

SITUATION OF ACCESS TO ENVIRONMENTAL INFORMATION PARTICIPATION AND JUSTICE IN LATIN AMERICA

2004-2005



BOLIVIA • COSTA RICA • CHILE • ECUADOR,
EL SALVADOR • MEXICO • PERU • BRAZIL,
COLOMBIA • VENEZUELA

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The
 **Access**
Initiative

La Iniciativa de
 **Acceso**
en América Latina

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INICIATIVA DE ACCESO MÉXICO
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This study is based on the methodology developed by The Access Initiative (TAI)¹. The results and the interpretations presented are the responsibility of the members of the Access Initiative Latin America (Iniciativa de Acceso América Latina - IAAL) in each of the participating countries and of the Regional Coordinators of the Access Initiative Mexico (IA-Mex) and Corporación PARTICIPA (Chile).

1. TAI is a global coalition of civil society organizations created in November of 2000 in order to promote national commitments over the three Access Principles. TAI has a core team made up of the following organizations: Advocates Coalition for Development and Environment (Uganda), Environmental Management and Law Association (Hungry), Thailand Environment Institute (Thailand), World Resources Institute (USA), Corporación PARTICIPA (Chile), and The Access Initiative México (IA-MEX). There are actually more than 30 participating groups worldwide

We would like to recognize the efforts of the GLOBAL OPPORTUNITY FUND (GOF) OF THE FOREIGN AFFAIRS AND COMMONWEALTH OFFICE OF THE NATIONS OF THE UNITED KINGDOM, and their team in the BRITISH EMBASSY IN MEXICO, for offering resources for realizing this project.

Thanks are due for the support of THE ACCESS INITIATIVE, TAI, and to the PARTNERSHIP FOR PRINCIPLE 10, PP10. We are equally thankful to the ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN (ECLAC).

Lastly, we recognize and value the effort of each and every one of the people involved in the project and without whom this project would not have been possible. We are especially thankful to the participating civil society organizations from the coalitions in **BOLIVIA, CHILE, COSTA RICA, ECUADOR, EL SALVADOR, PERU, MEXICO, BRAZIL, COLOMBIA,** and **VENEZUELA,** as well as the members of their respective Advisory Panels.

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- Coaliciones de Baja California, Jalisco y Chiapas ver pag. 80.

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INTRODUCTION

Over the course of 18 months, coalitions of civil society organizations from 10 different countries carried out local studies with a common methodology in order to evaluate the current state of access to information, participation, justice, and capacity building.

The presumption of the project is simple: if citizens have the possibility of knowing the actual conditions of the environment, of expressing their opinion, and of demanding accountability in the performance of public officials, then society will be capable of preventing poor environmental management and even greater environmental damages. This is the fundamental importance of the implementation of the practice of the Access Principles and will therefore contribute to better environmental governance.

The more and the better informed a population, the better are the possibilities for participation and involvement in the design processes and implementation of public policy and development projects. Governmental environmental information is that information which is held by government authorities and that provides knowledge, data, and evidence about environmental issues and about the official agencies that protect and manage the natural capital of a nation, as well as connected problems, and even strategies for their solution. The distribution and availability of this type of information is fundamental for the populace to have an opportunity to participate in decision making processes and public policy related to the environment.

In order that this might happen, one has to assure the existence and practicality of participation mechanisms, which are the actual where and how the people would be able to express their opinion, defend their interests, call to into question decisions, and to modify policy that could impact their communities and natural surroundings. Participation, together with access to information, are enormously valuable rights that inspire the building of more just and equitable societies, societies that are conscious of and take responsibility for the imperative necessity of designing sustainable plans for their nation's development. Governments must guarantee access to information and participation on environmental questions, as these are two of the pillars that make up the base of a better informed, more participatory, and aware public.

The third pillar of access in terms of access implies that the two previous pillars will have been given value. This pillar describes access to environmental justice, of the possibility of turning to a resource of instruments and mechanisms that would permit the citizenry to look for some type of solution when they are denied access to public information or to the mechanisms of citizen participation in the decision making that affects their environment.

As well, it is necessary to consider a fourth essential element for the proper functioning of a countries information system: capacity building, as much as of the government itself as of the society in its whole, in order to make the rights to access effective.

In this study, access to governmental environmental information, to the mechanisms of participation, and to mechanisms of environmental justice, will be recognized as the Access Principles. The Rio Declara-

tion on Environmental and Sustainable Development, signed in 1992 by more than 180 governments during the Earth Summit in Rio de Janeiro, establishes in Principle 10 that:

“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 legal embodiment of these principles has become apparent in the national and international instruments that in the last years have begun to appear all over the world; particularly noteworthy is the proliferation of laws and mechanisms facilitating access to public information. In realizing this process of change in social and governmental structures, as well as in ways of thinking and acting, it is important that governments establish the necessary elements and freedoms in order to make access to information possible. At the same time, it will be necessary for society to take advantage of the legislation and begin to participate in a responsible and constructive manner in the decision making processes that affect their development as much as the environment that surrounds them. Only with this integration will it be possible to generate a mature and permanent social and cultural change.

Organized civil society now has a great challenge: to distribute, to learn, and to utilize the legislative mechanisms, to actually apply them, and in doing so to document their experiences and therefore generate knowledge and locally based decision making processes that will permit an improvement in community action in support of a healthy environment and an improved quality of life.

This current effort of 36 civil society organizations from Chile, Bolivia, Peru, Ecuador, Costa Rica, El Salvador, México, Brazil, Colombia, and Venezuela is framed in this sense. In order to make the Access Principles operational these groups coordinated the application of a methodology that evaluates the performance of their governments in these issues.

The principle results of the regional report are displayed by category according to the methodology and grouped within a general map which demonstrates a general analysis in turn of the advances and common challenges. The current legislation and diverse case studies make up the main sources of the analysis, and permits the establishment of a common base line in all of the countries that have been studied. The closing of the document describes the main conclusions and signals the strengths and weaknesses identified by the study.

To finish, appendices are included with a listing of the laws related to the Access Principles in the ten different countries, as well as a reference with all of the case studies utilized by the coalitions in order to complete the studies. The appendices are included as they were originally composed in Spanish.

We hope that this review of the actual state of the Access Principles in the participating countries of Latin America serves not only as a panoramic view, but that it is also useful in bringing about medium and long-term actions and processes. The involvement of actors of civil society, governments, academics, and the private sector, amongst others, in interpreting the results obtained in this study will help us to design, implement, and unite actions in order to contribute to a strengthening and improvement of the Access Principles that reflects both a diversity of participants and a convergence of their interests. ■

REGIONAL CONTEXT

Latin America is made up of 21 countries on the North and South American continents combined with the countries that make up the Central American archipelago of the Antilles². It is an amazing and culturally rich region that includes 525 million people that speak Spanish, Portuguese, English, French, and around 400 indigenous tongues. Three-fourths of the population lives in cities or their surroundings, which converts it into the most urbanized region in the world, although the natural resources and agriculture are very important for the economy.

In terms of biodiversity, Latin America is a highly rich and vital place because it reaches from the tropical zones to the sub-Antarctic. It has marine coasts, and it has glacier covered mountain ranges³ that ascend to nearly 7000 meters over sea level. The spectrum of vegetation in Latin America goes from tropical forest, incredibly rich in species, to the arid deserts practically without vegetation; it spans from the unique flora and fauna of the coasts, with mangroves and corral reefs, to the species varieties adapted to the high mountain ranges. Almost half of the tropical forests of the world are concentrated in the region, and it hosts 7 of the 25 richest ecosystems in the world—fully 40% of the planets' animal and plant species found in Latin America⁴. Six countries in the region (Brazil, Colombia, Mexico, Peru, and Venezuela) are considered Mega-Diverse, in that they host great numbers of endemic species.

Nevertheless, although the natural ecosystems are important sources of resources for diverse uses in local communities, the prices for these raw materials are often so low that they do not adequately contribute to local economies, which is a root of the cause for the high intensity practices that result in over-exploitation.

In this manner, when one speaks of global environmental problems, few subcontinents grab headlines like Latin America does⁵, mentioning only a few facts such as:

- The destruction of the Amazon and Lacandon forests, principally for changes in land use in order to develop agriculture and grazing activities, with the accompanying affects in global climate and losses of biodiversity.

2. Programa de las Naciones Unidas para el Medio Ambiente. Oficina Regional para América Latina y El Caribe. GEO América Latina y el Caribe: Perspectivas del Medio Ambiente 2003. México DF, 2003: <http://www.choike.org/documentos/geo2003.pdf>.

3. Banco Mundial. Regiones y Países. América Latina y El Caribe. Panorama Regional: <http://web.worldbank.org/wbsite/external/bancomundial/extspaises/lacinspanishext/0,contentMDK:20405717~menuPK:583917~pagePK:146736~piPK:226340~theSitePK:489669,00.html>.

4. Rainforest Alliance. Adopt-A-Rainforest: <http://www.rainforest-alliance.org/programs/aar/neotropics.html> and LASON Estudios Latinoamericanos Online. Espacios Naturales de Latinoamérica: desde la Tierra del Fuego hasta El Caribe. Axel Borsdorf, Carlos Dávila, Hannes Hoffert, Carmen Isabel Tinoco Rangel. Capítulo 5: Biodiversidad en Latinoamérica: <http://www.lateinamerika-studien.at/content/natur/naturesp/natur-1248.html>.

5. Comisión Económica para América Latina y El Caribe. Objetivos de Desarrollo del Milenio: una mirada desde América Latina y el Caribe. Coordinadores: José Luis Machinea, Alicia Bárcena, y Arturo León: <http://www.eclac.cl/cgi-bin/getProd.asp?xml=/publicaciones/xml/1/21541/P21541.xml&xsl=/tpl/p9f.xsl&base=/tpl/top-bottom.xsl>.

- Evident overexploitation and degradation in marine ecosystems
- The loss of three fourths of the genetic diversity of agricultural strains.
- Although the region boasts tremendous hydrological resources, they are distributed in an irregular manner and there are large discrepancies in their availability. As well, the pollution of water by industrial waste, of sewage systems, and agricultural run-off is a limiting factor in the availability of quality water.
- The growth and advance of urban stains has been particularly accelerated in the region, as the urban population grew nearly 240% between 1970 and 2000⁶.
- Urban growth has generated grave problems such as sprawl, contamination of the air, water, and soils, insecurity, and “precariousness,” all of which lower the quality of life of the urban inhabitants.
- Accelerated industrial development with out-dated technology.
- The adaptation of inadequate consumer patterns and a lack of education and of an environmental culture.

Through the long process of research in this project we found that the sensitive and common themes of these countries are diverse, as is the degree of development of environmental institutions. For example, the adequate diffusion of environmental information generated by the governments is still a challenge in various countries, whether it is that it is not distributed, because the language is too technical, or because it does not get produced by the responsible authorities. Another example is in the case of the strengthening of capacity, where there is commonly a lack of training programs in environmental material for the public officials, particularly in what is related to judges.

One of the most important challenges for the countries from Latin America is to achieve economic, political, and social development with a degree of environmental sustainability. The problem is complex but the necessity of a holistic conception, where the environment is an intrinsic element of humanity, is fundamental⁷.

The Latin American region continues moving towards scenarios that are more and more representative and democratic. In spite of the existence of great disparity in the level of development of countries in the region and even within these same countries, there also exist a great number of common characteristics such as the persistence of great social, economic, political, and environmental challenges.

Environmental issues have installed themselves on the agenda of these countries in a definitive manner, principally due to international events such as the Rio Earth Summit in 1992 and the World Summit for Sustainability and Development in Johannesburg ten years later. Although the response has been unequal and different according to the country in question, the development of institutions and instruments for working on environmental issues has lived a clear and dynamic process of growth.

6. La sostenibilidad del desarrollo en América Latina y el Caribe: desafíos y oportunidades CEPAL/PNUMA/ORPALC.

The most urgent and prioritized environmental themes, if they well have permeated the national and regional agendas, must also compete for attention, human resources and financial support with the pressing needs of all the countries of the region in confronting poverty, marginalization, mal-nutrition, violence, illiteracy, and unequal development, all results of decades of instability due to regional and national conflicts, dictatorships, foreign debt, scarcity of services, population growth, to mention a few of the principle problems that the subcontinent is facing.

Today, more than ever, the region must look to recover its ecological equilibrium and take advantage of its natural resources while guaranteeing that the well being of future generations as a consideration. The governments must develop legal instruments and strengthen the promotion, the diffusion, and the consulting of environmental information. They must develop and promote mechanisms of participation, as well as the establishment of an impartial environmental justice which is constantly more specialized, timely, and expeditious. These are the ingredients of making information, participation, and justice key elements in the establishment of holistic and sustainable environmental management. ■

THE PROJECT

The project was simultaneously initiated in February 2004 in Bolivia, Chile, Costa Rica, Ecuador, El Salvador, Peru, and Mexico (including as well three states in this country--Baja California, Jalisco, and Chiapas). The coordination was undertaken by The Access Initiative Mexico and Corporación Participa from Chile, whose staff made visits to each country in order to transfer the methodology to the participating civil society organizations.

To be able to carry out the assessments, a coalition of organizations was formed in each country, with the aspiration to put together an interdisciplinary work team.

Seven months later, in September of this same year, an Intermediate Workshop was organized in Santiago, Chile, in order to evaluate the general advances of the project. Representatives of all the coalitions responsible for the ten assessments (seven countries and the three states) were in attendance.

In June of 2005, each coalition turned into the Regional Coordination their Final report on the assessment carried out in their country (or state). These reports are the source of this Regional Report. In July of the same year the Final Seminar of the project took place in Mexico City, where information and experiences were exchanged to take advantage of collective experience with the ends of looking for niches and opportunities for continuing to work on the implementation of Principle 10 in each country.

The Access Initiative Mexico carried out their second national assessment and supervised the work of the national coalitions of Baja California, Chiapas, and Jalisco (whose results are included in an annex for the states), as well as the international coalitions of El Salvador and Costa Rica. For their part, the Corporación Participa of Chile carried out their second national assessment as well, and supervised the work of the international coalitions in Ecuador, Bolivia, and Peru.

In March of 2005, thanks to the support of the Global Opportunity Fund, the national coalitions of Brazil, Colombia, and Venezuela were integrated into the project. Their Intermediate Workshop took place in July, and in December the Final Seminar took place in Sao Paulo. The results of these coalitions have also been included in this report.

ADVISORY PANEL

The methodology of TAI requires the creation of an Advisory Panel by each coalition that should be made up of people who have recognized experience and trajectory in the subject (be they coming from academia, governments, private sector, independent, media, other civil society organizations, etc.), whose primary purpose should be to bring objectivity and certainty to the results of the research, participating constantly in providing orientation and consultation and supervising the process of elaborating the national reports. ■

METHODOLOGY

In order to assess the performance of authorities in providing access to governmental environmental information, to the mechanisms of participation, and to environmental justice, it is to say, to guarantee the Access Principles as a whole, this project is based in a methodology that was designed by the Access Initiative.

The principle procedure consists in resolving an ensemble of interrogative phrases (indicators) whose responses generate numerical values that permit an assessment of the performance of the governmental authorities, as much as in the legal framework (legislative indicators) as in the real life case studies (practical indicators), as weak, intermediate, or strong. The responses assigned to each indicator constitute a qualitative declaration in the following criteria:

FOR THE LEGISLATIVE INDICATORS

Existence.

This refers to the presence of a legal foundation that guarantees the effective exercise of the rights related to the Access Principles.

FOR THE INDICATORS OF PRACTICES

Quality

This refers to the ability and the efforts on the part of the government to generate information. What is evaluated is:

- How information is obtained and systematized.
- How the information about mechanisms of participation or the legal framework is presented.
- The regularity with which information is generated, and the fulfillment of time limits.

Accessibility

This refers to the degree to which the public is able to obtain information. What is evaluated is:

- How easy is it for the public to have access to information/participation/justice/capacity building.
- How timely (punctual and precise) is the response to petitions for information, to participation mechanisms, or judicial procedures.

The body of the indicators reviews the strengths, the deficiencies, and the general functioning of the mechanisms that guarantee the Access Principles in each agency where they are applied. They evaluate each country in access to information, to mechanisms of participation, and to justice, and specifically for environmental issues.

Figure 1 demonstrates the structure of the assessment of government performance:

WHO ARE THE INDICATORS APPLIED TO?	WHO EVALUATES THE INDICATORS?	WHAT ARE THE AREAS COVERED BY THE INDICATORS?
Legal Framework	Guarantees	Justice
	Obligations	Information
	Information Systems	
	Participation mechanisms	
Governmental Institutions	Resolutions Systems	Participation
	Institucional Capacity	Capacity Building
	Communication and Education	

FIG. 1. GOVERNMENT PERFORMANCE ASSESSMENT DIAGRAM.

STRUCTURE

Figure 2 shows a structure with the four categories of the methodology.

CATEGORY I	CATEGORY II	CATEGORY III	CATEGORY IV
Access to Information	Access to Participation	Access to Justice	Capacity Building
SUBCATEGORY			
A: LEGISLATION	A: LEGISLATION	A: CONTEXT	A: LEGISLATION
Subcategories B - E (use practical indicators in case studies)			
B. Emergency	B. Policy	B. Denial of Information	B. Government
C. Monitoring	C. Project	C. Denial of Participation	C. Public
D. Reports		D. Environmental Damages	
E. Industry			

FIGURE 2. TAI METHODOLOGY DIAGRAM

Category I. ACCESS TO INFORMATION. In the first subcategory (A) the legal frame work concerning access to information is analyzed, and the remaining four categories review the quality and the accessibility of information in specific case studies: (B) environmental emergencies; (C) water and air quality monitoring systems; (D) reports covering the state of the environment; and (E) environmental information that is generated and emitted by industry.

Category II. PARTICIPATION. The first subcategory (A) analyzes the guarantees and the rights of participation. The following two categories evaluate the quality and the accessibility of the mechanisms that promote participation in: (B) the process for elaborating and implementing policies, plans, programs, laws, and government environmental strategies and (C) the processes that accompany projects.

Category III. - ACCESS TO JUSTICE. This category analyzes the sufficiency of the national legal framework for assuring access to justice in environmental decision making. It is divided into four subcategories: the first (A) offers a frame of reference related to access to justice in each country; the following three (B - C) analyze case studies which were actually referred to a tribunal, or its equivalent, in order to resolve controversies related with each one of the three Access Principles. It is important to note that the studies from this project were the pilot cases for the TAI indicators that were applied in this category.

Category IV. - CAPACITY BUILDING. This category has three categories that evaluate: (A) the legal framework that should guarantee capacity building within the government; (B) the capacity building with government institutions; (C) the capacity building provided for the citizens. The concept of "capacity building" is described in greater detail in Chapter 4 of this report.

NOTE ON METHODOLOGY

It is important to consider that this methodology was designed in order to be applied in different countries with distinct economic development and institutional characteristics, as there are already more than 30 countries around the world that form a part of this initiative. In hoping to arrive at a universal application, the indicators are very general, though meant to establish a minimum standard for access rights.

This methodology does not pretend to compare the situations in the different countries, but rather establish specific comparative glimpses based on the countries case studies, plus the analysis of the judicial framework.

The stages of development of the research are: a) preliminary selections of case studies, b) distribution of the work, c) compilation of information, d) application of the indicators, e) building of a data base, f) processing of the results, and g) preparation of the final report.

The following table presents the scales of colors and scores used in order to reflect the results of the study. ■

Strong Government Performance	68	to	100
Medium Government Performance	34	to	67
Weak Government Performance	0	to	33

ACCESS TO INFORMATION

Information is an essential element in the development of a democratic society as it contributes important elements that permit people to orient their opinions and actions responsibly and opportu- nely. Government institutions are the principle receivers, generators, and providers of informa- tion, since they are the ones that make decisions about public policies, therefore legitimizing the role of the State.

In this category, the national coalitions of civil society organizations evaluated the quality of the environmen- tal information that society may obtain and the ease with which this information is obtained. The case studies (See Annex 1) reviewed here includes the issues of access to environmental informa- tion in environmental emergencies, systems of environmental monitoring, environmental report- ing/reports, and environmental information provided by industries.

1.A LEGAL FRAMEWORK

What did we look for?

In this subcategory the national coalitions evaluated the legal framework and the extent of the legal instru- ments for having access to environmental information, considering the existence of legislation on Freedom of Information, Freedom of the Press, and Freedom of Expression.

What did we investigate?

The applied indicators were:

TABLE 1: INDICATORS CATEGORY I, SUBCATEGORY A.

Subcategory A: General legal framework supporting access to information
1. Right to access to public interest information
2. Freedom of information acts
3. Provisions for access to "environmental information" in the public domain
4. Freedom of the press.
5. Freedom of speech.
6. Interpretation of "environmental information"
7. Provisions for confidentiality of information concerning interests of government administration
8. Provisions for confidentiality of information concerning interests of the state

What did we find?

In the following table are listed the general results obtained by country:

TABLE 2: RESULTS BY COUNTRY. CATEGORY I, SUBCATEGORY A.

Legal Framework										
	MEX	CR	SAL	ECU	BOL	CHIL	PERU	BRA	COL	VEN
The Constitution guarantees access	100	100	50	100	50	50	100	87	75	75
Special Laws for Access to Information	100	100	70	100	95	75	93	100	90	60
Specific Laws On Environmental Information	100	62	87	40	100	38	81	62	69	56

Access to information in general, and environmental information specifically, is a developed theme in the majority of the national legislatures of these ten countries of Latin America. In fact, the majority of them reported a strong legal framework according to the indicators applied in the study.

