



Beyond Ratification: Can the Escazú Agreement Deliver Environmental Democracy?

Cielo María Ávila López^{1*}

¹ Instituto de Investigaciones Jurídicas y Políticas, Universidad Autónoma de Campeche (UACAM), Campeche, Mexico. ORCID: 0000-0002-2428-5712

* Corresponding author: cieloavlo@gmail.com

Abstract. The Escazú Agreement represents a major step toward environmental democracy in Latin America and the Caribbean by linking access to environmental information, public participation, access to justice, and protection of environmental human rights defenders. Mexico ratified the Agreement and has since developed institutional mechanisms, training initiatives, governance assessments, and an evolving national implementation route. This article examines whether these advances are translating formal access rights into effective environmental agency for Indigenous peoples and local communities. Through critical legal-policy analysis and an integrative review of official documents, peer-reviewed literature, Inter-American standards, Indigenous-rights instruments, and previous research on environmental conflicts in the Yucatán Peninsula, the study proposes an Escazú Implementation Chain. The framework evaluates normative reception, institutional capacity, accessible information, meaningful participation, effective remedies, and safe civic space, with Indigenous differentiation as a cross-cutting requirement. The analysis argues that Mexico's principal challenge is no longer merely normative recognition, but the practical conversion of rights into usable mechanisms. Escazú's effectiveness should therefore be assessed by whether affected communities can understand, influence, challenge, and obtain remedies regarding environmental decisions.

Keywords: Escazú Agreement; environmental democracy; Indigenous peoples; public participation; environmental justice; Mexico; environmental defenders

Resumen. El Acuerdo de Escazú representa un avance fundamental hacia la democracia ambiental en América Latina y el Caribe al articular el acceso a la información ambiental, la participación pública, el acceso a la justicia y la protección de las personas defensoras de los derechos humanos en asuntos ambientales. México ratificó el Acuerdo y, desde entonces, ha desarrollado mecanismos institucionales, iniciativas de capacitación, diagnósticos de gobernanza y una ruta nacional de implementación aún en evolución. Este artículo examina si estos avances están transformando los derechos formales de acceso en una agencia ambiental efectiva para los pueblos indígenas y las

comunidades locales. Mediante un análisis jurídico y de política pública crítico y una revisión integradora de documentos oficiales, literatura arbitrada, estándares interamericanos, instrumentos de derechos indígenas e investigaciones previas sobre conflictos ambientales en la península de Yucatán, se propone una Cadena de Implementación de Escazú. El marco evalúa la recepción normativa, la capacidad institucional, la información accesible, la participación significativa, los remedios efectivos y un espacio cívico seguro, incorporando la diferenciación indígena como requisito transversal. El análisis sostiene que el principal reto de México ya no es únicamente el reconocimiento normativo, sino la transformación práctica de los derechos en mecanismos utilizables. La eficacia de Escazú debe evaluarse por la capacidad de las comunidades afectadas para comprender, influir, controvertir y obtener remedios frente a las decisiones ambientales.

Palabras clave: Acuerdo de Escazú; democracia ambiental; pueblos indígenas; participación pública; justicia ambiental; México; personas defensoras ambientales

1. Introduction: Beyond Ratification

The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean - the Escazú Agreement - represents one of the most ambitious attempts to transform environmental governance in a region marked by exceptional biological diversity, intensive resource extraction, socio-environmental conflict, and persistent risks for environmental defenders. Adopted in 2018 and in force since 22 April 2021, the treaty gives binding regional expression to the access-rights architecture associated with Principle 10 of the Rio Declaration. Its objective is not simply to encourage administrative openness. It seeks the full and effective implementation of access to environmental information, participation in environmental decision-making, and access to justice, while strengthening capacities and cooperation and contributing to the right of present and future generations to live in a healthy environment (Economic Commission for Latin America and the Caribbean [ECLAC], 2018).

Escazú is therefore best understood as an environmental-democracy treaty. Its normative significance lies in connecting environmental decision-making to human rights, equality and non-discrimination, transparency, accountability, prevention, precaution, and intergenerational equity. It also contains an unprecedented binding provision dedicated to human rights defenders in environmental matters. Academic literature has consequently described the Agreement as a landmark opportunity to integrate democracy, human rights, and conservation in Latin America

and the Caribbean (López-Cubillos et al., 2022), and as a regional instrument capable of strengthening the democratic legitimacy of environmental governance (Etemire, 2023).

Ratification, however, is only the beginning of the legal life of a treaty. Escazú itself repeatedly emphasizes “full and effective implementation.” This wording matters. A state may ratify the Agreement, enact regulations, create committees, train public officials, and establish digital portals while communities affected by environmental decisions continue to encounter inaccessible information, participation processes with little influence, procedural fragmentation, difficult access to remedies, or risks associated with environmental defense. In such circumstances, institutional activity and effective environmental democracy diverge.

Mexico offers an especially relevant setting in which to examine this implementation challenge. The country ratified Escazú in January 2021 and has since undertaken a series of implementation initiatives. A UNDP-Secretariat of Foreign Affairs project supported a national governance mechanism, including multi-actor dialogue, public-official training, information tools, work on gender, access to justice, environmental defenders, and synergies with other environmental conventions (United Nations Development Programme [UNDP] Mexico, 2024a). A 2024 governance diagnosis identified institutional conditions and recommendations for full and effective implementation (UNDP Mexico & Secretaría de Relaciones Exteriores [SRE], 2024). At COP4 in April 2026, Mexico reported progress on a national implementation route containing short-, medium-, and long-term actions (Procuraduría Federal de Protección al Ambiente [PROFEPA], 2026).

