

Institution: Kingston University		
Unit of Assessment: 19 – Politics and International Studies		
Title of case study: Advancing Environmental Access Rights in Latin America and the Caribbean		
Period when the underpinning research was undertaken: 2018 – 2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name: Belen Olmos Giupponi	Role: Associate Professor	Period employed by submitting HEI: May 2018 – present
Period when the claimed impact occurred: 2018 – 2020		
Is this case study continued from a case study submitted in 2014? N		

1. Summary of the impact

Research conducted by Olmos Giupponi has had substantial transnational and national impact through the adoption of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean – also known as the Escazú Agreement (EA). Her research informed legal discussion on the Agreement and contributed to its draft, and the preparations for its implementation. Her research has also informed Argentina and Costa Rica's ratification of the EA and was cited in evidence for its ratification. Concurrently, her research expertise has helped guide the implementation of the Escazú Agreement and environmental justice in Argentina, Bolivia, Chile, and Costa Rica; through training and the provision of guidelines, and by raising awareness about environmental access rights in the Latin American region.

2. Underpinning research

Environmental access rights emerge from the interaction between human rights and environmental protection, articulated around the idea of environmental democracy. These embody the premise that humans have both substantive and procedural rights to a safe and healthy environment. If procedural rights – such as access to information, public participation in decision-making, and access to environmental justice – are not observed, then substantive environmental rights cannot be achieved or protected. Thus, the main aim of Olmos Giupponi's research has been to widen participation in, and strengthen these procedural rights, which can then act as the pillars of environmental democracy.

Drafting the Escazú Agreement

Since the adoption of Principle 10 of the United Nations (UN) 1992 Rio Declaration, various multilateral environmental treaties have embodied environmental access rights. In Europe, the Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters (Aarhus Convention) specifically enshrined these three core environmental access rights. In 2012, nine Latin American and Caribbean (LAC) countries proposed a regional agreement of their own – titled the Regional Agreement on Environmental Access Rights, now commonly called the Escazú Agreement (EA).

Olmos Giupponi was invited to act as an expert advisor and collaborating researcher by The UN Economic Commission for Latin America and the Caribbean ('ECLAC', or in Spanish 'CEPAL'). ECLAC offered support and acted as a technical secretariat. Olmos Giupponi's specific contributions to the drafting regarded access to environmental justice and to fostering sustainable development in the region. She, with ECLAC, also drafted a white paper (published in Spanish and in English) on the implementation of the agreement, including guidelines for the establishment of the Compliance Committee [R1]. Olmos Giupponi also worked with both the Organisation of American States and the Inter-American Court of Human Rights, contributing written observations, and informing decision makers, to ensure sustainable development based on the rule of law. Her research addressed regional disparities in the LAC region, as these

disparities present significant obstacles to the effective implementation of international environmental law (IEL) [R1, R2].

Implementation of the Escazú Agreement

Notwithstanding the progress made in IEL, the reception and full implementation of environmental democracy rights in LAC has been hindered due to multiple factors. Significant obstacles exist at regional and national levels to the effective implementation of international environmental law. The underdeveloped environmental protection in LAC is clear from a lack of waste treatment facilities, poor air quality, and unrestrained deforestation and mining. The research critically analysed the historic delays around implementation of environmental rights in LAC and the present provisions in the EA. Implementation of the EA brings its own complications with disagreements over the definitions of public, differing national infrastructures (often reducing access), and difficulties in obtaining judicial review or equal conditions for disputing parties. Olmos Giupponi observed that ultimately the subsequent practice of LAC states will determine whether the EA will be fully implemented, rather than merely the content of the EA [R1].

