, Trinidad and Tobago issued a press statement announcing a bilateral initiative between Grenada and Trinidad and Tobago aimed at fostering cooperation in the energy sector. This initiative was framed as a strategic opportunity for Grenada, which is in the early stages of hydrocarbon exploration.

1 United Nations Framework Convention on Climate Change (UNFCCC) (2015). The Paris Agreement. UNFCCC. Avalaible at: https://unfccc.int/process-and-meetings/the-paris-agreement.

2 Generis (2024). "Understanding Environmental Regulations and Compliance Obligations in Grenada." Avalaible at: https://generisonline.com/understanding-environmental-regulations-and-compliance-obligations-in-grenada/.

3 Integrated Coastal Zone Management Act, No. 8 of 2019 (Grenada). Avalaible at: https://grenadaparliament.gd/wp-content/uploads/2021/08/Act-No.-8-of-2019-Integrated-Coastal-one-Management-1.pdf.

4 Government of Grenada. Grenada National Land Policy: Providing for Sustainable Land Management and Ecosystem Resilience. Saint George's: Government of Grenada, 2025. Avalaible at: https://climateresilience.gov.gd/wp-content/uploads/2025/02/Grenada-National-Land-Policy.pdf.

5 Generis (2024). "Understanding Environmental Regulations and Compliance Obligations in Grenada." Avalaible at: https://generisonline.com/understanding-environmental-regulations-and-compliance-obligations-in-grenada/

6 Government of Grenada (2019). National Sustainable Development Plan 2020–2035. Saint George's: Government of Grenada. Available at: https://www.finance.gd/docs/NSDP2020-2035i.pdf.

The promotional rhetoric emphasised regional solidarity, jobs, income, and opportunities, outcomes that are often contested in extractive industries and presented as a win-win for both countries. While this move was widely acclaimed in Grenada, little consideration appears to have been given to Trinidad and Tobago's dominance in the energy sector. This imbalance should have raised concerns regarding equitable benefit-sharing and Grenada's agency. The initiative may also reinforce the notion that hydrocarbon development represents the optimal path for Grenada's economic growth, despite global shifts toward renewable energy. If viable reserves are not found, it could additionally result in significant financial losses.

Grenada's interest in geothermal energy signals a shift toward cleaner and more sustainable power. However, as consultations unfold and drilling plans advance, community concerns about water scarcity raise deeper questions, not only about technical feasibility but also about fairness. Energy justice asks who benefits from energy development, who bears the risks, and whose voices shape decision-making processes.

In this case, the proposed geothermal project could place additional strain on Grenada's already limited water resources, affecting households, farmers, and ecosystems. Yet many of those most vulnerable to water shortages may have limited influence over energy planning. When access to information, meaningful participation, and environmental protection are uneven, energy transitions risk reproducing existing inequalities under a new banner.

Energy justice insists that clean energy must also be equitable, responsive to local realities, inclusive of community voices, and protective of basic needs such as water. For Grenada, this means ensuring that geothermal ambitions do not come at the expense of water security and that local communities are not merely consulted, but genuinely heard.

Estimates suggest that geothermal drilling requires large volumes of water, potentially 180,000 gallons per 1,000 feet of well depth[7]. While models of geothermal plants may vary, it is clear that substantial quantities of water are required to support the process, something that Grenada does not possess in abundance. In addition, the proposed development is planned for another of the country's pristine areas, namely the foothills of Mount St Catherine. This area includes an extensively weathered stratovolcano and the tallest peak in Grenada.

The summit of Mount St Catherine is one of the highlights of the Mount St Catherine Forest Reserve and is regarded as a treasured spiritual space, where both locals and visitors hike and bathe in natural hot springs. Should the plans proceed, the forest reserve would face further pressure, with the potential destruction of a pristine ecological site rich in biodiversity.

The larger questions for environmental defenders are as follows:

i) Will environmental defenders and civil society in Grenada be consulted during hydrocarbon exploration?

ii) How will transparency and public participation be ensured in line with Escazú principles?

Grenada's legal framework emphasises compliance and accountability. Environmental Impact Assessments (EIAs) are required for major projects, and public participation is formally encouraged. However, civil society groups, including Grenada Land Actors (GLA), report that their input is routinely ignored. Recommendations to protect mangroves and coastal zones during construction are frequently

7 Clark, C. E.; Harto, C. B.; Sullivan, J. L. y Wang, M. Q. (2011). *Water Use in the Development and Operation of Geothermal Power Plants*, ANL/EVS/R-10/5. Argonne: Argonne National Laboratory; Harto, C. B. (2013). "Geothermal Energy: The Energy-Water Nexus." *Proceedings of the 38th Workshop on Geothermal Reservoir Engineering*. Stanford: Stanford University. Available at: https://pangea.stanford.edu/ERE/pdf/IGAstandard/SGW/2013/Harto.pdf.

dismissed, contradicting the very policies intended to uphold environmental integrity. While public engagement is encouraged, when feedback is disregarded, participation becomes performative.

Grenada is already experiencing the effects of climate change, with heatwaves, droughts, and flooding occurring more frequently. Hurricane Beryl in 2024 served as a stark reminder of the island's vulnerability. Despite this, there is limited evidence of proactive measures to protect natural buffers such as mangroves, which serve as frontline defenses against storm surges and coastal erosion.

The Ministry of Climate Resilience continues to engage in international discussions and to develop Nationally Determined Contributions (NDCs) aligned with the Paris Agreement. However, critics argue that these efforts prioritise external validation over local needs. This raises the question of whether national plans and international commitments serve the population or primarily fulfill global optics.

9. National Ecosystem Assessment

The National Ecosystem Assessment (NEA) is another key document and was the first of its kind in the Caribbean. It was produced by the Caribbean Natural Resources Institute (CANARI), working with the Government of Grenada between 2019 and 2023. This project formed part of a global initiative aimed at supporting decision-making and building capacity to support the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES) through national ecosystem assessments. Grenada was the first Caribbean country, and the first Small Island Developing State (SIDS) globally, to successfully complete this process on time. In this respect, the project served as an important pilot for the wider Caribbean region.

The project benefited the Caribbean region by:

- documenting the status, trends, and threats to Grenada's coastal, deep ocean, forest, freshwater, offshore, and agricultural ecosystems;
- providing a comprehensive valuation of genetic and ecosystem resources in Grenada using plural valuation systems, including nature's contribution to people;
- showcasing the contribution of Grenada's ecosystems to climate resilience and demonstrating how supporting, enhancing, and amplifying ecosystem services can improve the economic and social well-being of Grenadians;
- providing a model of ecosystem services valuation for replication across the Caribbean[8].

The project's Scoping Report, Main Assessment Report, and Summary for Policy Makers were developed, and the final Grenada National Ecosystem Assessment report was launched in October 2023. The Summary for Policy Makers was launched in early 2024. A Citizen's Guide to the Grenada National Ecosystem Assessment was developed under a complementary project entitled "Capacity building and knowledge products to enhance the use and uptake of the National Ecosystem Assessment of the tri-island state of Grenada, Carriacou, and Petit Martinique".

The Environment Department took the lead in this project and was diligent in ensuring that, at every stage of the NEA process, a wide range of stakeholders were involved. These included civil society, youth, government representatives, regional institutions, and private citizens. Stakeholders contributed to framing the assessment report through extensive scoping consultations across Grenada, as well as by providing data and local knowledge.

8 Caribbean Natural Resources Institute (CANARI) (2023). Grenada National Ecosystem Assessment: Summary for Policymakers. Port of Spain: CANARI. Available at: https://canari.org/civil-society-and-governance/grenada-nea/.

This approach reflects the type of engagement promoted by the Escazú Agreement, which emphasises listening to the voices of people invested in their communities. However, despite assurances and statements made in the public arena, particularly through the Government Information Service (GIS)[9], two crucial documents remain dormant: the Integrated Coastal Zone Management Act (2019)[10] and the proposed Grenada National Land Policy[11].