These advances make Mexico an analytically useful case precisely because the debate can move beyond the binary question of whether the state has “implemented” Escazú. The more demanding question is whether the institutions being created transform the position of people and communities within environmental decision-making. This is particularly important for Indigenous peoples. Escazú guarantees access rights to the public and requires special attention to persons and groups in vulnerable situations, but general environmental participation does not replace the differentiated rights of Indigenous peoples under ILO Convention No. 169, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), constitutional law, and Inter-American jurisprudence. The relationship among these regimes must be complementary rather than substitutive.



This article asks: **To what extent has Mexico’s implementation architecture transformed the Escazú Agreement’s access rights into effective environmental agency for Indigenous peoples and local communities, and where does that implementation chain break down?** A secondary question follows: **Is participation meaningful when affected communities are heard but remain unable to shape the decisions that transform their territories?**

The article advances three arguments. First, Mexico’s principal Escazú challenge is increasingly one of implementation quality rather than normative absence. Institutionalization is real, but its democratic value depends on outcomes at the point where people interact with environmental authorities and projects. Second, Escazú should be evaluated through an implementation chain linking normative reception, institutional capacity, accessible information, consequential participation, effective remedy, and safe civic space. Weakness at any one stage can neutralize the practical effect of the rights recognized at the preceding stage. Third, Indigenous participation must remain a differentiated cross-cutting requirement. A public hearing, consultation portal, or generalized stakeholder process cannot be presumed to satisfy Indigenous consultation or free, prior and informed consent where those standards are legally applicable.

The contribution is deliberately neither a wholesale critique nor a celebratory account of Escazú. The treaty’s implementation architecture has continued to mature regionally. COP4, held in Nassau in April 2026, adopted ten decisions to accelerate implementation, including methodological guidance for national implementation road maps and new working arrangements on environmental justice (ECLAC, 2026a). This shift from ratification toward implementation makes the present question particularly timely. The issue is no longer whether Escazú offers a progressive normative model; it is how to make that model alter environmental governance in practice.

2. Escazú and the Promise of Environmental Democracy

Environmental democracy rests on a simple but demanding proposition: decisions about environmental risks, resources, territories, and development should not be monopolized by technical agencies, political authorities, or private actors. Those affected must have meaningful opportunities to know, participate, and seek review. In international environmental law, this idea developed through Principle 10 of the 1992 Rio Declaration and later through regional instruments such as the Aarhus Convention and the Escazú Agreement. Escazú adapts and deepens this



procedural architecture in a Latin American and Caribbean context in which environmental rights intersect with inequality, Indigenous territories, extractive economies, institutional capacity constraints, and violence against environmental defenders (Ebbesson, 2022; López-Cubillos et al., 2022).

The Agreement's first pillar concerns environmental information. Articles 5 and 6 combine reactive access - the right to request and receive information - with active generation and dissemination. The difference is fundamental. Environmental democracy cannot depend entirely on individuals knowing which agency holds a document, having the resources to request it, and being able to interpret technically complex material. Public authorities must produce, organize, update, and disseminate relevant information in ways that reduce asymmetries. ECLAC's implementation guide underscores the need to assist persons and groups in vulnerable situations and to ensure that information can be understood and accessed through appropriate languages and formats (ECLAC, 2023).

The second pillar, Article 7, concerns public participation in environmental decision-making. Escazú does not reduce participation to notification after the decisive choices have been made. The implementation guide emphasizes participation from early stages, when options remain open and the public can effectively influence the decision (ECLAC, 2023). This temporal element is central. A procedure may be formally participatory and yet democratically weak if it begins only after site selection, project scale, financing, technology, or other foundational decisions have become difficult to alter.

The third pillar, Article 8, addresses access to justice in environmental matters. Information and participation lose much of their practical significance if individuals and communities cannot challenge unlawful decisions, omissions, environmental harm, or violations of access rights. Escazú therefore requires effective judicial and administrative mechanisms, due process, measures to facilitate evidence, dissemination of decisions, and support for persons and groups in vulnerable situations. Comparative scholarship suggests that access to environmental justice remains one of the most demanding components to translate from treaty standards into usable remedies (Zhao & Etemire, 2026).

Article 9 adds a fourth dimension that distinguishes Escazú globally: protection of human rights defenders in environmental matters. Environmental democracy presupposes a civic space in which people can request information, organize, criticize projects, use judicial remedies, and defend land



and ecosystems without intimidation, criminalization, threats, or violence. A participation mechanism cannot be considered effective if exercising it produces unacceptable personal risk. The treaty thus connects procedural rights to the conditions under which those rights can safely be exercised (Saura-Freixes, 2022).

Finally, Articles 10-13 make capacity building, cooperation, and implementation means part of the treaty's architecture. This is not a minor administrative appendix. Rights can fail because institutions lack personnel, technical systems, budgets, coordination, translation capacity, data standards, judicial specialization, or reliable protection mechanisms. Escazú recognizes that implementation requires state capacity as well as legal obligation. At COP4, the regional agenda increasingly reflected this implementation orientation by adopting methodological guidelines for national road maps designed to identify gaps, define concrete actions, and establish priorities through transparent processes with meaningful public participation (ECLAC, 2026a).

