



TOWARDS ACHIEVING THE ENVIRONMENTAL DIMENSION OF THE SDG IN LATIN AMERICA AND THE CARIBBEAN

SDG 16: PEACE, JUSTICE AND STRONG INSTITUTIONS

ISSUE 8

RELATED INTERNATIONAL AGREEMENTS:

Regional Agreement on Access to Information, Participation and Justice in Environmental Matters in Latin America and the Caribbean "Escazú Agreement", 2018.

DID YOU KNOW...

- ✓ that many countries have begun to include an 'ecocentric' approach within their legislation and even constitutions?
- ✓ that in 2017 60% of environmental rights defender murders occurred in Latin America?
- ✓ that all countries have policy instruments regarding the three pillars of the Escazú agreement?

[Find these and other answers in this chapter...](#)

CONTENTS

- 1 ENVIRONMENT IN SDG 16
- 2 SDG 16 ENVIRONMENTAL INDICATORS
- 3 REGIONAL ADVANCES
- 4 UN ENVIRONMENT WORK

1 ENVIRONMENT IN SDG 16

The link between SDG 16 and our environment is clear when we understand that natural resources that are managed sustainably, transparently, and based on environmental rights can be the engine for sustainable development as well as a platform for peace and justice. On the contrary, violations of environmental law undermine the possibility to develop sustainably. This is necessary not for only conflict prevention, but also post-conflict reconstruction and the establishment of peaceful and inclusive societies.

In the past 60 years, 40% of conflicts in the world have been tied to natural resources and this number is expected to increase in the context of climate change and current environmental degradation. To counteract these trends, the Multilateral Environmental Agreements (MEAs) based their implementation in the strengthening of institutions, governments and organizations, and can lead towards achieving the internationally agreed global environmental





goals in a functioning rule of law (UN Environment, 2019a).

'Rule of Law' refers to a principle of governance where all actors and stakeholder, from civil society, governments to private institutions are accountable for laws and regulations that are equally enforced.

Environmental Rule of Law is understood as the legal framework of procedural and substantive rights and obligations that incorporates the principles of ecologically sustainable development in the rule of law. (IUCN, 2016)

The Environmental Rule of Law provides a general framework to close the gap between existing environmental laws and their actual implementation. It outlines four pillars of sustainable development – economic, social, environmental and peace (UN Environment, 2019a).

Achieving the environmental rule of law and protecting environmental rights has become a priority in the region. However, many challenges remain, and protecting the ecosystems and the sustainable use of natural resources against misuse and harm from crime will require a cross-sectoral long-term effort.

2 SDG 16 ENVIRONMENTAL INDICATOR

16.8.1	<p>Participation in global governance. Proportion of members and voting rights of developing countries in international organizations</p>
--------	--

SOURCE: UN Environment, 2019

Too little data

3 REGIONAL ADVANCES

In LAC, the 1992 Rio de Janeiro Earth Summit gave an important impetus for environmental protection, the development of environmental legislation and the establishment of related institutions. Today, most countries in the region have established independent environmental ministries and environmental rights are included in Constitutions and environmental protection laws have been widely developed. Some, national legal frameworks go further, attributing an ecological function to property rights (UN Environment, 2018).

The **Rio Declaration** was adopted in the 1992 UN Conference on Environment and Development and contains 27 principles. **Principle 10** set out three fundamental rights: access to information, public participation in decision making and access to justice in environmental matters. These are considered the three pillars for comprehensive and inclusive environmental governance.


Building on the global guidelines on this matter adopted by UNEP Governing Council in 2010 (Bali Guidelines) the region adopted the **Escazú Agreement** on 4th March 2018 with the aim to guarantee the effective implementation of Principle 10, through the strengthening of institutions and promoting cooperation between actors and stakeholders to protect current and future generations' sustainable development (ECLAC, 2018a). It has been the only agreement born out of Rio+20 and the first one of its kind in the region. Moreover, it is the only binding international tool with a specific focus on the promotion and protection of human rights in the environmental context.





