



# 2014 Environmental Democracy Index results for Israel

We would appreciate your feedback on the Environmental Democracy Index (EDI) results for your country. Please read this document and then respond to the questions at the end. Your feedback will go onto your country's page on the EDI website<sup>1</sup>.

The first part of this document explains what the Environmental Democracy Index is and the second part summarizes the results and provides some brief analysis. A few important points to understand about the Environmental Democracy Index:

1. EDI benchmarks the strength of *national-level* laws and other legally-binding rules in protecting rights to access environmental information, participate in decision-making and access justice. This is the scope of the EDI: to assess how well countries' national laws promote transparency, public participation and access to justice in environmental matters. For federal countries, this means that subnational legislation is not considered. The scores that appear below the results are based on an assessment of environmental democracy *in law only*.
2. In addition to the index scores, EDI includes 24 supplemental indicators that provide key insights into how environmental democracy rights are manifested in practice. One such indicator is whether the country's capital city regularly provides ambient air quality online for free public access. The results of these indicators are presented qualitatively and do not figure in to the legal indicator scores described above. At this stage in EDI's development, they are not comprehensive and should not be taken as proxy for the implementation of environmental democracy at the national level. However, they should provide users with important insights and highlight areas of good practice or where additional work needs to be done.
3. Finally, EDI does not attempt to measure any other aspects of forms of governance nor is it prescriptive about the nature of the political system in which these rights may be protected.

## What is the Environmental Democracy Index?

The Environmental Democracy Index (EDI) measures the quality of laws and other legally-binding rules at the national level in providing and protecting the rights of access to information, public participation, and access to justice in environmental matters. It does this through 75 indicators developed under the framework of the United Nations Environment Programme's (UNEP) [\*Bali Guidelines for the Development of National Legislation on Access to Information, Public Participation, and Access to Justice in Environmental Matters\*](#).<sup>2</sup> These voluntary guidelines are internationally-recognized, having been adopted by the UNEP Governing Council in 2010. The legal indicators assess laws, regulations, and any other legally-binding rules in the following sectors:

- The Constitution and interpretations of the Constitution by competent bodies (e.g. The Supreme Court or Constitutional Court);
- The main national freedom of information law, public participation law and access to justice law (including access to administrative justice), if these exist;
- The apex environmental management law;

---

<sup>1</sup> You may write Jesse Worker ([jworker@wri.org](mailto:jworker@wri.org)) at the World Resources Institute for more information on the website

<sup>2</sup> Bali Guidelines can be accessed here: [http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES\\_TO\\_ACCESS\\_TO\\_ENV\\_INFO\\_2.pdf](http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf)



WORLD  
RESOURCES  
INSTITUTE



ENVIRONMENTAL  
DEMOCRACY INDEX



- Laws and regulations governing pollution control (including air and water quality laws), environmental impact assessments, terrestrial biodiversity (protected areas and wildlife), extractive industries, and forests;
- Laws governing the creation of environmental policies.

*The 2014 EDI did NOT include marine, coastal, or energy laws in its assessment.*

These legal indicators form the aggregated scores that you see in this document. Each indicator has multiple choice responses, with scoring options between 0 and 3, with 3 always being the highest score. The indicator scores are averaged to produce a Guideline score<sup>3</sup>. The Guidelines are grouped under three “Pillars”—access to information, public participation, and access to justice. The Guideline scores for each pillar are averaged to produce a Pillar score. Finally, the three Pillar scores are averaged to produce an overall score for the country. *Please see the attached spreadsheet for all of the scores and accompanying data.*

In addition to the legal indicators, there are 24 indicators that assess whether these rights are being manifested in practice—*de facto* instead of *de jure*. These indicators test, for example, whether air quality data is regularly made available online for your country’s capital city or if there is evidence that the public has been able to bring citizen suits in cases of environmental harm. These practice indicators are supplemental to the legal index. The practice indicators are scored “Yes” (highest score), “Limited”, and “No”. These are represented in the spreadsheet by 2, 1, and 0, respectively. Therefore, when reading the spreadsheet, the highest that a practice indicator may receive is 2, while the highest a legal indicator may receive is 3.

### **Who scores the indicators?**

Two credentialed lawyers from your country were contracted to score and review the indicators for your country. These lawyers may have come from civil society, government, the private sector, or academia. They were selected based on their experience and proficiency with the laws assessed for EDI. After the initial scoring and review, the scores were reviewed two more times by experts at WRI.