Taken together, these provisions produce an integrated model: information enables participation; participation influences decisions; justice provides correction and remedy; defender protection makes the exercise of rights possible; and institutional capacity sustains the entire system. The weakness of one component can therefore degrade the others. This interdependence provides the basis for the implementation-chain framework developed below.

3. From Access Rights to Environmental Agency

A central analytical difficulty in assessing Escazú is the temptation to equate formal availability with effective enjoyment. A portal may exist, yet the relevant environmental impact information may be technically inaccessible. A meeting may occur, yet participants may enter after the key decision has been substantially fixed. A legal remedy may exist, yet cost, distance, evidentiary burdens, duration, or lack of specialized assistance may make it unusable. A protection protocol may be formally available, yet defenders may not trust or reach the institutions responsible for it. Implementation must therefore be assessed in terms of capability, not institutional presence alone. This article uses the term **environmental agency** to describe the practical capability of individuals and communities to understand environmental decisions, enter decision-making processes early enough to matter, articulate their own knowledge and priorities, influence outcomes, challenge unlawful or harmful decisions, obtain effective remedies, and exercise these rights safely. Environmental agency is not identical to veto power. Nor does it imply that every public objection



must determine the final result. It instead asks whether affected actors possess a genuine institutional position from which their participation can make a difference.

This approach is compatible with scholarship distinguishing different objectives of public participation. Participation may serve legitimacy, deliberation, information gathering, accountability, rights protection, or improved environmental outcomes (Sharman, 2023). These purposes overlap but are not interchangeable. An agency that convenes a hearing solely to collect comments may satisfy one procedural objective while failing a rights-based expectation that affected persons have a reasonable opportunity to influence the decision. Escazú's emphasis on open, inclusive, and early participation supports the latter, more demanding understanding.

Environmental agency also helps clarify why equality and non-discrimination are operational rather than merely declarative principles. Equal formal access can reproduce inequality when participants begin from radically unequal positions. Communities may lack technical experts, internet connectivity, legal representation, transportation, translation, or the time required to follow complex administrative processes. Indigenous participants may face additional linguistic, cultural, territorial, and institutional barriers. Effective implementation therefore requires differentiated measures that make rights usable rather than formally identical.

The implementation question can consequently be represented as a chain. Normative reception is necessary but insufficient. It must be followed by institutional capacity; capacity must generate accessible information; information must permit early and consequential participation; participation must be backed by review and remedy; and the entire process must occur within a safe civic environment. The chain metaphor captures cumulative dependency: a strong treaty at the first stage cannot compensate indefinitely for failure at later stages.

The proposed framework does not claim that the expression "implementation gap" is unique to Escazú. Gaps between legal recognition and practice are well documented in environmental governance and human-rights implementation. The article's contribution is more specific: it operationalizes that recurrent problem for Escazú by identifying a sequence of institutional conversions through which access rights become - or fail to become - environmental agency.

4. Indigenous Peoples: Participation Is Not a Substitute for Consultation and Consent

The relationship between Escazú and Indigenous rights requires particular precision. The Agreement repeatedly refers to persons and groups in vulnerable situations and requires special



attention to barriers that prevent access to information, participation, and justice. Its implementation guide expressly identifies Indigenous peoples and local communities as important actors in environmental governance and calls for measures that facilitate participation and access in culturally and linguistically appropriate ways (ECLAC, 2023). These provisions can strengthen Indigenous participation. They do not, however, exhaust the relevant legal framework.

ILO Convention No. 169 requires governments to consult Indigenous and tribal peoples through appropriate procedures and representative institutions whenever legislative or administrative measures may affect them directly. It also recognizes their right to decide priorities for development as it affects their lives, institutions, spiritual well-being, and lands, and contains specific standards regarding natural resources. UNDRIP further recognizes participation through representatives chosen by Indigenous peoples themselves and requires states to consult and cooperate in good faith in order to obtain free, prior and informed consent in specified contexts, including projects affecting lands, territories, or resources (International Labour Organization [ILO], 1989; United Nations General Assembly, 2007).

Inter-American jurisprudence adds another layer. In *Saramaka People v. Suriname*, the Inter-American Court developed safeguards regarding effective participation, benefit sharing, and environmental and social impact assessment for large-scale development or investment projects affecting tribal territory, including consent in circumstances involving major impacts (Inter-American Court of Human Rights [IACtHR], 2007). Advisory Opinion OC-23/17 later reinforced the connection between environmental protection and human rights and the importance of procedural obligations concerning information, participation, and access to justice (IACtHR, 2017).

Pereira (2021) identifies an important limitation in the Escazú text from an Indigenous-rights perspective: although it strengthens regional participatory environmental governance, it does not expressly develop FPIC in the depth that might have been expected under Article 7. This does not render Escazú incompatible with Indigenous rights. On the contrary, the treaty's equality and participation provisions can reinforce other standards. The danger arises when a general Escazú participation mechanism is treated administratively as if it displaced or satisfied a distinct Indigenous consultation obligation.

For Mexico, this distinction is crucial. A single environmental decision may trigger several overlapping processes: environmental impact assessment, access to public information, public



consultation under environmental legislation, Indigenous consultation under constitutional and international standards, agrarian decision-making, and judicial review. Fragmentation can create uncertainty and participation fatigue, while institutional actors may assume that completion of one process neutralizes deficiencies in another. Effective Escazú implementation should instead promote coordination while preserving the legal purpose and threshold of each right.