The Escazú Agreement addresses **three dimensions**: 1) Access to **information** refers to an individual or a community's right to access environmental information in a timely and effective manner. 2) The **participation** dimension states that an individual or community have the right to participate in the decision-making processes concerning environmental matters or that will affect their surrounding environment. 3) **Justice** articulates the right to access to independent bodies to protect their environmental rights, their access to information and their participation in decision-making processes.

All Multilateral Environmental Agreements (MEAs) allude in some form to SDG 16, since they strengthen environmental governance and constitute internationally agreed goals towards a more **inclusive** and **fair** sustainable development. Their goals are included in the 2030 Agenda and its SDGs.

 Highest number in each pillar.
 *Laws, regulations, constitutional pieces and/or governmental plans/strategies/programmes
 NOTE: Some instruments may be repeated in more than one pillar.
 INF: Information, PART: participation, JUST: justice
 SOURCE: ECLAC Observatory on Principle 10

POLICY* INSTRUMENTS IN LAC COUNTRIES REGARDING THE THREE 'PRINCIPLE 10' CORE PILLARS

	INF	PART	JUST
Antigua and Barbuda	5	4	4
Argentina	4	4	4
Bahamas, The	6	3	5
Barbados	4	4	4
Belize	5	4	4
Bolivia, P. S.	6	8	8
Brazil	7	7	6
Chile	7	5	4
Colombia	6	6	5
Costa Rica	2	3	3
Cuba	2	2	2
Dominica	3	2	3
Dominican Rep.	3	2	3
Ecuador	6	7	7
El Salvador	4	3	4
Grenada	2	2	2
Guatemala	6	5	6
Guyana	3	3	4
Haiti	2	2	2
Honduras	4	6	7
Jamaica	7	3	4
Mexico	12	8	11
Nicaragua	3	3	4
Panama	4	3	4
Paraguay	4	4	5
Peru	6	8	6
St. Kitts y Nevis	5	5	4
St. Vincent and the Grenadines	5	2	4
St. Lucia	5	4	4
Suriname	1	1	2
Trinidad and Tobago	5	4	5
Uruguay	4	4	3
Venezuela, B. R.	2	3	4



Access to information and public participation are two strongly interlinked areas. **Open publication** of environmental policy tools is necessary to ensure that communities are properly informed, allowing them to participate in processes of prior informed consent. **Environmental Impact Assessments** are one of the most important tools linked to the principles of information and participation of the Escazú Agreement. In this context, all LAC countries possess legal parameters (table below) that should ensure comprehensive implementation of aspects regarding information and societal participation. Despite such framework, the region still presents **large gaps** between these laws and their **implementation**, as well as commonly **insufficient public involvement**.

LAW/PLAN RULING ENVIRONMENTAL ASSESSMENTS IMPLEMENTATION IN LAC COUNTRIES		YEAR ADOPTION (LAST REFORM)
Antigua and Barbuda	Environmental Protection and Management Act, No. 11	2015
Argentina	Environment Act, No. 25675	2002
Bahamas, The	Conservation and Protection of the Physical Landscape Act, No. 12	1997 (2000)
Barbados	Town and Country Planning Act, n.14	1968
Belize	Environmental Protection Act, No. 22	1992 (2009)
Bolivia, P. S.	Environment Act, No. 1333	1992
Brazil	Act No. 6938 and Complementary Law No.140	1981 (2011)
Chile	Environmental Framework Law, No. 19300	1994 (2010)
Colombia	Act No. 99	1993
Costa Rica	Organic Law on the Environment, No. 7554	1995
Cuba	Act No. 81	1997
Dominica	Environmental impact assessment guidelines	2009
Dominican Rep.	Act No. 64	2000
Ecuador	Environmental Management Act, No. 37	1999
El Salvador	Environment Act, Decree No. 233	1998
Grenada	Physical Planning and Development Control Act, No. 25	2002 (2008)
Guatemala	Environmental Protection and Improvement Act, No. 68	1986 (1993)
Guyana	Environmental Protection Act, No. 11	1996
Haiti	Environment Decree	2006
Honduras	Regulations of the National Environmental Impact Assessment System	2015
Jamaica	Guidelines for Conducting Environmental Impact Assessments	1997 (2007)
Mexico	Environmental Impact Assessment	2000 (2014)
Nicaragua	Environment and Natural Resources Act, No. 217	1996 (2008)
Panama	Environment Act, No. 41	1998 (2015)
Paraguay	Environmental Impact Assessment Act, No. 294	1993 (1994)
Peru	Environment Act, No. 28611	2005
St. Kitts y Nevis	National Conservation and Environment Protection Act, No. 5	1987
St. Vincent and the Gren.	Town and Country Planning Act, No. 45	1992
St. Lucia	Physical Planning and Development Act, No. 29	2001 (2005)
Suriname	Manual on the environmental impact assessment process in Suriname	2009
Trinidad and Tobago	Environmental Management Act, No. 3	2000
Uruguay	Environmental Protection Act, No. 17283	2000
Venezuela, B. R.	Organic Law on the Environment	2006