This once again highlights a focus on producing policy documents that ultimately remain inactive, representing another possible example of external compliance with limited tangible benefit for Grenada.

10. Grenada Land Actors

> «*Citizens across the Caribbean are increasingly stepping up as defenders of the environment. As climate change continues to exacerbate the region's vulnerability to natural disasters, community-led initiatives have become pivotal in advocating for sustainable practices that align with the Caribbean's unique needs. Grenada's stand reflects a wider movement across the region, a stand for transparency, accountability, and an environmental future that prioritises sustainability over short-term profits*»[12].

Grenada Land Actors (GLA) is an independent network of professionals, non-governmental organizations (NGOs), community-based organizations (CBOs), private landowners, and activists committed to advancing equitable, inclusive, and sustainable development of Grenada's land resources. The organization's objective is to promote developer transparency, public oversight, and government accountability.

GLA was established in January 2020 as the Grenada chapter of the International Land Coalition (ILC), a global coalition of NGOs with regional representation in Belize, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago. The creation of this platform was motivated by persistent deficiencies in public engagement processes related to development projects in Grenada. In particular, public consultations were often limited or ineffective, and approval procedures for projects requiring Environmental and Social Impact Assessments frequently failed to fulfil their intended purpose. As a result, environmentally destructive projects were able to proceed with limited scrutiny, ultimately prompting GLA to initiate legal action against the Planning and Development Authority (PDA).

This legal action arose in response to several large-scale development projects located at La Sagesse, Mt. Hartman, and Levera, three of Grenada's most ecologically significant mangrove ecosystems. These projects, which included luxury resorts and golf courses, generated substantial environmental and social concern, particularly in the context of intensifying climate impacts:

La Sagesse: The construction of the Six Senses Resort by Range Developments (Grenada) Ltd. resulted in the destruction of critical habitats for endangered species and the loss of valued public recreational spaces. Additional development is currently underway in the same area, with plans for the construction of an Intercontinental Hotel. This follows the destruction of a nesting sanctuary for more than 70 species of migratory birds, a functioning mangrove ecosystem, and a saltwater pond.

9 Government Information Service (GIS), Grenada (2024). YouTube Channel. Available at: https://www.youtube.com/c/govgdgistv.

10 Integrated Coastal Zone Management Act, No. 8 of 2019 (Grenada). Available at: https://grenadaparliament.gd/wp-content/uploads/2021/08/Act-No.-8-of-2019-Integrated-Coastal-one-Management-1.pdf

11 Government of Grenada (2025). Grenada National Land Policy: Providing for Sustainable Land Management and Ecosystem Resilience. Saint George's: Government of Grenada. Available at: https://climateresilience.gov.gd/wp-content/uploads/2025/02/Grenada-National-Land-Policy.pdf

12 Grenada Land Actors (GLA) (s. f.). grenadaland.org. Available at: https://grenadaland.org

Mt. Hartman Estate: Development in this area disrupts essential seasonal bird migration routes in southern Grenada and poses a direct threat to the critically endangered Grenada Dove, the national bird. It also undermines the ecological services provided by wetlands to local communities. Mangroves play a crucial role in reducing flood risk from extreme weather events, mitigating coastal erosion associated with sea-level rise, and supporting local fisheries as nursery habitats.

Levera: A proposed large-scale resort development threatens Grenada's only Ramsar-designated wetland, an area of international importance and one of the Caribbean's most significant nesting beaches for endangered leatherback sea turtles. The ecological value of this site had previously led to plans for its designation as a protected area, supported by a management plan for the period 2019–2023, completed in 2018. The scale of the proposed development risks placing severe pressure on local ecosystems and infrastructure and poses a broader threat to the island's ecological balance.

The case GLA v. *the Planning and Development Authority*[13] is a judicial review challenging the planning permissions granted for the projects at La Sagesse, Mt. Hartman, and Levera. GLA contends that, in approving these developments, the PDA failed to comply with the Physical Planning and Development Control Act 2016, the recently ratified Escazú Agreement, and Grenada's international environmental obligations.

Beyond addressing site-specific environmental concerns, the case aligns with broader global sustainability objectives and engages several Sustainable Development Goals (SDGs), including those related to sustainable communities, climate action, and the protection of marine and terrestrial ecosystems. Through this litigation, GLA sought to reinforce Grenada's legal and policy commitments to sustainable development and to establish a precedent for development practices that balance economic objectives with environmental stewardship. Notably, Grenada Land Actors Inc. did not oppose development per se, but rather advocated for development to proceed in a responsible and legally compliant manner.

In its legal challenge, GLA sought, among other remedies:

- the suspension or cancellation of planning approvals until adequate environmental assessments and public consultations were undertaken;
- a requirement for the Planning Authority to maintain a publicly accessible register of planning applications and related documentation;
- strengthened regulatory standards governing Environmental Impact Assessments (EIAs) and public consultation processes prior to project approval.

11. Case Recap

An application by the Attorney-General, submitted on behalf of the Planning and Development Authority (PDA) to strike out the case, was scheduled for hearing on 19 November 2021. This followed an earlier hearing on 24 June 2021, during which three developers applied to join the proceedings as interested parties or defendants. On 10 September, the court ruled that, in the interest of justice, all developers could participate as interested parties with full procedural rights.

The court subsequently denied Grenada Legal Aid's application for consequential costs, citing insufficient evidence to assess the financial circumstances of both GLA and the developers. This decision required GLA to absorb additional legal expenses associated with responding to submissions from multiple

13 Grenada Land Actors Inc. v. The Planning and Development Authority and Others, No. GDAHCV2021/0290. High Court of Grenada / Eastern Caribbean Supreme Court of Appeal, 2021–2025

parties, thereby prolonging the proceedings. Such financial barriers illustrate the structural challenges faced by community groups seeking to pursue environmental litigation.

The court ultimately affirmed GLA's legal standing to bring the case. Although the PDA and the developers appealed this determination, the Eastern Caribbean Supreme Court of Appeal dismissed the appeal, marking a significant affirmation of public access to environmental justice.

The substantive case proceeded before the Grenada High Court throughout 2024 but was delayed until January 2025 due to late submissions by several developers. At the time of writing, no judgment has been issued, and the case has been ongoing for more than four years. This protracted timeframe has undermined the effectiveness of judicial remedies, particularly given that one resort has already been completed and another is partially constructed, with associated mangrove ecosystems irreversibly damaged.

For GLA, the litigation has always extended beyond the courtroom. It represents a broader effort to mobilize public accountability and to assert that environmental protection should be treated as an integral component of development, rather than as an impediment. Grenada Land Actors demonstrate that citizens can and should play a role in shaping development trajectories. The case underscores the interdependence of development, sustainability, and cultural heritage, all of which are deeply connected to land and ecosystems.

Ultimately, the protection of Grenada's natural environment is not limited to the preservation of forests or beaches, but relates to safeguarding the social, cultural, and ecological foundations of the island. The ratification of the Escazú Agreement strengthens the position of community groups in their engagement with authorities by providing an international legal framework that reinforces demands for transparency, participation, and accountability.

12. International Legal Rulings Supporting the Escazú Agreement

Recent international judicial decisions have reinforced the legal and normative foundations of the Escazú Agreement, which guarantees access to environmental information, public participation, and justice in environmental matters throughout Latin America and the Caribbean. Two decisions in particular—the ruling of the Judicial Committee of the Privy Council in the Barbuda case and the advisory opinion of the International Court of Justice concerning climate obligations—illustrate increasing international recognition of the rights of environmental defenders and the principles embodied in Escazú.

Nevertheless, compliance with existing legal frameworks remains inconsistent. In Grenada, the Physical Planning and Development Control Act 2016 explicitly mandates public participation in decision-making for planning applications with potential environmental impacts. In practice, however, public input is frequently marginalized, even when communities actively seek engagement.