The cross-cutting requirement proposed here is **Indigenous differentiation**. At each stage of the Escazú implementation chain, institutions should ask not only whether a mechanism exists for the general public, but whether Indigenous peoples can use it through appropriate languages, representative institutions, territorial understandings, culturally relevant procedures, and - when required by applicable law - consultation and consent processes. This is not preferential treatment. It is the operational content of substantive equality and legally differentiated collective rights.

5. Methodology

The article employs a critical legal-policy analysis combined with an integrative review of academic and official sources. It does not present new interviews, surveys, or participant observation. The purpose is to evaluate the architecture and quality of Escazú implementation in Mexico through the interaction of treaty standards, implementation documents, peer-reviewed scholarship, and published empirical work on environmental participation and Indigenous territories.

The primary normative corpus consists of the Escazú Agreement; ECLAC's implementation guide; COP4 documents and implementation decisions available through August 2026; ILO Convention No. 169; UNDRIP; and selected Inter-American Court standards. Mexican implementation materials include federal institutional actions, the UNDP-SRE governance project and 2024 governance diagnosis, capacity-building materials, and Mexico's 2026 report of progress toward a national implementation route. Official sources are used to establish what state and regional institutions have actually created or reported; academic literature is used to assess the significance and limitations of those measures.

Peer-reviewed literature was selected through targeted searches focused on the Escazú Agreement, environmental democracy, environmental justice, public participation, Indigenous land and participation rights, access to justice, and environmental defenders. Particular weight was given to work published after the Agreement's entry into force and to studies capable of illuminating



implementation rather than merely describing treaty provisions. The article also draws on the author's previously published research concerning protected natural areas, Indigenous participation, and socio-environmental conflict in the Yucatán Peninsula (Ávila López, 2021; Ávila López & Herrera, 2024, 2025a, 2025b).

These prior studies are used as published illustrations or “stress tests” of governance problems; they are not re-presented as new data. Nor does the article retrospectively characterize events preceding Escazú's entry into force as violations of the treaty. Instead, the studies identify recurring problems - unilateral environmental decision-making, restrictions on resource use, participation mechanisms, territorial conflict, and megaproject governance - against which the practical relevance of Escazú's implementation standards can be assessed.

The analysis proceeds through six sequential dimensions: (1) normative reception; (2) institutional capacity and coordination; (3) accessible environmental information; (4) early and consequential participation; (5) effective justice and remedy; and (6) safe civic space and defender protection. Indigenous differentiation is treated as a transversal dimension. Evidence is interpreted according to a simple criterion: whether implementation expands the practical capability of affected persons and communities to understand, influence, challenge, and obtain remedies concerning environmental decisions.

This methodology has limitations. It does not measure every Mexican federal entity or municipality, does not assess all environmental proceedings, and cannot infer nationwide implementation from the Yucatán Peninsula. Mexico's national implementation route was still being developed in 2026, so the analysis evaluates an evolving process rather than a completed national system. These limitations are addressed by making the article's principal contribution analytical and institutional rather than claiming a comprehensive quantitative audit.

6. Mexico's Implementation Architecture, 2021-2026: Genuine Progress

A credible analysis of Escazú in Mexico must begin by recognizing the implementation work that has already occurred. The Agreement did not enter an institutional vacuum. Mexico already possessed constitutional recognition of the right to a healthy environment, environmental-impact and participation mechanisms, transparency legislation, judicial review, human-rights institutions, and specific legal obligations toward Indigenous peoples. Escazú's contribution is therefore not simply to create rights from nothing, but to raise standards, connect institutions, protect against

regression, and require full and effective implementation through a coherent access-rights framework.

Responsibility for Escazú is inherently dispersed. Environmental information may be held by multiple agencies; participation is embedded in sectoral procedures; environmental litigation crosses administrative and judicial forums; defender protection implicates environmental, human-rights, security, and prosecutorial institutions. No single ministry can implement the Agreement alone. This makes governance arrangements and interinstitutional coordination central rather than peripheral to compliance.

The UNDP-SRE project on a governance mechanism for Escazú represented an important phase in this process. Its agenda included strengthening multi-actor dialogue, training public servants, developing public information and educational tools, incorporating a gender perspective, strengthening dialogue on environmental justice, producing basic training on environmental defenders, and linking Escazú with other environmental conventions (UNDP Mexico, 2024a). These activities target the implementation infrastructure that is often invisible in formal treaty analysis.

The 2024 *Diagnóstico sobre la gobernanza de la implementación del Acuerdo de Escazú en México* provided a more systematic institutional baseline. Rather than treating ratification itself as evidence of implementation, the diagnosis examined the state of governance and formulated recommendations for full and effective application of access rights (UNDP Mexico & SRE, 2024). The existence of such a diagnosis is itself a positive development: implementation requires identification of gaps, responsibilities, and coordination problems before actions can be prioritized.

Capacity-building also expanded. Information materials, training activities for federal public servants, and work relating to Article 9 and environmental defenders contributed to institutional learning. These measures should not be dismissed as symbolic. Public officials who do not understand Escazú cannot implement it consistently, and citizens cannot exercise rights they do not know exist. The question, however, is whether training and information diffuse into routine administrative practice and alter decisions at the territorial level.

By April 2026, Mexico had moved toward a national implementation route. At COP4, the Mexican delegation reported short-, medium-, and long-term actions concerning information, participation, environmental justice, and defender protection (PROFEPA, 2026). The regional context reinforced this transition. COP4 approved methodological guidelines for national implementation road maps,



framing them as tools for identifying gaps, establishing priorities, defining concrete actions, and incorporating meaningful public participation (ECLAC, 2026a).