SOURCE: ECLAC, 2018





ENVIRONMENTAL COURTS AND RIGHTS

As of today, most countries have given constitutional status to environmental rights, as well as created mechanisms to ensure citizens 'access to courts or independent bodies for the protection of environmental rights'. Many countries have established specialized courts and tribunals in environmental matters, as these conflicts are often complex and require specialized knowledge. In addition, countries in Latin America have environmental prosecutors responsible for these specific matters (ECLAC, 2018b).

Judicial or administrative courts specializing in environmental matters

Antigua and Barbuda	One administrative environmental court
Bolivia	Agroenvironmental courts in nine cities
Brazil	Thirteen agroenvironmental courts in eight cities
Chile	Environmental courts in three cities
Costa Rica	One administrative environmental court, 16 agricultural courts
El Salvador	One environmental court (four more under implementation)
Guatemala	Criminal courts of first instance for drug and environmental offences in different municipalities
Guyana	One administrative environmental court (one administrative appeals court under implementation)
Jamaica	One administrative environmental court
Nicaragua	One environmental court
Paraguay	Environmental courts in two cities
Peru	Four environmental courts: the Environmental Audit Court with three specialized divisions
Trinidad and Tobago	Environmental Commission

SOURCE: ECLAC, 2018b

Despite advances at the institutional and legislative levels, compliance and enforcement remains the greatest challenge. The region has been very active in promoting enforcement of environmental law, resulting inter alia in the [creation of institutional organizations and international cooperation](#). For instance, the [International Advisory Council for the Advancement of Justice](#), Governance and Law for Environmental Sustainability which provides strategic guidance to the international community to strengthen legal foundations to achieve international environmental goals and sustainable development. Moreover, the [Global Judicial Institute on the Environment \(GJIE\)](#) aims to ensure judicial independence, transparency and integrity to effectively handle cases regarding the environment. Finally, the [Latin American Environmental Prosecutor's Network](#) aims to facilitate communication and exchange of experiences among the prosecutors members to strengthen the international framework to fight against crimes and to enforce the law. UN Environment has actively supported these initiatives.





Environmental rights refer to substantive and procedural rights related to the environment. These include the right to a healthy environment, as well as access rights mentioned earlier. In the region, many countries have provisions on environmental rights in their Constitutions.

COUNTRIES WITH CONSTITUTIONAL MENTIONS REGARDING RIGHTS TO A SOUND ENVIRONMENT

Argentina	Guyana
Bolivia, P. S.	Honduras
Brazil	Jamaica
Chile	Mexico
Colombia	Nicaragua
Costa Rica	Panama
Cuba	Paraguay
Dominican Rep.	Peru
Ecuador	Venezuela, B.R.
El Salvador	