12.1. The Barbuda Case: Judicial Recognition of Environmental Standing

In a landmark decision, the Judicial Committee of the Privy Council (JCPC) ruled in favour of Barbuda residents John Mussington and Jacklyn Frank in their challenge to the construction of an airport on ecologically sensitive mangrove land. The applicants argued that the project posed serious risks to fragile ecosystems and had been carried out without proper planning authorisation. The JCPC overturned a prior decision of the Eastern Caribbean Supreme Court, affirming that the applicants had standing to seek judicial review.

The decision is significant in that:

- It affirms the right of individuals to challenge environmentally harmful projects notwithstanding procedural barriers;

- It establishes an important precedent for Caribbean jurisdictions confronting unregulated development;
- It aligns with Article 8 of the Escazú Agreement, which guarantees access to justice in environmental matters, particularly for vulnerable communities.

As observed by Sarah O'Malley of the Global Legal Action Network (GLAN), the case illustrates how environmental litigation is often obstructed through costly and protracted procedures intended to deter public participation. The JCPC's ruling counters this dynamic and reinforces the Escazú Agreement's commitment to environmental democracy.

Even where legal challenges are successful, however, community experience demonstrates that state and private interests frequently continue to prevail over the public interest. In Grenada, for example, the Coral Cove Group succeeded in an initial judicial review against a proposed industrial boatyard in the Mt. Hartman mangroves, yet construction has continued. A comparable situation occurred in Jamaica, where a hotel project proceeded in a sensitive ecological area in St. Ann despite legal challenges, as illustrated by the Pear Tree Bottom case[14].

13. The ICJ Climate Ruling: Clarifying State Obligations

In July 2025, the International Court of Justice (ICJ) issued an advisory opinion clarifying states' legal obligations in relation to climate change. The Court determined that states must act with due diligence and cooperate to prevent environmental harm caused by greenhouse gas emissions. This includes obligations under the Paris Agreement to limit global warming to 1.5°C above pre-industrial levels.

Key elements of the ruling include:

- Recognition of legal responsibility for states that breach their climate obligations;
- Potential requirements for the cessation of wrongful conduct, guarantees of non-repetition, and full reparation;
- Reinforcement of international environmental law as a binding framework for climate action.

This ruling complements the Escazú Agreement by affirming that environmental protection is not merely aspirational but legally enforceable. It provides a global legal context that strengthens regional efforts to hold governments accountable and to protect environmental defenders.

Taken together, these rulings offer robust support for the objectives of the Escazú Agreement. The decision of the Judicial Committee of the Privy Council (JCPC) empowers local communities to seek judicial redress, while the ICJ's advisory opinion elevates environmental protection to a matter of international legal responsibility. Both cases underscore the growing recognition that environmental justice requires not only policy commitments but also enforceable legal mechanisms.

14. Empowering Grenadians to Engage With and Drive Environmental Governance

14.1. GLA's Project

In 2024, Grenada Land Actors (GLA) applied for funding from the Fund for International and Multilateral Advocacy (FIMA) and the Caribbean Natural Resources Institute (CANARI) under the project *Caribbean Climate Justice Alliance for Advocacy, Action and Accountability*, with financial support from the Open Society Foundations (OSF). This initiative responded to growing concerns regarding unsustainable development practices in Grenada.

14 Jamaica Environment Trust (JET) and Northern Caribbean Societies for Justice (NCSJ) (2006). *Briefing Paper: Pear Tree Bottom Case*. Kingston: JET/NCSJ.

Although the Government of Grenada enacted the Physical Planning and Development Control Act in 2016 with the stated aim of ensuring sustainable development and environmental protection, its implementation has faced significant challenges. In this context, the project articulated a set of aims and objectives designed to address these shortcomings.

General Objective

To strengthen environmental governance in Grenada by supporting strategic legal action, enhancing public understanding of environmental rights and challenges, promoting active citizen participation in environmental decision-making processes, and developing an Environmental Action Toolkit that empowers communities to engage with sustainable development issues. This approach seeks to support the enforcement of existing environmental laws, prepare communities for an uncertain future shaped by climate change and development pressures, and contribute to Grenada's progress toward achieving its Sustainable Development Goal commitments, particularly those related to sustainable communities, climate action, and the protection of marine and terrestrial ecosystems.

14.2. Theory of Change

A Theory of Change provides a comprehensive description of how and why a desired change is expected to occur within a particular context. This project is grounded in the understanding that effective environmental governance requires a multi-faceted approach combining policy reform, public education, and community engagement. On this basis, the project advances the following assumptions:

i) By supporting strategic policy change, legal precedents can be established that reinforce existing environmental laws and regulations, leading to improved implementation and compliance, and protecting the long-term interests of both Grenadians and the natural environment.

ii) Through the development and dissemination of an Environmental Action Toolkit, public awareness and understanding of environmental issues and citizen rights can be strengthened, enabling Grenadians to participate more effectively in environmental decision-making processes. This, in turn, fosters civic engagement beyond environmental concerns and reflects the functioning of a healthy democracy.

iii) By providing accessible, citizen-oriented information on Environmental Impact Assessment (EIA) processes and Grenada's environmental challenges, the project contributes to strengthening environmental governance frameworks and preparing communities to respond to future risks.

iv) Through community engagement activities, including workshops and town halls, the project seeks to cultivate environmental stewardship among citizens, encouraging more active involvement in environmental protection efforts. These actions align with a broader global movement prioritising conservation and climate crisis mitigation. In this context, Grenada faces a pressing need to advance such efforts, given the high stakes involved for the country's future.

v) By establishing a network of community environmental monitors, the project aims to create a sustainable mechanism for ongoing citizen participation in environmental governance.

Taken together, these interventions are intended to contribute to improved environmental governance, increased public participation, and ultimately more effective environmental outcomes for Grenada, with potential relevance for the wider Caribbean region.

14.3. National Context

- Establishes a precedent for future development projects by reinforcing the proper implementation of environmental laws in Grenada.
- Seeks to strengthen Environmental Impact Assessment (EIA) and public consultation processes, promoting transparency and accountability in decision-making, which are fundamental to democratic governance.
- Addresses the protection of critical ecosystems and uniquely biodiverse habitats, including those supporting endangered species such as the Grenada Dove.
- Challenges outdated practices and has the potential to positively reshape Grenada's approach to sustainable development.

15. Regional Relevance

- Sets a precedent for environmental governance in the Caribbean by addressing challenges commonly faced by Small Island Developing States, positioning Grenada as a potentially progressive and thought-leading example within the region.
- Demonstrates the practical application of the principles of the Escazú Agreement, which Grenada has ratified.
- Highlights the delicate balance between economic development and environmental protection, a critical concern for many island nations.
- Facilitates outcomes that may serve as a model for other Caribbean countries confronting similar development pressures and environmental challenges.

The GLA team is more than halfway through the implementation of the project, having completed community workshops, identified environmental monitors, and developed an Environmental Action Toolkit[15]. This toolkit is designed as a living resource that will be updated as information evolves. At present, it includes material on:

- the Grenada legal framework;
- *Escazú and You: Know Your Rights*;
- case studies from Grenada and other jurisdictions;
- climate change, including its impacts, mitigation versus adaptation, and options for local action;
- Environmental Impact Assessments (EIAs) and the associated processes.

GLA has also been approached by several communities seeking support in relation to planning applications perceived as posing risks to their local environments and lacking alignment with principles of sustainable development. In response, GLA has supported these communities through actions such as:

- accompanying community members to meetings with the Planning Authority;
- citing the Escazú Agreement verbatim in engagements with administrative authorities where community concerns have not been adequately addressed.