This record supports an important conclusion: Mexico's implementation challenge should not be described as institutional inaction. The country has generated processes, diagnoses, tools, and an evolving road map. A stronger critique asks whether these initiatives are connected into a functioning implementation chain and whether they are producing measurable improvements in environmental agency. The difference is analytically significant. It shifts attention from counting activities to evaluating their democratic effects.

7. Where the Implementation Chain Breaks

The strengths of Mexico's evolving architecture coexist with structural vulnerabilities. Independent analysis has described a persistent distance between formal legal frameworks and effective environmental rights in Mexico, identifying problems such as institutional fragmentation, insufficient resources, and political-economic resistance (Mandoki, 2026). The implementation-chain framework allows these concerns to be disaggregated. It asks not whether Escazú is "implemented" in a binary sense, but where the conversion from treaty obligation to usable right becomes weak.

7.1 *Information without Accessibility*

Environmental information is the entry point to the other access rights. A community cannot participate meaningfully in a decision it does not understand, and it cannot challenge risks it cannot identify. Mexico has substantial transparency and environmental-information systems, but Escazú requires more than the formal availability of documents. Its implementation guide emphasizes assistance for persons and groups in vulnerable situations and access through suitable languages and formats (ECLAC, 2023).

This distinction is particularly important in project-based environmental governance. Environmental impact studies may be hundreds of pages long, technically specialized, digitally hosted, and organized around scientific categories that do not correspond to local understandings of territory or risk. A document can be publicly accessible while functionally inaccessible. The democratic question is therefore whether relevant information arrives in time, in an understandable form, and with sufficient context for affected people to evaluate alternatives.



For Indigenous peoples, accessibility includes language but cannot be reduced to translation. Environmental knowledge is culturally organized. A technical assessment may classify land as an environmental unit, property polygon, ecosystem-service area, or project footprint while a community understands the same territory through livelihood, sacred, historical, kinship, and collective-use relations. Escazú implementation should facilitate communication across these knowledge systems rather than presume that disclosure of expert documents exhausts the right to information.

An outcome-oriented implementation indicator would therefore examine not only response times or number of datasets published, but whether affected groups received decision-relevant information before participation, whether materials were linguistically and technically accessible, whether independent assistance was available, and whether information asymmetries were reduced.

7.2 Participation without Influence

Participation is the stage at which formal compliance most visibly risks diverging from environmental democracy. A hearing, consultation meeting, online comment period, or stakeholder workshop proves that participation occurred procedurally. It does not establish that participation was capable of influencing the decision. ECLAC's implementation guidance is explicit that participation should begin when options are open and early enough to influence environmental decision-making (ECLAC, 2023).

This timing requirement exposes a recurring weakness in environmental governance: participation may begin after the institutional and economic structure of a project has substantially narrowed alternatives. Once land arrangements, permits, financing, engineering design, or political commitments are advanced, authorities face high costs for changing direction. Public participation can then become focused on mitigation rather than on whether, where, at what scale, and under what governance model an activity should proceed.

The author's research on Indigenous participation in protected natural areas illustrates the broader point. In the Los Petenes Biosphere Reserve, previous work documented how environmental restrictions affected livelihood practices and emphasized the need to include local needs, interests, and participation in conservation governance (Ávila López, 2021). Later analysis of mechanisms for Indigenous participation in protected areas similarly argued that conservation decisions can transform ways of life and that participation in protected-area management is therefore central



(Ávila López & Herrera, 2024). These studies predate or do not constitute evaluations of Escazú compliance, but they identify exactly the type of governance relation the treaty seeks to improve.

The same issue appears in a different environmental register in research on renewable-energy and territorial conflict. Work on citizen participation and socio-environmental conflicts in Indigenous territories shows how projects framed through development or energy objectives may collide with territorial meanings and local decision-making (Ávila López & Herrera, 2025a). Research on Ixil, Yucatán, further documents community defense in the face of territorial pressures (Ávila López & Herrera, 2025b). Escazú implementation is tested precisely in these situations: not when participation is easy, but when environmental, economic, territorial, and political priorities conflict.

A consequential-participation indicator should therefore ask: At what stage were affected people invited? Which options were still open? Were community proposals incorporated, rejected with reasons, or simply recorded? Did participation change project conditions, scale, location, mitigation, monitoring, or the final decision? These questions convert participation from an event into an outcome-sensitive democratic process.

7.3 Justice without Effective Remedy

Access to justice is the corrective mechanism of the Escazú system. If information is withheld, participation is defective, environmental law is violated, or harm occurs, affected actors need a forum capable of providing timely and effective relief. Article 8 therefore reaches beyond formal standing and calls for effective procedures, appropriate remedies, measures to facilitate evidence, and support for persons and groups in vulnerable situations (ECLAC, 2018).

In practice, environmental disputes often combine technical complexity with unequal resources. Communities may need scientific expertise to establish causal links, legal assistance to navigate administrative and constitutional procedures, and financial capacity to sustain litigation over long periods. Jurisdictional fragmentation can create additional burdens when environmental, agrarian, Indigenous-rights, administrative, and constitutional claims move through different institutions. The existence of legal remedies is therefore not equivalent to effective access.