Participating lawyers for Israel were Yifat Solel and Gaby Lasky

*Please see the attached pdf for a full explanation of the methodology and all of the indicators.*

## **RESULTS**

**Transparency Score: 1.82 out of 3**

**Participation Score: 0.96 out of 3**

**Justice Score: 1.73 out of 3**

**Overall score: 1.50 out of 3**

---

<sup>3</sup> EDI measures the 23 Bali Guidelines on legislation. It does not measure the 3 Guidelines on capacity building



WORLD  
RESOURCES  
INSTITUTE



ENVIRONMENTAL  
DEMOCRACY INDEX



## Overview

Israel's scored highest on Transparency, with a slightly lower score for Justice and a much lower score for Participation. With respect to the Transparency pillar, there is a clearly defined right to access information and the government is obligated to proactively disseminate information pertaining to the environment. However, the government is not obligated to publish state of the environment reports. As for the participation pillar, the public has a right to participate in most decisions relating to the environment, but only a few laws require state agencies to proactively seek public participation, and the public does not have a right to give input in the preparation of environmental policies or programs. Regarding the access to justice pillar, there are review procedures applicable to decisions on environmental information requests and decisions subject to public participation, but the laws fail to establish adequate assistance mechanisms to address the financial and gender-related barriers to access to justice. By addressing each of these issues, Israel can ensure that the public is adequately informed, has a strong right to participate, and can seek effective redress when environmental harms are committed.

Israel's score on the Transparency pillar was the highest out of the three pillars, but there is still room for improvement. The Freedom of Information Law (FOI Law) establishes a clear right to provide environmental information, and the government is obliged to proactively disseminate information pertaining to the environment and public health. The FOI Law establishes a severance and public interest provision by which confidential information can be disclosed if it is within the public interest to do so. On the other hand, the government is not obliged to publish and state of the environment report, and there is no monitoring system in place to ensure the public has adequate information on operators of activities impacting the environment. By obligating the government to publish environmental reports and provide information on operators, Israel can improve its score on the Transparency pillar.

Israel's lowest score out of the three pillars was on the Participation pillar. While the public has an opportunity to participate in decision-making on a majority of decisions relating to the environment, only a few laws require state agencies to proactively seek and take due account of public comments on decisions relating to the environment. Likewise, there is no public review of previous decisions relating to the environment if unconsidered environmental impacts become apparent. While the law requires state agencies to seek public input through representative consultative bodies during the preparation of legally binding rules that might have a significant effect on the environment, none of the laws provide for public input in the preparation of policies and programs that might have a significant effect on the environment. By addressing these issues and providing for public input in decisions that may impact the environment, Israel can improve its score on the participation pillar.

Israel's score on the Justice pillar was not quite as high as it could have been. While the law establishes clear procedures before a court or other independent body in cases where environmental information requests are denied, there are no legal requirements in place to ensure that review procedures will not be prohibitively expensive and no assistance mechanisms to address gender-related barriers to justice. Although the law provides procedures for administrative and judicial review of the implementation of environmental laws, the law does not establish a deadline for the completion of review procedures. Likewise, the law gives state agencies discretion to provide information to the public about procedures operated by courts, and the public can only challenge a small number of private actor decisions that allegedly violate substantive legal norms relating to the environment.



WORLD  
RESOURCES  
INSTITUTE



ENVIRONMENTAL  
DEMOCRACY INDEX



## **Strengths and Weaknesses**

### **Access to Information- Strengths**

- The public has a clear right to access information relating to the environment.
- The government must proactively disseminate information pertaining to the environment and public health.

### **Access to Information – Weaknesses**

- There is no legal mandate that the government must publish state of the environment reports.
- The law is silent on whether the relevant ministries must publish environmental law and policies.

### **Public Participation – Strengths**

- The public is granted the opportunity to participate in decision-making on a majority of projects, standard-setting, policy-making and planning that may have a significant impact on the environment.
- Most laws require that opportunities for the participation in the environmental decision-making process must be provided at an early stage.
- EIAs and information on waste discharge and air emission permit violations are available online.

### **Public Participation – Weaknesses**

- Only a few laws require that states proactively seek and take due account of public comments on decisions relating to the environment.
- None of the laws assessed require public input into the preparation of policies or programs that might have a significant effect on the environment.

### **Access to Justice – Strengths**

- There are clear review procedures applicable to decisions on environmental information requests.
- The public can challenge the substantive and procedural legality of government decisions, which are subject to public participation.

### **Access to Justice- Weaknesses**

- The law does not establish assistance mechanisms to address gender-related barriers to access to justice.
- The law does not ensure that review procedures will be carried out in a timely manner.