Despite these efforts, it has become increasingly evident that development decisions in Grenada are often treated as matters beyond meaningful public debate. Communities that raise concerns regarding

15 Grenada Land Actors (GLA) (2025). Environmental Action Toolkit. Saint George's: GLA. Disponible en: https://grenada-land.org/environmental-action-toolkit.

proposed or approved developments frequently find that attempts to engage constructively with relevant authorities are ignored. As a result, some groups have turned to the legal system to seek judicial review, including Grenada Land Actors (GLA) and the Coral Cove Group.

15.1. Recent Areas of Concern

Several development sites have recently generated significant community concern:

i) Cabier, Parish of St David

A proposed development involving a jetty, apartments, and a restaurant at Cabier has raised alarm within the local community. Cabier is a small bay located on a narrow peninsula along the Atlantic coast and is widely regarded as a low-key area popular with local residents. Community inquiries to government ministries and the Planning Authority have reportedly gone unanswered, prompting GLA to support local concerns.

The proposed project would require major excavation in an area where historical and archaeological artefacts have been documented. While the scoping report for the project states that no sites of special interest exist at Cabier, an Archaeological Site Inventory (GREN-D-10, "Carbia Beach") records the presence of pre-Columbian and European artefacts discovered in 1993. The scoping report further contradicts itself by identifying heritage as a "moderate risk" requiring mitigation while simultaneously denying the existence of heritage sites. Community members have argued that the developer should be required to fund a comprehensive archaeological assessment prior to any construction, with oversight by the National Museum under the Museum Act.

ii) Mt. Hartman Industrial Boatyard

The Coral Cove Group has objected to the construction of an industrial boatyard near a Marine Protected Area, a residential zone, and the habitat of the Grenada Dove, the national bird. GLA has supported the group's advocacy through correspondence and a judicial review. Nevertheless, the community reports limited consultation and an absence of substantive responses from authorities.

As articulated by members of the Coral Cove Group, a boatyard in this location would pose risks of marine contamination, mangrove removal, and broader ecological harm, all within close proximity to the Dove Sanctuary and a Marine Protected Area. This is despite the lease conditions for the land explicitly stating that only a marina may be constructed in this environmentally sensitive area.

iii) Halifax Bay and Woodford, Parish of St John

Communities have also raised concerns regarding a proposed jetty at Halifax Bay and an industrial complex at Woodford on the west coast. Neither development had formally applied for planning permission, yet extensive land clearing reportedly occurred, resulting in the destruction of heritage sites and archaeological artefacts.

Residents protested for nearly a year before seeking assistance from GLA. The industrial complex was rumoured to include an asphalt plant and a quarry, in addition to an existing cement batching plant, all in proximity to residential areas. Although a stop order was issued by the Planning and Development Authority, it was initially disregarded by developers. Following sustained community protest, all activity was halted pending an Environmental Impact Assessment, as announced by the Prime Minister in Parliament on 11 March 2025.

Despite this announcement, the community—supported by correspondence from GLA—has repeatedly requested access to the Terms of Reference for the EIA, a right guaranteed under the Escazú Agreement and national legislation. To date, no such information has been provided. Although excavation was eventually suspended, this occurred only after significant damage had already been inflicted on cultural

heritage sites and mangrove ecosystems. These mangroves are critical spawning and bait-gathering areas for fisherfolk in St John.

Community members have also expressed concern about the absence of studies assessing impacts on marine biodiversity, mangrove systems, and broader security implications, including risks associated with an open maritime border. In addition, the neighbouring community of Concord, an ecological site with multiple waterfalls, has raised concerns regarding the National Water and Sewerage Authority (NAWASA), citing a lack of consultation over land use for pipeline installation and the absence of compensation for lost livelihoods resulting from ongoing works.

iv) La Sagesse beachfront modifications

More recently, residents of La Sagesse have expressed growing concern regarding actions by Range Developments, the developer operating in the area, to reorganize the beachfront by stacking large quantities of stones along the shore. This practice has restricted public access to the beach. Following initial media attention, the stones were temporarily removed; however, similar activities have since resumed on a larger scale. Appeals to relevant authorities have reportedly gone unanswered, and the activity continues.

16. Climate Action

Grenada's environmental trajectory reveals a series of contrasts: between ambitious planning and limited implementation, between international alignment and local disillusionment. Achieving meaningful sustainability requires bridging the gap between legal frameworks and the lived realities of citizens. This entails listening to civil society, safeguarding natural assets such as mangroves, and ensuring that environmental governance is not merely articulated in policy documents, but effectively implemented in practice.

Grenada's engagement with the Escazú Agreement reflects both opportunity and tension. Although institutional steps toward implementation are underway, political ambivalence and limited public engagement risk undermining its transformative potential. For Escazú to exert real influence on policymaking, it must function as more than a formal treaty; it must operate as a practical tool used by informed and empowered citizens, supported by responsive institutions. When implemented with integrity, Escazú has the potential to catalyse a new phase of environmental and human rights action, grounded in sustainability, citizen participation, and the protection of environmental defenders.

Looking ahead, a fundamental question remains: what kind of Grenada is being shaped? One characterised by the loss of mangroves and cultural foundations, or one that protects its natural heritage and ensures that every citizen's voice contributes to a sustainable future?

Bibliography

Caribbean Natural Resources Institute (CANARI) (2023). Grenada National Ecosystem Assessment: Summary for Policymakers. Port of Spain: CANARI. Available at: https://canari.org/civil-society-and-governance/grenada-nea/

Clark, C. E.; Harto, C. B.; Sullivan, J. L. and Wang, M. Q. (2011). Water Use in the Development and Operation of Geothermal Power Plants (ANL/EVS/R-10/5). Argonne: Argonne National Laboratory.

Convention on Biological Diversity (1992). Convention on Biological Diversity. Montréal: Secretariat of the Convention on Biological Diversity. Available at: https://www.cbd.int

Grenada Land Actors (GLA) (s.f.). grenadaland.org. Available at: https://grenadaland.org

Grenada Land Actors (GLA) (2025). Environmental Action Toolkit. Saint George's: GLA. Available at: https://grenadaland.org/environmental-action-toolkit

Harto, C. B. (2013). "Geothermal Energy: The Energy-Water Nexus". Proceedings of the 38th Workshop on Geothermal Reservoir Engineering. Stanford: Stanford University. Available at: https://pangea.stanford.edu/ERE/pdf/IGAstandard/SGW/2013/Harto.pdf

International Court of Justice (2025). Advisory Opinion on Climate Obligations of States, 23 July 2025. The Hague: ICJ. Available at: https://www.icj-cij.org

Jamaica Environment Trust (JET) and Northern Caribbean Societies for Justice (NCSJ) (2006). Briefing Paper: Pear Tree Bottom Case. Kingston: JET/NCSJ.

United Nations Economic Commission for Latin America and the Caribbean (ECLAC) (2018). Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement). Santiago: ECLAC. Available at: https://repositorio.cepal.org/handle/11362/43583

United Nations Framework Convention on Climate Change (UNFCCC) (2015). The Paris Agreement. Bonn: UNFCCC. Available at: https://unfccc.int/process-and-meetings/the-paris-agreement

5 Escazú Agreement: Supporting Caribbean climate justice

Authors:

Nicole Leotaud holds an MPhil in Development Studies from the University of Cambridge (2025), an MSc in Conservation Biology and Sustainable Development from the University of Wisconsin-Madison (1996), and a BSc in Zoology and Botany from the University of the West Indies, St. Augustine (1991). She is Executive Director of the Caribbean Natural Resources Institute (CANARI)[1] and Elected Representative of the Public to the Escazú Agreement. She has over 30 years of experience in environmental governance, inclusive ecosystem management, climate resilience, and sustainable development across the Caribbean.

Dylis McDonald holds an MSc in International Relations from the Institute of International Relations, University of the West Indies, St. Augustine Campus, and an LLM in Human Rights Law from the University of Nottingham, United Kingdom. She is Senior Technical Officer at the Caribbean Natural Resources Institute (CANARI), where she leads the Institute's work on environmental justice and human rights, including the implementation of the Escazú Agreement in the Caribbean.