Recent comparative research on Escazú highlights the continuing importance of good practices that reduce procedural, financial, and evidentiary barriers to environmental justice (Zhao & Etemire, 2026). In Mexico, implementation should be assessed through user-centered indicators:



time to obtain interim protection, availability of specialized assistance, translation and cultural accessibility, capacity to obtain evidence, enforceability of decisions, and whether remedies can prevent irreversible harm rather than merely compensate after the fact.

Justice also links directly back to participation. Authorities are more likely to treat participatory obligations seriously when failures can be effectively reviewed. Conversely, participation risks becoming symbolic when courts or administrative review bodies cannot provide timely consequences for procedural defects. The implementation chain is therefore recursive: strong justice institutions improve the quality of earlier stages.

7.4 Protection without Safe Civic Space

Escazú's defender provision recognizes a reality that procedural models sometimes overlook: access rights require people willing and able to use them. Environmental defense can involve opposing economically or politically powerful interests, documenting environmental harm, organizing collective action, filing complaints, or challenging authorities. Where these actions generate threats, surveillance, stigmatization, criminalization, or physical violence, the legal availability of information and participation becomes insufficient.

Article 9 requires a safe and enabling environment for persons, groups, and organizations that promote and defend human rights in environmental matters. Mexico has participated in regional and national work on defender protection, and the UNDP governance project included training and support linked to Article 9 (UNDP Mexico, 2024a). Such institutional efforts are essential. Their effectiveness, however, must be evaluated through prevention, trust, responsiveness, coordination, and outcomes rather than protocols alone.

Defender protection also should not be isolated from ordinary environmental administration. Risk often develops before a case reaches a formal protection mechanism. Hostile public narratives, community polarization, opaque project information, exclusion from meetings, or retaliatory legal strategies can escalate conflict. An Escazú-based prevention model should therefore connect early participation, transparent decision-making, conflict-sensitive administration, and defender protection. Safe civic space is a property of the governance system, not merely an emergency response program.



7.5 Fragmented Governance and the Federal Challenge

Mexico's federal structure adds a final implementation challenge. Environmental decisions are distributed across federal, state, and municipal authorities and intersect with agrarian, energy, infrastructure, water, forestry, urban-development, Indigenous-rights, and transparency regimes. Escazú implementation can therefore be nationally progressive while locally uneven. A federal training program does not automatically transform municipal land-use decisions; a national information portal does not ensure that local communities receive timely project information; and a federal road map does not by itself align subnational procedures.

The solution is not centralization of every environmental decision. It is coordinated minimum standards, clear institutional responsibilities, interoperable information, subnational capacity building, and routes for escalation when local mechanisms fail. The 2024 governance diagnosis and the development of a national implementation route create opportunities to clarify these responsibilities (UNDP Mexico & SRE, 2024; PROFEPA, 2026).

For Indigenous territories, multilevel coordination is particularly important because authorities may be different for environmental permitting, Indigenous consultation, communal or ejidal land decisions, cultural heritage, and local planning. Communities should not bear the burden of integrating a fragmented state. Escazú implementation should make institutional coordination visible from the perspective of the rights-holder.

8. Protected Areas and Renewable Megaprojects as Stress Tests

Protected natural areas and renewable-energy projects appear, at first glance, to represent different environmental-policy logics. Protected areas restrict certain uses in order to conserve ecosystems and biodiversity. Renewable-energy projects create infrastructure in order to decarbonize or diversify energy systems. Yet both can transform territorial access, resource use, livelihoods, authority, and development trajectories. Both therefore provide useful stress tests for environmental democracy.

The author's long-term work on protected natural areas identified the recurrent risk of excluding the social dimension of sustainability. Ávila López and Pinkus-Rendón (2018) argued that conservation instruments can fail to achieve sustainable development when the interests and needs of resident populations are marginalized. Subsequent research in Tankuché and Los Petenes documented adaptation to environmental-policy restrictions and highlighted the consequences of unilateral decision-making lacking community consensus (Ávila López, 2021). These findings are



not an argument against conservation. They demonstrate why conservation legitimacy must include governance legitimacy.

Escazú provides tools for that integration. Accessible information can explain conservation objectives, restrictions, scientific evidence, and management alternatives. Early participation can incorporate local ecological knowledge and livelihood priorities. Justice mechanisms can review disproportionate restrictions or procedural failures. Capacity building can support co-management. Indigenous differentiation can ensure that participation respects collective institutions and rights. In this sense, Escazú can help move protected-area governance from management “of” populations toward governance “with” rights-holders.

Renewable-energy development poses a parallel challenge. Climate mitigation creates powerful reasons to expand low-carbon infrastructure, but environmental purpose does not immunize projects from environmental-democracy requirements. Research on socio-environmental conflict in Yucatán shows that Indigenous territorial relationships can be disrupted by megaprojects even when projects are presented through sustainability or energy-transition narratives (Ávila López & Herrera, 2025a, 2025b).

The significance for Escazú is conceptual. Environmental democracy should not become weaker when the state believes the environmental objective is urgent or beneficial. On the contrary, green transitions increase the need for credible participation because they can require land, infrastructure corridors, water, new industrial facilities, and long-term territorial change. The democratic legitimacy of decarbonization depends partly on whether affected communities can influence how transition is designed.

Protected areas and renewable megaprojects therefore reveal a common implementation principle: environmentally legitimate ends do not eliminate procedural rights. The quality of environmental policy depends on the relationship between substantive environmental goals and the democratic processes used to pursue them. Escazú is valuable precisely because it makes that relationship legally visible.

