ENVIROMENTAL DEMOCRACY INDEX

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Executive summary

The environmental democracy rights of access to information, public participation, and access to justice in environmental matters have gained currency as key drivers of informed, accountable decision making and citizen empowerment. They were first recognized as Principle 10 in the 1992 Rio Declaration on Environment and Development. There has also been notable progress at the national level in the past two decades through the passage of right-to-information laws, environmental impact assessment (EIA) regulations, and expanded rights for civil society to seek justice.

However, WRI, in partnership with the Access Initiative, has conducted research in dozens of countries that reveals that legal and institutional gaps remain, undermining information accessibility and quality, full participation of marginalized groups, and access to adequate remedies. As decision makers seek solutions to urgent environmental problems and to balance development needs, ensuring that the public has a voice in decisions that impact their health and the environment is a necessary step that is critical for sustainable development. While these principles are often endorsed in broad terms at international fora, the qualities of these rights are less commonly discussed in specific legal and institutional terms. Laws that integrate provisions that support good practice—such as timely, affordable, and proactive information disclosure—can create better enabling conditions for environmental democracy. Individuals are better able to hold decision makers accountable when there are effective review measures through independent and impartial courts and administrations.

WRI and the Access Initiative have developed the Environmental Democracy Index to measure the extent and degree to which national laws in 70 countries promote environmental democracy rights. In an attempt to limit subjectivity from the legal researchers, the indicator scores are accompanied by specific criteria that must be met.

In addition to the legal indicators that create the index scores, there is a supplemental set of “practice indicators” that provide insights into the implementation of these rights in practice. The indicators use the framework of an internationally recognized set of voluntary guidelines that were negotiated and adopted by the United Nations Environment Programme’s Governing Council in 2010. This technical note describes the background to the development of the Environmental Democracy Index, indicator development, scoring, and how the results may be used by governments, civil society, lending institutions, academics, and the private sector.

EDI launched for the first time in May 2015 with results disseminated on a publicly available online platform designed to allow users to better understand the state of national laws in 70 countries that support these rights. This platform provides in-depth country information, freely available data, rankings of countries at various levels of granularity, and enables sharing of good practices for environmental democracy. The EDI scores are provisional until the end of August 2015 while they are being reviewed by stakeholders and governments.
Introduction

Environmental democracy is enabled by the right and ability of the public to freely access relevant and timely information, provide input and scrutiny into decision making, and to challenge decisions made by public or private actors which may harm the environment or violate their rights before an accessible, independent, and fair legal authority. These rights—also referred to as procedural rights—provide a legal basis to enable transparency of environmental information, open and inclusive decision making, and the ability to challenge decisions or seek justice through fair and affordable legal mechanisms. When supported by willing and capable state institutions and exercised by civil society, they promote more informed, inclusive, and accountable decision making.

In the 1992 Rio Declaration on Environment and Development, the international community recognized that sustainable development depends upon good governance. Principle 10 of the Declaration sets out the fundamental elements for good environmental governance in three “environmental democracy rights”: (1) access to information, (2) public participation, and (3) access to justice. When implemented, these rights increase information flow between governments and the public, increase the legitimacy of decisions, and provide for downward accountability.

Since 1992, progress towards creating rights out of these aspirations has been mixed. On one hand, the legally binding Aarhus Convention, established by the UN Economic Commission for Europe (UNECE) in 1998, now has 47 ratifying parties (46 countries and the European Union). The Aarhus Convention defines minimum standards and obligates parties to the convention to implement these rights. It also creates a compliance mechanism that is accessible to citizens from the countries that are parties to the convention. However, while the convention is not regional in definition, parties to the convention currently only exist within Europe and Western Asia.