Abstract: In the Caribbean, the Escazú Agreement offers a transformative opportunity for enhancing climate action and environmental governance. However, its adoption and implementation across the region have varied – some countries are moving forward to implement, while others have ratified but have not yet advanced implementation, and some face challenges in adopting its provisions and have not yet ratified/acceded to the Agreement. In this article, we explore the broader context for the Escazú Agreement in the Caribbean, examples from specific countries describing experiences, challenges, and opportunities, and lessons that can be drawn on the application of the Escazú Agreement to delivering climate justice for the Caribbean.

Keywords: climate justice; procedural rights; environmental defenders; Caribbean governance

1 CANARI is an independent technical institute working across the Caribbean to further sustainable development in the region, including through a focus on participatory governance, equity and justice in management of natural resources and building climate resilience.

1. Introduction

The Caribbean is one of the regions in the world that is most vulnerable to the impacts of climate change, including from stronger hurricanes, sea level rise, ocean warming, and changing precipitation patterns, causing both droughts and heavy rainfall events. Climate change is exacerbating other development challenges and impacting Caribbean ecosystems, economies, and people, threatening lives, livelihoods, health, and well-being. The Caribbean's vulnerability to climate change is caused by its geography, fragile economies, and socio-political history and context. The Caribbean is comprised of mostly small, low-lying islands and coastal areas highly exposed to the impacts of climate change. The fragile infrastructure and high reliance of key economic sectors like tourism and agriculture on natural ecosystems increases sensitivity to climate change. Meanwhile, the adaptive capacity of the Caribbean is weak, with many countries in debt distress and with struggling economies. Impacts of colonialism, ongoing imperialism, and extractive capitalist models also underlie much of the vulnerability faced by the Caribbean, which remains highly exposed to mounting geopolitical risks and uncertainties.

Given this high vulnerability, climate change is viewed as an existential threat to the development of the Caribbean. Caribbean people face a 'triple inequality' as they are not responsible for causing climate change, are among the most vulnerable to climate change globally, and have limited capacity to resist or recover from the impacts being experienced due to climate change. Caribbean states are therefore strong advocates in global climate change discourse, emphasising climate change as an existential threat and a triple injustice. Included in this advocacy were submissions from Caribbean states on global courts' advisory opinions relevant to climate change.

Antigua and Barbuda made the submission to the International Tribunal for the Law of the Sea (ITLOS) on behalf of the Commission of Small Island States on Climate Change and International Law, which includes Bahamas, Saint Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines as Caribbean members. The opinion issued by the Court confirmed that States have a legal duty to protect the oceans from the impacts of climate change under the United Nations Convention on the Law of the Sea (UNCLOS). This includes an obligation to prevent, reduce, and control greenhouse gases as a type of marine pollution, including taking measures to address ocean warming, sea-level rise, and ocean acidification.

Only Barbados made a submission to the Inter-American Court of Human Rights (IACHR) for its advisory opinion, which was issued in May 2025 and confirmed the climate emergency and the need to centre human rights, including the right to a healthy environment, in addressing the risks posed by climate change. The Court's opinion emphasised the need to guarantee procedural rights – of access to information, participation, and justice – and to protect environmental defenders and ensure that vulnerable groups can exercise these rights.

Following these two advisory opinions, ten Caribbean states made written or oral submissions to the International Court of Justice (ICJ) – Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Jamaica, Saint Lucia, and St. Vincent and the Grenadines. The ICJ's advisory opinion issued in July 2025 was another landmark recognising climate change as an urgent and existential threat to humanity. It confirmed the binding obligations of States and their responsibility to protect the global climate system under multiple treaties and customary international law. It noted 1.50C warming as a legally binding limit. The ICJ advisory opinion also recognised that climate change affects human rights, and a clean, healthy and sustainable environment is a precondition for the enjoyment of many human rights.

These three advisory opinions cemented the growing global movement that places climate change as a justice and human rights issue, supporting advocacy for climate justice and providing normative guidance and legal foundations for climate litigation.

Applying this justice lens to climate change, seven types of climate injustices have been identified –recognitional, distributive, procedural, intergenerational, restorative, retributive, and justice in system outcomes. Of these, procedural justice is a central element in delivering justice as it is about legitimacy and fairness in decision-making processes, impacting on climate change and climate action (or inaction). Procedural justice emphasises the need for recognition and agency of marginalised groups who are most impacted by climate change due to their intersecting identities.

Supporting procedural justice for those affected by climate change is a key area for attention under the Escazú Agreement, with its focus on access to information, participation in decision-making, and access to justice in environmental matters; special attention given to protecting human rights defenders in environmental matters; and emphasis on the human right to a safe, healthy, and sustainable environment. However, so far, there has been limited recognition of the potential of the Escazú Agreement to support strengthened procedural rights to deliver climate justice for vulnerable and marginalised people in the Caribbean.

Further, there has been a mixed response by Caribbean states to the Escazú Agreement. As of October 12, 2025, nine Caribbean countries were Parties to the Escazú Agreement – Antigua and Barbuda, Bahamas, Belize, Dominica, Grenada, Guyana, St. Vincent and the Grenadines, St. Kitts and Nevis, and Saint Lucia. Three more were signatories but had not yet ratified – Dominican Republic, Haiti, and Jamaica. A few countries had started working on their roadmap towards national implementation of the Agreement, pointing towards opportunities to strengthen national laws, policies, and practices to better deliver access to information, participation in decision-making, and access to justice in environmental matters. As more Caribbean states join as Parties and implementation of the Escazú Agreement at the national level moves forward, there will be key opportunities for strengthening procedural rights to address climate injustices being faced by Caribbean people, particularly those most vulnerable and marginalised.

2. Strengthening procedural rights for Caribbean climate justice: challenges and opportunities

The Escazú Agreement entered a Caribbean, which has a mixed institutional context for procedural rights. Only two countries – Guyana and Jamaica – enshrine the right to a healthy environment in their constitutions. While many countries have signed on to relevant international treaties and have enabling policy and legislation – such as public consultation established as part of Environmental Impact Assessment processes and Freedom of Information Acts – implementation is not always effective. Only Trinidad and Tobago, which is not yet a Party to the Escazú Agreement, has a specialised environmental court established, although this court has a disappointing track record. In many countries, there is continued top-down decision-making with limited transparency and accountability, a pervasive culture of mutual mistrust between governments and civil society, and vilification of environmental action as being anti-development. There has been almost no recognition of, or support and protection for, human rights defenders in environmental matters. Caribbean defenders continue to face ridicule, harassment, intimidation, and other threats and violences. Effective civil society advocacy and action on procedural and other human rights are also stymied by low capacity and limited coordination and collaboration. There have been very few cases of environmental litigation in the Caribbean. Despite these challenges, however, some countries have made significant strides over the past decades to adopt collaborative approaches to environmental governance and management and are playing leadership roles in advancing the Escazú Agreement in the Caribbean. These bright spots can provide inspiration and lessons on good practices for other countries in the Caribbean.

The four country case studies below illustrate some of these challenges and opportunities for the Escazú Agreement to support strengthened procedural rights in the Caribbean, including those related to climate change.

Antigua and Barbuda

Antigua and Barbuda was the first country to sign the Escazú Agreement and ratified it in 2020. The country has been a regional and global champion on climate change and hosted the 2024 United Nations Conference on Sustainable Development for Small Island States (SIDS). Its Environmental Protection and Management Act (2019), Freedom of Information Act (2004), and other legislation and policies support access to information, participation, and justice. Despite this, the country has become infamous for its handling of land development and treatment of land defenders in Barbuda.