9. The Escazú Implementation Chain

The preceding analysis can be synthesized into an Escazú Implementation Chain. The framework is designed as a diagnostic tool rather than a new legal test. It translates treaty obligations into



questions that can be used by governments, researchers, civil society, and communities to distinguish formal institutionalization from effective environmental democracy.

Table 1

The Escazú Implementation Chain: From Treaty Obligation to Environmental Agency

Stage	Implementation standard and failure mode	Outcome-oriented question
Normative reception	Standard: Treaty obligations incorporated into domestic law, policy, and administrative practice. Failure mode: Ratification is treated as completion; sectoral rules remain inconsistent.	Can a rights-holder identify a binding domestic pathway for each Escazú right?
Institutional capacity	Standard: Clear responsibilities, budgets, trained personnel, coordination, and data systems. Failure mode: Fragmentation, unfunded mandates, or uneven federal/subnational capacity.	Which institution is responsible, resourced, and accountable for delivery?
Accessible information	Standard: Timely, understandable, proactive, and culturally/linguistically appropriate information. Failure mode: Documents are technically public but practically inaccessible or late.	Could affected people understand the decision, risks, and alternatives before participation?
Consequential participation	Standard: Early, open, and inclusive participation while options remain genuinely open. Failure mode: Participation begins after core choices are fixed; comments are collected but do not matter.	What changed, or could realistically have changed, because the public participated?
Effective justice and remedy	Standard: Affordable, timely, and capable judicial/administrative review and remedies. Failure mode: Complexity, cost, delay, evidentiary barriers, or fragmented jurisdiction.	Can a rights-holder prevent, correct, or remedy an unlawful or harmful environmental decision?
Safe civic space	Standard: Protection and enabling conditions for environmental human rights defenders. Failure mode: Threats, stigmatization, retaliation, criminalization, or distrust of protection systems.	Can people exercise access rights and defend the environment without unacceptable risk?
Indigenous differentiation (cross-cutting)	Standard: Substantive equality, culturally appropriate access, and coordination with consultation and FPIC standards. Failure mode: Generic public participation is treated as a substitute for differentiated collective rights.	Are Indigenous peoples participating through appropriate languages, institutions, and legally applicable consultation/consent standards?

Note. The framework operationalizes the relationship among Escazú access rights, implementation capacity, and environmental agency. It is not intended to replace the treaty text or other applicable Indigenous-rights standards.

The table highlights the difference between outputs and outcomes. A state can show that a portal was created, a course delivered, a hearing held, a judicial mechanism exists, or a defender protocol was adopted. Those are relevant outputs. The implementation chain asks whether the output altered the practical capacity of a rights-holder. This distinction is particularly useful for national road maps because it prevents monitoring systems from rewarding activity without examining democratic effect.

The chain is also non-linear in practice. Access to justice can force improvements in information disclosure; defender protection can determine whether participation is possible; public participation can reveal institutional coordination failures; and Indigenous consultation may



generate new environmental information. The sequential model is therefore analytical rather than chronological. Its purpose is to make points of failure visible.

10. Closing the Gap: An Implementation Agenda for Mexico

The implementation-chain framework suggests that Mexico's national route should be evaluated through outcomes rather than activity counts. Training sessions, portals, protocols, and meetings are necessary outputs, but the democratic objective lies one step further: whether people can use those mechanisms to change their position within environmental governance. This requires indicators capable of detecting implementation quality.

First, environmental information should be governed by an accessibility standard. Agencies should identify the information that affected populations need before environmental decisions, publish non-technical summaries alongside full technical documents, use relevant Indigenous languages where appropriate, provide in-person or assisted access where digital exclusion matters, and document whether information was delivered early enough to inform participation. A right to information should be measured from the perspective of the user, not merely the archive.

Second, participation should be tracked through influence. Administrative records should identify when participation began, which alternatives remained open, which proposals were received, how authorities responded, and which project or policy elements changed as a result. Reason-giving is crucial. When community proposals are rejected, authorities should explain why. This creates an administrative record that can support both accountability and judicial review.

Third, implementation should explicitly coordinate Escazú with Indigenous consultation and consent standards. Agencies need guidance identifying when a general environmental participation process is sufficient, when an Indigenous consultation duty is independently triggered, how the processes interact, and how conflicting institutional timelines are resolved. The principle should be cumulative protection: Escazú establishes a floor for environmental access rights, while differentiated Indigenous rights add safeguards where applicable.

Fourth, access to justice requires institutional support beyond formal standing. Mexico's implementation route should include indicators on interim measures, case duration, specialized environmental expertise, availability of legal and technical assistance, language access, evidentiary support, enforcement of judgments, and the capacity of remedies to prevent irreversible

environmental harm. Environmental justice is ineffective when a favorable judgment arrives only after the contested ecosystem or territorial relationship has been irreversibly altered.

Fifth, Article 9 should be mainstreamed across environmental administration. Authorities conducting project review or consultation should receive conflict-sensitive training and know how to identify risk indicators. Defender-protection mechanisms should coordinate with environmental institutions, human-rights bodies, prosecutors, and local authorities. The goal should be prevention as well as emergency response.

Sixth, the national route must become genuinely federal in implementation. Minimum standards should be translated into state and municipal practice through capacity building, model protocols, interoperable data, and mechanisms for subnational monitoring. Environmental democracy is experienced locally; national excellence cannot compensate for local exclusion.