## **Transparency Pillar**



WORLD  
RESOURCES  
INSTITUTE



ENVIRONMENTAL  
DEMOCRACY INDEX



### **Does the public enjoy an accessible and clearly defined right to environmental information?**

The Freedom of Information Law (1998) recognizes a right to access environmental information upon request. While the law grants this right to citizens, noncitizens can apply only if they are residents of Israel. The law allows for fees to be waived based on the public interest nature of the request (Sec. 18, Freedom of Information Law). The government must respond to information requests within 30 days (Sec. 7(b), Freedom of Information Law). All public authorities are subject to the access to information law, including the judiciary, legislature and executive (Sec. 2, Freedom of Information Act (1998)). The law only requires disclosure of the identity of the requester but does not require any other reasons for the requests (Sec. 1, 7, Freedom of Information Law). The law specifies grounds on which a request for environmental information can be refused, but these grounds are framed broadly (Sec. 7-8, Freedom of Information Act). The Freedom of Information Act establishes a severance provision by which confidential information can be severed from information, which is otherwise worthy of disclosure. Section 10 of the Freedom of the Information Act provides a wide public interest test whereby confidential information can be disclosed if it is within the public interest to do so.

### **Is there a requirement that information on environmental quality and health made proactively available to the public?**

The law requires that all key ministries and agencies must proactively make environmental and public health information available to the public (Sec. 2-3, Freedom of Information Law Regulations; Environmental Protection Act (2012)). However, the law is silent on whether ministries must proactively place environmental laws and policies in the public domain. The law does require key ministries to inform the public about how to obtain environmental information (Sec. 4, Freedom on Information Act). Air and water quality information relating to the capital city of Israel is available online to the public. While information on air and water quality must be collected pursuant to Israel's laws, there is an absence of legal provisions requiring the government to collect information on forests. The law mandates competent public authorities to monitor the performance and compliance of operators of all activities potentially affecting the environment and collect and update such information (Clean Air Law 5768-2008). However, there is no adequate system ensuring adequate information about proposed and existing activities that significantly affect the environment is open to the public. The law is silent on whether government is obligated to publish reports on the state of the environment (Sec. 5, Freedom of Information Act; Secs. 12-13, Environmental Protection Act). In recent years, reports on the state of the environment have been published in Israel. The law obligates state agencies to disseminate information relevant to the public when environmental emergencies arise; however, it fails to establish a deadline for disseminating this information.



WORLD  
RESOURCES  
INSTITUTE



ENVIRONMENTAL  
DEMOCRACY INDEX



## **Participation Pillar**

### **Does the public have clear rights to early, adequate, and informed participation in projects, licensing, and other decisions that may impact the environment?**

The law requires the public to have the opportunity to participate in decision-making on a majority of projects, standard-setting, policy-making and planning that may have a significant impact on the environment (Representation Act 2002; Clean Air Act). Likewise, most laws provide public participation at the very earliest stages of decision-making, and require state agencies to notify the public concerned about its opportunities to participate in decision-making process at an early stage (Representation Act 2002; Clean Air Act). For recent development projects, which were approved through an EIA process, public notices were given which sought comments on EIAs (Taas case). Only a minority of laws assessed obligates state agencies to proactively seek public participation and give the public an adequate opportunity to express its views when making decisions that impact the environment (the Representation Act 2002; the Clean Air Law). A majority of laws assessed require information relevant to decision-making to be provided to the public concerned in a timely manner (Sec. 6, Freedom of Information Act). None of the laws assessed set any standards about the user-friendliness of information to be provided to the public concerned. A review of environmental practice in Israel found that EIAs and information on waste discharge and air emission permit violations are available online. Only a few laws require state agencies at the national level to take due account of public comments (Representation Act 2002; Clean Air Act; Planning and Building Act 1964; Planning and Building Act 1964). A few laws require decisions relating to the environment to be in writing and publicized through the press. The law is silent on whether the public has a right to review previous decisions relating to the environmental decisions if previously unconsidered environmental impacts become apparent.

### **Does the public have the right to participate in the development of rules, policies, programs and plans that impact the environment?**

The law requires state agencies to seek public input through representative consultative bodies during the preparation of legally binding rules that might have a significant effect on the environment (Representation Act 2002). Only a minority of laws assessed require state agencies to seek public input during the preparation of plans that might have a significant effect on the environment (Planning and Zoning Act). None of the laws assessed require public input into the preparation of polices or programs that might have a significant effect on the environment.