Countries like **PERU**, **ECUADOR** and **MEXICO** have established a consistent legal framework in the material, they can rely on a clear constitutional base, and there are special dispositions specifically for environmental information. The existence of special national legislation for access to information has in general terms been reported as one of the principle strengths of these nations. In each country, their legislation maintains clearly define in the law reservations and exceptions such as national security or individual privacy, consistent with the rest of their legislation.

In spite of the fact that the issue does not have an expressly indicated constitutional base, **BOLIVIA** does have secondary regulation about the right of access to information and especially for environmental information.

For their part, **COSTA RICA** has constitutional support for the access to information but lacks secondary legislation that implements the right of access to environmental information.

In **CHILE**, the right of access to information is not explicitly guaranteed in their Constitution⁸, but the secondary legislation consecrates the citizenries' access to information that belongs to public administration agencies, although there is no specific reference to environmental material

In **EL SALVADOR**, there are structures and even mechanisms concerning environmental information in the Environmental Law. The report done by the national coalition also reported that there is an almost complete control of all print, radio and television media that bring information to the public.

In **BRAZIL** the Federal Constitution of 1988 guarantees access to information that is of collective interest as part of a principle of administrative publicity, but their exist a few exceptions that are not clearly

8. As the study was finished a new 8th article was incorporated into the Constitutional Reform. If the reform did not actually make the right of access a Constitutional guarantee, it did establish the principle of publishing acts and resolutions taken by the agencies of the state.

established. In the case of specific laws about access to information, there is a federal law of administrative process that could be applied extensively and another recently passed law that regulates access to environmental information. The coalition signaled that in practice this law has not been satisfactorily implemented.

COLOMBIA reports a strong performance as the country does have laws concerning access to information. In the National Constitution there are dispositions found about access to information, but they are imprecise or have vague restrictions and exceptions.

In **VENEZUELA** the Constitution describes within constitutional guarantees the freedom of expression, and the right to information and petition which derives from the obligation of the authorities to respond to all requests. Although special laws of access to information do not exist the Organic Law of Public Administration establishes the obligation of public administrators to inform the population and consider the right of access to the records of the public administration

1.B EMERGENCIES

What did we look for?

To develop this subcategory each coalition selected at least two case studies: one a large scale emergency and the other of smaller scale. In both case studies the emergency had to have been generated (directly or indirectly) due to human activity and to have caused a significant impact on the population and/or the natural ecosystem.

What did we investigate?

The indicators in this subcategory analyze the efforts on the part of the government to systematically gather, present, and distribute the information that arises when an environmental emergency occurs (quality); as well they identify if there are mechanisms by which the public can solicit the information, and how timely is the response on the part of the authorities (accessibility). In Table 3 the applied indicators of this subcategory are presented.

TABLE 3: INDICATORS CATEGORY I, SUBCATEGORY B.

Subcategory B: Information about environmental emergencies
1a. Mandate to disseminate information about environmental and health impacts to the public during an emergency.
1b. Mandate to disseminate information from an ex post investigation.
2a. Claims of confidentiality regarding emergency reporting.
2b. Claims of confidentiality regarding ex post investigation information.
3a. Legal or regulatory requirement for the responsible party to report information to the government during the emergency.
3b. Legal or regulatory requirement to conduct an ex post investigation of an environmental emergency.
4b. Quality of information provided in ex post investigation report.
7a. Information about the emergency available on the Internet.
7b. Information about an ex post investigation available on the Internet.

- 8a. Efforts to reach mass media during the emergency.
- 8b. Efforts to reach mass media after the emergency.
- 9a. Recipients of information during an emergency.
- 9b. Recipients of information about an ex post investigation of an emergency.
- 10b. Efforts to produce a family of products for various audiences after the emergency.
- 12a. Quality of information accessible to the public during an emergency.
- 12b. Quality of information accessible to the public about ex post investigation.
- 13a. Timeliness of information disseminated to the public during an emergency.

What did we find?

Based on the indicators, the national coalitions reported general results that are shown in Tables 4 and 5.

**TABLE 4:
RESULTS BY COUNTRY. CATEGORY I, SUBCATEGORY B.**

During the emergency.																					
		MEX		C R		SAL		ECU		BOL		CHIL		PERU		BRA		COL		VEN	
		Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac
Large Scale Emergency		100	65			62	60	48	45	33	37	63	76	33	37	87	44	81	52	62	86
Small Scale Emergency		41	59	42	42	33	33	24	25	33	42	33	36	33	37	100	95	81	52	62	70

**TABLE 5:
RESULTS BY COUNTRY. INDICATORS CATEGORY I, SUBCATEGORY B**

After the emergency.																					
		MEX		C R		SAL		ECU		BOL		CHIL		PERU		BRA		COL		VEN	
		Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac
Large Scale Emergency		79	70			48	36	26	25	40	39	49	37	42	46	66	58	52	38	48	62
Small Scale Emergency		31	36	42	42	78	27	24	25	56	39	58	46	48	49	70	64	52	38	40	61

Distinct from the previous subcategory, the color yellow predominates, referring to an intermediate governmental performance. There is a strong presence of the color red, which reports a weak performance on the part of the responsible authorities. This reflects that there is no consistency between the recognized right to have access to information and the actual practice of being honestly informed in a timely manner in case of an environmental emergency.

According to the methodology, **COSTA RICA** has not recently registered any sort of environmental emergency that could be considered large-scale. As for smaller scale emergencies, the report shows that for the case study the information concerning immediate environmental and public health impacts was not available to the public. What's more, the government made few efforts, and these after the event. Since the emergency the information has been trivial, with intermediate value in both considerations of accessibility and quality of information. This even though government deficiencies were made up for by the participation of non-governmental organizations and universities that took on the responsibility of publicizing the event and its possible impacts in local newspapers, newsletters, or magazines.

The coalition in **MEXICO** reported a strong performance on the part of the government to systematically collect, present, and distribute information to the people after the large-scale emergency, due to the pollution of several beaches in Mexico, became evident. Nevertheless, in the smaller-scale emergency, the performance of the government was evaluated as average and weak, due to that the public information was made available by the media and not by the government authorities. What's more, there was no information at all after the emergency.

The case of **ECUADOR**, catches ones attention. In environmental terms it is a mega-diverse country that has solid environmental management and a strong legal framework in the realm of access to information. But according to the applied methodology, Ecuador performs weakly in delivering quality information in the case studies of environmental emergencies, as much as the smaller as the larger scale events. The national report shows that during the emergency the information was only available to those who made efforts to ask for it; there was no mass distribution on the part of the agencies of the government, and the Environmental Ministry limited itself to receiving monthly reports.

As well, in the case of **BOLIVIA** the national coalition reported an intermediate and weak government performance in developing and distributing quality information during both emergencies studied (smaller and large scale), as it was not made available to the public through any media and was managed with a great deal of reserve.

In other cases, countries such as **EL SALVADOR** presented an intermediate government performance during the large-scale emergency due principally to the ample coverage that it received, and weak performance in considering the smaller-scale emergency as it was impossible for the national coalition to review the reports done on the emergency that was studied.

PERU showed intermediate performance en terms of the accessibility of information during and after the emergency. Nevertheless, the quality of the information was evaluated as weak, particularly at the actual moment of occurrence of both emergencies.

The performance review of the government of **CHILE** in the case of a large-scale emergency turned out to be intermediate, as the information provided was not complete and did not delve into environmental impacts, or of those in public health. If it is indeed certain that there was an investigation after the emergency, the results of this study were never released.

In the case of **VENEZUELA**, the information that the public received in the initial moments of the emergency (important for reducing damages in the situation) was very basic, although it improved according to how the events were very visible to the population.

COLOMBIA reports that during the emergency information was delivered by diverse media in order to evacuate affected people and locate them in provisional housing; later the process became much slower. After the emergency there were a few isolated analyses carried out, but there was no examination or value given to causes, the impacts, or remaining threats.

If in **BRAZIL** there were no legal outlines that oblige the authorities to inform the public during and after an environmental emergency, there are diverse agencies that collect and systematize detailed information about the event that has occurred. In general, the collection of information and the completion of good quality reports are done in an adequate manner, with numerous reports that the methodology evaluates as being of good quality. Nevertheless, this process only took place during the emergency, and there is no follow up after the event concerning damages to the environment and public health. As well, the principle problem is the scarce distribution that is carried out of systematized information, resulting in that the majority of the population does not learn about the event in an adequate manner.

In all of the cases the importance of having policy, plans, and disaster prevention programs are highlighted, as well as having mechanisms for attending to contingencies

1.C MONITORING SYSTEMS

What did we look for?

This subcategory evaluates the access to information of the monitoring that is done by authorities concerning air and water quality. The indicators analyze the efforts of the government to systematically copy, collect, and distribute this kind of information (quality), as well as if the population can rely on sufficient mechanisms for gaining access to this information and data in a timely manner (accessibility).

What did we investigate?

For this subcategory the applied indicators are presented in Table 6 in order to evaluate air quality and potable water quality monitoring systems.

TABLE 6:
INDICATORS CATEGORY I, SUBCATEGORY C.

Subcategory C: Information from regular monitoring.	
1a.	Mandate to disseminate information on air quality.
1b.	Mandate to disseminate information on drinking water quality.
3a.	Mandate to monitor air quality.
3b.	Mandate to monitor drinking water quality.
4a.	Number and diversity of monitored parameters of air quality.
4b.	Number and diversity of monitored parameters of drinking water quality.
5a.	Regularity of air monitoring.
5b.	Regularity of drinking water monitoring.
6a.	Existence of database of air quality monitoring data.
7a.	Information about air quality available on the Internet.
7b.	Information about drinking water quality available on the Internet.

8a. Efforts to provide air quality data to mass media.
8b. Efforts to provide drinking water quality data to mass media.
9a. Free public access to air quality reports.
9b. Free public access to reports on drinking water quality.
10a. Recipients of air quality information.
10b. Recipients of drinking water quality information.
11a. Efforts to produce a family of products for various audiences about air monitoring information.
11b. Efforts to produce a family of products for various audiences about drinking water monitoring information.
12a. Timeliness of information about air quality available on request.
12b. Timeliness of information about drinking water quality available on request.
13a. Quality of information accessible to the public about air quality.
13b. Quality of information accessible to the public about drinking water quality.
14a. Timeliness of air quality information.
14b. Timeliness of drinking water quality information.

What did we find?

In Table 7 the average of the results that each coalition reported for their country are indicated.

**TABLE 7:
GENERAL RESULTS BY COUNTRY. CATEGORY I. SUBCATEGORY C.**

Monitoring	MEX		C R		SAL		ECU		BOL		CHIL		PERU		BRA		COL		VEN	
	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac
	Air Quality Monitoring	100	73	52	52	62	48	58	50	87	66	100	79	100	79	100	95	92	48	67
Water Quality Monitoring	94	69	69	69	56	45	50	48	72	64	35	43	35	43	64	65	72	52	59	50

The table of this subcategory shows, in general terms, an intermediate performance of the governments in the quality and the accessibility of the information generated by the monitoring systems analyzed by the national coalitions.

Not only the capital cities such as La Paz, **BOLIVIA**; San Salvador, **EL SALVADOR**; San Jose, **COSTA RICA**; Quito, **ECUADOR** and Caracas, **VENEZUELA**, have air quality monitoring systems in place. In the assessments of **MEXICO**, **CHILE** and **PERU**, the monitoring systems evaluated correspond to a city that is distinct from the capital (the cities of Toluca, Temuco, and the Provincial Municipality respectively).

Those countries such as **BOLIVIA**, **CHILE**, **MEXICO**, **PERU** and **COLOMBIA** that reported a strong government performance related to the quality of information also communicated that their systems are monitor-

ing a broad ensemble of parameters and that the assessments are carried out regularly. In spite of this, there was evidence of some reversals in specific issues, like in **PERU**, for example, where, even though it is not a typical case, up until 2002 a daily air quality report was sent to local radio stations. Now it is limited only to informing about cases of environmental emergency.

In the case of **BOLIVIA** the report signaled that the government can show good public information on air and water quality. Nevertheless, this information is presented in a particularly complex language that limits its reach within the common population.

COLOMBIA reports that a broad ensemble of parameters is evaluated for air and water quality. Nevertheless, they report an intermediate performance concerning the accessibility of the information, as the information is not accessible to the general public.

COSTA RICA as well as **EL SALVADOR**, **ECUADOR** and **VENEZUELA**, all reported an intermediate performance of their governments in offering accessible and quality information about the monitoring of air and water quality.

In the first of these countries mentioned, the data gathered in the various monitoring efforts are archived in a data base, but they are not available in electronic medium such as the Internet. Once the information is cataloged as public any person can request it, but they must complete all the procedures established by the institutions in order to obtain information.

In relation to the monitoring of water quality, only **ECUADOR** reports that the information is distributed on the Internet.

There are also differences as to which institution is responsible for the monitoring, because not in all the countries is it actually a governmental agency with that responsibility. In **EL SALVADOR** the service is provided by a private business, while in **CHILE** it is a concession which the government must regulate.

The coalition in **VENEZUELA** reports that the monitoring is carried out on a regular schedule. As is required by the established laws, diverse parameters are evaluated and there is a data base where results are managed to allow analysis of changes over time. Nevertheless, the information is not accessible to the public, as one cannot have access to the data base or the reports, which does not permit confirmation of the veracity of the data on air and water quality. In addition, the information does not appear in summary form on the Internet and the libraries do not have publications or pamphlets that carry information on the state of the monitoring resources.

In the case of **BRAZIL**, there is a marked difference between the monitoring of water and air quality. This is explained principally because the monitoring of air quality falls on a huge city, while the monitoring of water quality is accorded to the entire country. The problem in the monitoring of water quality is that it is a new system, which just began in 2005. Even if the new system does measure an important number of parameters, it has not succeeded in compiling the information from all around the country and it is, therefore, incomplete. As far as the distribution of information goes, there is a web site that contains an up to date data base and a series of materials, but upon requesting specific information by mail there was no response.

It is noteworthy that in the grand majority of the countries evaluated that there are no communication strategies designed with the purpose of carrying out a mass distribution of the results of water and air quality. As well, the media do not show interest in distributing the information, except in cases of emergency.

1.D ENVIRONMENTAL REPORTING

What did we look for?

By looking at reports elaborated by government agencies, this category evaluated how adequately and broadly the information about the actual state of the environment is made available.

In this way, the quality of the information offered by the government on the state of the environment as much as the degree of accessibility for public reference to this information was evaluated. To achieve this, the breadth, precision, and type of information provided by the authorities in environmental reports (quality) were analyzed, as well as the institutional mechanisms for distribution (accessibility).

What did we investigate?

The indicators applied in this subcategory are listed below in Table 8.

**TABLE 8:
INDICATORS CATEGORY I, SUBCATEGORY C.**

Subcategory D: State of the environment reports.	
1.	Mandate to disseminate State of the Environment (SOE) reports to the public.
3.	Mandate to produce State of the Environment (SOE) reports.
4.	Number of core data sets, indicators, and trend data sets provided in State of the Environment (SOE) report.
5.	Number of State of the Environment (SOE) reports published in the last 10 years.
7.	Volumes of State of the Environment (SOE) reports available on the Internet.
9.	Free public access to State of the Environment (SOE) reports.
10.	Efforts to produce a family of products for various audiences about State of the Environment (SOE) reports
12.	Timeliness of State of the Environment (SOE) reports available on request.
13.	Quality of information accessible to public in State of the Environment (SOE) reports.
14.	Timeliness of data in latest State of the Environment (SOE) report.

What did we find?

The results obtained by each country are described in Table 9.

TABLE 9: GENERAL RESULTS BY COUNTRY. CATEGORY I, SUBCATEGORY D.

Reports	MEX		C R		SAL		ECU		BOL		CHIL		PERU		BRA		COL		VEN	
	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac
	Environmental Report 1	100	89	0	0	64	81	0	0	49	50	91	76	81	76	75	56	75	70	78
Environmental Report 2	100	91			69	89					88	33	81	72	91	76			91	80

The fact that almost all of the participating countries have made international commitments to complete reports on the state of the environment has helped to strengthen the government practice of emitting and editing public environmental reports. This practice, already consolidated in many nations, was reflected in a number of national reports that signaled a strong government performance in terms of the quality and accessibility of the information on the countries environmental conditions.

PERU, MEXICO, CHILE, EL SALVADOR and **BRAZIL**, all reported that their governments have successfully fulfilled in a satisfactory manner their obligations to emit reports on the environmental situation. As well, they are good quality reports, which imply that the reports include diverse presentation tools such as statistics, graphics, and figures, amongst others. Also, the information is up to date and diverse reports have been elaborated in the last few years, except for the case of **BRAZIL**, which was evaluated with only two reports in more than 20 years.

PERU, MEXICO and **CHILE** also affirmed that they had carried out events with the media in order to make known the reports on the environmental conditions in these countries. Nevertheless, this is the only place in which the mass communication media were involved in the diffusion of the reports.

For their part, the review of **BOLIVIA** reported a weak and intermediate value due to that in the last few years the Ministry of Sustainable Development has not carried out the respective reports as is required by law, which is an example of the gaps that exist between the legal framework and the actual performance of the government of this country.

For this subcategory, **COSTA RICA** and **ECUADOR** reported that these countries are not carrying out government directed reports on the state of the environment. In the case of **ECUADOR** the law still does not contemplate the mandate of elaborating these reports. Upon not being able to find any kind of official report it was decided that the government shows a weak performance in making quality information on the environmental situation available in their country.

In **COSTA RICA**, despite the mandate to publish a report on the current state of the environment, there was no governmental study. The coalition therefore analyzed the report elaborated by the National Council of Rectors of the State Universities of Costa Rica and the Defense of the Inhabitants, amongst others.

For the report evaluated, **COLOMBIA** obtained a rating of strong performance for quality as well as for accessibility. The obligation to elaborate an annual accounting on the state of the environment and renewable natural resources is legislated, and several reports have been elaborated in the last several years that can be referenced in the Internet and that are also available to the public in libraries and information centers.

VENEZUELA reports a strong performance as far as the quality of information is concerned but only an intermediate performance was registered in accessibility. The analyzed reports contained an important amount of data on the tendencies of the state of the environment, there is a legal mandate to do the reports, and the quality of the information is satisfactory. Nevertheless, the reports are not available on the website of the Ministry of Agriculture, although one can obtain summary and copies that have been put together by several NGO's. It is noteworthy that one of the reports had been translated into four indigenous languages.

1.E ENVIRONMENTAL INFORMATION FROM INDUSTRY

What did we look for?

The case studies in this category were based on evaluating reports of industrial facilities on the fulfillment of their environmental responsibilities. These installations were selected for belonging to relevant sectors of the national economy (primary and secondary sectors), as much as in terms of their generation of employment as in their contribution to the Gross Domestic Product (GDP). Also considered was the impact of their activities on the environment. The reports on compliance with regulations, laws, and guidelines meant to protect the environment were evaluated to see how timely, precise, and accessible this information is.

Additionally the Pollutant Release and Transfer Register (PRTR) of the different countries were evaluated. It is important to clarify that in a few occasions the national coalitions picked distinct sectors according to the reality of each country (see Annex 1)

What did we investigate?

In Table 10 the applied indicators for this subcategory are listed.

**TABLE 10:
INDICATORS CATEGORY I, SUBCATEGORY E.**

Subcategory E: Facility-level information.
1a. Mandate to make compliance reports accessible to the public.
1b. Mandate to make Pollutant Release and Transfer Registers (PRTRs) accessible to the public.
2a. Claims of confidentiality regarding compliance with regulations on discharges of pollutants to air and water.
2b. Claims of confidentiality regarding Pollutant Release and Transfer Registers (PRTRs).
3a. Legal or regulatory requirement to report information about compliance.
3b. Legal or regulatory requirements to produce Pollutant Release and Transfer Registers (PRTRs) or equivalent.
4a. Types of compliance data reported.
4b. Production of Pollution Release and Transfer Registers (PRTRs) or equivalent.
5a. Regularity of compliance reports.
5b. Regularity of Pollutant Release and Transfer Register (PRTR) reports.
6a. Existence of a database of compliance report.
7a. Compliance reports available on Internet.
7b. Pollutant Release and Transfer Register (PRTR) reports available on the Internet.
8a. Efforts to reach mass media with information about compliance.
8b. Efforts to reach mass media with information about Pollutant Release and Transfer Registers (PRTRs).

9a. Free public access to compliance reports.

9b. Free public access to Pollutant Release and Transfer Register (PRTR) reports.

10a. Recipients of compliance report information.

10b. Recipients of Pollutant Release and Transfer Register (PRTR) reports.

11a. Efforts to produce a family of products for various audiences about compliance reports.

11b. Efforts to produce a family of products for various audiences about Pollutant Release and Transfer Registers (PRTRs).

12a. Timeliness of compliance reports available on request.

12b. Timeliness of Pollutant Release and Transfer Register (PRTR) information available on request.

13a. Quality of information accessible to public in compliance reports.

13b. Quality of information accessible to public in Pollutant Release and Transfer Register (PRTR) reports.

14a. Timeliness of compliance report data.

14b. Timeliness of Pollutant Release and Transfer Register (PRTR) data.

These indicators were divided between quality and accessibility. The first evaluates the capacity and the efforts of the corresponding environmental authorities to generate and process information on the industrial installations, while the second analyzes the degree of access the public has to this information.

What did we find?

The general results obtained after the application of the indicators is presented in Table 11.

TABLE 11:
GENERAL RESULTS BY COUNTRY. CATEGORY I, SUBCATEGORY E.