Other international developments worth noting include a Latin American and Caribbean Declaration on Principle 10, which had 20 signatories as of early 2015. These countries are currently engaged in negotiations to develop a regional convention facilitated by the United Nations Economic Commission for Latin America and the Caribbean (UNECLAC). The Open Government Partnership (OGP), which began in 2011 and has 65 members as of 2015, is a “soft law” approach but one that requires members to create action plans and commitments—subject to independent monitoring—on transparency, citizen empowerment, and accountability measures to reduce corruption and improve governance. Governments in the OGP process are expected to produce action plans and commitments in partnership with civil society. The 23 years since the Rio Declaration have also seen considerable progress at the national level. Right-to-information laws have been enacted in 100 countries (as of early 2015), with the majority occurring only in the past decade. As of 2010, over 45 countries had environmental courts or tribunals specializing in environmental dispute resolution. Environmental impact assessment regulations are now commonplace, and typically provide for public participation at some level.

While these are positive developments, the promise of Principle 10 is far from being fulfilled. Much of Africa, the Middle East, and parts of Southeast Asia and the Caribbean have yet to enact right to information laws. Over a decade of case study research and national assessments by WRI and its partners through the Access Initiative have shown that acknowledgement of the importance of environmental democracy does not always translate into strong laws, institutional support, or
consistent enforcement.\textsuperscript{x} State capacity and willingness to adopt reforms is undoubtedly critical to achieve intended impact. However, establishing a strong legal foundation is the starting point for recognizing, protecting, and enforcing environmental democracy rights. To this point, the quality of environmental democracy laws, or procedural rights, had not been systematically measured. In 2010, the United Nations Environment Programme’s Governing Council formally adopted the “Bali Guidelines for the Development of National Legislation on Access to Information, Public Participation, and Access to Justice in Environmental Matters” (hereafter referred to as the UNEP Bali Guidelines). WRI, working with the Access Initiative (TAI) network, has developed the Environmental Democracy Index (EDI) to benchmark national laws against the UNEP Bali Guidelines.

The need for a new measurement approach

While these rights are broadly acknowledged to be central to responsive, fair, and effective environmental governance, the extent to which countries have established them through laws and regulations has yet to be systematically measured. To be sure, there are several other composite indices that measure governance more broadly, as well as indices to measure political freedoms, perception of corruption, general rule of law, transparency, and other aspects of governance. However, there is no index measuring the extent to which countries have established rights to participate in environmental decision making or any index that measures these three rights together, as they apply to the environment.

When assessing the extent to which the public has the right and ability to influence decisions that impact the environment, evidence suggests that transparency alone, without public participation and access to justice, is unlikely to achieve its potential impact. An analysis of the Toxic Release Inventory of the United States revealed that facilities were more likely to reduce waste if situated in areas where there were engaged civil society organizations that helped create political support for pollution reduction.\textsuperscript{xixi} While China has recently increased transparency around environmental quality and pollution sources central to its “War on Pollution,” many question whether the public has adequate ability and access to effective justice mechanisms to hold violators accountable.\textsuperscript{xiii,xiv,xv} It is important to note that the impact of these rights depends on enabling factors, such as civil society capacity, state capacity, bureaucratic culture, and other factors; this is an area of continuing research.\textsuperscript{xvi}

If environmental democracy is to serve sustainable development, rights of access to information, participation, and justice on environmental matters need to be recognized and established by the laws of a country. Measuring the extent to which the laws of a country establish and recognize environmental democracy rights is essential to an understanding of whether these rights have true force. “Measuring the extent” means not merely determining whether laws exist, but the breadth of their coverage across the range of environmental decision making processes and how proactively they address barriers and constraints to the public’s fulfilling these rights. These could include requirements for timely information release, for public participation at the earliest stages of decision making (rather than late-stage consultation), and to ensure the public can challenge the effectiveness government agencies if enforcement of the law is lacking.

The use of indices to measure progress and promote change in development and the environment is widespread. When constructed with clear goals, target audience, and with indicators that are capable
measuring change through data collection, they can be effective tools to promote change.\textsuperscript{xvii} Indices can also help distill important information that can help governments and civil society set priorities and take action.

**The UNEP Bali Guidelines as a framework for measurement**

EDI measures the degree to which countries have enacted legally binding rules that provide for environmental information collection and disclosure, public participation across a range of environmental decisions, and fair, affordable, and independent avenues for seeking justice and challenging decisions that impact the environment. In addition to the legal index, EDI contains a separate and supplemental set of indicators that provide key insights on whether environmental democracy is being manifested in practice. WRI developed the EDI indicators using the framework of the 2010 UNEP Bali Guidelines to enable governments, civil society, and other stakeholders to benchmark national legislation against internationally recognized voluntary guidelines.