Seventh, Mexico should build public implementation indicators together with civil society, Indigenous representatives, academia, and environmental institutions. The methodological guidance adopted at COP4 provides an opportunity to institutionalize transparent road-map monitoring (ECLAC, 2026a). Indicators should combine outputs - such as training and information systems - with outcomes such as improved response times, early participation, decision changes, remedy effectiveness, and user trust.

Finally, implementation should include learning from conflict. Socio-environmental disputes should not be treated solely as failures of social acceptance. They are sources of institutional information. Recurrent conflict may reveal inaccessible information, late participation, weak territorial recognition, coordination failures, or distrust. A mature Escazú system should be capable of converting conflict patterns into administrative reform.

11. Discussion: Is Escazú Working?

The provocative question in the title - can Escazú deliver environmental democracy? - cannot be answered by a simple yes or no. The Agreement is already delivering legal and institutional effects. It has created a regional normative reference, established implementation and compliance architecture, elevated environmental defenders within binding treaty law, encouraged national governance mechanisms, and generated a regional process of road maps, capacity building, and public participation. Mexico's 2021-2026 record demonstrates that ratification can stimulate institutional coordination and implementation planning.

Yet the treaty's most demanding promise is not institutional activity; it is transformation of environmental decision-making. On that criterion, implementation remains a process rather than an accomplished result. The distance between a national road map and a community's experience of a specific permit, protected-area restriction, infrastructure project, water dispute, or land-use decision is the space in which Escazú will ultimately succeed or fail.

This distinction also changes how implementation should be researched. Scholarship often evaluates international environmental agreements through ratification, legislation, institutional design, or compliance procedures. Escazú requires an additional rights-holder perspective. Researchers should examine whether information was understandable, whether participation occurred before path dependency narrowed choices, whether public input affected the record, whether remedies prevented harm, and whether environmental defense was safe. These are empirical questions capable of being studied across countries and sectors.

Indigenous territories are a particularly important test because they expose the limits of one-size-fits-all participation. Environmental democracy cannot be achieved by inviting Indigenous peoples into procedures designed without regard to collective rights, representative institutions, languages, territorial relations, and consultation standards. Escazú's principle of non-discrimination and attention to vulnerable groups supports differentiated implementation, while other international instruments supply more specific collective-rights obligations.

The Mexican experience has wider regional significance. Latin American and Caribbean states differ substantially in administrative capacity, legal traditions, federal structures, Indigenous-rights recognition, and political conditions. A universal implementation model would therefore be inappropriate. The implementation chain is instead portable because it asks functional questions that can be adapted to local institutions. Every state must convert legal recognition into capacity, information, participation, remedy, and civic safety, even if the institutions performing those functions differ.

The framework also avoids an unrealistic expectation that Escazú alone can solve structural environmental conflict. The Agreement cannot by itself eliminate economic inequality, land concentration, organized violence, institutional weakness, or competing development models. Its contribution is procedural and institutional but potentially transformative: it can change who knows, who participates, who can challenge, and under what conditions decisions are made. Those



changes matter because environmental conflict is often intensified when affected actors experience decisions as opaque, predetermined, or unreachable.

This is why implementation quality is politically significant. Environmental democracy does not guarantee consensus. Meaningful participation may expose disagreement more clearly. Effective justice may suspend projects. Transparent information may reveal risks that create opposition. These outcomes should not automatically be interpreted as implementation failure. Democratic environmental governance is successful when conflict is processed through rights-respecting institutions capable of reasoned, reviewable, and safe decision-making.

12. Conclusions

Escazú's entry into force marked a major development in environmental law in Latin America and the Caribbean. Mexico's subsequent implementation work shows that the treaty has moved beyond symbolic ratification. Interinstitutional coordination, capacity building, the UNDP-SRE governance project, a national governance diagnosis, defender-related work, and the development of a national implementation route all represent genuine institutional progress. COP4 in 2026 further shifted the regional agenda toward concrete road maps and implementation quality.

The central conclusion of this article is nevertheless that environmental democracy cannot be measured through institutional presence alone. Escazú succeeds only when its access rights become environmental agency. People must be able to understand the decisions that affect them, enter decision-making while meaningful alternatives remain open, have their contributions addressed, challenge unlawful or harmful outcomes, obtain effective remedies, and exercise these rights without unacceptable risk.

The proposed Escazú Implementation Chain identifies six conversions required for that result: normative reception, institutional capacity, accessible information, consequential participation, effective justice, and safe civic space. Indigenous differentiation operates across all six. A breakdown at any stage can transform a formally advanced system into one in which rights remain difficult to use.

For Indigenous peoples, implementation must also resist a particularly important simplification. Public participation under Escazú is not a substitute for Indigenous consultation or free, prior and informed consent where those standards apply. Effective environmental democracy requires coordination among these regimes while preserving their distinct legal purposes and thresholds.

Previously published research on protected areas and socio-environmental conflict in the Yucatán Peninsula illustrates why this matters. Conservation restrictions and renewable-energy or development projects may pursue different environmental objectives, but both can transform territory and livelihood. Environmental legitimacy therefore does not eliminate the need for democratic legitimacy. The harder the environmental choice, the more important it becomes that affected communities can know, participate, challenge, and obtain reasons.

The question “Can the Escazú Agreement deliver environmental democracy?” should thus be reframed as an implementation test. Escazú can deliver environmental democracy to the extent that states convert access rights into capabilities and make those capabilities visible in everyday administrative practice. Mexico has built important parts of that architecture. Its next challenge is to demonstrate, through measurable outcomes and territorial experience, that participation without influence is no longer accepted as sufficient implementation.

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