Compliance Reports																				
	MEX		C R		SAL		ECU		BOL		CHIL		PERU		BRA		COL		VEN	
	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac
Facility 1	95	58	85	51	31	25	20	45	86	36	100	65	68	57	68	63	14	37	87	41
Facility 2	95	55	83	35	31	25	23	20	86	36	100	65	31	34	33	49	0	0	44	36
Facility 3	80	51	83	35	31	25	22	18	70	44	100	65	31	34	33	51			64	39
Facility 4	95	51			31	25			86	45	31	32	37	42	52	56			81	43
Facility 5	11	34			31	25					15	11	37	42					39	36
Facility 6																			56	38
PRTR																				
Facility	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

NOTE: The industries studied in each country are listed (in Spanish) in Annex I.

In fact, in the ten countries studied, industry is obligated to present periodic reports on their environmental performance before the appropriate public agencies, the majority of the countries reported that the current environmental legislation does not oblige industry to inform the public about their environmental performance, and that no effort has been made to see that industrial fulfillment reports are made available to the media. As such, in order to have access to this kind of information one must make a formal request to the responsible authority.

It is an interesting result to note that indeed the color red (weak performance) is present in almost all of the countries; all the same, it is only **EL SALVADOR** that reports a weak performance in all of the case studies selected. Not one case study demonstrated that the industry actually had completed their fulfillment reports and therefore be within the current law. In **EL SALVADOR** there is no PRTR.

In a similar way, in **ECUADOR** the authorities revealed that the industrial installations studied do not deliver fulfillment reports, regardless of how the industries of the studied sector (hydrocarbons) should be obligated to report diverse information to the Ministry of Energy and Mines and the Ministry of the Environment about the impact that their industrial processes have on the environment, including reports on emissions and pollutant transfer. At the same time, it is noteworthy that the electronic pages of the authorities and a few of the industries are clear and accessible in terms of general environmental information, and that there is a willingness on the part of some of the industries to make information about their processes available, pending a request. In **ECUADOR** there is no PRTR as such, although the environmental authorities do demand the reporting of emissions and pollutant transfers.

The report from **COSTA RICA** gives the manufacturing industries a strong rating for the generation of good quality reports on their processes. The problem is that this information is for internal use, while the public is informed in only very general terms about environmental controls, and was totally omitted from receiving the report that is provided for the Ministry of Health. On the other hand, the tourism businesses are more accessible for providing information. In the case study of the tourism sector they were very open about offering information and help, and it was reported that their technical data referring to water and air contaminants is accessible. In reference to the PRTR, it was reported that there is still no register but that there have been efforts on the part of the government to begin to structure the register.

The national coalition from **BOLIVIA** informs that in their country the industries are obligated to present periodic performance reports to the authorities and the "Industrial Environmental Register." However, the current environmental legislation that is in force does not oblige the productive sector to inform the public about their environmental performance. In order to have access to this kind of information it is necessary to request it from the appropriate agency or environmental authority. In general, there is no diffusion of the information on the fulfillment reports.

In **CHILE** the legislation on fulfillment reports is not applied for all of the installations. The industries that were analyzed by the national coalition presented good quality information in terms of being updated and statistically precise. Nevertheless, the distribution process is fairly scarce—there is no possibility of getting the information to the mass media and there are very few connections made with local communities. **CHILE**, in spite of not having a PRTR, reports that the government is making advanced efforts in order to implement the PRTR in the country, including research, seminars, conferences, and workshops to analyze what characteristics their PRTR should have.

Almost all of the facilities in **Mexico** obtained high quality values given that the environmental authorities (both federal and state level) have made efforts to generate solid data bases on their environmental performance, especially concerning air issues. Still, the national coalition reported that accessibility indicators are noticeably lower since the studied industries do not dedicate time or resources to the distribution of the information. The indicators that obtained weaker values are those that refer to the existence of fulfillment reports on the Internet, the efforts to reach the mass media, and the opportunity or timeliness that the environmental authorities demonstrate in providing information before making formal requests. **Mexico** is the only country that already has a PRTR by law and with current regulation, with a list of 104 substances that must be reported and with the obligation to report them by substance, industrial establishment, and if the discharge goes to the air, water, or soil. With this data the Ministry of Environment developed the PRTR. The first year that industry began to formally report was 2005, in spite of having this instrument in law since 1997.

The coalition from **PERU** reports a noteworthy legal and practical advance related to the obligation of industrial facilities to report on their fulfillment of environmental law and the ability for the public to have access to this information. In general terms, the studied facilities are fulfilling the legislation and the information they are presenting is of good quality. As well, it was revealed that a few of the large industrial facilities are voluntarily elaborating reports similar to their compliance reports. Nevertheless, the information on the monitoring that is carried out is not shared with or distributed to the public, although one can have access to it by making a request to the appropriate authority. **PERU** does not have a PRTR, although incipient efforts to implement one were reported.

In **COLOMBIA** the facilities in general are not obligated to present periodic compliance reports to the government, neither are they obligated to present to the public information as to how they are affecting the environment. It remains up to the discretion of the authorities to monitor the emissions of the facilities, which happens in a random manner and not periodically, which was reflected in a poor performance in this indicator. Only with the objective of obtaining some type of permit or environmental license is an industry obliged to present a declaration of emissions—if the information is not provided or if it is false reprisals could come in the form of the suspension of activities, the closure of the establishment, or the application of daily fines. Nevertheless, there is no effort to make this information available to the public. When an industry presents high levels of pollution they should be subjected to the control programs of the environmental authorities in order to verify the fulfillment of their permits and licenses. This demands that industry carry out the monitoring and then facilitates giving the data to the environmental authorities, which lends itself to a partial management of the information by industry. Additionally, upon receiving this information, the authorities have no obligation whatsoever to make it public and instead maintain the strict confidentiality of the information, thereby evading its revelation to the public. As well, it was reported that there is no PRTR.

The coalition in **VENEZUELA** reported that is obligatory to present compliance reports and reports on pollutant transfers. These reports are done by licensed laboratories which are authorized by the Ministry of Environment. What's more, it is obligatory to present reports at least one every three months in the case of water and "at least once a year" in the case of air. This was reflected in an intermediate and strong performance, depending on each industry according to the quantity and quality of information that the facilities generate and make available to the Ministry of Environment. Nevertheless, in terms of accessibility, there was only intermediate performance by all of the industrial installations analyzed, as there is very little distribution of information in print or electronic media. Also, it was reported that a good number of the private companies lack information centers or documentation. In the case of companies with a percentage of actions held by the State, there are documentation centers, but the information that they possess tends to be limited to the economic aspects of the industry, or if they do have environmental information it is not up to date. There is no PRTR in **VENEZUELA** as such, although there several dispositions that oblige facilities to report water and air emissions.

In the case of **BRAZIL**, of the 4 facilities studied, 2 of them provided emissions reports on the Web, but these were aggregated for the sector or by corporation, and not for the specific facility. All of the industries claim to be giving their reports to the responsible governmental bodies, yet these agencies make no effort at distribution and do not have detailed reports available. In the fourth facility it was not possible to get access to the fulfillment reports, nor was any sort of response received for the information requests that were made.

While it is true that, in the ten countries studied, industry is obligated to present periodic reports on their environmental performance before the appropriate public agencies, the majority of the countries reported that the current environmental legislation does not oblige industry to inform the public about their environmental performance, and that no effort has been made to see that industrial fulfillment reports are made available to the media. As such, in order to have access to this kind of information one must make a formal request before the responsible authority.

CHAPTER SUMMARY

Table 12 presents a summary of the results obtained by each country for the first category, Access to Information.

The legislative framework and the legal instruments for access to information are developed in almost all of the participating countries. In fact, the majority of them are reporting a strong governmental performance in terms of access to environmental information specifically.

Nevertheless, there were several case studies that demonstrated the lack of consistency between the recognized right to have access to environmental information, and the actual practice of informing society in a timely and truthful manner.

In the majority of the case studies chosen for evaluating access to information during and after an environmental emergency, there is evidence of insufficient government distribution of information to the affected population. For this reason, civil society organizations, some local and national media, universities, and research centers, as well as society in general, took on the responsibility of generating and distributing information about the events and the possible environmental and human health impacts.

The indicators for evaluating governmental performance in the compilation, systematization, publication, and diffusion of environmental information that is gathered from water and air monitoring systems permit recognition for government efforts that have brought about significantly positive, yet insufficient, results. It is worth noting that none of the countries evaluated are contemplating communication strategies for the massive distribution of information on the prevailing conditions of the two fundamental natural resources for a person's adequate quality of life: water and air.

The generation and publication of reports as institutional mechanisms for information on the state of the environment is a policy well cemented in several of the participating countries. Although all have made international commitments to realize this type of reporting, in some countries it is still not happening, while all of the countries are deficient in the timing of the publication of information.

If indeed the government authorities of the ten countries studied can rely on the necessary judicial framework for obligating the industrial sector to complete periodic reports on their environmental performance, it was reported that, in the majority of cases, the current environmental legislation does not include an obligation to inform the public. Due to this, in order that any person might have access to this kind of information, they must first make a formal request before the appropriate authority. The necessity for the authorities in Latin America to adopt a more active role in the enforcement of legislation that obliges industries to report the environmental impact of their processes also stands out.

It is noteworthy that only **MEXICO** has a Pollutant Release and Transfer Register, even if such efforts are just beginning. Chile and Peru are taking the first steps in establishing this kind of system. ■

**TABLE 12:
AVERAGE RESULTS BY COUNTRY, CATEGORY I.**

MEXICO

Legal Framework	100
Emergencies	55
Water and Air Quality Monitoring	84
Environmental Reports	95
Industrial Facilities	61

COSTA RICA

Legal Framework	87
Emergencies	42
Water and Air Quality Monitoring	60
Environmental Reports	0
Industrial Facilities	62

COLOMBIA

Legal Framework	78
Emergencies	53
Water and Air Quality Monitoring	66
Environmental Reports	72
Industrial Facilities	13

EL SALVADOR

Legal Framework	69
Emergencies	47
Water and Air Quality Monitoring	50
Environmental Reports	75
Industrial Facilities	28

VENEZUELA

Legal Framework	64
Emergencies	61
Water and Air Quality Monitoring	56
Environmental Reports	76
Industrial Facilities	54

ECUADOR

Legal Framework	80
Emergencies	25
Water and Air Quality Monitoring	50
Environmental Reports	0
Industrial Facilities	22

PERU

Legal Framework	91
Emergencies	47
Water and Air Quality Monitoring	74
Environmental Reports	81
Industrial Facilities	46

CHILE

Legal Framework	54
Emergencies	51
Water and Air Quality Monitoring	68
Environmental Reports	90
Industrial Facilities	63

BOLIVIA

Legal Framework	82
Emergencies	40
Water and Air Quality Monitoring	72
Environmental Reports	49
Industrial Facilities	64

BRAZIL

Legal Framework	83
Emergencies	73
Water and Air Quality Monitoring	81
Environmental Reports	76
Industrial Facilities	51

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ACCESS TO PARTICIPATION

Participation can be conceived of as a social process whose purpose is to influence decision making that in some way is connected to the interests of the participants. Although there are diverse definitions according to the interpretation of each of the authors of this report, the substance is always the same: action in order to guarantee congruency upon the resolution of specific problems, to find common solutions, or to bring together distinct efforts in one shared action⁹. It is important to mention that the participation of individuals can be as diverse as the scenarios and the circumstances in which they might be found. Participation is considered a fundamental element for the establishment of a democratic system of government. For this reason alone the authorities should promote the necessary conditions and instruments that will guarantee the existence of sufficient channels and opportunities for its consolidation. Participation will only generate positive results for decision making processes when there is access to the information linked with these same decisions and when there is access to the mechanisms that permit society to get involved and to give meaning and order to its own initiatives.

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Participation in decision making in the countries of this study, as in many others, has had an institutional development rooted in the commitments that came out of international agreements such as the Rio Earth Summit of 1992.

To begin, subcategory A evaluated the legal framework supporting participation in environmental issues in each nation. Afterwards, subcategories B and C evaluated the actual level of participation in each stage that make up an environmental policy and a project: the design, implementation, and follow-up.

2.A LEGAL FRAMEWORK

What did we look for?

In this subcategory the national coalitions evaluated the legal basis on which participation is granted in diverse processes of decision making in each country. In this way, civil society organizations investigated if legislation grants specific guarantees, and whether or not participation is considered in general terms. Likewise, reference was made to plans and programs of government that stood out as significant for participation in environmental affairs, given that these are obligations of the authorities that offer insight as to the outline of government policy in this material.

9. Cuaderno de la Divulgación de la Cultura Democrática.

What did we investigate?

The indicators that were applied to develop this subcategory are included in Table 13.

TABLE 13
INDICATORS CATEGORY II, SUBCATEGORY A.

Subcategory A: General legal framework supporting participation in decision-making affecting the environment.	
1.	Freedom of direct participation in public matters.
2.	Public participation in drafting legislation.
3.	Public participation rules in administrative laws relevant to environmental protection.
4.	Public participation in administrative procedural law.

What did we find?

The results obtained from the specific indicators are listed in Table 14.

TABLE 14
GENERAL RESULTS BY COUNTRY. CATEGORY II, SUBCATEGORY A.

Legal Framework										
	MEX	C R	SAL	ECU	BOL	CHIL	PERU	BRA	COL	VEN
The Constitution guarantees access to Participation	75	100	50	90	75	50	100	50	100	75
The existence of special laws governing access to information	50	75	50	50	100	50	100	75	100	87
Existence of Special Laws on Participation in Environmental Issues	75	75	38	25	88	100	100	75	87	75

Similar to the previous chapter, the national studies reported relative consistency in the legislation that treats issues of citizen access to participation in environmental affairs. In this way the green and yellow colors, which represent strong and average government performance, predominate in the table of results. It is important to note that the study only looks to measure the existence of the basics required for the functioning of the judicial system in each country.

According to the applied indicators, the coalitions of **BOLIVIA, COSTA RICA, COLOMBIA, and PERU** could report that in these four countries there is a solid legal framework which is consistent from their constitutional base through to special legislation in the area of participation and specifically for participation in environmental affairs, guaranteeing that all people have the right to participate, either as individuals or in associations, in the political, economic, and cultural life of these countries.

The national coalition from **MEXICO** reported a relative developed legislation, but with a certain inconsistency. The constitutional base is rooted in the recognition of minimum liberties of thought and association, of a republican form of government that is free and democratic, and even of a right to petition. Nevertheless, the special legislation that regulates participation in general lacks rules and regulations, which makes effective implementation impossible. As well, it establishes that the President, the members of congress and the Senate, and the State Legislatures as the only figures with the capacity to create a law.

On the other hand, the reports generated by the coalitions in **CHILE, ECUADOR, BRAZIL, and VENEZUELA** also described average development of their legal frameworks. In **CHILE** there actually is no law that assures citizen participation in public administration, although a proposed law did recently get introduced in their National Congress. Meanwhile, in **ECUADOR**, the rules of administrative procedure do not regulate public participation and the Law of Environmental Management only does it in a broad manner without establishing specific procedures that permit participation in environmental decision making. In the case of **VENEZUELA** the laws that regulate special issues in environmental material do not possess established mechanisms to make participation and follow up on environmental decisions possible.

The study completed by the coalition in **EL SALVADOR** affirmed that the Constitution does not establish direct citizen participation, limiting this only to public officials. The municipal code expresses in general terms a mechanism for community participation known as the "open lobby" (*cabildo abierto*) which is not applied to the same intensity and effectiveness in all municipalities.

2.B ACCESS TO PARTICIPATION IN PUBLIC POLICY

What did we look for?

Policies and *Strategies* are terms that one can use to refer to a broad assortment of declarations of intent, or to a large number of measures that orient the public agenda and the decision to structure a variety of them. *Plans* and *Programs* identify options for carrying out these policies, and *Legislation* sets rules in order to execute them.

If it is likely true that in doctrine we can find clear definitions and distinctions between the aforementioned terms, in practice each country applies a specific understanding. As such, what in some countries might be understood as a *Plan* others conceive of as a *Strategy*. Due to this the table that describes the general results presents all of the options evaluated by the different participating countries.

What did we investigate?

In this subcategory the indicators that guided the assessment are presented in Table 15. These measured the amount of participation that the authorities promoted.

TABLE 15
INDICATORS CATEGORY II, SUBCATEGORY B.

Subcategory B: Participation in national or sub-national decision-making on policies, strategies, plans, programs or legislation.	
1.	Lead time for notification of draft policy, strategy, plan, program, or legislation.
2.	Quality of information supporting participation in policy, strategy, plan, program, or legislation.
3.	Existence and availability of policies, strategies, plans, programs, and laws at public registries/records.
4.	Timeliness of notification of intent to develop policy, strategy, plan, program, or legislation.
5.	Timeliness of communication of final policy, strategy, plan, program, or legislation.
6.	Communication tools used to disseminate policy, strategy, plan, program, or legislation.
7.	Communication of draft policy, strategy, plan, program, or legislation to marginalized socioeconomic or cultural groups.
8.	Degree of external consultation in defining the parameters or scope of policy, strategy, plan, program, or legislation.
9.	Comprehensiveness of consultation at drafting stage of policy, strategy, plan, program or legislation.
10.	Consultations held with marginalized socioeconomic and cultural groups on policy, strategy, plan, program, or legislation.
11.	Duration of public comment period for policy, strategy, plan, program, or legislation.
12.	Public participation in implementation and review of policy, strategy, plan, program, or legislation.
13.	Timeliness of information given to the public about outcomes of consultations in development of policy, strategy, plan, program, or legislation.
14.	Incorporation of public input in design or implementation of policy, strategy, plan, program, or legislation.

What did we find?

Based on the appropriate indicators, the coalitions reported the results that are described in Table 16. It is worth mentioning that in this subcategory the variety of interpretations about what in each country one understands to be a policy, strategy, plan, or program in terms of the construction of public policy does make it difficult to compare or homogenize the results.

TABLE 16
GENERAL RESULTS BY COUNTRY, CATEGORY II. SUBCATEGORY B.

	Policies																			
	MEX		C R		SALV		ECU		BOL		CHIL		PERU		BRA		COL		VEN	
	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac
Policy							95	98	69	89	32	52			64	56	76	80	44	50
											81	76			71	91				
Program	36	37			55	42					32	52					48	56	95	79
Legislation	82	84	79	79					93	95	36	71					52	69	65	65
Plan	41	41			54	59	96	98	96	89			57	42			86	95	80	79
Strategy			86	86			95	89	96	89			63	66	60	51			41	65
			74	74																

With the exception of the two specific exceptions in **CHILE**, all of the case studies reported an intermediate or strong performance on the part of the governments of the studied countries. The specific case in which a weak government performance in **CHILE** is due to the design of the Policy studied in that country, where there was no kind of public notification about its development, nor the final decision, nor was there any kind of public consultation with the ends of being able to introduce modifications in response to specific concerns. What seems to be happening in the formulation process of the public environmental policies reviewed is that, even if there is actually some type of participation, there is no legal obligation to allow it. It then remains to the discretion of the authorities to develop participation processes.

The report generated by the coalition in **ECUADOR** attracts attention due to strong performance score of the government as much as in quality as in the accessibility offered to participate in the Policy, the Project, and the Strategy that were evaluated. In fact, all of the decisions made and then transformed into policy and strategy for the protection of biodiversity were studied and worked at dialogue table with the participation of practically all of the involved sectors.

Reviewing the study of **BOLIVIA** it is interesting to know that there was broad participation for almost all the interested sectors in the creation process of the law that was studied (Law No. 1715). From the origin of the law, through its approval and eventual modifications, sectors interested in land issues such as small rural land owners, the government, companies, international cooperation agencies, and researchers were all involved. Nevertheless, the report signals that actual situation is a bit distinct, that in fact a culture of rejection of participation tends to predominate, including the lack of knowledge about which were the representatives that in the moment supported and agreed on the approval of the law.

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On the other hand, it was reported that during the process of the reform of National Water Law in **MEXICO** the government organized diverse forums for public consultation, and the result was significantly positive. In this context, accessibility was given a strong rating.

The national teams from **PERU** and **EL SALVADOR** reported intermediate government performance. In both countries there was a lack of communication strategies, since even if there was notification this was limited to the Official Dailies, avoiding publication in non governmental public media that has greater reach. Likewise, the consulting processes were limited to meetings and regional workshops in the areas of interest, but there was little communication or effort to consult marginalized cultural or socioeconomic groups. What is more, it was reported that the authorities do not facilitate opportune participation either in timeliness or the number of actors involved. Due to this, the few open discussions were promoted by diverse organizations and not because the government was promoting participation.

The coalition from **COLOMBIA** considered cases related with the identification of global guidelines for the definition of management policy for the protection of reserves and protected areas, where there has been a tremendous advance in the involvement of diverse interest groups along with the articulation of regional and local agendas in the national public policy. Nevertheless, the practical implementation is completely dependent on public will or secondary to security concerns, due to the specific conditions of conflict that continue in the country.

In **VENEZUELA**, the issue of participation is the corner stone on which the system of government rests. Nevertheless, there are disparities in the correct performance of participation, which could be attributed to factors such as the level of commitment to the legal framework by public officials. Other factors

are the possibility of having efficient work tools for carrying out the programs, and the degree of credibility that representatives of the government agencies have with the public.

The report from **BRAZIL** signals that there are large differences in the way society is involved in the decision making process. In the processes that are lead by the Ministry of Environment the participation is good, while in other sectors participation practically does not exist. If indeed the processes studied are developed in an adequate manner, there are problems in how information is presented to the community and how it is insufficient for allowing informed participation. As well, there is no effort to broaden the number of people that participate in the processes, and neither is there a significant distribution of the results of the processes the only government effort consists exclusively of publishing the approved policy in the Official Daily.