In the broader picture, the EA is a harbinger of environmental rights for the LAC region, blending elements of human rights with the principles of environmental law. This evolution of IEL is a move reaching towards consensus around general obligations, which seem to guarantee universal standards for the respect of environmental access rights. Introducing new considerations around differing theoretical perspectives of human rights and environmental law, Olmos Giupponi detailed the integrationist approach to the different rights in the Escazú Agreement. It is both a legal instrument but also a human rights treaty, with concrete implications for protecting environmental rights. The research also provided a comprehensive analysis of how human rights bodies have integrated the safeguarding of human rights, such as the importance of free, prior, and informed consent of indigenous peoples, into environmental litigation.

Noting the recent increase of regional and global environmental governance, Olmos Giupponi detailed the different fora for the implementation of environmental rights and unpacked the core principles and obligations of the EA for LAC states. This revealed that whilst basic foundations are in place, LAC states need to adopt further implementation strategies to adequately protect the environmental rights of their citizens. The EA includes specific provisions for capacity building and cooperation and the creation of subsidiary bodies to support nation states in this implementation. Olmos Giupponi described how to design an effective implementation strategy: building on past human rights practice, drawing on the Aarhus Convention Compliance Committee, and successfully cooperating with subregional organisations [R1].

One of the main challenges of the implementation concerns the removal of obstacles to access environmental justice, thus the research turned to focus on formal and informal mechanisms to access to justice. The research followed judgements by the European Court and Inter-American Court of Human Rights to identify the institutional framings of human rights and environmental law, contrasting direct and indirect recognition models and the distinguishing of individual and collective rights [R2]. Given the need for regional governance, the role of the Inter-American Court of Human Rights as the guarantor of human rights and environmental rights (as clearly defined in [Advisory Opinion 23/2017](#)) is critical [R2].

Additionally, the involvement of the public in decision-making and in justice are an important part of informal environmental conflict resolution [R3]. Olmos Giupponi's research, presented at a Regional Integration Forum in Costa Rica (sponsored by the Central American Integration System), systematically described the various forms and mechanisms by which resolution can take place, such as people's tribunals and grass-root initiatives. She also detailed how this resolution occurs in a transnational sphere, can settle conflict in a non-confrontational manner, and can achieve redress through social, economic, or environmental outcomes. The EA will play a critical, transnational role in informal conflict resolutions in the future [R3]. A delayed but forthcoming book addresses the main implication of the EA for the evolution of IEL: a move towards a consensus around the obligation to guarantee universal standards regarding environmental access rights [R4].

Impact case study (REF3)

The research has also contributed to the Judicial Dialogue Network, a research project funded by the European Union (EUCOVAL - Project awarded to the Spanish Association of International Law) and led by the University of Salamanca in Spain. The main aim is widening and strengthening environmental access rights across regions, with a focus on LAC. It benefited from a small initial research grant awarded to Olmos Giupponi as the Principal Investigator.

3. References to the research

R1 – Olmos Giupponi, B. ‘Fostering environmental democracy in Latin America and the Caribbean: An analysis of the Regional Agreement on Environmental Access Rights.’ *RECIEL*. 2019; 28: 136– 151. DOI: [10.1111/reel.12274](https://doi.org/10.1111/reel.12274) REF2ID: 17-68-1959
 - Supported by a £3000 Milstein Grant from the CONICET RAICES programme

R2 – Olmos Giupponi, B., Delpiano Lira, C. “Un análisis del diálogo judicial en la protección del medio ambiente desde la Jurisprudencia de las Cortes Europea e Interamericana de Derechos Humanos” 2019. In: Martín y Pérez De Nanclares, J., González Herrera, D., El diálogo judicial internacional en la protección de los derechos fundamentales, Tirant lo Blanch, Valencia, ISBN: 9788413131832
 - This research has arisen from and been included in an Erasmus+ Jean Monnet Project (574663-EPP-1-2016-1-ES-EPPJMO)

R3 – Olmos Giupponi, B., “Informal Environmental Conflict Resolution”, 2020. Presented at the VI Regional Integration Forum, August 2019. DOI: [10.13140/RG.2.2.21557.09449](https://doi.org/10.13140/RG.2.2.21557.09449)