The UNEP Bali Guidelines consist of 26 total guidelines organized under each “pillar”\textsuperscript{1}—with seven guidelines each for access to information and public participation and 12 guidelines for access to justice (see Annex).\textsuperscript{2} The guidelines unpack Principle 10 with specific guidance drawing on a body of good practice and norms developed through the experience of the Aarhus Convention and by legal advocates. Unlike the Aarhus Convention, the Bali Guidelines are voluntary. However, they represent the first time that several nations outside of the UNECE region have agreed upon specific guidelines on Principle 10 that deal with issues of cost, timeliness, standing, the quality of public participation, and several other issues on which it can be more difficult to achieve government consensus.

While the Bali Guidelines are concise and outline critical components of effective legislation, they often lack the specificity needed by policymakers and agencies that may be inexperienced in implementing reforms in procedural rights. They do not, for instance, prescribe timeliness for information release, provide detailed guidance on how to ensure the public’s comments are accounted for, or clarify how broadly “standing”—referring to the ability of groups or individuals to bring cases to court—should be interpreted. This specificity matters because these reforms often require changing bureaucratic cultures and incentive structures to promote practices of information dissemination, power sharing in decision making, and the ability for the public to appeal and challenge decisions. Therefore, statutes and decrees that lack specificity may leave the public without well-defined rights that can be appealed to and defended. This is not as much a critique as it is an acknowledgement that policymakers and advocates require additional tools to measure the current quality of national laws and institutions and benchmark improvements.

EDI’s primary purpose, therefore, is to enable governments, civil society, and other interested stakeholders to assess, through systematic measurement, the degree to which their country’s national laws harmonize with the UNEP Bali Guidelines. The supplemental indicators on practice provide key insights, such as whether real-time air quality data is publicly available for the capital city.

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\textsuperscript{1} The use of the term pillars to describe the rights of access to information, public participation, and access to justice is commonly used in Aarhus Convention materials.

\textsuperscript{2} The Bali Guidelines may be accessed here: http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf
or whether there is evidence that civil society has been able to use the justice system for environmental matters. The EDI indicators are designed to be actionable—meaning that users should be able to easily identify what improvements need to be made to increase an indicator’s score. After results are produced through the EDI research and review process (explained below), they are sent to relevant government ministries for review and feedback. This feedback can potentially develop into dialogue between governments and civil society stakeholders. WRI plans to release EDI biennially, which will allow for governments to benchmark improvements as new laws and practices established. While policymakers are ultimately the target audience as they are responsible for making improvements, indices can also be effective tools to gain public and media attention as they enable comparisons between countries.

It is important to recognize that EDI does not currently measure subnational legislation, as the focus of the UNEP Bali Guidelines is national legislation and subnational assessments were outside of the scope of the inaugural EDI. This means that federal countries—of which there are 14 currently in EDI—may have additional relevant legislation at the subnational level that is not included in the assessment. WRI recognizes these limitations while also acknowledging the role of national governments in ensuring that, at a minimum, citizens across the country enjoy rights to environmental democracy.

**EDI indicators**

EDI consists of 75 legal indicators developed under 23 of the UNEP Bali Guidelines that are concerned with the development and implementation of legislation. In addition to the legal indicators, EDI includes 24 supplemental indicators that assess whether there is evidence that environmental democracy is being implemented in practice. The EDI legal indicators assess laws, constitutions, regulations and other legally binding, enforceable rules at the national level. The scope of the first EDI assessment specifically includes:

- The Constitution and interpretations of the Constitution by competent bodies (e.g. The Supreme Court or Constitutional Court)
- The main national freedom-of-information law, public participation law and access to justice law (including access to administrative justice), if these exist
- The apex environmental management law
- Laws and regulations governing pollution control (including air and water quality laws), environmental impact assessments, terrestrial biodiversity (protected areas and wildlife), extractive industries, and forests
- Laws governing the creation of environmental policies
- Interpretations of these laws through case law

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3 These typically include the Ministry of Environment, Ministry of Justice, Information Commissioner or related.
4 There are 26 total UNEP Bali Guidelines. Three of the guidelines are concerned with capacity building for implementation. The inaugural version of EDI does not measure these guidelines. More information can be found here: [http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf](http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf)
EDI does not currently include marine, coastal, fisheries, or energy production and distribution laws in its assessment. While provisions that govern transparency, participation, and access to justice for decision making in these sectors may well be embedded in overarching environmental or administrative laws, and would therefore be considered, this cannot be guaranteed across the index.