2.C ACCESS TO PARTICIPATION IN PROJECTS

What did we look for?

This subcategory evaluated whether the public generally has the opportunity of participating in the decision making for environmental management projects.

What did we investigate?

The indicators applied in this subcategory are described in Table 17.

TABLE 17
INDICATORS CATEGORY II, SUBCATEGORY C.

Subcategory C: Participation in project-level decision-making.
1. Lead time for notification of draft project documents.
2. Quality of information supporting participation in project-level decision-making.
3. Existence and availability of local permits and other project documents (e.g. concessionary agreements, contracts) at public registries/records.
4. Timeliness of notification of intent to approve project-level development activity.
5. Timeliness of communication of final project decision.
6. Communication of information about draft project-level decisions to marginalized socioeconomic or cultural groups.
8. Degree of external consultation in defining the parameters or scope of the project.
10. Consultations on project-level decisions held with populations potentially affected by proposed project.
11. Duration of public comment period for project-level decision.
12. Public participation in renewal, extension, modification, or termination of project-level decisions.
13. Timeliness of information given to the public about outcomes of consultations used in project-level decision-making.
14. Incorporation of public input in project-level decision.
15. Degree of participation by affected parties or public interest groups in implementation of decisions on project-level activity.

What did we find?

The general results obtained are shown in Table 18.

TABLE 18
GENERAL RESULTS BY COUNTRY. CATEGORY II, SUBCATEGORY C.

Projects	MEX		C R		SALV		ECU		BOL		CHIL		PERU		BRA		COL		VEN	
	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac	Q	Ac
	Project 1	32	47	57	57	36	47	18	15	85	70	63	81	65	54	51	52	50	68	47
Project 2			64	64	32	37	14	12			78	90	66	59	55	40	44	51	65	70

According to the results table, there is great diversity in the values assigned to government performance in participation for the projects reviewed.

Contrary to the previous subcategory (Participation in Public Policy), the report elaborated by the national coalition in **ECUADOR** assigned a weak value to government performance in both projects, given that in the best of the cases there was only a call to participate in the print media for those who were interested in sharing their opinion. There was no organization of any workshops or public consultations. The report also signaled that it was the civil society organizations that promoted the participation of populations near the construction.

The performance of the governments in **BOLIVIA** and **CHILE** to offer access to information is the best rating of the coalitions from these countries, with predominantly strong scores. This score was assigned based on the documentation required by the authorities in order to obtain the corresponding operation permits. In the report from **CHILE**, it was affirmed that, in both case studies, information on the comments received in the framework of the consultation process was delivered to the public within a two month period after the decision. The received observations were mentioned in the "Resolutions of Environmental Qualification" of both projects. It is worth mentioning that the report showed that the environmental authority carried out planned and systematic efforts to consult the potentially affected communities.

The government performances in **MEXICO**, **PERU**, **EL SALVADOR**, **COSTA RICA**, **COLOMBIA**, **BRAZIL**, and **VENEZUELA** were given a predominantly intermediate value for the cases analyzed by the coalitions of each country. Nevertheless, each country has distinct reasons for its score.

MEXICO reported problems such as the lack of a register of convocations or of specific participation in the redesign of projects, as well as the absence of mass diffusion and the scarcity of information being provided to the public.

In **PERU** an intermediate value was assigned to government performance due to that insufficient information was provided to the population throughout the consultation process. It is important to note that the mining company involved did make use of a series of communication and consultation tools with

the goal of explaining the advantages of the project to the population. Additionally, information was placed on the web page of the company, and there were institutional videos, trainings, work shops, and public forums in the process.

For their part, in **EL SALVADOR**, despite the intermediate government performance score given by the national coalition, it was recognized that the best information content in both case studies was based on investigative journalism since it was impossible to establish a fluid level of communication with the responsible authorities.

The study from **COSTA RICA** reported that the performance of the government received intermediate scores given that information, according to the sources interviewed, was accessible and there was no kind of obstacle to obtaining it from the state agencies. All the same, in the second of the case studies a weak accessibility to information score was recorded, due to the resistance of some authorities to share information about the negotiation of a concession contract related to the selected case study and that the information included in electronic media was relatively bare.

COLOMBIA reported two cases that represent situations where if indeed the established consultation mechanisms were applied, the manner in which they were implemented was less than optimal, whether it be for the sensibility of the issue of oil extraction or for the interests that derive from this. In one of the cases the consultations were carried out and the communities showed their opposition, but in the end their opinions were taken into account. In the other case, if they did actually follow the participation mechanisms not much was done to really extend their reach. The communities, for the large part indigenous and isolated, did not have any opportunity to learn about the project, nor about the steps and phases for participation.

In **BRAZIL**, as in the previous category, the obstacles that are put in the way of participation are related to the quality and quantity of the information that is given to the community, especially those who are most affected by the project. Neither are there efforts to broaden the number of people who are invited to participate, to have easy access to the decision that is made about the project, or to have details on how the citizen opinion is considered in the decision making process.

VENEZUELA reports two cases with predominantly intermediate results, where paradoxical results were found in spite of the existence of legal frameworks that respect participation. In the first, a mining concession was granted without taking into account the indigenous and local communities that actually live in the zone in question in the elaboration of the project, resulting in the mobilization of social actors in favor of a solution based on the law. On the other hand is the exemplary case of community based forest management, where the opinions of the involved communities are taken into account.

A recurring theme in a variety of the evaluated cases, and that is documented in this report, is that the population was never informed as to whether or not their comments were incorporated into decision making.

CHAPTER SUMMARY

Table 19 presents an average of the results obtained for each country for Category II Access to Participation.

In general terms, various national studies report consistent legislation that contemplates the basic minimum requirements for citizen access to participation in environmental affairs.

In a complimentary way, the majority of the case studies coming from the ten countries showed evidence of an intermediate or strong government performance. Nevertheless, it is important to note the necessity of informing citizens as to whether or not their comments are incorporated into the final documents.

Some countries reported congruency between the legal structures that guarantee access to the mechanisms of participation with the real levels of participation that are occurring. Other countries reported that the political culture of public administration seems to have not yet assimilated the importance of promoting and organizing the public as a fundamental requisite of strengthening a democratic and representative decision making regime. What is more, diverse public sectors persist in demanding a broadening of the spaces for participation in decisions that have environmental ramifications.

It is important to note that participation in environmental issues has been erroneously limited to public consultation, and that the whole process that participation implies—the design, the implementation, the follow up, monitoring and assessment of policy for instance—has not been considered

As well, the majority of the countries report that the opportunity to participate happens too late, since it happens in the final phase of the decision making process, when implementation is already being initiated, making it difficult to incorporate the contributions of society.

Also, it was noted in the majority of the cases that the marginalized and indigenous populations are the most excluded from the processes of participation since the activities in general do not produce materials in their languages. ■

TABLE 19
AVERAGE RESULTS BY COUNTRY. CATEGORY II.

MEXICO

Legal Framework	67
Policy	
Program	37
Law	83
Plan	41
Estrategia	
Projects	39

COSTA RICA

Legal Framework	85
Policy	
Program	
Law	79
Plan	
Strategy	88
Projects	64

VENEZUELA

Legal Framework	79
Policy	47
Program	87
Law	65
Plan	80
Strategy	53
Projects	60

COLOMBIA

Legal Framework	96
Policy	78
Program	52
Law	60
Plan	90
Strategy	
Projects	54

EL SALVADOR

Legal Framework	46
Policy	
Program	58
Law	
Plan	48
Strategy	
Projects	35

ECUADOR

Legal Framework	80
Policy	97
Program	
Law	
Plan	97
Strategy	92
Projects	18

PERU

Legal Framework	100
Policy	
Program	
Law	
Plan	50
Strategy	65
Projects	61

CHILE

Legal Framework	67
Policy	60
Program	42
Law	54
Plan	
Strategy	
Projects	78

BOLIVIA

Legal Framework	88
Policy	92
Program	
Law	94
Plan	92
Strategy	92
Projects	78

BRAZIL

Legal Framework	67
Policy	70
Program	
Law	
Plan	
Strategy	56
Projects	50

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ACCESS TO JUSTICE

In any judicial system a series of actions will be stipulated that are recognized to cause damage to a specific person, whether it be to their property or to their rights. In the case of an action that results in damages to society, to the individuals that are a part of it and, in some occasions, to the environment that surrounds them, there are judges, tribunals, and an entire jurisdictional system that can resolve controversies, and in some cases impose sanctions and penalties. The obtainment of justice is one of the most important tasks of environmental management. Environmental justice is one of the greatest expectations of society, as much as in the availability of and access to judicial procedure and instruments that permit the defense of their environmental rights, as is in the prompt and expeditious solution of controversies coming from violations of environmental legislation.

Access to environmental justice is a critical component of social participation in decisions that can affect the environment, as well as being one of the three pillars of Principle 10 of the Rio Declaration.

For this chapter, the national coalitions reviewed and evaluated the national legal framework in material having to do with access to justice in environmental issues, with the goal of identifying the existing conditions for citizens that desire solutions to a controversy. In this way, the guarantees of recurring to a tribunal for parties with a grievance were reviewed. It is important to signal that for the purpose of this study that tribunal is understood to be whichever judge, supervisor, arbitrator, or any other authoritative body that can resolve the conflict or offer the right of protection required or solicited. The requisites for exercising a legal action and the judicial body required were reviewed, as were the performance and capacity of the “tribunal” (or forum that has functioned as such), the time frame, the development of the process, the results, and the extrajudicial factors that might have influenced the process.

For this category the general context of access to justice in the country is presented first, to be followed by an analysis of the judicial instruments applied in three practical studies of cases where there had been a denial of access to information, a denial of access to participation, and a case where there had been environmental damage due to human activity.

3.A ACCESS TO JUSTICE

For each of the ten national studies that make up this project, the first part of the chapter on Access to Justice was designed to provide a reference point about the system of imparting justice in each country, particularly on environmental issues. The studies report on whether or not there are courts specializing in environmental issues, if there are environmental violations that are specified in penal legislation (penal penalties), or if there are possible administrative violations. As well, the training available for judges is reviewed, as are the types of penalties applied in each country, amongst other aspects.

3.B DENIAL OF ACCESS TO INFORMATION

What did we look for?

In this subcategory the national coalitions analyzed controversies arising from the denial on the part of some authority to deliver environmental information that had been requested.

What did we investigate?

The indicators that were used in this category are presented in Table 20. They all are based on a common question that was formulated according to the specific issue of the case study. It is important to note that the indicators were specifically developed for this chapter, and that they were applied for the first time in generating the ten national studies that make up this project.

TABLE 20
INDICATORS CATEGORY III, SUBCATEGORIES B C AND D.

Subcategory	Law Indicators
Trigger	1. Under applicable provisions of law, should it have been possible to raise a claim against relevant party in this case type?
Standing	2. Under applicable provisions of law, who could have brought a claim in this case type
Forum	3. Is there a forum capable of issuing binding decisions on the relevant issue that could require specific actions (including forbearance) or payments by the responding party
Process	4. Does the forum welcome amicus briefs from non-parties to the dispute?
Appeal	5. Under applicable provisions of law, if relief is denied or is inadequate, can the claiming party seek review by or appeal to a separate forum capable of reversing the decision and granting the relief sought?
Subcategory	Practice Indicators
Trigger	6. Was it possible to raise a claim against a relevant party in this case?
Standing	7. Who was able to bring a claim?
Forum	8. Was the forum independent and impartial? 9. Did the forum have capacity / training (knowledge / experience) that could influence the quality of the decision? 10. Was the forum accessible (in terms of geography, timing, language, etc.)?
Timing	11. Was the claim processed in a timely fashion? 12. Was the claim resolved in a timely fashion?
Standards	13. Was there an adequate legal and factual scope of review?
Process	14. Was the process fair and equitable? 15. Was the process transparent? 16. Was the process open to and driven by demonstrable evidence, sound technical data, and generally accepted scientific principles? 17. Were the parties to a process able to gain access to information and conduct fact finding relevant to the issues at issue? 18. Did the forum welcome amicus briefs from non-parties to the dispute?

Outcome	19. Was a remedy provided which addressed the concern raised in the case? 20. Was the decision based on the applicable law and adequately reasoned? 21. Was the reasoning for the decision published and explained in writing or in some other public manner? 22. Did the forum issue a binding and enforceable decision directed at relevant parties? 23. Was there any provision for monitoring compliance?
Appeal	24. If relief was not granted, or was deemed inadequate by the claiming party, was the claiming party able to seek review by or appeal to a separate forum capable of reversing the decision and granting the relief sought?
Extra-judicial mechanisms	25. If the case involved a formal judicial process, was there an alternative, non-judicial forum used or available?
Extra-judicial factors	26. Was cost or financial capacity a barrier to justice? 27. Did public awareness of the underlying problem, the claim, the process or the result play a role in the outcome? 28. Did social, cultural, economic or political factors (such as, for example, ethnicity, gender, class, or political affiliation) influence the conduct or outcome of the case?

What did we find?

In Table 21 the results obtained by each coalition for subcategory B are indicated.

TABLE 21
GENERAL RESULTS BY COUNTRY. CATEGORY III, SUBCATEGORY B.

Denial of Information										
	MEX	C R	SALV	ECU	BOL	CHIL	PERU	BRA	COL	VEN
Legal Framework										
Trigger	100	100	20	100	100	100			66	100
Standing	100	100	40	100	88	100			66	60
Forum	100	100	20	50	88	100				100
Process	20	100	20	100	33					20
Appeal	100	100	20	100	100	100				60
Case Studies										
Trigger	100	100	20	100	100	100			66	100
Standing	100	100	20	100	100	100			66	60
Forum	80	87	47	67	84	92			58	87
Timing	100	90	70	33	88	75			34	40
Standards	100		20	75	100	100				20
Process	67	100	25	56	85	94			34	48
Outcomes	80	80	26	0	67	75			33	76
Appeal			20	56	100	100				47
Extra-judicial mechanisms	20	100	20	33		0				20
Extra-judicial factors	73	20	60	56	75	67			67	73

In the results table there is a strong presence of the color green, representing strong governmental performance, which allows us to corroborate that, of the three pillars that make up the rights of access, the issue of access to information is the most developed by the national judicial systems.

The coalitions from **PERU** and **BRAZIL** reported that they were unable to complete the case study in this material due to the lack of records and reliable data. Nevertheless, in their national study, **PERU** reports that in the case of denial of access to information it is possible to present the legal step known as *Habeas Data*. In order that this action might proceed, the plaintiff is required to have made an earlier claim, by means of a letter with clear dating, to which the authorities will have not responded within ten working days in delivering either the information or other response.

In countries like **COSTA RICA**, **CHILE**, **MEXICO** and **BOLIVIA** the national coalitions reported a strong government performance, although each country recorded specific peculiarities.

The coalition from **COSTA RICA** reported that the legal framework applicable in first requests to resolve a denial to access to information is detached from the Constitution. Like in many countries, first one must exhaust the administrative route, and if no response is obtained the case passes to the judicial level. During the review of the case there was no problem of accessibility due to geography, language, or of expediency. The suit was processed and resolved in a timely manner. Throughout the process, the Tribune performed in a transparent, impartial, and independent way, staying close to legislation and at the margin of any external factors. The review signaled that the Tribune in **COSTA RICA** limits itself to making judgment and insuring that involved parties are informed, but does not contemplate the possibility that this information may be divulged to the public by any means. The decisions coming from the Constitutional Hall are binding to the parties and their execution is obligatory. The study of **COSTA RICA** is the only one that reported alternative mechanisms for the resolution of conflicts over the denial of information, by being able to resort to an ordinary or summary administrative process, or even a complaints process before the same administration of the challenged institutions, in order to insure that the responsible department or official emits the solicited response. The Law of Alternative Resolution of Conflicts can be applied in any judicial or administrative request if the parties determine necessary. As well, there is the possibility of resorting to the "Defense Council of Residents."

The study from **CHILE** indicates that any interested person can request information from administrative bodies. In fact, the Law 19.653 on administrative integrity specifically regulates a jurisdictional action of protection of access to information that must be directed against the head of the administrative service that denied the access to information. The decisions of the Chilean Justice Tribunals, as the definitive execution of sentencing, have the character of judgment taken and are binding, that is to say that they must be completed by the parties under sanction by legal public force. In the case studied by the coalition of this country the procedural legitimacy was broadly recognized, and there was no questioning the standing of the representative of the civil society organization. Likewise, there were no reasons to doubt the impartiality of the tribunal. If it is true that it was recognized that the judge was unfamiliar with the issue before taking the case, in the hearings the judge studied and came to understand the material and established valuable precedent with this action. As well, it was reported that the case was processed and resolved in an opportune manner. Nevertheless, in the concrete case, 10 months expired between the filing of the demand and the sentence of first request, with the result being that the final delivery of the documents requested happened after three years of waiting. In this case it was considered that there was an adequate review of fact and law, and that reparations did occur, in that the information was ultimately released.

Nevertheless, if the result had been different, the plaintiff would have had the right of appeal. The report establishes that there are no alternative or extrajudicial mechanisms as a formal means to achieve reparations.

An essentially strong government performance in offering access to the system of conflict resolution by administrative means in case of having been denied the right of access to information was reported in the **MEXICAN** case. The special legislation for the access to public information was reported as an innovative instrument in terms of access to justice, given that any individual has a guaranteed right to file a recourse of administrative review of the decision to not turn over solicited information, though with particularity of being able to present the recourse to an autonomous institute (IFAI—Federal Institute of Access to Information) especially created in order to guarantee access to information without the necessity of securing standing. The national report suggests that the issue of access to information is a priority for the actual administration of the country, which provides enormous strength to the IFAI for giving obligatory character to its resolutions for the entire Federal Public Administration. Though this is reported as a great advance, it was also reported that the IFAI lacks a specialized office for environmental issues. The national coalition reports that in spite of the great advances of the Transparency Law, this does not support from third parties¹⁰ (*amigos curie*) during the recourse of review. Similar to the majority of the national reports, the report from **MEXICO** details that no kind of alternative mechanism exists for the resolution of conflicts, whether recognized by law or proposed by the involved parties in the case study.

The national coalition from **EL SALVADOR** reports that there are no tribunals (from the judicial branch) that are specialized in material of access to information that can emit binding decisions. Due to this, the case study reviewed was referred to the Contentious Administrative Recourse contemplated by the environmental legislation, in order to directly access information contained in the selected environmental impact studies held by the Ministry of Environment and Natural Resources. The national study reported a weak government performance in almost all of the fields that measure access to the judicial system concerning issues of access to information. The report explained that the analyzed case was not admitted, and therefore the solicited information was never provided. It is noteworthy that, according to the report, no information was offered to the general public, or to the involved parties, as to what were the concrete reasons for why the tribunal decided against the request. Another important aspect revealed by this study is that it is impossible to appeal to another tribunal in the Salvadoran Justice system, as no other legal option exists. As was reported in most of the region, normally one has to prove the loss of patrimony or damage to private property in order to be able to sue before the Judicial Tribunals, given that there is still no specific legislation that permits ruling on the deficiencies related to hiding or denying information from the public.

The study from **ECUADOR** informs that the actions linked to resolving a denial of the right of access to information does not makeup part of the common practices in the country, and even less so in issues related to environmental problems. The only possibility that the legislation considers in order to guarantee this access is the recourse of *habeas data*¹¹, and the special action of access to information that was just recently created. This same judicial figure (*habeas data* or protection in material of information) turns out to be the most adequate for the indemnification of alleged violations of the right in Venezuela, with the characteristic of being an extraordinary and eminently judicial ac-

10. This is of particular relevance in affairs related to the environment due to the complexity of the issue, because the contributions of experienced people in the material can be extremely helpful in making decisions.

11. Regulation that has the purpose of protecting the rights of people from abuse or intervention that can affect them and that are based on the manipulation of information. Particularly it protects the rights of privacy and the image of a person

tion. In this country, the legislation permits an appeal of the decision, always and when it has been emitted by a tribunal of first request. Besides, there is no kind of alternative mechanism for conflict resolution recognized by law, to the extent that there is a prohibition on using mechanisms of repair between the parties¹².

In the case of **BOLIVIA**, the coalition reported that any person can present a request for information and it is not necessary to be accredited by any type of standing to apply for information of public nature. Still, though, in the requests for information in the studied case, the result of the requirements was incomplete. The opportunity of recourse was given a high score, since the public exposition phase was a topic of objection and will therefore be realized another time, without any costs for the involved parties.

The study presented by the coalition from **COLOMBIA** reports that the absence of application of the mechanisms for early information and for consultation means that the country received a low score for the behavior of the tribunals, for opportunity, and for the other elements that the TAI methodology evaluates. All the same, citizen capacity has been elevated in order to reclaim justice and has therefore achieved a kind of advancement.

3.C DENIAL OF ACCESS TO PARTICIPATION

What did we look for?

In this subcategory the national coalitions analyzed controversies that arose from the denial of the right to participate in a decision making process for environmental issues.

What did we find?

Using the indicators previously listed, the coalitions from each country generated the following results that are indicated in Table 22.

The results obtained in the first five themes relating to the legal framework show a strong presence of the color green (with the exception of **EL SALVADOR**), which reflects solid legislation. Nevertheless, the results coming out of the analysis of the case studies show that there is not always consistency between what the legislation implies and the practice of the authorities that have responsibility for resolving conflicts of interest.