SOURCE: ECLAC, 2018b

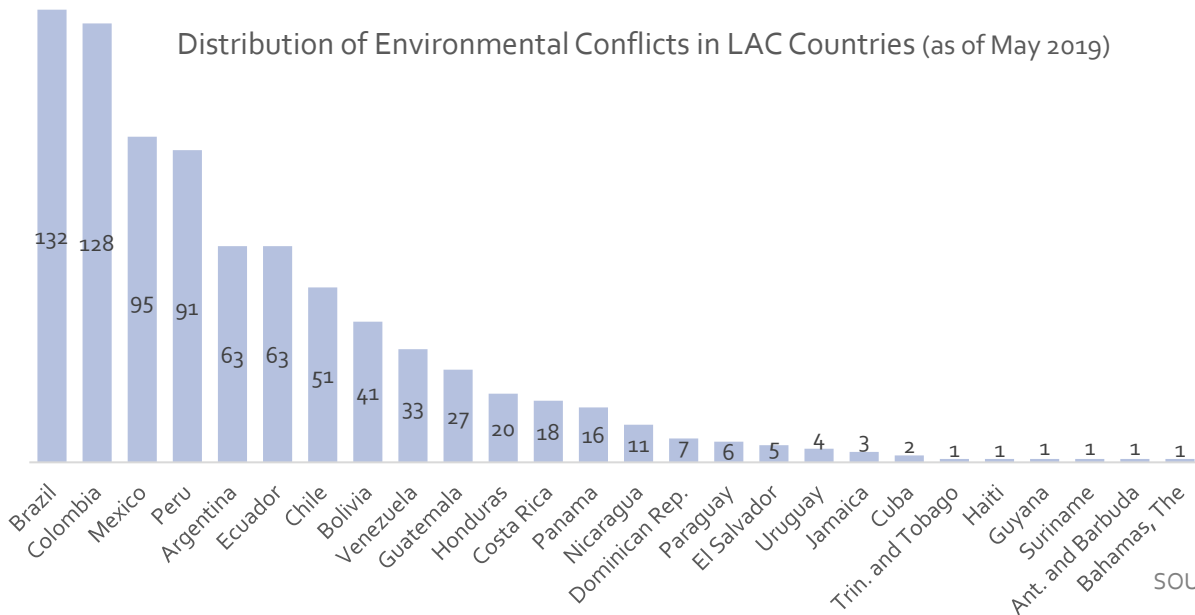
Some countries have moved from anthropocentrism toward more 'ecocentric' ways of thinking about the environment, including innovative concepts in their legal frameworks such as "Buen Vivir" or Rights of Mother Earth, like Bolivia and Ecuador. Other instances, such as the case of Rio Atrato Colombia have made judicial precedents, granting rights to natural resources.

ENVIRONMENTAL CONFLICTS

Environmental conflicts are often the result of systemic and structural unequal exchanges of power and income. Vulnerable and marginalized communities are the most affected, often stripped of their rights to participate in decision-making processes and burdened with environmental pollution and resource degradation. Communities and activists' actions may include boycotts, strikes, protest, legal action or even collective violence in the attempt to reclaim their access to resources and a healthy environment (EJ Atlas Website).

In LAC environmental conflicts are common and often develop into deep social crises, affecting the most vulnerable populations. Preventing socio-environmental conflicts is a way of **leaving no one behind**.





ENVIRONMENTAL DEFENDERS

LAC has been deemed the **most dangerous** region for environmental rights defenders by [Global Witness](#). In 2017, a record number of 207 environmental defenders were killed while protecting their land, wildlife and natural resources, 60% of these cases occurred in the region. Countries such as Brazil, Colombia and Peru rank high in environmentalist murders, the vast majority concentrated in the Amazonian region (Global Witness, 2018). These conflicts often arise from a lack of compliance with customary and collective land rights and the exclusion of communities from decision-making processes (Global Witness, 2017). Marginalized communities, such as **indigenous and peasant women**, are often the most common target of this type of harassment and violence. However, international milestones have been achieved, the Escazú Agreement is the first environmental treaty that contains specific provisions for the protection of defenders of human rights in environmental matters. Additionally, in March 2019, the UN Human Rights Council passed a resolution recognizing Environmental Defenders as Human Rights Defenders. At national level, governments and civil society have also begun to take actions to protect environmental defenders.

