

The Open Gov Guide

2024

Open
Government
Partnership



Climate and Environment



The Escazú Agreement (adopted in Escazú, Costa Rica) affirms environmental democracy principles and practices as necessary to protect both the environment and human rights defenders. Pictured: Maricela Fernandez, an indigenous community leader in Costa Rica who works to promote gender equality and the protection of the environment.

Environmental Democracy

The public needs to have a voice in environmental decision-making. This is the foundation of “[environmental democracy](#),” a concept that united open government approaches following the Chernobyl Disaster and the 1992 Rio Summit for the Earth. In response, governments strengthened right to information laws, created [pollutant registers](#), and implemented environmental impact assessments and other public oversight processes. This work is continuing at the local, national, and international levels, including through the [Escazú Agreement](#) and [Aarhus Convention](#). (See the *Guidance and Standards* section for details.)

Open Gov Challenge

Climate and Environment

With OGP’s [2023-2028 Strategy](#), OGP members are set to work toward a number of aspirational thematic reforms through the [Open Gov Challenge](#). This section of the *Open Gov Guide* addresses Climate and Environment.

Challenge prompt: Use open government to strengthen implementation of strategies or agreements on climate and environment.

Actions and reforms could include:

- Implementing provisions in agreements such as the Escazú Agreement, Aarhus Convention, or Paris Agreement.
- Implementing a climate and environment roadmap or strategy, strengthened through open government approaches.
- Ensuring public oversight and transparency for climate finance and greening existing fiscal and planning processes.

Key Terms

- **Access to environmental information:** This usually refers to rules, processes, and institutions that respond to information requests and allow for appeals of denial in the context of environmental democracy reform.
- **Access to redress and remedy:** These terms refer to the public's ability to access justice by enforcing their rights to information and participation, to address environmental harms, and to enforce environmental laws in the context of environmental democracy.
- **Environmental impact assessment (EIA):** An EIA is a process of information gathering, analysis, and presentation of the effects of government action on the natural, built, and human environment. EIAs may be carried out at the project, program, or policy level. In many contexts, EIAs are the principal legally enforceable means of public input on government decisions.

The Evidence

Environmental democracy can provide necessary oversight to governmental and business activities that can negatively impact the environment.

- Increasing [access](#) to information increases the effectiveness of public accountability by ensuring the public stays informed about activities that may result in environmental harms, especially when such information is shared proactively and in an accessible format.
- Centering public participation [early](#) in the decision-making process can build trust and increase effectiveness by allowing the public to shape priorities and contribute to monitoring efforts, such as by participating in [environmental impact assessments](#) or [protesting](#) harmful projects.
- Providing avenues for the public to appeal decisions or demand compensation is associated with increased [access to justice](#).
- Environmental democracy mechanisms, such as the [Escazú Agreement](#), are necessary to protect the rights of environmental defenders (especially women and indigenous communities) and other groups [facing](#) harassment, prosecution, and violence.

Reform Guidance

Recommended Reforms

The recommendations below represent reforms that national and local governments, representatives of civil society organizations, and others can consider for their action plans and the [Open Gov Challenge](#). The reforms are categorized according to OGP's principal values: transparency, civic participation, and public accountability. Reforms should be adapted to fit the domestic context, and involve and coordinate with other levels and branches of government.

Reforms across policy areas are also tagged by the estimated degree of difficulty in implementation. Though progress is often not linear, the recommendations have been categorized using these labels to give the reader a sense of how different reforms can work together to raise the ambition of open government approaches.

- **Foundational:** This tag is used for reforms that are the essential building blocks of a policy area. "Foundational" does not mean low ambition or low impact. These recommendations often establish basic legal and institutional structures.
- **Intermediate:** This tag is used for reforms that are more complex and often involve more coordination and outreach, such as with the public, between branches, agencies, and levels of government, or between countries.
- **Advanced:** This tag is used for reforms that close important loopholes to make existing work more effective and impactful. They are often about linking multiple databases or ensuring that oversight authorities can receive complaints from members of the public.

FOUNDATIONS

- Ratify relevant treaties:** Ratify participation in an international agreement to strengthen national or local frameworks, where appropriate.
- Draft legislation:** Pass legislation to ensure that the national legal framework meets basic standards as laid out in global and regional agreements (such as [Escazú](#), [Aarhus](#), and the [Bali Guidelines](#)), including provisions for greater transparency, civic participation, and public accountability.
 - Close common loopholes, such as excessive exemptions in right to information laws, areas or topics covered by data disclosure rules, early notification of environmental impact assessment, or restrictions on standing or court costs.
 - Require that agencies regularly report to the legislature on implementation of the law.