In the case of **MEXICO**, the national coalition reported that the applicable legislation for the case study permitted the use of recourse to administrative review as a means for making claims concerning the denial of participation in the establishment of an environmental regulation. The report signaled that the applicable legislation offers a restricted procedural legitimacy upon the establishment of requisites in order to be able to file a complaint, such as being a member of the affected community. Likewise, due to its administrative nature, this recourse must be filed directly before the authority that emitted the challenged resolution—who in turn refers the case to their hierarchical superior for definitive resolution. According to the results obtained by the coalition, the judicial reasoning for the resolution of the controversy was merely procedural, without any specialized perspective in environmental law. This was reflected in the prohibition of the participation of civil society organizations in the analyzed process. As in the previous subcategory, the report underlined that there was no possibility of using alternative and/or informal means in order to resolve the conflict between

12. Article 25 of the Law "Amparo": "all forms of arranging the dispute between parties are excluded from the constitutional procedures of "amparo."

the parties. The national report notes that the legislation in **Mexico** foresees that, in the case of administrative recourse that is not favorable for the party that uses it, it is possible to file protective suit before federal judicial tribunals for considering the violation of constitutional guarantees.

TABLE 22
GENERAL RESULTS BY COUNTRY. CATEGORY III. SUBCATEGORY C.

Denial of Participation										
	MEX	C R	SALV	ECU	BOL	CHIL	PERU	BRA	COL	VEN
Law Indicators										
Trigger	80	100	20	100	100	100		0	66	100
Standing	60	100	40	100	75	50			66	60
Forum	100	100	20	100	100	100		75		100
Process	40	100	20	50	33			75		20
Appeal	100		20	75	67	100		75	66	60
Case Studies										
Trigger	100	100	60	100	100	50		75	66	100
Standing	20	100	100	75	75	25		75	66	40
Forum	67	93	53	75	75	67		33	72	53
Timing	100	20	30	88	63	38		13	83	20
Standards	80		20	75	75	75		25	66	20
Process	64	100	20	94	74	56		42	60	52
Outcomes	44	72	25	90	76	44		25	80	80
Appeal	100		40	88	33	100		50		20
Extra-judicial mechanisms	20			0		0				20
Extra-judicial factors	73	80	53	0	60	33		58	58	60

In **EL SALVADOR**, the national coalition analyzed a suit presented before the Constitutional Hall of the Superior Court of Justice that challenged the Legislative Assembly for permitting the urbanization of a ranch without consulting the members of the cooperative who had jurisdiction over the property. The majority of the legal budgets that were reviewed received a weak score, reflecting the lack of judicial culture and of appropriate and clearly defined procedural legislation. The scores that the coalition assigned reflect how it is more comprehensible for the judicial system to manage the right (and in this case, the damage) of private property than the right to a healthy environment. The national report did show that the opinions emitted by the civil society committee were taken into account during the decision making process.

The report from **COSTA RICA** gave a strong score to the legal framework applicable to resolving denials of access to participation, as it is of constitutional character. This is due to that in this nation any person may file a suit against any other party without the necessity of proving standing or any sort of judicial interest. It is interesting that the legal framework in this country recognizes the legal figure of

active or passive testimony, regardless if the third party supports the plaintiff or the defendant. The case studied by the coalition permitted the exhaustion and use of all the instances of administrative base (in the only tribunal specialized in environmental material, the Environmental Administrative Tribunal, whose members are specialists in the environmental field and administrative law) and the judicial base (at the level of constitutional court). The government performance was considered transparent, impartial, independent, linked to legislation, and at the margin of any other external factor. The study signaled that the process was open, and that all the evidence was at the disposition of the parties at all times. It was also noted that the suit was processed in a timely manner, but not the resolution, which suffered a serious of delays which forced a reopening of the procedure and an increase in the economic costs of the organizations involved. The coalition reported that the resolution of the Environmental Administrative Tribunal was duly based and conformed to the principles of environmental law under the legislation of the country.

In the case of **CHILE**, the coalition reported that the legislation guarantees to the citizen organizations and to natural persons whose comments and observations would not have been duly considered the possibility of presenting an administrative recourse of complaint before the superior authority of the body that made the original decision. The recourse of protection has some limitations, such as the fatal time frame of 15 days to be able to interpose this action, the demands with which the plaintiff is considered "affected" (it is not enough to be threatened), and the action has to come from the authority or a determined person. As far as the case study analyzed shows, the legislation that regulates the System of Evaluation of Environmental Impact does not contemplate the possibility of appeal or specific action in the case of denial of participation in the case of a modification of a project, inhibiting the participation of the citizenry in respect of the final project. Nevertheless, in this case, recourse of protection was filed, based on the violation of certain constitutional guarantees. The national study reported that one of the arguments used by the tribunal of first instance to reject the action consisted in reviewing the economic interests of the plaintiff, signaling that they had an economic and not an environmental interest, which denied them active standing. The weak scores in government performance are those of opportunity (it took more than one year from the filing of the complaint until the issue was resolved, while during all of that time the construction activity was never halted); of findings (this because access to participation was not granted concerning the new section of the project, which became the basis for the suit alleging violations of constitutional guarantees); and of extrajudicial mechanisms (due to the lack of alternative tribunals, an Ombudsman, mediation, or any sort of alternative resolution that was applicable to the case study).

The national coalition from **ECUADOR** reported, upon analyzing the indicators measuring practices, that many of them received intermediate scores with a certain tendency to a weak performance, which reflects a gap existing between practices with what is stipulated in the legal framework. These sub-categories go hand in hand with realities and results which an investigator can verify by comparing the data.

The report elaborated by the coalition in **BOLIVIA** shows that the costs of initiating the process are relatively high, which on occasion can translate into an extrajudicial barrier. Also, there is no law that permits a waiver of fees in cases of public interest. The constitutional organization in **BOLIVIA** does rely on guarantees and protection mechanisms for the right of citizen participation. According to what was reported by the coalition, facing situations that are against the interests of those who are claiming a valid right, and upon not being able to have access to justice, the affected peoples tend to use other means, such as social pressure.

The coalition from **PERU** reported that, due to the lack of registers and reliable data, they were unable to review any case studies in the material. Nevertheless, in their national study, they report that when there is a denial of access to participation it is possible to present a protective action, which can then only proceed when all other means, such as administrative actions, have been exhausted. It is not necessary to exhaust all other means in those cases where the damage would be irreparable or if the administrative action is not resolved in the corresponding time frame.

The study from **COLOMBIA** showed evidence from a case about the management of a wetland that proved the capacity of NGO's to give value to citizens' rights and to put them into practice. In this way the study signals that it is possible to promote judicial action to defend the environment and achieve decisions that are favorable to public participation. What is more, the report states that the possibility of instating an action is notable, and that the benefits arising from this include restoration of conditions, including of an economic character. As well, this study reports that in **COLOMBIA** a major factor is the combination of environmental issues and ethnic communities.

As well, for the cases where there was a denial of access to participation, an "amparo" (loosely translated as a protective action) is the recourse most often utilized in **VENEZUELA**. In this country, the "amparo" does not require the previous exhaustion of any action before the administrative authorities, that it is a recourse that is requested in direct means before the tribunal. It is worth mentioning that in the case study there were no appeal actions nor a revision of the decision on the case sine the tribunal that made the decision was the highest tribunal of the republic. In the case analyzed, the process did not proceed according to the time frame established in the law, notably exceeding the minimums. The arguments of the court were based on interpretations that were barely formal, without taking into account the particularities of environmental law. The rights of indigenous groups have been excluded in many of the policies.

The coalition from **BRAZIL** reported that the judicial instrument used in the case study was a public civil action, which is in principle a procedural instrument that permits the forcing of the government to comply with the regulations that permit the participation of society in the management of water. The suit was judged in first instance by a judge who was specialized in affairs of public finances, and in second instance by a judge specialized in public law, but neither of the judges were familiar with the water management system and neither did they understand the importance of the participation of society in these types of cases.

3.D ENVIRONMENTAL DAMAGE

What did we look for?

In this subcategory, the national coalitions analyzed controversies arising from damage of the environment due to some sort of human activity.

What did we find?

The coalitions from each country reported the general results that are presented in Table 23.

This summary table presents strong performance scores in a variety of topics for each country. Nevertheless, just as should be done with every subcategory of this study, it is very important to carefully review the national studies that specifically explain the situation in each country. As examples, the lack of specialized tribunals for environmental issues or the lack of training of the judicial sector tend to stand out, amongst other issues.

TABLE 23
GENERAL RESULTS BY COUNTRY. CATEGORY III, SUBCATEGORY D.

Environmental Damages										
	MEX	C R	SALV	ECU	BOL	CHIL	PERU	BRA	COL	VEN
Law Indicators										
Trigger	80	100	100	100	100	100	80	100	66	100
Standing	60	100	40	100	100	75	80	100	66	60
Forum	100	100	100	100	100	100	60	75	66	100
Process	40	100	20	50	50			100	66	40
Appeal	100	100	100	100	100	75	100	75	66	100
Case Studies										
Trigger	100	100	100	100	100	100	80	100	66	100
Standing	60	100	100	50	100	75		100	66	60
Forum	87	87	47	50	67	92	46	42	77	33
Timing	70	80	60	33	50	88	40	13	42	20
Standards	80	100		75	63	75	40	25	66	100
Process	56	84	35	33	70	94		30	66	60
Outcomes	52	80	40	33	80	90	45	44	63	76
Appeal			80	50	33	100	80	25	50	80
Extra-judicial mechanisms	20	60	0	0	100	0	100			20
Extra-judicial factors	93	40	33	33	55	75	47	50	58	60

The study from **COSTA RICA** signals that the Constitution grants any person the right of filing suit against any other party. In the case selected by the national coalition, there was no sentence dictated in first instance, but rather, in accordance with the new Penal Process Code of this country, there was a process of conciliation previous to trial, which resulted in an agreement on a solution to the problem. The study reported that the terms of the conciliation granted before the Penal Judge are binding. The national coalition noted that neither the judges nor the members of a Penal Tribunal are trained in environmental material, but rather in common crimes. The national report detailed that in January 2005 the Public Ministry published a circular on penal environmental topics in order to establish a unified criteria between the legislation and the environmental violations (the studied case was processed before the emission of this circular). The performance of the tribunal was reported to be transparent, impartial, independent, linked to the legislation, and at the margin of any other external factors. In the national study it was reported that the suit was processed in a timely manner, but it was unable to conclude that the case was resolved in an opportune manner, mostly because it treated environmental material in which timing is fundamental in order to avoid further damages. It is worth noting that in the moment of the events that gave cause to the case, the only avenue available was the judicial, but actually a case such as this could be heard in the administrative branches or resort to an alternative of conflict resolution--for which a law was passed after the events of the researched case.

In **Mexico**, the national coalition reports that environmental offences have been taken into consideration by the Penal Code since the year 2000. Even so, the recourse of review is reported to be the means of defense most used in order to prevent, protect, and preserve the environment, this in spite of being an administrative recourse. According to the national report, all the applicable legislation for the recourse of review restrict the possibility of filing recourse to those who have a legitimate standing, due to which the suit had to be filed by a member of the affected community. The national report explained how the recourse was placed directly before the authority that had emitted the challenged resolution, and in thru was passed to the hierarchical superior for definitive resolution, the applicable legislation indicates. The national coalition also reported that the authorities in the case study analyzed acted according to the law in timeliness and manner, the legal reasoning was merely procedural and without any specialized perspective in environmental law matters. The result, though, was favorable to the protection of the environment, as it achieved the cancellation of a contested environmental impact study, even though there was no means established to provide remedy for the environmental damage caused by the challenged port construction. The study informs that, just as in other cases studied in this chapter, there is no possibility of working with alternative means of negotiation that would have permitted the establishment of compensation measures *in situ*.

The coalition from **EL SALVADOR** reported that in their country as well there are no specialized tribunals for environmental issues, which was shown in the case study where the suit was filed for personal damages and not exactly for damage to the environment, even when soils and subterranean waters had been contaminated. In spite of all this, the legal framework studied demonstrates more consistency than in the previous subcategory. As far as the practical case reviewed, it was reported that there was no reparation for the damages, nor was there broad distribution of the decisions taken. The interested party was able to file for recourse of review and the case was taken from the departmental level to the central level of the justice system. The study explained that there was suit presented for environmental damage, but the lack of knowledge on the part of the tribunals prevented the assessment of this aspect. In relation to the accessibility of the tribunals, the coalition reported that the affected party did not have access to the documents that would permit them to evaluate the advance of the case, which caused a certain amount of confusion in following the process. The Salvadoran case study reported that social, cultural, and economical factors weighed a great deal on the decision.

The study from **CHILE** signaled that the General Law on the Environment establishes the action for obtaining reparations for damage to the environment. The decision that came from the case that was studied by the coalition corroborated the concept of environmental damage that also includes damage inflicted on cultural patrimony. The national study reported that the interposition of this action does not hinder the exercise of an ordinary action of indemnity by the directly affected party. In the case study, a permanent tribunal adopted the decision and there were no reasons to doubt their impartiality. Likewise, the suit was processed in an opportune manner and the final result was obtained in timely enough a manner to resolve the principal complaint of the parties that presented the case. The coalition from **CHILE** considered that in this case study the objectives of indemnity, restoration, and reparations for the damaged environment were achieved. The report signaled that the ordinary civil justice tribunals process cases slowly due to their nature, given that it is done in written form. The selected example took almost four years, which is fairly expeditious, if it is considered that there was an appeal. It is noteworthy that the sentence included the material and whole repair and

restoration of the affected environment. Like the majority of the reported case studies, there are no formal alternative mechanisms for conflict resolution.

The coalition from **PERU** reported that in their judicial system there are no tribunals with specialization in environmental material, and the government does not have sufficient economic resources to train the judges in a diversity of fields, including environmental issues. The same report signals that, according to the current norms, the instrument for having access to justice in the case of environmental damage is basically the process before civil tribunals for requesting the reparation of damages, by suit under extrajudicial civil responsibility, which can fix an indemnity for damages, as well as the lost wages of the population. In the national report, the coalition explained that the administrative avenue is not recommended since it will not attend to damage related to environmental degradation. If there are fines and sanctions on the party responsible for damages the regulations do not establish that the fine will go directly to reparations for the affected population. The coalition reported that the people appear discouraged with the possibility of presenting judicial suits because the time involved is high and there for extremely expensive. In the case of **PERU**, the regulations have established alternative mechanisms for the resolution of conflicts; nevertheless, they remain unused.

The study from **ECUADOR** reported that, of the most interesting aspects of the case, one stand out was the lack of the technical preparation of the judge for resolving environmental themes, as the judicial fundament supporting the resolution did not value or review even the most basic environmental aspects. As well, the administration of justice took a great deal of time. This caused a tremendous delay in the reparation of damages and a cessation of the activity causing the damage, producing serious environmental, social, and economic harm to the community that was promoting the suit. Finally, the national coalition concluded that the suit was not resolved in opportune manner, due principally to the fact that the logging activity was not stopped during the processing of the trial.

In **BOLIVIA**, the national coalition reported that the legal bases for the initiation of the legal proceedings are found in the reach and knowledge of the experts and those interested in the environmental material. Nevertheless, the full compendium of the environmental laws can not be qualified as sufficient or complete text. In fact, the Environmental Law does not define or limit with exactness the delinquent acts and the administrative infractions, as in any acts that might be considered environmental crimes the law is actually applied as if they were only administrative infractions, that is to say that the very same body of law is contradictory.

The coalition from **BRAZIL** reported that there is no kind of difficulty preventing civil society organizations from presenting a suit, as long as their statutes establish the protection of the environment as part of their mission. According to the study, neither are there any financial restrictions, given that the lawyers provided their defense work pro bono (minimal costs) or for free, and that the law exonerates the organizations from the cost of the process. Nevertheless, in spite of having a series of formal guarantees on the impartiality and the efficiency of the judicial process, the case study clearly describes the existence of legal “breaches” that permitted the process to be conducted in a partial manner, making the judicial action useless as an instrument for environmental defense.

The case analyzed by the national coalition from **VENEZUELA** was processed according to what has been established in the Penal Law on the Environment, which carries two parallel procedures: penal action and civil action. In legal terms, this country relies on various legal actions and authorities with ten-

dencies to safe guard the rights of the parties in the process (appeal and “amparo”). Nevertheless, in practice, they are exercised in such a way that, on occasion, the rights of the affected parties appear to be illusory, even with the process is carried out by formal law. On the date of the spill that generated the environmental harm the Law of Commercial Arbitrage had not yet been promulgated, which might have constituted a more expeditious alternative for the analyzed case.

COLOMBIA presented a river pollution case, in which the decision of the Tribunal was well based, giving them a medium tending to strong performance score. Nevertheless, the decision in the case being studied has been appealed.

CHAPTER SUMMARY

In Table 24 the average results for each country for Category III Access to Justice are presented.

The systems of access to justice in these countries reported better performance in resolving conflicts originating in the denial of information.

Before situations of denial to access to information, participation, and in cases of environmental harm, various countries reported the use of administrative recourse as a means of resolving the controversy. The national studies described a variety of important inconveniences with this type of recourse, such as limits of legitimate procedure due to the establishment of requirements to be able to impose the recourse, like being a member of the affected community. What is more, this type of recourse must be filed directly before the authority that emitted the challenged resolution, which converts the authority into “judge and party” of the same process. As well, if there are indeed fines and sanctions, the payment of these is not destined to clean up the environmental harm.

According to the reports of the national coalitions there are legal frameworks (such as in Venezuela) where administrative action as well as judicial action exists in the case of denial of information and participation, and that judicial procedures exist for cases of environmental damage.

If indeed it is certain that various countries reported a strong government performance in offering access to environmental justice, it is important to note that it was also reported that the tribunals or forums are not adequate.

Almost all of the studies note that the judges or the members of the tribunals or forums analyzed are not found to be trained in the themes of environmental law, but rather in common crimes.

It is noteworthy that in the grand majority of the case studies reported, there are no alternative mechanisms for conflict resolution, and if they do actually exist, the charter of their penal jurisdiction lack civil and penal responsibility in environmental cases.

The results of this category reflect the existence of a gap between what is stipulated in the legal framework and its application in practice. ■

TABLE 24
AVERAGE RESULTS BY COUNTRY. CATEGORY III



	MEX	SAL	CR	ECU	CHIL	PERU	COL	BOL	VEN	BRA
LAW INDICATORS										
Trigger	86	47	100	100	100	80	66	100	100	50
Standing	73	40	100	100	75	80	66	85	53	100
Forum	100	47	100	85	100	60	66	95	100	75
Process	33	20	100	85			66	85	27	88
Appeal	100	73	100	91	92	100	66	91	73	75
CASE STUDIES										
Trigger	100	60	100	100	83	80	66	100	100	88
IStanding	60	73	100	91	67		66	90	53	88
Forum	78	49	91	64	84	46	69	77	58	56
Timing	90	43	67	51	67	40	53	80	27	13
Standards	87	27	100	75	83	40	66	83	47	25
Process	62	27	84	61	81		53	78	53	38
Outcomes	58	32	77	59	70	45	59	70	77	41
Appeal	100	47	100	68	100	80	50	64	40	38
Extra-judicial mechanisms	20	20	60			100		83	20	
Extra-judicial factors	80	58	58		58	47	61	65	64	54

CAPACITY BUILDING

Capacity building means increasing social, education, technological, legal, and institutional infrastructure in order that the public might have access to decision making that has impacts on the environment. Therefore, the strengthening of capacity is a theme directly linked to the Access Principles, as it is not only important to be able to rely on free and complete access to information and the mechanisms of participation and environmental justice, but that society also must have the capacity to understand the contents of the information that it obtains and the reach of the issues in which it aspires to participate. It is important to have organizations and institutions that promote access to information, mechanisms of social participation, and justice in environmental issues, with public officials and judges capable of understanding the material and acting accordingly, and with a responsible and participating society.

The importance of capacity building has been emphasized in diverse agreements and international treaties. In Chapter 37 of the Agenda 21 "Promotion of the capacity to achieve sustainable development," it is noted that the capacity that inhabitants and institutions have for achieving their development depends on their understanding of environmental themes and adopting adequate decisions. In Article 3 of the Aarhus Convention it is emphasized that legislative measures dedicated to the guarantee of mechanisms that permit access to information, public participation, and access to justice. The same article reiterates the necessity of having public officials and government authorities that help and advise the public on issues such as access to information, the mechanisms of participation in decision making, and of justice in environmental affairs. As well, the importance of favoring environmental education and the understanding of environmental problems is noted, along with support for the organizations that are dedicated to the protection of the environment.

In this category the laws and instruments that the governments have for favoring capacity building within both government agencies and society as a whole are evaluated. The efforts that the governments have realized to train their staff in the material of the Access Principles are evaluated, as are the government programs whose end is the strengthening of citizen capacity in two principle currents: environmental education and support for organizations of civil society.

4.A LEGAL FRAMEWORK

What did we look for?

This subcategory focused on the analysis of the legal framework applicable to the civil society organizations whose work is related to the environment, and who operate with support, stimulus, and facilities for their establishment and performance. The national coalitions also reviewed the legislation to ascertain if the activities of civil society organizations in environmental affairs are promoted.

What did we investigate?

The reviewed indicators for this subcategory are presented in Table 25.

TABLE 25
INDICATORS CATEGORY IV, SUBCATEGORY A.

General legal framework supporting capacity building.
1. Freedom of association.
2. The right to a clean environment.
3. Tax conditions for non-governmental organizations (NGOs).
4. Registration of non-government organizations (NGOs).
5. Legal interpretation of "the public".
6. International financial support for non-government organizations (NGOs).
7. Conditions for local philanthropy.

Three of the indicators assessed if the legal framework permits the establishment of organizations whose principle task would be the protection and defense of the environment. The rest of the indicators are focused in the support and financial conditions that are applied to the environmental organizations of civil society.

What did we find?

The results of the application of the indicators are reflected in Table 26.