Of the 'Top 7' countries with most environmental conflicts in the world, 4 are from LAC





LAC POLICY INSTRUMENTS FOR ENVIRONMENTAL DEFENDERS

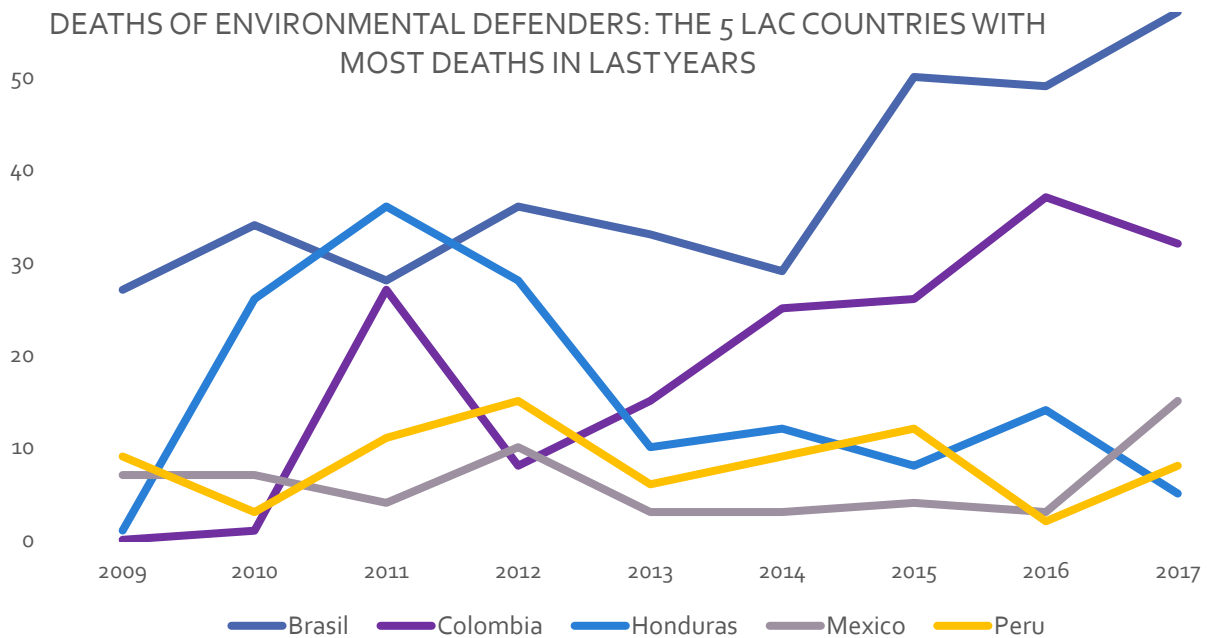
COUNTRY	NO. INSTRUMENTS
Colombia	3
Brazil	2
Ecuador	1
Honduras	1
Mexico	1
Peru	1

SOURCE: ECLAC and SPDA

LAC NETWORK OF WOMEN DEFENDING ENVIRONMENTAL AND SOCIAL RIGHTS

COUNTRIES	INSTITUTIONS PARTICIPANTS
Mexico	REMA (Red Mexicana de Afectadas por la Minería)
Honduras	Renacamih (Red Nacional de Comunidades Afectadas por la Minería en Honduras)
El Salvador	ADES (Asociación de Desarrollo Económico y Social)
Colombia	Censat Agua Viva Amigos de la Tierra
Ecuador	Acción Ecológica
Peru	Decoin
	Grufides (Grupo de Intervención y Formación para el Desarrollo Sostenible)
	Tejiendo Saberes-PDTG (Programa Democracia y Transformación Global)
Bolivia	Colectivo CASA (Colectivo de Coordinación de Acciones Socio Ambientales)
Chile	OLCA (Observatorio Latinoamericano de Conflictos Ambientales)
Uruguay	Otras voces por la tierra
	Dafnias

SOURCE: <https://www.redlatinoamericanademujeres.org/nosotras>



SOURCE: Global Witness / The Guardian. (Limits on available information mean the global total is likely far higher)





4 UN ENVIRONMENT WORK



The [Environmental Rights Initiative](#) aims to assist state and non-state actors to mainstream, protect and comply with environmental rights. The work with government actors focuses on strengthening institutional capacities to develop and implement policy and legal tools. The initiative also attempts to engage with the private sector to provide guidance on how to comply with environmental laws, supports civil society to access information about environmental rights and collaborates with the media including training for journalists.

During the meetings of the [Forum of Ministers of Environment of Latin America and the Caribbean](#), ministers discussed priority issues for the 33 countries of the region and how to tackle current environmental problems. Environmental justice and governance are central tropics to this forum as well as a focus on achieving cooperation to honor international environmental commitments.