Public Accountability

Legislature

Foundational

Transparency

Civic Participation

Public Accountability

Legislature

Foundational

ENVIRONMENTAL DEMOCRACY

- Create interagency, multi-stakeholder advisory councils:** Establish one or more national multi-stakeholder advisory groups on environmental democracy or particular national priorities or policies. The body or bodies may be specific (such as a nuclear energy advisory council) or broad (such as an environmental justice council). This group may support both regional or global agreements as well as provide support or input into OGP. Such process or bodies often carry out one or more of the following functions:
 - Policy coherence and evaluation:** Some countries have established independent councils and commissions, which evaluate [climate-relevant policies](#) for coherence and make recommendations and evaluations of climate-sensitive [budgeting processes](#)).
 - Standards and accounting:** In a number of cases, councils may establish government-wide standards and practices for accounting and policy analysis. This may happen through lead regulatory agencies or independent audit institutions. An example that is increasingly popular is integrating green considerations into regulatory impact assessment and [procurement](#).
 - Sectoral:** Sometimes councils may coordinate on complicated issues that fall across multiple jurisdictions. Examples of this have a long tradition, including in integrated water resources management (usually referred to as IWRM) or in forestry. Examples of this approach include [Uruguay's](#) implementation of its national water plan and [Indonesia's efforts](#) to meet [UN-REDD](#) targets (United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries).

Civic Participation

Executive

Intermediate

TRANSPARENCY

- Collect and publish key data:** Support the collection and publication of data related to issues such as pollution, the state of the environment broadly, emergencies, environmental health (especially for [vulnerable groups](#)), and ambient environmental quality.
 - Ensure data on impacts and environmental health is disaggregated by categories such as gender, race, income, age and disability to assess the differential impacts of policies, programs, and initiatives on diverse groups of people. In other cases, ensure that environmental data is interoperable with demographic and geographic data.

Transparency

Executive

Legislature

Inclusion

Intermediate

CIVIC PARTICIPATION

- Consult communities proactively:** Ensure that there are additional procedures to proactively seek out and address concerns of communities that face environmental vulnerabilities when designing and implementing environmental policies, with additional outreach to impacted or vulnerable communities. For example, [pressure](#) from community groups called attention to irregularities in the approval process for dams in Chile, which led to the government to cancel the projects.

Civic Participation

Executive

Legislature

Inclusion

Advanced

PUBLIC ACCOUNTABILITY

- Address barriers to justice:** [Improve](#) the speed and effectiveness of undertaking publicly triggered enforcement and lower the risk of reporting actions for enforcement.
 - Women, in particular face gender-specific challenges such as [gender-based violence](#) when seeking justice for environmental harms (including issues related to resource extraction and land ownership). These challenges should be explicitly taken into account when designing justice mechanisms.

- Protect whistleblowers:** Establish and enforce [protections](#) for whistleblowers, who are often the ones to flag cases for further investigation and enforcement.

- Publish enforcement and compliance history:** Establish a database and publish all data on inspections, legal violations, and enforcement actions. Ideally, such a database should be fully interoperable with other databases, including permitting data, geospatial data, and entity ownership information.

- End impunity:** Undertake ambitious reforms (such as new laws, required information disclosures, and accountability mechanisms for non-compliance) to improve the reporting, investigation, and prosecution of crimes against human rights defenders, including environmental defenders.

Civic Participation
 Public Accountability
 Executive
 Inclusion Intermediate
 Public Accountability
 Executive Legislature
 Intermediate
 Transparency
 Public Accountability
 Executive Advanced
 Transparency
 Public Accountability
 Executive Legislature
 Advanced

Examples of Reforms from OGP and Beyond

The following examples are commitments previously made within or beyond OGP that demonstrate elements of the recommendations made above. The Americas leads all other regions in the number of environment-related OGP commitments, in areas such as human rights and access to justice.

- **Argentina Public Participation in Environmental Decision-Making:** [Committed](#) to creating the conditions for broad, inclusive, informed, and accessible public participation in environmental decision-making, in line with the [Escazú Agreement](#).
- **Dominican Republic Transparency and Accountability in Waste Management:** [Committed](#) to creating the first national platform to register and monitor the management of special waste, including educational resources and a public complaint mechanism.
- **Indonesia Protections for Human Rights Defenders:** [Committed](#) to preparing recommendations that will serve as the foundation for the legal protection of environmental defenders.
- **Ireland Access to Environmental Information:** [Began](#) training public bodies on responding to environmental information requests and published a [database](#) that records the number of requests granted and refused.

ENVIRONMENTAL DEMOCRACY

- **Mendoza, Argentina Platform to Co-Create Local Solutions to Climate Change:** [Launched](#) the [Climate Change Laboratory](#), a multi-sector platform for co-creating local solutions to help the city shift to a more sustainable future through the implementation of concrete climate actions.
- **Mongolia Transparency of Extractive Industries:** [Committed](#) to passing a law to implement international transparency standards, such as disclosing contract and beneficial ownership data and guaranteeing civil society participation in decision-making.
- **Panama Access to Environmental Information:** [Committed](#) to strengthening the National Environmental Information System to comply with [Article 6](#) of the [Escazú Agreement](#).
- **Peñalolén, Chile Public Participation in Environmental Decision-Making:** [Committed](#) to co-creating environmental regulations, promoting public education efforts in the community, and using environmental impact assessments, among other reforms.
- **Santo Domingo de los Tsáchilas, Ecuador Inclusive Decision-Making to Prevent Deforestation:** [Co-created](#) a provincial plan to prevent deforestation by engaging traditionally excluded communities, such as the Tsáchila ethnic group and Afro-Ecuadorians. Also created an open data inventory of forest species and an online system to streamline requests for reforestation and to receive environmental complaints. Won the [OGP Accelerator Award](#) in 2021.
- **Scotland, United Kingdom Citizen Climate Assembly:** [Created](#) a Climate Assembly of 100 citizens chosen through a lottery system as a deliberative space to expand the range of initiatives to respond to the climate emergency and to support the transition to net zero.
- **United States Access to Justice and Environmental Data:** [Committed](#) to designing an Environmental Justice Scorecard that enables the public to hold federal programs accountable for environmental justice investments. Also [created](#) the world's first [pollutant register](#) and a historical [database](#) of enforcement and compliance with regulations.