TABLE 26
AVERAGE RESULTS BY COUNTRY. CATEGORY IV, SUBCATEGORY A.

Legal Framework	MEX	C R	SALV	ECU	BOL	CHIL	PERU	BRA	COL	VEN
The Constitution permits Associations that defend the Environment	100	100	53	85	83	88	100	100	100	79
Tax Facilities	87	100	58	63	92	63	100	75	91	81

The majority of the countries can rely on a constitutional base that permits the existence of organizations whose labor is focused on the defense of the environment. In fact, a variety of constitutions in the region consecrate as a human right an environment that is adequate for the populations well being, from which is drawn the base for policy, plans, and activities directed towards conservation and the

sustainable development of the nations. In this way, the majority of the “Cartas Magnas” offer the fundament for and the possibility of constituting organizations and institutions dedicated to the defense, the conservation, the protection, and the restoration of the environment.

In the case of **BOLIVIA**, the coalition reported that the Political Constitution does not specifically establish the right to a clean environment, though it can be considered a right under the rights to life and health that are consecrated in the Seventh Article. In a complimentary manner, the Bolivian legislation guarantees the right of forming organizations or groups that would be in harmony with the basic values of the constitutional order, as well as freedom of association.

The national study from **MEXICO** reported that the legal framework permits the formation of groups and associations whose objective would be the preservation, protection, and restoration of the environment. As well, there is special legislation that offers facilities that foment the work of organized civil society. Nevertheless, the national coalition explained that only certain types of organizations (amongst them the environmental groups) are able to obtain a percentage of tax deductions and some exceptions. A consideration it that the procedure for gaining access to these facilities is not easy and presupposes that the applicant has strong institutional development, a situation that from the beginning excludes a great number of organizations that have not advanced with their institutional development. The national coalition also noted that there are no incentives to encourage individuals or associations to make donations.

64 In a similar manner, the coalition from **BOLIVIA** reported that there is little philanthropy from internal sources; amongst the reasons signaled is the absence of incentives and state mechanisms, resulting in the majority of philanthropic efforts being of largely private initiative.

In the assessment carried out by the coalition from **CHILE**, the national legislation obtained strong scores for institutional strengthening. The best assessments arise from the freedom of association and the right to a clean environment, both recognized in the Constitution and regulated in diverse laws, as are the incentives provided for local philanthropy. These incentives correspond to the possibility of making donations as individuals or businesses to foundations or corporations with educational or cultural objectives, in spite of the lack of approved recognition and the inexistence in the country of special tax exceptions for organizations of civil society. In **CHILE**, there is no legal recognition of NGO's and therefore they must obtain legal status as a foundation or a corporation, whose concession and approval remains to the discretion of the administrative authority, who in this case is the President of the Republic.

In the case of **PERU**, the coalition reports that the Constitution, as well its complimentary laws, permits the creation, implementation, the development, and the activities of organizations that would have the objective of benefiting society. The care and defense of the environment as the social objective of these types of organizations are identified amongst the arrangements contemplated in the legislation. Likewise, the tax legislation offers facilities and foments the work of civil society organizations.

For their part, **EL SALVADOR** reports an intermediate performance concerning the tax facilities that the State proportions in order to strengthen civil society organizations, because the laws and the payment of taxes are applied to them just as they would be to any business. What boosted the score assigned in the assessment is that there is a register for civil society organizations where all of the information for following the legalization process and the life of a non-governmental organization is made available by the Ministry of the Interior. Nevertheless, this represents a bureaucratic procedure that many times holds back the intentions of the organizations.

The national coalition from **ECUADOR** reports that this country possesses legislation that recognizes and protects the Access Principles; nevertheless, there is no effort to neither destine funds nor develop policies that guarantee the implementation of these principles. According to the national report, the legal framework has not focused on the importance of creating capacity either with the public or with public officials.

In the case of **COSTA RICA** the freedom of association is guaranteed in the Political Constitution by specific laws and rulings from the Justice Tribunals, with the exceptions and restrictions clearly defined. What is more, there is a Law of Associations that is specifically for the civil organizations. It is worth noting that in **COSTA RICA** the right to a clean environment is also guaranteed by the Constitution by specific laws and rulings from the Justice Tribunals, in such a way that the State has the obligation of keeping watch to insure that this right is respected. Also of note, the tax codes in this country dictate that environmental and public interest organizations enjoy tax exceptions, whether they are associations or foundations, and that foundations are exempt from paying inscription rights and from both national and municipal taxes.

In **COLOMBIA**, the legal framework permits and stimulates the creation of not-for-profit civil associations, amongst which one can classify the environmental organizations. The tax statutes include dispositions differentiated in their favor. There is a register of environmental organizations at the regional, local, and national level.

The assessment of **BRAZIL** indicates that the right of association is established in the Federal Constitution in Article 5, and that there is no state intervention in its functioning. The Constitution also describes the right to an environment free from contamination. As far as the tax facilities that NGO's receive go, these are scarce and depend exclusively on the type of work that is carried out. Work linked to education and social assistance are those that have the greatest facilities, although they must respond to important standards, principally accounting.

In **VENEZUELA**, the constitutional base as well as the legal framework consecrates the right of citizens to association, and, as well, the legal framework permits the formation of groups and associations whose objective is environmental protection. Venezuelan legislation contemplates the possibility of exceptions on tax payments for these organizations, although the procedure is not simple.

4.B CAPACITY BUILDING IN GOVERNMENT

What did we look for?

In this subcategory the national coalitions evaluated the government actions that strengthen their human resources in order that they can assist the public in gaining access to information, to the mechanisms of participation, and to environmental justice. It is necessary to have informed public servants with the disposition to support the population and to have judges that are familiar with environmental legislation. In this way, the public will have more opportunities to obtain information and to participate in decision making.

What did we investigate?

For this section the indicators in Table 27 were used.

TABLE 27
INDICATORS CATEGORY IV, SUBCATEGORY B.

Subcategory B. Efforts of the government to build its own capacity to provide information, utilize public participation and ensure justice.

1. Government investment in compliance with laws and regulations on access to information and participation.
2. Training for government staff.
3. Training for judicial officials.

In this subcategory actual institutions were selected as case studies, principally the agencies with competence in environmental issues.

What did we find?

In Table 28 the average scores of the indicators obtained for each country are presented.

TABLE 28
AVERAGE RESULTS BY COUNTRY. CATEGORY IV, SUBCATEGORY B.

Government Capacity Building											
	MEX	C R	SA	LV	ECU	BOL	CHIL	PERU	BRA	COL	VEN
Government efforts to build its own capacity	89	62	28	41	33	58	53	67	71	56	

In this subcategory the national coalitions reported mainly an intermediate or weak government performance in strengthening their own capacity.

In **MEXICO**, the average score from the assessment on the efforts of the State turned out to be strong, largely due to that, in the institutions studied, the personnel that work in the Liaison Units¹³ have received training on the special legislation over access to information, reflecting the importance of this law and the improvement of mechanisms for accountability. Nevertheless, the national report indicates that the actions for the training of judiciary officials have been minimal.

As much as in **PERU** as in **CHILE**, the national coalitions reported an intermediate performance on the part of their Government, indicating that the authorities have taken interest in improving their fulfillment of the law and in the conditions for access to information, participation, and justice in environmental issues, even though they reported notable differences between the distinct agencies that were evaluated. In this sense, the report from **CHILE** identified clear measures and actions implemented by the National Environmental Commission (CONAMA) and the Ministry of Public Works (MOP), such as seminars and workshops dedicated to skills perfection amongst staff. Nevertheless, in the Judicial System there still have not been any activities carried out on this material. Meanwhile, in **PERU**, it was affirmed that the government does at least dedicate one person who is exclusively in charge of the procedures of access to information, fulfilling in this way the current requirements of the law. On the other hand, the government makes no great effort to train its officials on issues of access to information and public participation. Similar to what is happening in other countries, the judges and the officials of the judicial system have not yet been trained in the legislation that covers access to information and public participation

The assessment for **ECUADOR** reported a weak performance. In spite of how the Ministry of Environment recognizes the importance of the Access Principles, as the officials of the ministry have participated in training processes, the government does not possess any type of mechanism that permits them to carry them out. In other words, there are no offices or officials that are dedicated to the guarantee of the right of the citizenry to be informed about or to participate in environmental issues.

The coalition from **EL SALVADOR** reported a weak government effort, given that only the Ministry of the Environment and Natural Resources has a person in charge of providing environmental information and fulfilling the laws and regulations on participation. As far as the training of personnel goes, the national study reports on different workshops and seminars where the officials can up date and diversify their body of knowledge, but in two of the agencies there is no staff training on the material. As well, the study recognized that there still has been no training of judicial officials on the management of access to information and participation. In a similar way, although with an intermediate rating, the national coalition from **BOLIVIA** reports that in the different agencies that were consulted there are no public officials dedicated to ensuring the fulfillment of the laws and regulations on access to environmental information and public participation.

The national study from **COSTA RICA** signaled that in their country there is no law on access to information, neither is there an office specifically responsible for providing access of information to the public. This same study reported that none of the officials that were interviewed have received any kind

13. The Interface Units are the areas created in the departments and public institutions of governments that receive requests for information and manage public attention, along with offering orientation guidance to citizens

of training in the issues of access. All the same, particularly in the case of the Civil Society Department, there are training modules for participants, and information on the Principles of Access. As well, some NGO's have carried out efforts to train law students and lawyers in environmental issues and material.

In all of the government bodies studied in **BRAZIL** there are people in charge of assuring the fulfillment of the laws on access to information and participation, although there is no mass effort to notify the public of their existence, resulting in that the communities do not even know of them or their function. What's more, in the agencies studied there were no formal procedures that define and encourage the application of the Access Principles by the public officials.

The coalition from **COLOMBIA** reported a strong performance. The evaluated institutions have permanent training programs for their officials, even long distance courses if attending seminars is not possible. What is more, training is offered to public officials from the agencies that have control over material such as collective rights, environmental protection, and citizen's rights.

The study from **VENEZUELA** indicates an intermediate performance. The State carries out training efforts for its officials to improve the understanding and the practice of access to information and public participation in the diverse fields that are related to environmental management. Nevertheless, as far as the training of officials from the Judicial System goes, it was reported that they have not received any kind of training in the Access Principles.

4.C CAPACITY BUILDING IN THE CITIZENRY

What did we look for?

In this subcategory, government programs designed to strengthen citizen capacity for giving value to the Access Principles was evaluated, as were the related laws and guarantees of these principles. It is more likely that citizen participation in decision making will contribute to the attainment of a healthy environment if the community understands environmental problems, has an opportunity to organize, and is familiar with the institutional instruments for obtaining information, as well as with those for participating in decision making.

What did we investigate?

Governmental institutions were assessed in this subcategory. Table 29 lists the indicators that were reviewed.

TABLE 29
INDICATORS CATEGORY IV, SUBCATEGORY C.

Subcategory C. Government efforts to build the capacity of the public to exercise the access principles.
1. Information about mandate and point of contact.
2. Guidelines for public on how to access information.

3. Guidelines for public on how to participate in decision-making.
4. Guidelines for public on how to bring complaints in administrative and judicial proceedings.
5. Languages and translations of administrative information
6. Government funds and earmarked subsidies to support non-government organization (NGO) activities
7. Teacher training and materials for environmental education.
8. Curriculum for environmental education.
9. Support for independent professional legal help.

What did we find?

The average results obtained for each country are presented in Table 30.

TABLE 30
AVERAGE RESULTS BY COUNTRY. CATEGORY IV, SUBCATEGORY C.

Public Capacity Building										
	MEX	C R	SALV	ECU	BOL	CHIL	PERU	BRA	COL	VEN
Government efforts to build the capacity of the public	79	69	75	25	63	79	65	53	72	89

Distinct from the previous subcategory, the majority of the national studies indicated an intermediate and strong government performance in terms of capacity building of the general public.

In **CHILE**, the national study reported a strong performance, since the authorities have carried out efforts to improve the availability and the reach of the information of the public services that were evaluated, and likewise in support of the civil society organizations and environmental education. In terms of facilitating access to information, it was reported that the three government services reviewed in the study informed the citizenry of their mandate, contact points, and the manner for presenting a request, as well as to how to gain access specifically to environmental information. Nevertheless, in respect of support of civil society organizations, the government received a weak score since there are few funds dedicated to these programs. In the development of environmental education programs it was found that there is no obligation for teachers to participate in trainings, even though environmental issues have been incorporated in a transversal manner in diverse courses of study.

Government programs for strengthening improvement were reported in **MEXICO** as well, an example being how all the internet pages of the State Secretaries that were reviewed have a link to the “transparency portal.” This does make it easier for all users to make a request of information. As well, in all of the Liaison Units, the personnel are trained in order to help the client make their information

request or to offer the orientation that they require. The national coalition reported that the civil society organizations are able to have access to distinct funds for supporting their work, although these mechanisms are not always easy to access. In terms of environmental education, school curriculum do contain material related to issues of the environment and several training strategies for teachers have been developed.

The study in **EL SALVADOR** assessed another government performance that has been rated as strong. It was reported that the government is making efforts in order to provide for better knowledge and capacity in the general public concerning the rights of access to information and participation. The institutions that were analyzed fulfill the requirements of possessing published literature, websites and public contact people for environmental information, requests forms that are available on the Internet, and printed material for orienting participation in decision making. The national coalition reported that environmental issues are included in school plans of study, and that materials have been produced and activities carried out that give students incentives for taking interest in the environmental situation. Nevertheless, the national study detailed that the activities of civil society organizations are financed by their own administration and with international cooperation.

In the case of **BOLIVIA**, the coalition reported an intermediate government performance, due to that while the consulted agencies do provide orientation on how to obtain access to information, there is no diffusion of information on how to participate. The national report also considers that there are modest government advances in environmental education, but they do not have any materials nor has there been any training of teachers. The national coalition reported that there is no government grant program for civil society organizations that work on environmental issues.

In **PERU**, the national coalition assigned an intermediate value to the performance of their Government based on that the governmental bodies that were reviewed do have Internet linkage in order that any person might request the information that they need. Nevertheless, none of these websites provide information about how to participate in environmental decision making, nor about how to file claims in administrative or judicial procedures. In terms of the financing of NGO's, the report detailed that there are limitations because the available funds are generally from international cooperation. The education and environmental authorities have worked together in the training of teachers, and the environment is a transversal theme in all courses.

A weak government performance was given to **ECUADOR**, as the national coalition indicated that there is no knowledge about the Access Principles in the country, resulting in that these rights are not exercised. The study reported that the Ministry of Environment does not possess any type of information that permits the public to become familiar with the mechanisms and requirements for obtaining access to public information. Although there is no obligatory environmental curriculum, environmental education is being implemented as part of a transversal axis of education, and there are current plans to carry out trainings and provide materials to schools. The study detailed how the government does provide funding to NGO's when they participate in studies on specific projects.

In **COSTA RICA**, the national study signals a weak performance in terms of government efforts to provide information to the public on how to make an effective use of the Access Principles. The coalition from this country considered that the inclusion of environmental themes in basic education curriculums is an important advance, although there is still a lack of training of teachers. As well, it was reported that the government makes resources available to the civil society organizations that work in environmental fields.

COLOMBIA obtained a strong rating for performance, primarily based on the creation of the Citizen Participation and Information Office, which carries out permanent training of officials and the general public. As well, there is program for environmental promoters that look to incite cultural change in the regions. In environmental education, the Education and Participation Institute of the Ministry of the Environment orients the design and the assessment of programs of environmental education in diverse sectors, along with elaborating young children's primers and manuals for school projects.

The report from **BRAZIL** signals that the authorities have been making increasing efforts in improving the capacity of people to have access to information and participation. In the same way, the theme of environmental education has been a constant priority with the government in **BRAZIL**, being part of its public policy in various ways, such as incentives for the training and specialization of teachers, or the implementation of curriculum in all levels of education. Despite this, there is no formalized application of the Access Principles by public officials in any of the services reviewed.

In **VENEZUELA**, the reviewed institutions obtained high values for their performance in public capacity building. The websites have sufficient information available to the public, and there are diverse materials with information about citizen participation which can be found either by request or by consulting the documentation centers. As well, there are materials on the environment included in different study assignments for both primary and secondary schools. Environmental education is considered obligatory and it is a transversal axis in the curriculum for the Second Stage of Basic Education.

In **BOLIVIA, MEXICO, COLOMBIA** and **VENEZUELA**, the reports noted that there have been no materials produced in native languages, in spite of the high percentage of indigenous communities in these countries. As well, Costa Rica recognized the importance of indigenous populations in conservation areas. Nevertheless, in these countries materials have only been produced in Spanish, or the rare few in English, for foreign visitors and tourism interests.

CHAPTER SUMMARY

Table 31 shows the average of the results for Category 4, Capacity Building.

The majority of the countries that participated in this study can count on a constitutional base that permits the existence of civil society organizations, as well as the development of work focused on the defense of the environment. The constitutions consecrate an environment adequate for the well being of the population as a human right, which grants judicial base to the policy, the plans, and the activities dedicated to conservation and the road mapping of sustainable development in each nation.

Congruent with this, the personnel of the institutions of the executive branches in the majority of the countries have received training on the legal framework which guarantees the right of having access to environmental information, on the importance of giving this right value, and on the imperative necessity of improving the mechanisms for transparency and accountability.

Nevertheless, there are still several large vacuums in terms of the training of judicial officials in environmental material.

On the other hand, several advances in the inclusion of environmental themes in study plans for formal education were noted, although the necessity of training teachers and providing adequate materials was also reported.

As well, it stands out that, in countries where there are a high percentage of indigenous communities, there is still to this date a lack of materials in indigenous languages and/or dialects. ■

TABLE 31
AVERAGE OF THE INDICATORS BY SUBCATEGORY.

MEXICO

Legal Framework	94
Capacity Building of Government	89
Public Capacity Building	79

COSTA RICA

Legal Framework	100
Capacity Building of Government	63
Public Capacity Building	69

COLOMBIA

Legal Framework	95
Capacity Building of Government	71
Public Capacity Building	72

EL SALVADOR

Legal Framework	56
Capacity Building of Government	29
Public Capacity Building	75

VENEZUELA

Legal Framework	80
Capacity Building of Government	56
Public Capacity Building	89

ECUADOR

Legal Framework	80
Capacity Building of Government	41
Public Capacity Building	25

PERU

Legal Framework	100
Capacity Building of Government	53
Public Capacity Building	65

BRAZIL

Legal Framework	88
Capacity Building of Government	67
Public Capacity Building	53

CHILE

Legal Framework	76
Capacity Building of Government	58
Public Capacity Building	79

BOLIVIA

Legal Framework	88
Capacity Building of Government	33
Public Capacity Building	63

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GENERAL RESULTS

The following tables present the summary of the results of the four categories that make up this study.

ACCESS TO INFORMATION

Subcategory	MEX	C R	SAL	ECU	BOL	CHIL	PERU	BRA	COL	VEN
Legal Framework	100	87	69	80	82	54	91	83	78	64
Emergencies	55	42	47	25	40	51	47	73	53	61
Air and Water Quality Monitoring	84	60	50	50	72	68	74	81	66	56
State of the Environment Reports	95	0	75	0	49	90	81	76	72	76
Industrial Facilities	61	62	28	22	64	63	46	51	13	54

ACCESS TO PARTICIPATION

Subcategory	MEX	C R	SAL	ECU	BOL	CHIL	PERU	BRA	COL	VEN
Legal Framework	67	85	46	80	88	67	100	67	96	79
Policy				97	92	60		70	78	47
Program	37		58			42			52	87
Law	83	79			94	54			60	65
Plan	41		48	97	92		50		90	80
Strategy		88		92	92		65	56		53
Projects	39	64	35	18	78	78	61	50	54	60

ACCESS TO JUSTICE										
Subcategory	MEX	C R	SAL	ECU	BOL	CHIL	PERU	BRA	COL	VEN
LEGAL FRAMEWORK										
Trigger	86	100	47	100	100	100	80	50	66	100
Standing	73	100	40	100	85	75	80	100	66	53
Forum	100	100	47	85	95	100	60	75	66	100
Process	33	100	20	85	37			88	66	27
Appeal	100	100	73	91	87	92	100	75	66	73
CASE STUDIES										
Trigger	100	100	60	100	100	83	80	88	66	100
Standing	60	100	73	91	90	67		88	66	53
Forum	78	91	49	64	77	84	46	56	69	58
Timing	90	67	43	51	80	67	40	13	53	27
Standards	87	100	27	75	83	83	40	25	66	47
Process	62	84	27	61	78	81		38	53	53
Outcomes	58	77	32	59	70	70	45	41	59	77
Appeal	100	100	47	68	64	100	80	38	50	40
Extra-judicial mechanisms	20	60	20		83		100			20
Extra-judicial factors	80	58	58		65	58	47	54	61	64

CAPACITY BUILDING										
Subcategory	MEX	C R	SALV	ECUA	BOLI	CHIL	PERU	BRA	COL	VEN
Legal Framework	94	100	56	80	88	76	100	88	95	80
Capacity Building of Government	89	63	29	41	33	58	53	67	71	56
Capacity Building of the Public	79	69	75	25	63	79	65	53	72	89

CONCLUSIONS

ACCESS TO INFORMATION

The legal frameworks that sustain the right to access to information and, in particular, access to environmental information have experienced a dynamic development in the last decade.

Although one might confirm that there have been recognized advances in the generation of environmental legislation and specific laws on access to information, this cannot be considered sufficient, as the development of specific instruments that guarantee use of the laws and real access to information for the general public must be required.

The economic and socio-cultural conditions of the countries involved in the assessment impose fundamental challenges for the socialization of environmental information. The States must develop the capacity and the adequate conditions in order to broaden the coverage and the reach of the actual tools for access to information.