The 24 practice indicators were scored using a variety of sources, but typically drawing from government agency websites where environmental quality data is released or environmental impact assessments may be made available. In the case that they are not available online, the researcher would contact the agency. The practice indicators are not comprehensive across the guidelines and their results do not affect the legal index scores. Rather they are presented as a supplemental set of indicators that provide key insights on whether certain environmental democracy practices can be observed. Because the practice indicators are based on information available online or at a government agency, these indicators are better able to detect the implementation of access to information than the implementation of public participation or access to justice. While WRI fully supports a more comprehensive assessment of practice or performance, conducting such an assessment was outside of the scope of the inaugural EDI.

Creating indicators from guidelines

As mentioned above, the Bali Guidelines contain more guidelines for the access to justice pillar than for access to information and public participation. Similarly, the number of EDI indicators that have been developed for each guideline varies depending on the substance of the Bali guideline. The indicators are designed to test only one discrete component of the each guideline so as to create simple, clear metrics and limit subjectivity. As an example, see guideline 1 concerning environmental information on request:

> Any natural or legal person should have affordable, effective and timely access to environmental information held by public authorities upon request (subject to guideline 3), without having to prove a legal or other interest.

The guideline is calling for environmental information 1) to be made available on request to any person as well as legal entities (as opposed to just citizens), 2) to be affordable, 3) to be provided within a reasonable time frame, 4) to be provided by public authorities (which should be considered broadly), and 5) to not require a legal or other interest. EDI therefore includes six legal indicators for this guideline—one which tests whether a law exists to provide environmental information on request and five that assess the qualities listed above (see Annex). While this method increases the number of total indicators, it allows users to pinpoint provisions which need strengthening.

Legal Indicator scoring

Nearly every indicator is accompanied by a guidance note, which typically consists of a short paragraph that defines any key terms, provides clarification, and offers illustrative examples. The legal indicators have four scoring options, ranging from zero (lowest) to three (highest). Each score is accompanied by scoring criteria which must be in place for that score to be defensible. In this way, subjectivity in scoring is limited, though not eliminated. In general, there are two types of indicators: 1) indicators that test the extent of provisions that promote environmental democracy across the range of types of environmental decision making and 2) indicators that test the strength of a given provision
in providing an enforceable legal right for the public. A score of three 3 means that the respective provision exemplifies accepted good practice. A score of 2 indicates that a majority—but not all—of environmental decision making includes a certain provision, or indicates moderately strong provision. A score of 1 translates to a weaker provision that allows significant discretion to government agencies to fulfil these rights, or that a right only applies to a minority of environmental decision making processes. A score of 0 indicates that the law is either silent or prohibits some aspect of procedural rights, depending on the indicator.

Citing the same example above, Table 1 demonstrates an indicator, its guidance, and the scoring options.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Indicator guidance and scoring options</th>
</tr>
</thead>
<tbody>
<tr>
<td>To what extent does the law provide for timely access to environmental information?</td>
<td>“Timeliness” in this indicator is a reference to the first communicated decision from the government agency to an information request. A 30-day time limit for communication of a first decision (grant or refusal) is considered timely. Time taken for internal review of the request, appeals, etc., is not to be counted. Scoring Guide: The law provides 30 days or less for the initial decision on whether to grant the request for information = 3 The law provides between 30-60 days for the initial decision on whether to grant the request for information = 2 The law provides more than 60 days for the initial decision on whether to grant the request for information = 1 The law does not set a deadline for the initial decision on whether to grant the request for information, the law is silent on this matter, or there is no law mandating access to environmental information on request= 0</td>
</tr>
</tbody>
</table>