R4 – Olmos Giupponi, B. “International Environmental Law Compliance in Context”, 2021. Published by Routledge. ISBN 9781138491847 **[covid-delayed output]**
 DOI: [10.4324/97811351031943](https://doi.org/10.4324/97811351031943)

4. Details of the impact

Olmos Giupponi’s research and expertise have impacted Latin America and Caribbean countries (LAC) through the adoption of ‘The Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean’ **[S1]** - better known as the Escazú Agreement (EA). Olmos Giupponi critically analysed the provisions of the EA and challenges of its implementation **[R1]**, as well as investigating alternative and informal methods to resolve environmental conflicts **[R2, R3]**.

The national implementation strategies, designed by Olmos Giupponi and ECLAC, are being enacted and will be the foundation of the full impact of the EA. The EA was adopted in 2018, received the necessary national ratifications in 2020, and its implementation has begun.

Impact on the Drafting, Implementation Procedure, and Ratification of the Escazú Agreement

Olmos Giupponi’s research has had transnational impact, particularly in the Caribbean, Costa Rica, Chile and Argentina; where her work supported the adoption and implementation of the EA. Prior to the adoption of the EA, her participation in discussions of specific chapters of the treaty, such as on Environmental Justice, and the issuance of guidelines **[S2]** to facilitate the implementation of the treaty in the region brought implementation-related issues to the attention of governments who then made new provisions to ensure their policies were effective. The ECLAC Economic Affairs Officer **[S3]** described how ‘*In cooperation, Dr Olmos Giupponi conducted research to better foster environmental justice and to address problems in the implementation of environmental rights*’. Referring to specific insights from **[R1]**, she noted the contribution of ‘*comments on the environmental justice pillar*’. She continued to highlight how Olmos Giupponi’s findings:

‘led to the drafting of guidance for nations implementing the treaty and for the structure and function of the Committee to Support Implementation and Compliance. This brought implementation-related issues to the attention of governments, of which they were previously not aware. As a result, they made new provisions to ensure policies would be effectively applied. Dr Olmos Giupponi’s research and contributions regarding the

provisions on access to environmental justice ensured the Agreement protected the region's natural resources and individuals' rights through well implemented governance'.

From April 2018, Olmos Giupponi was invited by ECLAC [S3] to feed comments into the implementation of the Sustainable Development Goals (SDGs), with her contribution contained in [R4]. In April 2019, Olmos Giupponi's involvement in the consultation opened by the UN Rapporteur on Human Rights and the Environment, examining implementation of environmental access rights in Latin America and the Caribbean led to better understanding of weaknesses faced by the region in the implementation of procedural environmental rights, with associated constraints on *'implementation and enforcement of environmental laws'* in the LAC [S4]. In 2020, Olmos Giupponi submitted evidence to the United Nations Research Institute for Social Development, titled 'The Contribution of The Escazú Agreement to the Achievement of SDGs 13 and 16'.

On 13 August 2020, Olmos Giupponi was cited, [R1], and quoted in the Argentine Senate [S5] to explain the extrapolation of the pro homine human principle to environmental principles, requiring and thus ensuring that legislation is *'interpreted in a way that is "as favorable as possible to the human person and that protects their dignity"'*. The Senate unanimously approved a project (Agenda N 55/20) for the ratification of the EA. On 25 September 2020, 240 members of the Chamber of Deputies voted to ratify the EA. As of 31 December 2020, there are 24 signatories and 11 ratifications by states. The EA will come into force as a result. [S6]

The EA is the first, and only binding agreement, to contain specific provision on environmental human rights. Two years after the adoption of the EA, ECLAC's Executive Secretary Alicia Barcena described how *'The Agreement has been signed by two-thirds of the region's countries, which represent 560 million people, meaning more than 90% of our region's population'* will be protected by its provisions. [S6]. In his July 2020 Brief, the United Nations Secretary-General described the EA as *'a valuable tool to seek people-centred solutions grounded in nature'*, by *'enhancing access'* and *'engaging vulnerable groups'*, meaning *'countries will be better placed to preserve their strategic natural heritage'*. [S7]