Barbuda is unique in the Caribbean in having a communal land ownership system, a legacy from the abolition of slavery, which is codified in the Barbuda Land Act (2007). After 90% of the island was devastated by Category 5 Hurricane Irma in 2017, this was seen as an opportunity for tourism development in this unspoilt island. Yet residents in Barbuda saw this as land grabbing and disaster capitalism, and challenged development of an airport on the island, which they argued would have significant environmental and social impacts. Judicial review proceedings against the Government's issuance of a permit for the airport development were granted by the High Court, but this was later struck down by the Court of Appeal on the basis that the appellants lacked standing. The case was taken to the Privy Council in London, which still serves as the final court of appeal for Antigua and Barbuda, a former British colony. Although the airport development proceeded and was completed in 2022, the Privy Council ruled that the appellants did have legal standing and referenced Antigua and Barbuda's obligations under the Escazú Agreement to provide for public participation in the decision-making process. This served as a landmark judgement illustrating the application of obligations of Parties under the Escazú Agreement in national contexts.

Guyana

Guyana has the distinction of being the first country to ratify the Escazú Agreement on 18 April 2019, joining at a critical juncture in its development as an emerging oil and gas powerhouse. The country's Constitution recognises the right of every person to an environment that is not harmful to his or her health or well-being and the duty of every citizen to participate in activities designed to improve the environment and protect the health of the nation. Guyana also has an Access to Information Act (2011) and an Environmental Protection Act (2019), among other policy instruments, which support access to information, participation, and justice. However, recent advocacy by human rights defenders in Guyana has raised serious concerns regarding the impacts of petrochemical developments on the environment and people, and regarding the transparency and accountability of the Government.

One case was brought to the High Court challenging the Government's decision to grant a licence for exploration and exploitation. The application was dismissed in a judgement which took 336 days. On the basis of undue delay, it was taken to the Court of Appeal, which determined that the Government did not breach national laws by granting the licence or unduly delay. The case was then taken to the Caribbean Court of Justice (CCJ) for an appellate judgement. The CCJ ruled against the appeal but emphasised the intent of the appellant acting as a public-spirited citizen to advance the constitutional protection of the environment, so it ruled that costs ought not be awarded against him. Although the Escazú Agreement was not used as an argument in the case, the Court highlighted the relevance of Guyana's commitment, as a Party to the Agreement, to transparency, participation, and access to legal protection and recourse. The CCJ decision was significant in reinforcing that public consultation and access to justice are essential components of environmental governance, especially in the context of large-scale resource extraction projects.

Guyana has already faced growing environmental concerns related to its expanding energy sector, and the Escazú Agreement provides a legal framework and tool which can help to ensure that citizens and communities, particularly Indigenous and coastal populations, can challenge projects that may threaten their livelihoods or ecosystems important to their lives and well-being.

Jamaica

Jamaica is a signatory to the Escazú Agreement since 2019, but has not yet ratified it. Jamaica's Constitution ensures the right to enjoy a healthy and productive environment free from the threat of injury or damage from environmental abuse and degradation of the ecological heritage. An Access to Information Act (2002) and various other laws provide for access to information, participation, and justice.

Jamaica is significant in the Caribbean for several cases of environmental litigation brought by the Jamaica Environment Trust (JET), a leading civil society organisation operating since 1991 with a mission to protect Jamaica's natural resources using education, advocacy, and the law to influence individual and organisational behaviour and public policy and practice. JET's law and advocacy programme focuses on strengthening the capacity of communities to protect their own rights using the law and the media to advocate for good environmental management; using public participation processes to review Environmental Impact Assessments (EIAs), attend public meetings and review national policies; and conducting campaigns to protect places, ecosystems and biological diversity.

In a landmark case for the region, in 2006, JET and a partner civil society organisation won an application to the Supreme Court of Jamaica, which challenged the rationality of Government's granting of an environmental permit for hotel development in an ecologically sensitive coastal area, as well as the incomplete access to information by the public. JET has subsequently utilised the Access to Information Appeal Tribunal under several cases to access information on development initiatives and the Government's regulatory duties, as well as conducting active national advocacy campaigns in collaboration with environmental defenders from frontline communities and partner civil society organisations. JET and its partners have been subjected to ridicule, harassment, and intimidation, including legal threats for their advocacy and pursuit of justice.

Trinidad y Tobago

Trinidad and Tobago has neither signed nor ratified the Escazú Agreement, primarily due to concerns about sovereignty and implementation challenges. This is despite Trinidad and Tobago playing a leading role in negotiations to develop the treaty and being widely commended for having strong existing legal, regulatory, and policy mechanisms in place to support its implementation. However, these institutional mechanisms are not being effectively utilised; practice does not match policy.

Firstly, the Freedom of Information Act was enacted in 1999, but there is still a pervasive culture of non-transparency within public institutions. For example, full access to Environmental Impact Assessments (EIAs) was only granted after a legal challenge by a civil society organisation, Fishermen and Friends of the Sea. The lack of accessibility to public information hinders the ability of civil society organisations, journalists, and citizens to engage in informed policy dialogue, resulting in reduced government accountability, which is key for good governance. Achievements by the Trinidad and Tobago Extractive Industries Transparency Initiative were countered by the country being withdrawn from the Open Government Partnership in 2019 due to failure to deliver an action plan since 2016.

Secondly, an Environmental Commission was established under the Environmental Management Act 2000 as a superior court of record. But there have been only six cases of Direct Party Action brought, with only three brought by a civil society organisation, Fishermen and Friends of the Sea. The Commission has been encouraging citizens and civil society to use the Court to seek relief given its many advantages including: no requirement for paying any filing fees; simplified process when compared to the

High Court; quick resolution; no long waiting list; option to pursue mediation at the Court prior to going to a full trial; and one of the Judges at the Court can sit as the mediator thereby making it less expensive for any party before the Court when pursuing mediation. Nevertheless, the Court is severely underutilised, and vulnerable communities and groups continue to face injustices due to the environmental impacts of development.

Finally, although public participation is enshrined in environmental policies in Trinidad and Tobago, the practice varies. Public consultation in the development of policies and plans takes place to varying degrees, and civil society is involved in several multi-stakeholder advisory committees. However, these mechanisms do not provide an effective voice and opportunity for marginalised and vulnerable groups to engage in decision-making. Engagement of stakeholders is largely limited to reacting to proposals developed by Government. Co-management and collaborative arrangements are not used. Civil society is not fully recognised as a true development partner with a meaningful role in environmental governance, particularly in shaping national economic development. Strong advocacy by an alliance of civil society organisations was needed to temper disproportionate and restrictive measures in new legislation governing non-profit organisations in 2019.

The oil and gas industry in Trinidad and Tobago remains a key driver of the economy, but environmental groups continue to call for greater transparency and public participation in decision-making around environmental risks associated with the industry. Although the country has not yet adopted the Escazú Agreement, civil society organisations and environmental defenders are increasingly using its principles to advocate for more inclusive and transparent environmental governance.

3. Caribbean civil society as advocates for the adoption and implementation of the Escazú Agreement

There has been growing awareness among civil society across the Caribbean about the Escazú Agreement and its importance as a tool for good environmental governance, equity and justice, and protection of human rights.

A survey[2] conducted in 2020 by the Caribbean Natural Resources Institute (CANARI) with civil society across nine Caribbean countries found that although there were major environmental problems being faced, there was inadequate access to environmental information, public participation, and justice. There was limited knowledge about the Escazú Agreement and the opportunities that this would provide to strengthen procedural rights and enhance environmental governance. The findings suggested the need for more strategic, cohesive, and on-going advocacy by civil society. In response, regional and national civil society awareness and advocacy campaigns were launched, and Caribbean civil society increasingly advocated for countries to join as a Party to the Escazú Agreement and implement procedural rights in their countries.