BEYOND OGP ACTION PLANS

- **Colombia Proposed Bill on Environmental Democracy:** [Presented](#) a bill in the House of Representatives on environmental democracy issues (such as strengthening access to environmental justice) related to the country's implementation of the Escazú Agreement.
- **India National Tribunal for Environmental Cases:** Created a [National Green Tribunal](#), which has the [mandate](#) to make a judgment on environmental civil cases on an accelerated timeline.

The Role of Local Governments

Local governments play an essential role as stewards of the environment and the principal interface between government and the public.

- Local governments often have primary or exclusive jurisdiction over land use, permits, and infrastructure development and maintenance.
- They often can address major pollution issues, as they are often responsible for waste management and household water usage.
- They also serve as the principal interface between the public and government more broadly. As such, their role in ensuring the involvement of local communities and organizations is essential. They can have a particular role in ensuring that citizens, scientists, and other experts can talk with one another and decision makers.
- Local courts hear most first instances of environmental violations and play an essential role in dispute resolution and access to information.

Active OGP Partners

The following organizations have recently worked on this issue in the context of OGP at the national or international level. They may have additional insights on the topic. Please note that this list is not exhaustive. If you are interested in national-level initiatives, please contact research@opengovpartnership.org.

- [International Center for Not-for-Profit Law \(ICNL\)](#)
- [Namati](#)
- [ParlAmericas](#)
- [Targeting Natural Resource Corruption](#), part of the [World Wildlife Fund](#)
- [UN Economic Commission for Europe \(UNECE\)](#)
- [UN Economic Commission for Latin America and the Caribbean \(UNECLAC\)](#)
- [Westminster Foundation for Democracy](#)
- World Resources Institute (WRI) [Environmental Democracy Practice](#)
 - The [Access Initiative](#) is part of WRI.

Benchmarking Data

The [OGP 2023-2028 Strategy](#) sets out the [Open Gov Challenge](#) and aims to provide clear benchmarks for performance through reliable data.

While benchmarks for individual countries and *Open Gov Guide* recommendations are not yet integrated, for this chapter, interested individuals may rely on the following data sets:

- The **Access Initiative** and **World Resources Institute's** [Environmental Democracy Index](#) evaluates the degree to which national laws meet the principles laid out in the **UN Environment Programme's** [Bali Guidelines](#) for Access to Information, Public Participation, and Access to Justice. These are closely aligned with the [Aarhus Convention](#) and the [Escazú Agreement](#).
- OGP commitments on this topic can be found on the [Data Dashboard](#).

Guidance and Standards

While the list below is not exhaustive, it aims to provide a range of recommendations, standards, and analysis to guide reform in this policy area.

- The **OGP Support Unit** has several resources related to environmental democracy, such as a [fact sheet](#) on how the OGP platform can help implement the Escazú Agreement and [guidance](#) on justice reforms related to the environment.
- **UNECE** tracks compliance with the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (also known as the [Aarhus Convention](#)). The UNECE created a [guide](#) to assist with implementation.
- The **United Nations Environmental Programme** created the [Bali Guidelines](#) to specifically help countries fill legislative gaps at the national and local levels.
- The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (also known as the [Escazú Agreement](#)) affirms environmental democracy principles and practices as necessary to protect both the environment and human rights defenders, including those people and communities working for clean air and land. **UNECLAC** created a [guide](#) to assist with implementation.
- The **Action for Climate Empowerment (ACE)** [refers](#) to work done under Article 12 of the Paris Agreement and Article 6 of the UN Framework Convention on Climate Change. ACE has six overarching elements that can be used as a guide for promoting environmental democracy: climate change education and public awareness, training, public participation, public access to information, and international cooperation on these issues.
 - The [Enhanced Transparency Framework](#) and the [Global Stocktake](#) are two components of the Paris Agreement that can help legislators oversee the progress and implementation of national climate commitments.
- The **International Institute for Sustainable Development**, through its SDG Knowledge Hub, collects resources related to standards—such as the [recent decision](#) by the **UN General Assembly** to recognize the right to a healthy, clean, and sustainable environment—and guidance on environmental democracy standards, such as [case studies](#) on tools like environmental impact assessments.
- **ParlAmericas** offers several resources related to environmental democracy, such as their [guide](#) for engaging parliaments in the implementation of climate change commitments for the Paris Agreement.
- **ICNL** publishes [resources](#) related to climate change and civic space, including a [toolkit](#) on defending environmental defenders.