In December 2020, Olmos Giupponi participated in the Second Meeting of the Signatory Countries to the Escazú Agreement. Her guidelines [S2], formed as a White Paper, were distributed to ECLAC and to the Organisation of Eastern Caribbean States. The White Paper served as a timely, relevant, basis to their discussions for implementation of the EA.

Impact through Implementation of the Escazú Agreement across Latin America

Olmos Giupponi's research has enabled the revision, guidance and subsequent implementation of the EA throughout Latin America, including Argentina, Chile, Bolivia and Costa Rica.

In Argentina, she led training at 'The Ricardo C. Núñez Improvement Centre', a judicial training school contributing to the improvement of the Justice administration service in Cordoba. She introduced provided tools to magistrates and local lawyers to protect environmental access rights in line with the EA [S8].

In Chile, Olmos Giupponi has contributed to events in support of the Indigenous and Tribal Peoples Convention (ILO-convention 169), applying the EA to protecting the rights, environments, and cultural identities of indigenous peoples. In 2019, she spoke regarding the right to prior consultation; in 2020, she spoke on international compliance in the climate change framework and in protecting a healthy environment.

In Bolivia, in collaboration with the Legal Advisor to the country's municipalities, Olmos Giupponi facilitated an improved implementation of the EA by *'making abstract concepts and international norms more accessible to stakeholders thus enhancing their effective implementation on a local level'*. The Legal Advisor [S9] explained that Olmos Giupponi solved the complexities faced by local councils to implement environment access rights through *'formulating recommendations for the revision of local policies'* and *'the drafting of guidance for local authorities'*, often translated into indigenous languages. He concluded that the collaboration with Olmos Giupponi *'has resulted in a better and more pragmatic approach to implementing new provisions'* at the level of the country's 300 local councils.

Impact case study (REF3)

In Costa Rica, at a meeting organised by the Central American Integration System (SICA), she presented her research [R3] and put forward other suggestions to those present. The President Judge of the Agrarian Tribunal of Costa Rica [S10] explains how *'representatives of the Central American Parliament, an institution of SICA, took on board the suggestion put forward by Dr Olmos Giupponi to revise the climate change strategy for the region in line with the three [environmental access] pillars.'* He also explains how Olmos Giupponi, together with the Environmental Tribunal of Costa Rica and the Association of Agrarian Judges, *'organised a workshop and a training activity aimed at discussing the application and implementation of the Escazú Agreement in practice'*, sent implementation advice to *'agrarian and environmental judges'*. He added that previous research conducted by Olmos Giupponi *'has informed the debates of the Supreme Court of Costa Rica'* to support an expedited ratification of the EA. As he concludes, *'In sum, the research carried out by Dr Olmos Giupponi has raised awareness about environmental access rights in the Central American region, facilitated the ratification of the Escazú Agreement by Costa Rica, and paved the way for its smooth implementation.'*

5. Sources to corroborate the impact

S1 – [Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean](#)

S2 – White Paper: Rules of Procedure for the Compliance Committee

S3 – Statement by ECLAC's Economic Affairs Officer

S4 – [Consultation Report](#), December 2019

S5 – [Argentinian Senate Transcript](#), 13 August 2020 (in Spanish)

S6 – [ECLAC Press Release, March 2020](#)

S7 – [ECLAC Press Release, August 2020](#)

S8 – Certificate from the Ricardo C. Nunez Centre, Cordoba (in Spanish)

S9 – Statement by the Legal Advisor for the Bolivian Federation of Municipalities

S10 – Statement by the President Judge of the Agrarian Tribunal of Costa Rica