There are some guidelines in which the score of the first indicator constrains the scoring options for subsequent indicators. This can occur in one of two ways. In the first scenario, the initial indicator may test for the existence of a broad requirement in the law with subsequent indicators testing the quality of that requirement. If there is no provision requiring, for instance, that environmental information be provided upon request, then there can be no qualities to test. In this case, all subsequent indicators must be scored zero. In the second instance, the first indicator will establish whether a provision exists and subsequent indicators will test the quality of that provision. In this
instance, if the provision is absent, or its application across environmental decision making is limited, subsequent indicator scores will not exceed the score of the initial indicator.

Practice Indicator Scoring

The practice indicators are scored qualitatively on a three point scale:

1. Yes (practice is observed in full)
2. Limited (practice is observed irregularly or partially)
3. No (no observation of practice)

Similar to the legal indicators, practice indicators are typically accompanied with guidance limit subjectivity for the researcher. Unlike the legal indicators, the scores are simply presented as sums, and not averaged. There are 4 practice indicators under the transparency pillar, 7 under the participation pillar, and 13 under the justice pillar. However, as previously mentioned, several of the practice indicators indirectly assess accessibility of information due to the method of research.

Table 2 | Example of EDI practice indicator

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Guidance</th>
<th>Scoring Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are real-time air quality data for the capital city of your country made available online by the government?</td>
<td>At a minimum, this should include: particulate matter—PM-10; nitrogen oxides—NOx; sulfur oxides—SOx; and ozone—O3</td>
<td>YES</td>
</tr>
</tbody>
</table>

Creating the index scores

EDI scores are arithmetically averaged across indicators to guideline, across guidelines to pillar, and across pillars to generate the overall country score (see Figure 1). This methodology weights the pillars equally but does not provide the same equal weighting for the guidelines and indicators. Specifically, the guidelines for information and participation are weighted more heavily than the guidelines for justice, as there are fewer of the latter. Rather than make value-laden decisions on whether certain guidelines were more fundamental than others and argue in favor of weighting one pillar over another, WRI chose to adhere closely to the structure of the UNEP Bali Guidelines and give each pillar equal weight.
Research and review process

All participating lawyers and environmental experts had at least five years of experience, though most were mid or late-career lawyers from civil society, academia, government, and the private sector.

1. National Researcher: This role is held by a lawyer native to the country who is well-versed in laws and statutes surrounding environmental democracy. The researcher was responsible for scoring the indicators, providing the sources to justify the scores, and providing relevant comments to explain the score. After completing the initial scoring, the research is submitted to the National Reviewer (indicated by the top-left arrow). This role is typically filled by a public interest lawyer.

2. National Reviewer: This role is held by another legal expert from that country who is familiar with the relevant laws and statutes. This person was independent and unaffiliated with the first. This role was often filled by senior lawyers from academia, the public sector, or civil society.

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5 The one exception to this for the first EDI was in the case of China, in which the reviewer was a U.S. born Chinese law expert.
3. **First Secretariat Reviewer:** WRI staff held this role. The Secretariat reviewer reviews the researcher’s scores and comments as well as the national reviewer’s comments. The Secretariat also provides a second review of the scores, sources, and rationale, and raises his/her own questions to the researcher. He/She then sends questions back to the researcher and reviewer to mediate between the two parties ensure quality control. In the diagram above, the wider arrow to the researcher represents the greater frequency in which questions are sent to the researcher. Each country’s indicators received at least one review by an environmental lawyer at the TAI Secretariat.

4. **Final Secretariat Review:** The TAI Secretariat staff also fills this role, although the final reviewer is never the same person as the secretariat reviewer for any given country. The final reviewer checks scoring and reviews for consistency and sends any final questions back to either the National Researcher or National Reviewer. WRI reserved the right to alter scores if the evidence provided after multiple reviews did not support the score suggested by the researcher.

The EDI assessments were conducted between April and September 2014. Laws or practices implemented since that time will be evaluated in the next EDI.