The [Observatory on Principle 10 for Latin America and the Caribbean](#) emerges as an ECLAC initiative with support from UNDP and UN Environment. Its goal is to contribute to the mainstreaming of Principle 10 of the Rio Declaration and spreading of awareness of access to knowledge rights, public participation and access to justice in environmental matters. The observatory collects international treaties that countries in the region have ratified, as well as access rights contained within constitutions, laws, plans, strategies and policies.

[INFORMEA](#) is the United Nations information platform on Multilateral Environmental Agreements, facilitated by UN Environment and supported by the European Union. This online platform provides the general public with information regarding MEAs including state of ratification and latest national reports on implementation. It seeks to develop a structured information system for the international environmental community.





The [MONTEVIDEO PROGRAMME](#) refers to a series of programmes organized by UN Environment to guide the identification and implementation of priority areas within the environmental law framework. Its main goal is to support countries and international actors to develop and implement effective and comprehensive environmental law.

The [Global Major Groups and Stakeholders Forum \(GMGSF\)](#) facilitates actors and stakeholders' participation in the United Nations Environment Assembly (UNEA) and related meetings. Regional meetings are held both before the Forum of Ministers of Environment and the UNEA and allow for civil society to exchange views and agree on priorities and main concerns. Moreover, the [Stakeholder Engagement Handbook](#) provides details on how civil society can engage with UN Environment.



HANDBOOK FOR STAKEHOLDER ENGAGEMENT



The first [Environmental Rule of Law report](#), released in January 2019, assessed the global state of laws, policies and their enforcement. The report concluded general trends of weak enforcement in environmental laws despite recognizing their growing numbers. It also highlights the necessity to track national and international progress and proposes an indicator framework to be utilized during further assessments.





REFERENCES

ECLAC, Economic Commission for Latin America and the Caribbean, 2018. Access to information, participation and justice in environmental matters in Latin America and the Caribbean: towards achievement of the 2030 Agenda for Sustainable Development (LC/TS.2017/83), Santiago, https://repositorio.cepal.org/bitstream/handle/11362/43302/1/S1701020_en.pdf.

_____, Observatory on Principle 10 in Latin America and the Caribbean, <https://observatoriop10.cepal.org/en>, accessed in 05/21/2019.

_____, 2018a. The Escazú Agreement: An Environmental Milestone for Latin America and the Caribbean. <https://www.cepal.org/en/articles/2018-escazu-agreement-environmental-milestone-latin-america-and-caribbean>

_____, 2018b. Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean. https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf

EJ Atlas, Environmental Justice Atlas Data, <https://ejatlas.org/>, accessed in 05/22/2019.

GLOBAL WITNESS, <https://www.globalwitness.org/en/>, accessed in 05/22/2019.

_____, 2018. At What Cost? Irresponsible business and the murder of land and environmental defenders in 2017, <https://www.globalwitness.org/en/press-releases/deadliest-year-record-land-and-environmental-defenders-agribusiness-shown-be-industry-most-linked-killings/>.

GUARDIAN, THE. The Defenders Tracker, <https://www.theguardian.com/environment/ng-interactive/2017/jul/13/the-defenders-tracker>, accessed in 05/22/2019.

SPDA, Peruvian Society for Environment Law, <https://spda.org.pe/convenio-entre-spda-y-ministerio-de-justicia-promovera-acciones-a-favor-de-los-derechos-humanos/>, accessed in 05/23/2019.

UN Environment, 2019a. Environmental Rule of Law: First Global Report. https://wedocs.unep.org/bitstream/handle/20.500.11822/27279/Environmental_rule_of_law.pdf?sequence=1&isAllowed=y

_____, 2016. Implementing principle 10 of the Rio Declaration <https://www.unenvironment.org/news-and-stories/story/unep-implementing-principle-10-rio-declaration>.

_____, 2019b. [Measuring Progress: Towards Achieving the Environmental Dimension of the SDGs](#). Nairobi, Kenya.

_____, Why do Sustainable Development Goals Matter?, <https://www.unenvironment.org/explore-topics/sustainable-development-goals/why-do-sustainable-development-goals-matter/goal-16>, Accessed 5/20/2019.