In parallel to this work, the two Caribbean Elected Representatives of the Public to the Escazú Agreement appointed in November 2022 engaged with the expanding network of civil society across the Caribbean, supporting their involvement in the Escazú Agreement processes, facilitating the sharing of experiences, and building solidarity. CANARI provided critical support in coordinating and convening. Recognising the need for a more structured and strategic approach, this network was formalised with the launch of the Caribbean Network of Environmental Defenders in April 2025 at the Escazú Agreement Third Forum on Human Rights Defenders in Environmental Matters in Latin America and the Caribbean, held in St. Kitts and Nevis. The goal of the Caribbean Network of Environmental Defenders is to create a peer support mechanism for environmental defenders in the Caribbean and empower groups

2 Caribbean Natural Resources Institute (CANARI) (2020). Escazú Advocacy Survey Report. Disponible en: https://canari.org/wp-content/uploads/2017/08/PISCES-Escazu-Advocacy-Survey-Report-FINAL.pdf

and communities affected by environmental injustices to advocate for the human right to a healthy environment and access rights to information, participation, and justice in environmental governance. The Network focuses on knowledge sharing, support, and solidarity, and collective advocacy for policy influence. CANARI serves as convenor. This growing network reflects Caribbean civil society's increasing engagement with the Escazú Agreement and related advocacy promoting the need to enhance procedural rights and the importance of promoting and protecting defenders of the human right to a healthy environment.

Three examples below highlight some of the work by civil society across the Caribbean to promote the Escazú Agreement and its principles.

CANARI and civil society partners collaborating to advance the Escazú Agreement across the Caribbean

CANARI has been instrumental in championing the Escazú Agreement in the Caribbean, acting as a catalyst, convenor, and supporter. CANARI has engaged with Caribbean civil society partners to help raise awareness, enhance capacity, and support collective advocacy for the adoption of the Escazú Agreement and its principles.

Raising awareness: CANARI has engaged a range of stakeholders, including local communities, government representatives, and civil society organisations, through workshops, webinars, and consultations to raise awareness of the importance of the Escazú Agreement as a mechanism for supporting environmental and climate governance.

Strengthening capacity: CANARI has worked to enhance the capacity of civil society to engage with the Escazú Agreement through training, dialogue, and knowledge exchange. The aim is to build the capacity of civil society to understand and use the Agreement as a practical tool for accountability and for environmental rights advocacy. Early work in 2020 included a four-week virtual short course to build the capacity of national civil society partners to develop and implement their own advocacy strategies, supported by CANARI's advocacy toolkit[3]. CANARI has also supported related civil society advocacy on climate change, including campaigns by members of the Caribbean Climate Justice Alliance[4]. This is a regional coalition and grassroots movement to transform policy and practice and catalyse action for climate justice and a just transition, with CANARI serving as secretariat and convenor.

Building civil society alliances for collective advocacy: CANARI has collaborated with civil society partners across the Caribbean to emphasise the importance of the Escazú Agreement as a critical tool for improving environmental governance and delivering sustainable development, and to call on Governments to sign on as Parties. Over 2020-2021, CANARI collaborated with civil society partners to conduct a regional and five national advocacy campaigns[5] on the Escazú Agreement. Partners were the Caribbean Coastal Area Management Foundation (in Jamaica); Environmental Awareness Group (in Antigua and Barbuda), Newcastle Bay Foundation (in Saint Kitts and Nevis); the Saint Lucia National Trust (in Saint Lucia); and the EquiGov Institute, Environment Tobago, and The Cropper Foundation (in Trinidad and Tobago). The national and regional campaigns included two online petitions, a letter to the Prime Minister of Trinidad and Tobago, a communique, an awareness video, a jingle for radio and TV, newspaper articles, many social media posts (including animations and interview clips), livestreamed panel events/webinars, and a podcast series on "Escazú is for You" with voices from across the Caribbean. The campaign

3 Caribbean Natural Resources Institute (CANARI) (2020). CSO Advocacy Toolkit. Available at: https://canari.org/wp-content/uploads/2020/08/CANARI_CSO-advocacy-toolkit.pdf

4 Caribbean Natural Resources Institute (CANARI) (s.f.). Caribbean Climate Justice Alliance. Available at: https://canari.org/projects/caribbean-climate-justice-alliance/

5 Caribbean Natural Resources Institute (CANARI) (2021). Regional and national advocacy campaigns on the Escazú Agreement (StoryMap). Available at: https://storymaps.arcgis.com/stories/3e30944979a14e49a833113326fa0c7a

also included the "#Ifwehad Escazú" online campaign[6] where Caribbean citizens shared their stories about why the Escazú Agreement is important. These lived experiences enable civil society to tell their stories more effectively and engage stakeholders with evidence-informed advocacy to advance ratification and implementation of the Escazú Agreement.

Supporting civil society action: Since 2020, CANARI has been at the forefront of advocacy in Trinidad and Tobago, translating the commitments in the Escazú Agreement into local action. Current work by CANARI is supporting civil society in Trinidad and Tobago to improve environmental governance with better transparency, accountability, inclusive decision-making, more informed and just public policy, and protecting the right to a healthy environment. This collaborative effort focuses on enhancing the ability of civil society and vulnerable communities to advocate for environmental rights in line with the Escazú Agreement principles. It aims to facilitate the use of the Access to Information Act to enhance transparency in environmental governance, to improve policy responsiveness to the needs of vulnerable groups, and to promote public participation in environmental decision-making. It also aims to support civil society to use the accountability mechanisms of the Environmental Commission when rights are violated to address environmental harm and seek justice.

Building legal capacity: CANARI collaborated with the Corporación Fiscalía del Medio Ambiente (FIMA) to advanced awareness, build legal capacity, and strengthen regional collaboration to promote the implementation of the Escazú Agreement.[7] A 2024 workshop in Jamaica brought together legal professionals from across the Caribbean to explore climate litigation strategies, human rights frameworks, and access to justice mechanisms under the Escazú Agreement. A field visit to the Rio Cobre community provided practical insights into environmental justice issues in the Caribbean. Work continues to strengthen capacity for climate litigation amongst legal experts, as well as to strengthen civil society's capacity to access rights and address climate-related challenges through the justice system.

The Breadfruit Collective is raising awareness

The Breadfruit Collective is a non-profit organisation based in Guyana operating at the critical intersection of gender and environmental justice. It led a 2024-2025 regional awareness and advocacy campaign "Caribbean Perspectives on Escazú: Our Rights, Our Future" with support from the Caribbean Climate Justice Alliance's Human Rights Working Group, the Stronger Together Caribbean Network, and CANARI. This campaign utilised social media, webinars, and blogs to generate dialogue and engagement on the role of the Escazú Agreement in environmental justice. The campaign included a webinar[8] which featured two environmental defenders (from Jamaica and Barbuda) as well as one of the Elected Representatives of the Public to the Escazú Agreement. Two blogs from journalists focused on why access to information matters in Jamaica and the fight for environmental and human rights in Suriname. A social media series spotlighted various dimensions of the Escazú Agreement, and a special virtual event[9] was hosted in observance of Human Rights Day 2024, featuring a panel of voices from across the Caribbean sharing their lived experiences as defenders and activists.

6 Caribbean Natural Resources Institute (CANARI) (2021). #IfwehadEscazú online campaign. Available at: https://storymaps.arcgis.com/stories/0467ea6ecdbd41928a019a90d381797b

7 Caribbean Natural Resources Institute (CANARI) (s.f.). Escazú Agreement Implementation. Available at: https://canari.org/civil-society-and-governance/escazu-agreement-implementation/

8 Caribbean Natural Resources Institute (CANARI) (2024). Webinar on Caribbean Perspectives on Escazú [video]. Available at: https://www.youtube.com/watch?v=KhIkz_q-fug

9 Caribbean Natural Resources Institute (CANARI) (2024). Human Rights Day virtual event [video]. Available at: https://www.youtube.com/watch?v=5IsfELDu6Ng

The Jamaica Environment Trust advocating for access to information, participation, and justice, and for Jamaica to ratify the Escazú Agreement

Although Jamaica has not yet ratified the Escazú Agreement, the Jamaica Environment Trust (JET) has been a key advocate for its adoption. As one of the leading environmental civil society organisations in Jamaica, JET has worked tirelessly to raise awareness about the importance of the Escazú Agreement, building on its decades of work on environmental governance and justice.