WORLD  
RESOURCES  
INSTITUTE



ENVIRONMENTAL  
DEMOCRACY INDEX



## **Justice Pillar**

### **Is there a remedy when the public's rights to access information and participate are violated or when environmental harms have been committed?**

The law sets out clear procedures for access to a review procedure before a court or other independent and impartial body in cases where environmental information requests are denied (sec 17, Freedom of Information Act). The law requires that review procedures, when environmental information requests are denied, must be heard by an independent/impartial court, and there are legal mechanisms to ensure the impartiality of the court (Sec. 17, Freedom of Information Act). The public can challenge the substantive and procedural legality of decisions relating to the environment, which are subject to public participation. In recent years, public interest environmental cases have been filed in courts. The law gives the public concerned the right to challenge a majority of decisions by public authorities that allegedly violate the procedural legal norms of the state relating to the environment (Clean Air Law 2008). The law gives the public concerned the right to challenge only a small number of decisions, acts, or omissions by private actors that allegedly violate substantive and procedural legal norms of the state relating to the environment ((Civil Action) Law 5752-1992); Planning and Building Law 1965). In recent years, there have been several cases when civil societies filed lawsuits against a polluter in a national court.

### **Does the public enjoy broad standing in environmental cases and are barriers to justice addressed by law?**

The public is granted broad legal standing in all proceedings concerned with environmental matters. NGOs have been granted legal standing by national courts in public interest environmental cases. There are no requirements within the laws to ensure that access to review procedures will not be prohibitively expensive. However, there are some minimal assistance mechanisms in place to reduce financial barriers for accessing review procedures (Legal Aid Act 1972). The law does not provide any assistance mechanisms to reduce gender-related barriers for accessing review procedures.

### **To what extent are there legal mechanisms to ensure effective enforcement of environmental laws?**

The law provides procedures for administrative or judicial review of the implementation and enforcement of all laws and decisions pertaining to the environment (Clean Air Act). The law does not set a deadline for the completion of review procedures. There are legal mechanisms in place to ensure fairness and equity in all review procedures regarding the implementation and enforcement of laws and decisions pertaining to the environment (Basic Law: The Judiciary). The law requires all review procedures regarding the implementation and enforcement of laws and decisions pertaining to the environment to be transparent. The law requires remedies in most cases relating to the environment to be adequate and effective and provides some flexibility for the decision-maker to fashion remedies to address grievances and target the harm so it is prevented (Sec. 50-63, the Clean Air Act). In most environmental cases, the law requires remedies to the environment to be granted promptly (Sec. 46, Clean Air Act). Injunctive relief and compensation are always available as a remedy for matters relating to the environment, and the legal requirements for it to be granted are not onerous (Sec. 10A, Abatement of Nuisances Law, 1961; Class



WORLD  
RESOURCES  
INSTITUTE



ENVIRONMENTAL  
DEMOCRACY INDEX



Action Act, 2006). However, restitution and environmental restoration are rarely available for matters related to the environment, and the legal requirements for it to be granted are onerous (Sec. 65(a)(2), Clean Air Act). In recent years, courts have granted injunctions in environmental cases (Greentops v. Local Planning Committee (25694-02-12, 50902-06-12)). The law provides for the effective enforcement of all criminal court decisions relating to the environment (Abatement of Nuisances Law 5721-1961). However, the law does not require timely enforcement of criminal court decisions. The law provides for the effective enforcement of all civil court decisions relating to the environment but does not require that such enforcement must be timely (Israeli Contempt of Court Ordinance, 1929). The law provides for the effective enforcement of all decisions relating to the environment taken by administrative bodies, but the law requires timely enforcement of only a minority of administrative decisions. The Basic Law (Judiciary) provides state agencies with discretion to provide information to the public about procedures operated by courts of law in relation to environmental issues. The law is silent on the issue of whether state agencies will provide information to the public about procedures operated by other bodies in relation to environmental issues. A review of environmental practice found that there is an easily understandable explanation of court procedures on websites. The law requires that court and administrative decisions relating to the environment must be made available to the public upon request (Sec. 27, Environment Protection Act; Sec. 60, Clean Air Act). Recent court decisions on environmental matters are made available to the public online. The law provides for conciliation, arbitration and mediation for a few cases relating to the environment. However, the law provides no incentives for the use of ADRMs in environmental cases. In only a limited number of cases, ADRMs have been used to settle environmental disputes.

### **To Government Recipients:**

**Please respond to the following questions. Whenever possible, please summarize your overall thoughts and try to be succinct. Thank you.**

**Do you agree with the summaries of the law and practice of environmental democracy in your country? Why or why not?**

**Are there any relevant laws and practices that you did not see mentioned? (Please consider all pillars)**

**What steps, if any, is your government taking to increase environmental democracy?**

**Do you have any other comments?**