Another challenge that was identified is the consolidation of structures and mechanisms for reporting to the government on the impacts of industrial activities. It was recognized that there is still a great deal to be done in order that the industrial sector takes responsibility for reporting on their environmental emissions.

On the other hand, the necessity for promoting campaigns and strategies for the diffusion and socialization of the existing tools for access to information must be taken on by both the government and social sectors, in order to maximize potential use.

It is worth mentioning that access to information is the most developed category for all of the countries involved with the study, which could mean that the right of access to information is the Access Principle that has been best assimilated in Latin America.

PARTICIPATION

The legal framework in Latin America contemplates the right of access to the mechanisms of participation in the environmental decision making process. Nevertheless, this generates positive results only when one has access to the information related to these same decisions, when there is a guarantee of access to the mechanisms that will permit an informed society to give order and direction to their own initiatives, and when the authorities actually take into account the comments provided by the population. This last point must be strengthened in all of the participating countries.

Like wise, the constant advances in the material included in national legislation, as a fundamental factor in planning, decision making, and in the implementation of public policy and development projects, must be recognized. Nevertheless, it is necessary to reinforce, broaden the scope, and consolidate the mechanisms that can bring these participation spaces to healthy completion, as many lie incomplete and limited, not yet offering clear and effective manners of participating. An example of this necessity is how, in many cases, exercising social participation is still found to be restricted to those who can demonstrate to the authorities a previously established judicial interest. Generally, participation is only limited to public comment, without any type of later incorporation of the populations contributions into the decision making space.

Despite the reporting of relative advances, it is necessary to reinforce the space, mechanisms, and regulations that guarantee an effective exercise of the right of participating in environmental decision making.

On the other hand, it is necessary to point out that many structures for participation do not recognize the great number of individual actors involved in social work. Their reach does not often cover indigenous populations, rural organizations, unions, cooperatives, associations of producers, small communities, and isolated communities, amongst others.

JUSTICE

If indeed it is true that the majority of the countries reported a strong governmental performance in offering access to the mechanisms of justice, it is important to note that the tribunals or forums commonly used are not adequate spaces, due to that they respond to a judicial logic that is usually administrative, civil, or penal, but not environmental. In a similar way, the means of defense that are used on many occasions, due to their administrative nature, have a variety of limitations such as restricted procedural legitimacy, the restriction of third parties in the processes, the character of the authorities to be party and judge in the same process, and that the resolutions are limited to formal reparations of rights and not material damages.

Almost all of the studies noted that the Judges or members of the Tribunals are not normally trained in environmental material, but rather in common violations and crimes.

It is noteworthy that, in the great majority of the national studies, there are no alternative mechanisms reported for conflict resolution.

CAPACITY BUILDING

In order to make effective use of the rights of access, it is necessary to have a series of elements that facilitate, stimulate, and give incentives for their use. Some of these elements have to do with the development of capacity within the powers of the State, such as training public officials and judges in environmental and access issues.

Another vitally important element is the legal and fiscal circumstances that guide the work of civil society organizations. There are still barriers and large gaps to overcome in this issue in order to be able to rely on facilities that will promote the development of social work in a way that is professional and economically sustainable.

It is also worth noting the importance and the necessity of broadening the field of environmental education by incorporating curriculum in a transversal way across all education levels, and by providing adequate materials and sufficient training for teachers. ■

CHECKED LAWS AND CASE STUDIES APPLIED IN THE COUNTRIES

1. LAWS LINKED WITH THE ACCESS PRINCIPLES.

MEXICO

- Constitución Política de los Estados Unidos Mexicanos
- Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental
- Ley de Información Estadística y Geográfica
- Ley Federal de Procedimiento Administrativo
- Ley General del Equilibrio Ecológico y Protección al Ambiente
- Ley General de Vida Silvestre
- Ley de Planeación
- Ley General de Desarrollo Forestal Sustentable
- Ley Federal de Fomento a las Actividades Realizadas por Organizaciones de la Sociedad Civil
- Ley de Aguas Nacionales
- Ley de Pesca
- Ley de Vías Generales de Comunicación
- Ley General de Salud
- Ley Federal de Radio y Televisión
- Ley del Instituto Mexicano de la Juventud
- Ley del Instituto Nacional de las Mujeres
- Ley General de Protección Civil
- Ley Orgánica de la Administración Pública Federal
- Ley Federal de Radio y Televisión
- Ley Federal de Telecomunicaciones
- Ley Federal sobre Metrología y Normalización

EL SALVADOR

- Constitución de la República de El Salvador
- Ley del Medio Ambiente
- Ley Forestal
- Reglamento General de la Ley del Medio Ambiente
- Reglamento Especial sobre el Control de las sustancias agotadoras de la Capa de Ozono
- Reglamento Especial de Aguas Residuales
- Reglamento Especial de Normas Técnicas de Calidad Ambiental

- Reglamento Especial en Materia de Sustancias, Residuos y Desechos Peligrosos
- Reglamento Especial sobre el Manejo Integral de los Desechos Sólidos
- Ley de Asociaciones y Fundaciones sin Fines de Lucro
- Ley de Imprenta
- Ley de Desarrollo de la Comunidad
- Ley de Servicio Civil
- Ley del Organismo de Inteligencia del Estado
- Ley Orgánica de la Policía Nacional Civil
- Ley de Defensa Civil
- Ley de Protección al Consumidor
- Ley de Sanidad Vegetal y Animal
- Código Tributario
- Código Penal
- Código Municipal
- Código de Trabajo
- Código de Salud
- Decreto Ejecutivo "Creación del Organismo de Inteligencia del Estado"
- Decreto que declara "Aguas de Reserva para el Área Metropolitana de San Salvador"
- Decreto Ley "Disposiciones para difusión del pensamiento cuando procedan de personas naturales y agrupaciones sin personalidad jurídica"

COSTA RICA

- Constitución Política
- Convención Americana de Derechos Humanos
- Pacto Internacional de Derechos Civiles y Políticos del Ciudadano
- Ley Orgánica del Ambiente No 7554
- Ley de Biodiversidad No 7788
- Ley Forestal No 7575
- Ley de Aguas No 276
- Ley Constitutiva del Instituto Costarricense de Acueductos y Alcantarillados No 2726
- Ley General de la Administración Pública
- Ley de la Autoridad Reguladora de los Servicios Públicos No 7593
- Ley General de Salud No 5395
- Ley Orgánica del Ministerio de Salud No 5412
- Ley de Protección al Ciudadano del Exceso de Requisitos y Trámites Administrativos No 8220
- Reglamento sobre Emisión de Contaminantes Atmosféricos Provenientes de Calderas. Decreto No 30222-S-MINAE
- Código Municipal
- Reglamento para la calidad del agua potable
- Reglamento de vertido y reuso de aguas residuales, Decreto No 26042-S-MINAE
- Reglamento sobre procedimientos de la Secretaría Técnica Nacional (SETENA) Decreto No 25705-MINAE
- Reglamento General sobre los Procedimientos de Evaluación de Impacto Ambiental, Decreto Ejecutivo MINAE-SALUD-MOPT-MAG-MEIC

ECUADOR

- Ley Especial de Descentralización del Estado y de Participación Social
- Ley para la Promoción de la Inversión y la Participación Ciudadana
- Convenio 169 de la Organización Internacional del Trabajo
- Reglamento Interno de la Función Legislativa
- Reglamento Sustitutivo del Reglamento Ambiental para las Operaciones Hidrocarburíferas en el Ecuador Legislativa
- Reglamento Ambiental para Actividades Mineras en la República del Ecuador
- Reglamento Orgánico Funcional de la Procuraduría General del Estado
- Constitución Política de la República del Ecuador
- Ley de Gestión Ambiental
- Código de trabajo
- Código Civil
- Ley de Prevención y Control de Contaminación Ambiental
- Ley de Régimen Tributario Interno
- Ley Orgánica de Aduanas
- Ley de Control Tributario y Financiero
- Convenio 169 de la OIT
- Código Penal
- Código de Procedimiento Civil
- Ley de Control Constitucional
- Ley Orgánica de la Procuraduría General del Estado
- Ley Orgánica de Transparencia y Acceso a la Información
- Ley de Minería
- Ley de Registro
- Ley de Aguas
- Ley para la promoción de la Inversión y la Participación Ciudadana
- Reglamento General Sustitutivo del Reglamento General de la Ley de Minería
- Instructivo para la sustitución de títulos de concesión minera para Exploración y Explotación

BOLIVIA

- Constitución Política del Estado
- Ley No. 1178 SAFCO del 20 de julio de 1990, Ley de Administración y Control Gubernamentales
- Decreto Supremo No. 23318-A Reglamento de la Responsabilidad por la Función Pública
- Ley No. 2027 Estatuto del Funcionario Público
- Ley No. 1333 Ley del Medio Ambiente
- Decreto Supremo No. 26736 Reglamento Ambiental para el Sector Industrial Manufacturero (RASIM)
- Ley No. 2066 Ley de Servicios de Agua Potable y Alcantarillado Sanitario
- Decreto Supremo No. 27329, Procurar la Transparencia y Acceso a la Información Gubernamental
- Ley No. 2341 de Ley de Procedimientos Administrativos
- Decreto Ley No. 15629 Código de Salud

- Decreto Supremo No. 26739, Reglamento General de Reducción de Riesgo y Atención de Desastres y/o Emergencias
- Ley 1551 Ley de Participación Popular
- Ley No.1702 de Modificaciones y Ampliaciones a la Ley 1551
- Ley No. 1654 Ley de Descentralización Administrativa
- Ley No. 2028 Ley de 1999 Ley de Municipalidades
- Ley No. 2235 Ley del Diálogo Nacional 2000
- Ley No. 2029 Ley de Servicio de Agua Potable y Alcantarillado Sanitario
- Ley 1715 Ley del Servicio Nacional de Reforma Agraria
- Ley No. 1777 Código de Minería
- Ley No.1970 Código de Procedimiento Penal
- Ley No. 1604 Ley de Electricidad
- Convenio 169 sobre Pueblos Indígenas y Tribales en países independientes (OIT) Ratificado por Ley 1257
- Ley No 2175 Ley Orgánica del Ministerio Público
- Ley No 1760 Código de Procedimiento Civil (eleva a rango de Ley el DL. 12760 de 6 de agosto de 1975)
- Ley N° 1836 del Tribunal Constitucional
- Decreto Supremo No 27171 Reglamentar la Ley No 2341 de 23 de abril de 2002 - Ley de Procedimiento Administrativo, para el Sistema de Regulación de Recursos Naturales Renovables SIRENARE
- Decreto Supremo No 26705 Complementación y modificación del Artículo 97 del Reglamento General de Gestión Ambiental
- Decreto Supremo No 26389 Reglamento de Procedimientos Administrativos del SIRENARE
- Decreto Supremo No 25877 Ampliase el plazo de presentación de Manifiestos Ambientales establecido en el artículo 1 del Decreto Supremo No 25419 de 11 de junio de 1999 a todos los concesionarios u operadores mineros
- Decreto Supremo No 25763: Reglamento de la Ley Servicio Nacional de Reforma Agraria
- Decreto Supremo No 25848 Modifica el Reglamento de la Ley Servicio Nacional de Reforma Agraria
- Decreto Supremo No 25419 Ampliase el plazo para la presentación de Manifiestos Ambientales, para actividades mineras
- Decreto Supremo No 24782 Reglamento Ambiental para Actividades Mineras
- Decreto Supremo No 24176 Reglamentación de la Ley del Medio Ambiente - Reglamento General de Gestión Ambiental
- Decreto Supremo No 24176 Reglamentación de la Ley del Medio Ambiente - Reglamento de Prevención y Control Ambiental
- Decreto Supremo No 24176 Reglamentación de la Ley del Medio Ambiente - Reglamento en materia de Contaminación Hídrica
- Decreto Supremo No 23318-A Reglamento de la responsabilidad por la Función Pública
- Resolución Administrativa No 045/2002
- Resolución Administrativa No 039/200
- Resolución Administrativa No 0001/00
- Resolución Instructoria (SAN-SIM-OF) RI-DP-0004/2002
- Decreto Ley No 12760 Código Civil
- Decreto Supremo No 22409 Regula, norma y Coordina ONG
- Decreto Supremo No 25055 Norma Complementaria al D.S. No 24855 (Ley de Organización del Poder Ejecutivo)

- Decreto Supremo No 26140 Reglamento sobre el Funcionamiento de Organizaciones No Gubernamentales que Trabajan con Campesinos, Pueblos Indígenas Originarios y Colonizadores
- Ley No 843 Ley de Reforma Tributaria
- Ley No 1606 Modificaciones a la Ley 843
- Ley No 1818 Ley del Defensor del Pueblo
- Resolución Suprema No 216961 Norma de Planificación Participativa Municipal

CHILE

- Constitución Política de Chile
- Decreto Legislativo No 613, Código del Medio Ambiente y los Recursos Naturales
- Decreto Legislativo No 757, Ley Marco para el Crecimiento de la Inversión Privada
- Ley N° 26300, Ley de los Derechos de Participación y Control Ciudadanos
- Ley No 27444, Ley del Procedimiento Administrativo General
- Ley No 27806, Ley de Transparencia y Acceso a la Información Pública
- Ley N° 28237, Código Procesal Constitucional. Ley No 28245, Ley del Sistema Nacional de Gestión Ambiental. Decreto Supremo N° 018-2001-PCM, Disponen que las entidades del sector público incorporen en sus TUPA un procedimiento para facilitar a las personas el acceso a la información que posean o produzcan
- Decreto Supremo No 043-2003-PCM, Texto Único Ordenado (TUO) de la Ley No 27806, Ley de Transparencia y Acceso a la Información Pública
- Decreto Supremo No 072-2003-PCM, Reglamento de la Ley de Transparencia y Acceso a la Información Pública
- Ley No 27446, Ley del Sistema Nacional de Evaluación de Impacto Ambiental
- Ley No 27783, Ley de Bases de la Descentralización
- Ley No 27867, Ley Orgánica de Gobiernos Regionales
- Ley No 27972, Ley Orgánica de Municipalidades
- Decreto Supremo No 019-97-MITINCI, Reglamento de Protección Ambiental para el Desarrollo de Actividades de la Industria Manufacturera
- Resolución Ministerial No 027-2001-MITINCI, Guía de Participación Ciudadana para la Protección Ambiental en la Industria

PERU

- Constitución Política del Perú
- Decreto Legislativo No 613, Código del Medio Ambiente y los Recursos Naturales
- Decreto Legislativo No 757, Ley Marco para el Crecimiento de la Inversión Privada
- Ley N° 26300, Ley de los Derechos de Participación y Control Ciudadanos
- Ley No 27444, Ley del Procedimiento Administrativo General
- Ley No 27806, Ley de Transparencia y Acceso a la Información Pública
- Ley N° 28237, Código Procesal Constitucional. Ley No 28245, Ley del Sistema Nacional de Gestión Ambiental. Decreto Supremo N° 018-2001-PCM, Disponen que las entidades del sector público incorporen en sus TUPA un procedimiento para facilitar a las personas el acceso a la información que posean o produzcan

- Decreto Supremo No 043-2003-PCM, Texto Único Ordenado (TUO) de la Ley No 27806, Ley de Transparencia y Acceso a la Información Pública
- Decreto Supremo No 072-2003-PCM, Reglamento de la Ley de Transparencia y Acceso a la Información Pública
- Ley No 27446, Ley del Sistema Nacional de Evaluación de Impacto Ambiental
- Ley No 27783, Ley de Bases de la Descentralización
- Ley No 27867, Ley Orgánica de Gobiernos Regionales
- Ley No 27972, Ley Orgánica de Municipalidades
- Decreto Supremo No 019-97-MITINCI, Reglamento de Protección Ambiental para el Desarrollo de Actividades de la Industria Manufacturera
- Resolución Ministerial No 027-2001-MITINCI, Guía de Participación Ciudadana para la Protección Ambiental en la Industria Manufacturera
- Resolución Ministerial N° 596-2002-EM/DM, Reglamento de Consulta y Participación Ciudadana en el Procedimiento de Aprobación de los EIA en el sector Energía y Minas
- Resolución Ministerial No 535-2004-MEM/DM, Reglamento de Participación Ciudadana para la Realización de Actividades Energéticas dentro de los Procedimientos Administrativos de Evaluación de los Estudios Ambientales
- Resolución Directoral No 0197-98/DCG, Normas sobre la Participación Ciudadana en el Proceso de Evaluación de Estudios de Impacto Ambiental presentados ante la Dirección General de Capitanías y Guardacostas
- Resolución Directoral No 006-2004-MTC/16, Reglamento de Consulta y Participación Ciudadana en el proceso de evaluación ambiental y social en el subsector transporte

BRAZIL

- Constituição Federal do Brasil de 1988
- Lei Federal no 9784/99 - Estabelece um marco legal sobre processos administrativos para que os cidadãos tenham claros seus direitos na relação com a Administração
- Lei Federal 6.938/81 - Lei da Política Nacional de Meio Ambiente
- Lei Federal 10.650/03 - Lei de acesso à informação ambiental
- Lei 9.433/97 - Institui a Política Nacional de Recursos Hídricos e cria o Sistema Nacional de Gerenciamento de Recursos Hídricos
- Decreto 5.376/05 - Dispõe sobre o Sistema Nacional de Defesa Civil - SINDEC e o Conselho Nacional de Defesa Civil
- Decreto 4.871/03 - Dispõe sobre a instituição dos Planos de Áreas para o combate à poluição por óleo em águas sob jurisdição nacional e dá outras providências
- Decreto 5.098/04.- Dispõe sobre a criação do Plano Nacional de Prevenção, Preparação e Resposta Rápida a Emergências Ambientais com Produtos Químicos Perigosos - P2R2
- Lei 9.966/00 - Dispõe sobre a prevenção, o controle e a fiscalização da poluição causada por lançamento de óleo e outras substâncias nocivas ou perigosas em águas sob jurisdição nacional
- Convenção de Aarhus - sobre "Acesso à Informação, à Participação Pública nos Processos Decisórios e ao Acesso à Justiça em Matéria Ambiental"

COLOMBIA

- Ley 57 de 1985 sobre difusión y la publicidad de los actos y documentos oficiales. Consulta de documentos públicos por parte de los ciudadanos
- Decreto 1 de 1994 Código de lo Contencioso Administrativo
- Ley 99 de 1993 consagra varios derechos
- Derecho de petición de informaciones; derecho a participación en decisiones ambientales; creación del Sistema de Información Ambiental (art. 6, núm. 20)
- Consulta a comunidades indígenas y negras (artículo 76)
- Decreto 1600/94, señala al IDEAM como entidad encargada de dirigir y coordinar el Sistema de Información Ambiental
- Libertad de imprenta Constitución Nacional artículo 20; 73
- Libertad de asociación Constitución nacional artículo 40
- Decreto 1 de 1994 regula lo concerniente a derechos de petición de información, y su procedimiento
- Decreto 2811 de 1974 artículo 1 y 23 utilidad pública de la información relativa a la calidad ambiental y a la oferta y estado de los recursos naturales renovables
- Decreto 1600 de 1994 sobre Sistema Nacional Ambiental
- Libertad de expresión Constitución Nacional artículo 16
- Decretos 1276 de 1994 y 1603 de 1994 Sistema de Información Ambiental
- Derecho a participar Constitución Nacional artículo 2; artículo 270;340
- Ley 134 de 1994 sobre mecanismos de participación ciudadana
- Ley 190 de 1995 Estatuto Anticorrupción, establece el Sistema de Quejas y reclamos en las entidades públicas
- Ley 136 de 1994 sobre Organismos de Control Fiscal

VENEZUELA

- Constitución de la República Bolivariana de Venezuela
- Ley Orgánica de Ambiente
- Ley Orgánica de la Administración Pública
- Ley Orgánica de Procedimientos Administrativos
- Ley de Amparo sobre Garantías y Derechos Constitucionales
- Ley Orgánica de Prestación del Servicio de Agua Potable y de Saneamiento
- Ley Sobre Sustancias, Materiales Y Desechos Peligrosos
- Ley de la Organización Nacional de Protección Civil y Administración de Desastres (Ley Habilitante)
- Ley Penal del Ambiente
- Ley Orgánica de Ordenación del Territorio
- Ley de los Consejos Locales de Planificación Pública
- Ley de Seguridad de la Nación
- Ley de Impuesto Sobre la Renta
- Código Orgánico Tributario
- Ley de Residuos y Desechos Sólidos
- Reglamento Parcial de la Ley Orgánica de Procedimientos Administrativos sobre el servicio de información al público y recepción y entrega de documentos
- Código Orgánico Procesal Penal
- Código Civil

- Código de Procedimiento Civil
- Decreto No 638 Normas sobre la Calidad del Aire y Control de la Contaminación Atmosférica
- Decreto No 883 Normas para la clasificación y el control de la calidad de los cuerpos de agua y vertidos o efluentes líquidos
- Decreto No 3.219 Normas para la clasificación y el control de la calidad de las aguas de la cuenca del Lago de Valencia
- Decreto 1.257 Normas sobre evaluación ambiental de actividades susceptibles de degradar el ambiente
- Ordenanza Reguladora de la Actividad de Generación, Almacenamiento, recolección, transporte, transferencia, aprovechamiento y tratamiento de los residuos y desechos sólidos en el Municipio Bolivariano Libertador