### 2013 Pilot Testing

WRI, in partnership with TAI partners, pilot tested the Environmental Democracy Index legal indicators in 2013 in 13 countries. The countries tested in the pilot study were Cambodia, Cameroon, Colombia, Ecuador, Hungary, India, Indonesia, Ireland, Kenya, Mexico, Panama, Turkey, and Uganda. Following the pilot test, WRI revised the legal indicators and developed the 24 practice indicators. An example of a practice indicator is provided below.

### Government engagement

Following the research and review process, WRI analyzed results and sent summary analysis along with the full results to government ministries responsible for implementing environmental democracy laws. WRI provided government respondents with 60-90 days to respond to the results, with the following four questions:

1. Do you agree with the summaries of the law and practice of environmental democracy in your country? Why or why not?
2. Are there any relevant national-level laws and practices that you did not see mentioned (Please consider transparency, participation and justice)?
3. What steps, if any, is your government taking to improve environmental democracy in your country?
4. Do you have any other comments?

In the event of disagreement on indicator scores, WRI consults with the participating national lawyers for that country to review the critique. If the critique is substantive and demonstrates that the indicator
merits a different score, the score may be altered until the deadline. The deadline for submitting comments for the first EDI is July 15\textsuperscript{th}, 2015.

Next steps
The generation of this knowledge, combined with engagement of government and civil society and the launch of a platform to communicate the results and methodology transparently is expected to help galvanize dialogue and policy reform at the national and regional levels. The Access Initiative network of over 200 civil society organizations and dozens of individuals, working in concert with agents of change in key government ministries, are the conduits through which this research may lead to reforms in laws and practice. The incentives for opening these decision making processes will vary by country, but could arise internally from governance reform champions, or through regional or domestic policy agenda-setting processes that have developed over several years. EDI will be reproduced every two years to benchmark national progress over time. In addition, WRI envisions methodological revisions, particularly to expand the assessment of practice, or implementation of environmental democracy laws. WRI will convene experts from government and civil society to provide input into future methodological revisions.
Access to Information

Guideline 1: “Accessibility of Environmental Information Requests”
Any natural or legal person should have affordable, effective and timely access to environmental information held by public authorities upon request (subject to guideline 3), without having to prove a legal or other interest.

Guideline 2: “Environmental Information in Public Domain”
Environmental information in the public domain should include, among other things, information about environmental quality, environmental impacts on health and factors that influence them, in addition to information about legislation and policy, and advice about how to obtain information.

Guideline 3: “Ground for Refusal”
States should clearly define in their law the specific grounds on which a request for environmental information can be refused. The grounds for refusal are to be interpreted narrowly, taking into account the public interest served by disclosure.

Guideline 4: “Environmental Information Collection and Management”
States should ensure that their competent public authorities regularly collect and update relevant environmental information, including information on environmental performance and compliance by operators of activities potentially affecting the environment. To that end, States should establish relevant systems to ensure an adequate flow of information about proposed and existing activities that may significantly affect the environment.

States should periodically prepare and disseminate at reasonable intervals up-to-date information on the state of the environment, including information on its quality and on pressures on the environment.

Guideline 6: “Early Warning Information”
In the event of an imminent threat of harm to human health or the environment, States should ensure that all information that would enable the public⁶ to take measures to prevent such harm is disseminated immediately.

Guideline 7: “Capacity Building for Access to Information” (No indicators)
States should provide means for and encourage effective capacity-building, both among public authorities and the public, to facilitate effective access to environmental information.

⁶“The public” may be defined as one or more natural or legal persons and their associations, organizations or groups.
Indicators: There are no indicators for this guideline as it relates to the provisioning of funds, personnel, etc., to build the capacity of the public and agencies and facilitate access to information. These are actions taken via annual budgets and are not related to the status of the law. This guideline is therefore not assessed or ranked in this diagnostic tool.

Public Participation

Guideline 8: “Early Public Participation”
States should ensure opportunities for early and effective public participation in decision-making related to the environment. To that end, members of the public concerned should be informed of their opportunities to participate at an early stage in the decision-making process.

Guideline 9: “Proactive Public Consultation”
States should, as far as possible, make efforts to seek proactively public participation in a transparent and consultative manner, including efforts to ensure that members of the public concerned are given an adequate opportunity to express their views.