Advocacy and education: JET's advocacy efforts have included public campaigns, policy discussions, and community outreach aimed at educating Jamaicans about the potential benefits of the Escazú Agreement, particularly its provisions on access to information and public participation. JET's work has been pivotal in raising awareness about the importance of inclusive governance in addressing the country's most pressing environmental issues, including water pollution, deforestation, and coastal erosion. JET has also played a key role in mobilising and supporting civil society action and knowledge sharing at the national and regional levels, and has been a consistent voice calling for transparency, participation, and accountability.

Capacity building: JET has conducted capacity building for frontline communities seeking to protect their rights and provided critical support as they seek a voice in decision-making and justice for environmental harm. Protection of environmental defenders, especially from marginalised communities in Jamaica, has been a core focus. JET has also conducted capacity building for the judiciary in Jamaica about procedural rights and the Escazú Agreement and is planning follow-up work on links with international advisory opinions on climate justice and connections with Jamaica's constitutional right to a healthy environment.

Calls for action: JET continues to be a key advocate for the Escazú Agreement's ratification and implementation in Jamaica, emphasising that it is an essential tool for promoting climate justice and addressing the country's climate vulnerabilities. JET has argued that public participation in climate action is crucial, particularly as Jamaica faces challenges that include extreme environmental harm. JET is currently implementing a public awareness campaign[10] on the Agreement, including engagement of the media, social media messaging, and a podcast series on environmental justice.

4. Lessons and recommendations looking ahead

The Escazú Agreement is part of a broader regional movement toward inclusive governance and environmental justice. Latin America has seen significant uptake, with some countries actively integrating the Escazú Agreement into national environmental policy and climate action. On the other hand, the Caribbean's engagement with the Escazú Agreement has been more uneven. While some have embraced the Agreement, countries like Trinidad and Tobago and Jamaica have been slower to join. Nonetheless, both Latin America and the Caribbean regions face common threats, making the Escazú Agreement an essential tool for centring human rights in environmental governance and addressing climate change.

For the Caribbean, the Escazú Agreement provides a powerful framework to strengthen transparency, accountability, and environmental governance, while deepening regional collaboration on climate and environmental justice. Civil society plays a vital role in advancing this agenda through advocacy, legal empowerment, and grassroots mobilisation. The Agreement offers a unique opportunity to strengthen advocacy for environmental and climate justice, improve transparency and accountability, and support the voice and agency of vulnerable groups to participate meaningfully in environmental and climate governance. Although progress has been made through various initiatives, sustained and scaled-up civil society engagement is essential to ensure effective national implementation and encourage more Caribbean states to operationalise the Agreement and its principles.

10 Jamaica Environment Trust (JET) (2025). Environmental Defenders Campaign. Available at: https://defenders.jamentrust.org/

The following are key recommendations for further action in the Caribbean, informed by lessons learned and emerging opportunities.

Strengthen collaborative advocacy and movement building

- Work closely with the Caribbean Environment Defenders Network and other partners to coordinate regional advocacy on the Escazú Agreement and environmental democracy, alongside building on existing initiatives at the national level.
- Continue implementation of joint advocacy campaigns that raise public awareness about the benefits of the Escazú Agreement – highlighting the pillars of transparency, participation, and justice as central to sustainable development.
- Actively include youth, women, Indigenous and local communities, and other vulnerable and marginalised groups to ensure inclusive participation and shared ownership.
- Build alliances with academia, the media, and professional associations to amplify visibility and strengthen policy influence.

Build capacity for environmental and climate justice litigation in the Caribbean

- Respond to the growing demand for training and knowledge exchange among legal professionals on the Escazú Agreement and its practical application in environmental and climate litigation.
- Partner with law faculties to strengthen community access to justice through legal clinics and pro bono networks to offer legal assistance in cases involving environmental harms, especially to marginalised and under-represented communities.
- Collaborate with law schools and bar associations to encourage integration of Escazú Agreement principles into legal education and judicial training programmes.

Advance national implementation and broaden ratification/accession

- Advocate for Caribbean states to join as Parties to the Escazú Agreement, highlighting synergies with national priorities, including the 2030 Agenda and the Paris Agreement.
- Support civil society monitoring and shadow reporting to promote transparency and track national progress in implementation of the Agreement, as well as document the lived realities of environmental and climate defenders.

Deepen regional solidarity and learning with Latin America

- Facilitate peer learning exchanges and virtual dialogues between Caribbean and Latin American civil society and government counterparts to share case studies, jurisprudence, and advocacy resources.
- Strengthen joint campaigns around shared concerns – such as protection of environmental defenders, accountability, and community rights – to reinforce regional solidarity and visibility.

Connect the Escazú Agreement to the climate justice agenda

- Strategically position the Escazú Agreement within the global climate justice agenda, highlighting its relevance to international advisory opinions (by ITLOS, IACHR, and ICJ) and climate litigation.
- Utilise regional and international fora to promote the Escazú Agreement as a model for environmental democracy and link implementation to accountability in climate finance, transparency in decision-making, and protection of human rights in environment and climate-related projects.

5. Conclusion

The Escazú Agreement is a groundbreaking environmental treaty for the region, which provides an essential framework for public participation, access to information, and access to justice in environmental matters. By focusing on these pillars, the Agreement aims to tackle the growing inter-related challenges of climate change, environmental degradation, and socioeconomic inequality, through empowering citizens – especially those in vulnerable communities and those marginalised by their intersecting identities – to have a say in decisions that affect their climate futures and environmental health. Communities can use the Escazú Agreement to support advocacy and litigation for more inclusive and sustainable policies and for holding governments and corporations accountable for their impact on the environment and human rights.

As the Caribbean faces an increasing number of interlinked environmental, social, economic, political, and climate challenges, the Escazú Agreement offers a crucial mechanism for ensuring that the public has a say in the decisions that affect them. CANARI and other civil society organisations are actively working to raise awareness and advocate for Caribbean countries to join as Parties and implement the Escazú Agreement. There is hope that the region will eventually embrace the Escazú Agreement as a tool supporting good environmental governance, justice, equity, and human rights as essential pillars in addressing the impacts of climate change in the Caribbean.

Bibliography

Caribbean Natural Resources Institute (CANARI) (2020). Escazú Advocacy Survey Report. Available at: https://canari.org/wp-content/uploads/2017/08/PISCES-Escazu-Advocacy-Survey-Report-FINAL.pdf

Caribbean Natural Resources Institute (CANARI) (2020). CSO Advocacy Toolkit. Available at: https://canari.org/wp-content/uploads/2020/08/CANARI_CSO-advocacy-toolkit.pdf

Caribbean Natural Resources Institute (CANARI) (s.f.). Caribbean Climate Justice Alliance. Available at: https://canari.org/projects/caribbean-climate-justice-alliance/

Caribbean Natural Resources Institute (CANARI) (2021). Regional and national advocacy campaigns on the Escazú Agreement. Available at: https://storymaps.arcgis.com/stories/3e30944979a14e49a833113326fa0c7a

Caribbean Natural Resources Institute (CANARI) (s.f.). Escazú Agreement Implementation. Available at: https://canari.org/civil-society-and-governance/escazu-agreement-implementation/

Jamaica Environment Trust (JET) (2025). Environmental Defenders Campaign. Available at: https://defenders.jamentrust.org/

McDonald, Dylis (2024). "CANARI and civil society partners collaborating to advance the Escazú Agreement across the Caribbean". Caribbean Natural Resources Institute (CANARI).