2. CASE STUDIES REVIEWED IN THE COUNTRIES.

MEXICO

Category	Subcategory	Case studies
Access to Information	Emergency	<ul style="list-style-type: none"> • Contaminación de Playas Mexicanas 2003 • Derrame en Cozumel 2004
	Monitoring	<ul style="list-style-type: none"> • Red Automática de Monitoreo Atmosférico de la Zona Metropolitana de la Ciudad de Toluca • Comisión del Agua del Estado de México
	Reports	<ul style="list-style-type: none"> • Informe de la Situación del Medio Amb. en México • Estadísticas del Agua en México 2004
	Industry	<ul style="list-style-type: none"> • Sector energético: <ul style="list-style-type: none"> - Central Carboeléctrica Plutarco Elías Calles - Central Nucleoeléctrica Laguna Verde • Sector químico y petroquímico: <ul style="list-style-type: none"> - DuPont Productos Agrícolas - Bayer de México Planta Lerma - Pemex, Complejo Petroquímico Pajaritos
Access to Participation	Policy	<ul style="list-style-type: none"> • Programa de Pago de Servicios Ambientales Hidrológicos • Ley de Aguas Nacionales • Plan Hidráulico Gran Visión para el Estado de Chihuahua
	Project	<ul style="list-style-type: none"> • Proyecto Mar de Cortés
Access to Justice	Denial of Information	<ul style="list-style-type: none"> • Negativa de la Comisión Nacional de Áreas Naturales Protegidas para entregar una opinión técnica solicitada
	Denial of Participation	<ul style="list-style-type: none"> • Reformas a la NOM ECOL- 22, sin observar el proceso de participación social contemplado en Ley
	Environmental Damages	<ul style="list-style-type: none"> • Construcción de un Muelle en Playa del Carmen, a 100 m de un arrecife coralino

Capacity Building	Government	<ul style="list-style-type: none"> • Secretaría de Medio Ambiente y Recursos Naturales • Comisión Nacional del Agua • Instituto Nacional de Ecología • Secretaría de Energía • Tribunal Superior de Justicia del Distrito Federal
	Public	<ul style="list-style-type: none"> • Secretaría de Educación Pública • Organizaciones No Gubernamentales • Escuelas

COSTA RICA

Category	Subcategory	Case Studies
Access to Information	Emergency	<ul style="list-style-type: none"> • Contaminación de cuerpos de agua por agroquímicos
	Monitoring	<ul style="list-style-type: none"> • Laboratorio Nacional de Aguas (LNA) • Monitoreo de la calidad del aire en el Cantón de Belén
	Reports	<ul style="list-style-type: none"> • Informe del Estado de la Nación
	Industry	<ul style="list-style-type: none"> • Intel • Coopemontecillos R.L. • Hotel Finca Rosa Blanca Inn
Access to Participation	Policy	<ul style="list-style-type: none"> • La Ley de Biodiversidad • Estrategia Nacional de Conservación y Uso Sostenible de la Biodiversidad • Política de Normas para el Acceso a los elementos y recursos genéticos y bioquímicos de la Biodiversidad. (Decreto 31514-MINAE)
	Project	<ul style="list-style-type: none"> • Proyecto Hidroeléctrico La Joya • Exploraciones petroleras en el Caribe
Access to Justice	Denial of Information	<ul style="list-style-type: none"> • Recurso de Amparo, Asociación PRETOMA y Asociación Preservacionista de Flora y Fauna Silvestre contra Dirección General de Aduana • Recurso de Amparo y Denuncia Administrativa ante el Tribunal Ambiental Administrativo. Hogar de Ancianos El Buen Samaritano contra Municipalidad de Desamparados y otros
	Denial of Participation	<ul style="list-style-type: none"> • Asociación Justicia para la Naturaleza y otros contra Ministerio del Ambiente y Energía • Asociación Conservacionista de Ciruelas y Asociación de Amigos del Ambiente para la Protección del río Siquiaries contra empresa Tuna Tun S.A. y el Ministerio de Salud
	Environmental Damage	<ul style="list-style-type: none"> • Asociación Justicia para la Naturaleza contra Municipalidad de Santa Bárbara y Ministerio de Salud • El Estado contra El Tajo Los Murillo, actor civil Justicia para la Naturaleza

Capacity Building	Government	<ul style="list-style-type: none"> Ministerio de Ambiente y Energía Contraloría Ambiental Sistema Nacional de Áreas de Conservación (SINAC) Estrategia Nacional Ambiental Tribunales de Justicia Primer Circuito Judicial
	Public	<ul style="list-style-type: none"> MINAE: Dirección de Sociedad Civil: Oficina de Gestión de la Información y comercialización Ministerio de Educación: Oficina de Educación Ambiental Tribunal Ambiental Administrativo Defensoría de los Habitantes Colegio de Abogados Organizaciones no gubernamentales Escuelas

EL SALVADOR

Category	Subcategory	Case Studies
Access to Information	Emergency	<ul style="list-style-type: none"> Inundación por mal manejo de CEL en la apertura de las compuertas de la Presa 15 de Septiembre Almacenamiento y deterioro de barriles conteniendo toxafeno en empresa AGROJELL, S.A.
	Monitoring	<ul style="list-style-type: none"> Monitoreo del Aire en el Gran San Salvador: Sistema SWISSCONTACT - FUSADES Monitoreo de la Calidad del Agua: Ministerio de Salud Pública y Asistencia Social
	Reports	<ul style="list-style-type: none"> Memoria del Ministerio del Ambiente y Recursos Naturales Informe Nacional del Estado del Medio Ambiente GEO 2002 (MARN y PNUMA)
	Industry	<ul style="list-style-type: none"> Ingenio Izalco Beneficio El Molino Agrocultivos San José La Majada Empresa RASA Represa Hidroeléctrica sobre Río Sensunapán
Access to Participation	Policy	<ul style="list-style-type: none"> Bases para el Plan de Nación Programa de desarrollo de la zona oriental
	Project	<ul style="list-style-type: none"> Construcción de Puerto Cutuco Construcción de Geotérmica Berlín
Access to Justice	Denial of Information	<ul style="list-style-type: none"> Construcción del Anillo Periférico
	Denial of Participation	<ul style="list-style-type: none"> Caso Finca El Espino
	Environmental Damage	<ul style="list-style-type: none"> Apertura de las Compuertas en Presa 15 de Septiembre

Capacity Building	Government	<ul style="list-style-type: none"> • Procuraduría Adjunta para la Defensa de los Derechos Humanos, en el tema Realidad Nacional y Medio Ambiente. • Ministerio del Ambiente y Recursos Naturales. • Policía Nacional Civil, División de Medio Ambiente.
	Public	<ul style="list-style-type: none"> • Ministerio de Educación • Institución de enseñanza media • Organismos No Gubernamentales

ECUADOR

Category	Subcategory	Case Studies
Access to Information	Emergency	<ul style="list-style-type: none"> • Derrame de petróleo en Papallacta • Incendio en el Teatro Bolívar
	Monitoring	<ul style="list-style-type: none"> • Monitoreo del aire del Distrito Metropolitano de Quito. • Monitoreo del agua del Distrito Metropolitano de Quito
	Reports	<ul style="list-style-type: none"> • Informe sobre el agua del Distrito Metropolitano de Quito
	Industry	<ul style="list-style-type: none"> • AEC Ecuador • Oxy • Petroecuador
Access to Participation	Policy	<ul style="list-style-type: none"> • Política y Estrategia de Biodiversidad • Plan de Desarrollo de Pichincha • Proyecto de Ley de Conservación y Manejo Sustentable de la Biodiversidad en el Ecuador
	Project	<ul style="list-style-type: none"> • Bloque 11 • Ríos Orientales
Access to Justice	Denial of Information	<ul style="list-style-type: none"> • Acción Ecológica- Ministerio de Relaciones Exteriores. • FIPSE- Petroecuador
	Denial of Participation	<ul style="list-style-type: none"> • Comuna Illapamba • Bloque 24
	Environmental Damage	<ul style="list-style-type: none"> • CORDAVI- Ministerio del Ambiente • ASONE - Petroecuador
Capacity Building	Government	<ul style="list-style-type: none"> • Ministerio del Ambiente del Ecuador • Ministerio de Energía y Minas • Secretaría Técnica del Frente Social • Corte Superior de Pichincha • Fiscalía Distrital
	Public	<ul style="list-style-type: none"> • Ministerio del Ambiente • Ministerio de Energía y Minas • Ministerio de Educación y Cultura • Colegio Sebastián de Benalcázar • Fundación EcoCiencia • Fundación Arco Iris • Fundación Natura

BOLIVIA

Category	Subcategory	Case Studies
Access to Information	Emergency	<ul style="list-style-type: none"> Contaminación Minera en el Río Pilcomayo Contaminación Industrial del Río Piraícito
	Monitoring	<ul style="list-style-type: none"> Sistema de Monitoreo de la Calidad del agua Potable, ciudades de La Paz y El Alto - Departamento de La Paz
	Reports	<ul style="list-style-type: none"> Informe de Bolivia al Taller Internacional de la CAO/OECD, Santa Cruz de la Sierra. Desarrollo Sostenible en Bolivia, Informe Nacional 2002
	Industry	<ul style="list-style-type: none"> UNIVERSALTEX Polar Textil Industrias Fátima Eximel La Chonta
Access to Participation	Policy	<ul style="list-style-type: none"> Ley 1715 del Servicio Nacional de Reforma Agraria y su Reglamento Política de Distribución y Asentamientos Humanos Rurales Estrategia Nacional de Conservación y uso Sostenible de la Biodiversidad en Bolivia Plan de Desarrollo Municipal La Paz 2001- 2005
	Project	<ul style="list-style-type: none"> Proyecto de Reconstrucción Planta Santa Rosa, COBEE, cantón Zongo, comunidad Coscapa, Departamento de La Paz.
Access to Justice	Denial of Information	<ul style="list-style-type: none"> Solicitud de Información por el impacto de la Cuenca del Pilcomayo Falta de acceso de informe en saneamiento de tierras
	Denial of Participation	<ul style="list-style-type: none"> Falta de acceso de participación en proceso de Saneamiento Técnico-legal de tierras Participación en saneamiento de tierras y sobreposición de concesiones forestales
	Environmental Damage	<ul style="list-style-type: none"> Derrame de petróleo en el Río Desaguadero
Capacity Building	Government	<ul style="list-style-type: none"> Ministerio de Educación Ministerio de Desarrollo Sostenible Viceministerio de Industria y Comercio Viceministerio de Minería Gobierno Municipal de la ciudad de Santa Cruz Prefectura del Departamento de Santa Cruz Un tribunal mayor Un tribunal menor

Capacity Building	Public	<ul style="list-style-type: none"> • Departamento de Regulación Ambiental del Gobierno Municipal de la Alcaldía de Santa Cruz. • Unidad de Gestión Ambiental de la Prefectura de Santa Cruz • Ministerio de Desarrollo Sostenible, • Viceministerio de Minería • El Departamento de la Unidad de RASIM del Viceministerio de Industria y Comercio
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CHILE

Category	Subcategory	Case Studies
Access to Information	Emergency	<ul style="list-style-type: none"> • Volcamiento del tren de la empresa TRANSAP que transportaba ácido sulfúrico • Emanaciones de Combustible en la comuna de Panguipulli, Región de Los Lagos
	Monitoring	<ul style="list-style-type: none"> • Sistema de Monitoreo de la Calidad del Aire de Temuco, IX Región de la Araucanía • Monitoreo de Agua Potable Rural, Carretera Austral, Ruta 7, comuna de Puerto Montt, Región de Los Lagos
	Reports	<ul style="list-style-type: none"> • Informe País, Estado de Medio Ambiente en Chile 1999 (2000) • Sistema Nacional de Información Ambiental - SINIA, Región de Los Lagos
	Industry	<ul style="list-style-type: none"> • Fundación Hernan Videla Lira de ENAMI Paipote • CODELCO División Salvador, Fundación de Potrerillos Fundación y Refinería Ventanas, ENAMI • Marine Harvest, Planta de Proceso, Chamiza • Salmones Multiexport, Planta Quillaipe • Sociedad Pesquera Comercial Chaicas Ltda, Planta Procesadora de Pesca Blanca y Salmón
Access to Participation	Policy	<ul style="list-style-type: none"> • Política Nacional de Acuicultura - Subpesca • Política Ambiental - MOPTT • Reglamento Ambiental para la Acuicultura - Subpesca • Manual de Participación Ciudadana (Plan)- MOPTT
	Project	<ul style="list-style-type: none"> • EIA Segunda Pista Aeropuerto Arturo Merino Benítez • EIA Proyecto Conversión a Gas Central Renca
Access to Justice	Denial of Information	<ul style="list-style-type: none"> • Caso de denegación del acceso a la información: Planes de manejo CONAF
	Denial of Participation	<ul style="list-style-type: none"> • Costanera Norte 1998
	Environmental Damage	<ul style="list-style-type: none"> • Conchales en proyecto Cascada

Capacity Building	Government	<ul style="list-style-type: none"> • Comisión Nacional del Medio Ambiente - CONAMA • Subsecretaría de Pesca • Ministerio de Obras Públicas, Transportes y Telecomunicaciones • Juzgado de Policía Local de Punta Arenas • 2do Juzgado del Crimen de Puente Alto
	Public	<ul style="list-style-type: none"> • Comisión Nacional del Medio Ambiente - CONAMA • Subsecretaría de Pesca • Ministerio de Obras Públicas, Transportes y Telecomunicaciones • Escuela Santa Rosa • Escuela Salvador Allende • ONG Fiscalía del Medio Ambiente - FIMA • Fundación TERRAM

PERU

Category	Subcategory	Case Studies
Access to Information	Emergency	<ul style="list-style-type: none"> • Caso Choropampa • Caso derrame de petróleo en zona de selva
	Monitoring	<ul style="list-style-type: none"> • Monitoreo de aire.- Sistemas de monitoreo de la Municipalidad Provincial de Ilo • Monitoreo de agua potable.- Sistemas de monitoreo de SEDAPAL
	Reports	<ul style="list-style-type: none"> • Informe Anual sobre el Estado del Ambiente emitido por CONAM • Informes ambientales del Instituto Nacional de Estadística e Información
	Industry	<ul style="list-style-type: none"> • Compañía Minera Antamina • Minera Majaz • Mineras de la Comunidad de María • Austral Group en Paracas • SIPESA S.A en Chimbote
Access to Participation	Policy	<ul style="list-style-type: none"> • Plan Nacional de Gestión Integral de Residuos Sólidos • Estrategia Nacional Forestal
	Project	<ul style="list-style-type: none"> • Caso Tambogrande • Caso Camisea
Access to Justice	Denial of Information	No elaborado por ausencia de casos
	Denial of Participation	No elaborado por ausencia de casos
	Environmental Damage	<ul style="list-style-type: none"> • Case Studies Choropampa
Capacity Building	Government	<ul style="list-style-type: none"> • CONAM • Ministerio de Energía y Minas • Contraloría General de la República • Corte Suprema • Corte Superior

Capacity Building	Public	<ul style="list-style-type: none"> • CONAM • Ministerio de Energía y Minas • Contraloría General de la República • INRENA • Ministerio de Educación • 2 Centros educativos • 2 ONG peruanas: DARN y Grupo GEA
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BRAZIL

Category	Subcategory	Case Studies
Access to Information	Emergency	<ul style="list-style-type: none"> • Explosión del barco Vicuña en el puerto de Paranaguá - Estado de Santa Catarina • Derrame de petróleo en la presa Billings
	Monitoring	<ul style="list-style-type: none"> • Monitoreo de calidad de aire en el Estado de São Paulo por la agencia ambiental CETESB • Monitoreo de calidad de aguas en nivel nacional por la ANA - Agencia Nacional de Aguas
	Reports	<ul style="list-style-type: none"> • Reports GEO Brasil 2002 • Indicadores de Desarrollo Sustentable 2002 del IBGE - Instituto Brasileño de Geografía y Estadística
	Industry	<ul style="list-style-type: none"> • Rionil Compuestos Vinílicos - Industria especializada en la fabricación de compuestos vinílicos - Unidad de Duque de Caxias, Estado de Río de Janeiro • Braskem - produce petroquímicos básicos como eteno, propeno, benceno, caprolactama y DMT, gasolina y GLP. En el segmento de resinas termoplásticas produce polietileno, polipropileno, PVC y PET. Diadema, SP • Aracruz Celulose - producción de celulosa blanqueada de eucalipto - Unidad de Barra de Riacho, Estado de Espírito Santo. • Iguazú Celulose - produce celulosa no blanqueada fibra corta y fibra larga - Unidad de Piraí do Sul, Estado de Paraná
Access to Participation	Policy	<ul style="list-style-type: none"> • Política Nacional de Recursos Hídricos • Política Nacional de Energía • Estrategia de desarrollo regional con la transposición del Río São Francisco, en la región noreste de Brasil
	Project	<ul style="list-style-type: none"> • Presa hidroeléctrica de Barra Grande - Estado de Santa Catarina • Carretera "Rodoanel", etapa oeste, concluida en 2004, alrededor de la región metropolitana de São Paulo
Access to Justice	Denial of Information	<ul style="list-style-type: none"> • No presentó
	Denial of Participation	<ul style="list-style-type: none"> • Consejo de Recursos Hídricos del Estado de Paraná (CERH)
	Environmental Damage	<ul style="list-style-type: none"> • Presa hidroeléctrica de Barra Grande, Estado de Santa Catarina

Capacity Building	Government	<ul style="list-style-type: none"> Ministerio de Medio Ambiente IBAMA - Agencia que implementa la política de medio ambiente y es responsable por la fiscalización ambiental ANEEL - Agencia Nacional de Energía y Electricidad ANA - Agencia Nacional de Aguas
	Public	<ul style="list-style-type: none"> Ministerio de Medio Ambiente ANA - Agencia Nacional de Aguas MEC Ministerio de la Educación IBAMA ECOAR, organización ambientalista

COLOMBIA

Category	Subcategory	Case Studies
Access to Information	Emergency	<ul style="list-style-type: none"> Desbordamiento del río Tunjuelito Derrumbe del Relleno Sanitario Doña Juana
	Monitoring	<ul style="list-style-type: none"> Caso del monitoreo del agua Caso del monitoreo del aire
	Reports	<ul style="list-style-type: none"> Estado de los Recursos Naturales y del Medio Ambiente
	Industry	<ul style="list-style-type: none"> Registros de emisiones atmosféricas Registro de los vertimientos de aguas
Access to Participation	Policy	<ul style="list-style-type: none"> Política Parques Para la Gente/Política de participación social en conservación Resolución para la Importación y siembra del algodón BT/ Política de Bioseguridad Plan Nacional de Desarrollo Forestal (1999 - 2024) Plan Verde: Bosques para la Paz. (1998-2002) Programa de erradicación de cultivos ilícitos a través de la fumigación- Plan Colombia Proyecto de exploración y extracción de petróleo en el bloque Samoré
	Project	<ul style="list-style-type: none"> Proyecto de perforación del pozo Gibraltar
Access to Justice	Denial of Information	<ul style="list-style-type: none"> Proyecto de Ley Forestal
	Denial of Participation	<ul style="list-style-type: none"> Construcción de Humedal la Conejera
	Environmental Damage	<ul style="list-style-type: none"> Sentencia del Río Bogotá
Capacity Building	Government	<ul style="list-style-type: none"> Defensoría del Pueblo
	Public	<ul style="list-style-type: none"> Ministerio del Medio Ambiente - Dirección de Participación Ciudadana Contraloría general de la República - Control participativo de la gestión pública

VENEZUELA

Category	Subcategory	Case Studies
Access to Information	Emergency	<ul style="list-style-type: none"> • Caso de la Aparición de la Lemna Acuática 2003 • Proliferación de Desechos Sólidos en el Municipio Libertador 2004
	Monitoring	<ul style="list-style-type: none"> • Sistema de Monitoreo de la Calidad del Agua: Monitoreo de la Calidad del Agua de los Lagos: Maracaibo y Valencia, y del Embalse “La Mariposa” • Sistema de Monitoreo de Calidad del Aire de la Zona Metropolitana de Caracas
	Reports	<ul style="list-style-type: none"> • Informe de la Situación del Medio Ambiente en Venezuela 2002 • Anuario sobre el Medio Ambiente de la Defensoría del Pueblo. 2004
	Industry	<ul style="list-style-type: none"> • Refinadora de Maíz Venezolana (REMAVENCA) • Nestle Purina • Procter & Gamble Venezuela • Empresas Bigott • Siderúrgica del Orinoco (SIDOR) • Carbones del Orinoco (CABONORCA)
Access to Participation	Policy	<ul style="list-style-type: none"> • Programa Mesas Técnicas de Agua • Estrategia de Micromedidores Comunitarios • Ley Orgánica de Prestación del Servicio de Agua Potable y de Saneamiento • Plan de la Reserva Forestal de Imataca • Política Nacional de Bosques.
	Project	<ul style="list-style-type: none"> • Proyecto Carbonífero Cachirí, Socuy y Maché. Estado Zulia • Proyecto de Manejo Comunitario del Bosque Caparo- Estado Barinas
Access to Justice	Denial of Information	<ul style="list-style-type: none"> • Caso de las Concesiones Mineras de las Cristinas
	Denial of Participation	<ul style="list-style-type: none"> • Tendido Eléctrico Venezuela-Brasil
	Environmental Damage	<ul style="list-style-type: none"> • Derrame Petrolero del Buque Nissos Amorgos
Capacity Building	Government	<ul style="list-style-type: none"> • Ministerio de Ambiente y de los Recursos Naturales Renovables • Dirección Estatal Ambiental- Región Capital • Hidrocapital • Corte Primera de los Contencioso Administrativo • Escuela Nacional de la Magistratura
	Public	<ul style="list-style-type: none"> • Ministerio de Educación Cultura y Deportes • Organizaciones No Gubernamentales • Escuelas.