Guideline 10: “Informed Participation”
States should ensure that all information relevant for decision-making related to the environment is made available, in an objective, understandable, timely and effective manner, to the members of the public concerned.

Guideline 11: “Due Account of Public Comments”
States should ensure that due account is taken of the comments of the public in the decision-making process and that the decisions are made public.

Guideline 12: “Public Participation in Review”
States should ensure that when a review process is carried out where previously unconsidered environmentally significant issues or circumstances have arisen, the public should be able to participate in any such review process to the extent that circumstances permit.

Guideline 13: “Integrating Public Input for Rule-making”
States should consider appropriate ways of ensuring, at an appropriate stage, public input into the preparation of legally binding rules that might have a significant effect on the environment and into the preparation of policies, plans and programmes relating to the environment.

Guideline 14: Capacity building for public participation (No Indicators for this guideline)
States should provide means for capacity-building, including environmental education and awareness-raising, to promote public participation in decision-making related to the environment. There are no indicators for this guideline as it relates to ensuring that relevant agencies have resources, personnel, training, and incentives to effectively implement public participation.
These steps are essential, but fall outside of the scope of the 2014 EDI. This guideline is therefore not assessed.

Access to Justice

**Guideline 15: “Information Request Appeals”**
States should ensure that any natural or legal person who considers that his or her request for environmental information has been unreasonably refused, in part or in full, inadequately answered or ignored, or in any other way not handled in accordance with applicable law, has access to a review procedure before a court of law or other independent and impartial body to challenge such a decision, act or omission by the public authority in question.

**Guideline 16: “Public Participation Appeals”**
States should ensure that the members of the public concerned have access to a court of law or other independent and impartial body to challenge the substantive and procedural legality of any decision, act or omission relating to public participation in decision-making in environmental matters.

**Guideline 17: “Right of Public to Challenge State or Private Actors”**
States should ensure that the members of the public concerned have access to a court of law or other independent and impartial body or administrative procedures to challenge any decision, act or omission by public authorities or private actors that affects the environment or allegedly violates the substantive or procedural legal norms of the State related to the environment.

**Guideline 18: “Broad Standing”**
States should provide broad interpretation of standing in proceedings concerned with environmental matters with a view to achieving effective access to justice.

**Guideline 19: “Fair, Timely & Independent Review”**
States should provide effective procedures for timely review by courts of law or other independent and impartial bodies, or administrative procedures, of issues relating to the implementation and enforcement of laws and decisions pertaining to the environment. States should ensure that proceedings are fair, open, transparent and equitable.

**Guideline 20: “Affordable Access to Relief & Remedy”**
States should ensure that the access of members of the public concerned to review procedures relating to the environment is not prohibitively expensive and should consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.

**Guideline 21: “Prompt Effective Remedies”**
States should provide a framework for prompt, adequate and effective remedies in cases relating to the environment, such as interim and final injunctive relief. States should also consider the use of compensation and restitution and other appropriate measures.
Guideline 22: “Effective Enforcement”
States should ensure the timely and effective enforcement of decisions in environmental matters taken by courts of law, and by administrative and other relevant bodies.

Guideline 23: “Awareness and Education about Remedies & Relief”
States should provide adequate information to the public about the procedures operated by courts of law and other relevant bodies in relation to environmental issues.

States should ensure that decisions relating to the environment taken by a court of law, other independent and impartial or administrative body, are publicly available, as appropriate and in accordance with national law.

Guideline 25: Capacity Building for Access to Justice (No Indicators)
States should promote appropriate capacity-building programmes, on a regular basis, in environmental law for judicial officers, other legal professionals and other relevant stakeholders.

Indicators: There are no indicators for this guideline as it relates to ensuring that judicial and legal institutions have sufficient resources, training, and functioning mechanisms to ensure competent, independent, and impartial judges and ombudspersons. These steps are essential, but fall outside of the scope of the 2014 EDI. This guideline is therefore not assessed.

Guideline 26: “Alternative Dispute Resolution for Environmental Issues”
States should encourage the development and use of alternative dispute resolution mechanisms where these are appropriate.
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ENDNOTES


