

The Triad of Environmental Democracy: Supporting three Mutually Reinforcing Pillars- Open Access to Data, Inclusive Public Participation and Reliable Access to Justice

Kariuki Muigua

The Triad of Environmental Democracy: Supporting three Mutually Reinforcing Pillars- Open Access to Data, Inclusive Public Participation and Reliable Access to Justice

Table of Contents

Abstract.....	3
1.0 Introduction	3
2.0 Examining the Pillars of Environmental Democracy	5
3.0 Promoting Open Access to Data, Inclusive Public Participation and Reliable Access to Justice towards Environmental Democracy	9
4.0 Conclusion	11
References	12

The Triad of Environmental Democracy: Supporting three Mutually Reinforcing Pillars-Open Access to Data, Inclusive Public Participation and Reliable Access to Justice

Kariuki Muigua*

Abstract

This paper critically explores the role of environmental democracy in Sustainable Development. The paper observes that the idea of environmental democracy is premised on three mutually reinforcing pillars that are at the heart of sound environmental governance and Sustainable Development. The paper discusses the tenets of environmental democracy and their role in promoting Sustainable Development. Despite its role in promoting sound environmental governance and Sustainable Development, the paper notes that achieving environmental democracy remains an elusive global dream. It examines the key challenges undermining the global pursuit of environmental democracy. In light of current shortcomings, the paper suggests how the three pillars of environmental democracy-open access to data, inclusive public participation and reliable access to justice can be effectively promoted towards sound environmental governance and Sustainable Development.

1.0 Introduction

The environment constitutes one of the three mutually reinforcing pillars of Sustainable Development. Sustainable Development in general calls for integration of economic development, social equity, and environmental protection in order to equitably and fairly meet the needs of both present and future generations¹. In particular, it has been observed that environmental protection is an overarching objective and an essential requirement in the pursuit of Sustainable Development².

According to the United Nations Environment Programme (UNEP), a sustainably managed and protected environment is a prerequisite for socio-economic development and poverty reduction³. For example, a clean and healthy environment provides the

* PhD in Law (Nrb),SC, FCI Arb (Chartered Arbitrator),OGW, LL. B (Hons) Nrb, LL.M (Environmental Law) Nrb; Dip. In Law (KSL); FCPS (K); Dip. in Arbitration (UK); MKIM; Mediator; Consultant: Lead expert EIA/EA NEMA; BSI ISO/IEC 27001:2005 ISMS Lead Auditor/ Implementer; ESG Consultant; Advocate of the High Court of Kenya; Professor of Environmental Law and Conflict Management at the University of Nairobi, Faculty of Law; Member of the Permanent Court of Arbitration (PCA) [September, 2026].

¹ World Commission on Environment and Development., 'Our Common Future.' Oxford, (Oxford University Press, 1987)

² United Nations Environment Programme., 'Frequently Asked Questions' Available at <https://www.unep.org/frequently-asked-questions> (Accessed on 02/09/2026)

³ Ibid

The Triad of Environmental Democracy: Supporting three Mutually Reinforcing Pillars- Open Access to Data, Inclusive Public Participation and Reliable Access to Justice

resources necessary for human life and well-being now and in the future including clean air, water, energy, fertile soil necessary for food production, and a stable climate⁴. In addition, the environment also supports vital economic activities including agriculture, tourism, mining, fishing, energy production among others which sustain livelihoods and foster economic growth towards human progress and development⁵.

Due to its important role in the Sustainable Development discourse, it is necessary to ensure that environment and natural resources decisions and policies adequately, fairly and equitably address the interests of all citizens⁶. Through this approach, it possible to promote responsive, fair, and effective environmental governance that takes into account the needs of every person especially vulnerable and marginalized populations in order to ensure equity, fairness and justice in Sustainable Development⁷. In light of the foregoing, environmental democracy has emerged as an ideal that seeks to ensure that environmental and natural resource decisions involve all citizens and adequately and equitably address the needs and interests of all stakeholders for fairness, equity and justice in Sustainable Development⁸.

This paper critically explores the role of environmental democracy in Sustainable Development. The paper observes that the idea of environmental democracy is premised on three mutually reinforcing pillars that are at the heart of sound environmental governance and Sustainable Development. The paper discusses the tenets of environmental democracy and their role in promoting Sustainable Development. Despite its role in promoting sound environmental governance and Sustainable Development, the paper notes that achieving environmental democracy remains an elusive global dream. It examines the key challenges undermining the global pursuit of environmental democracy. In light of current shortcomings, the paper suggests how the three pillars of environmental democracy-open access to data, inclusive public participation and reliable

⁴ European Environment Agency., 'Caring for the Environment is Caring for Ourselves' Available at <https://www.eea.europa.eu/en/newsroom/editorial/editorial-caring-for-the-environment#:~:text=It%20gives%20us%20clean%20air,harm%20our%20own%20well%2Dbeing> (Accessed on 02/09/2026)

⁵ Ibid

⁶ Environmental Democracy Index., 'Environmental Democracy Background' Available at https://environmentaldemocracyindex.org/about/background_and_methodology.html (Accessed on 02/09/2026)

⁷ Ibid

⁸ Center for International Environmental Law., 'Environmental Democracy and Access Rights' Available at <https://www.ciel.org/issue/environmental-democracy-access-rights/> (Accessed on 02/09/2026)

access to justice can be effectively promoted towards sound environmental governance and Sustainable Development.

2.0 Examining the Pillars of Environmental Democracy

Environmental democracy is grounded in the understanding that active, effective and meaningful participation by the public is critical to ensuring that decisions related to the environment and natural resources adequately and equitably address the interests of all citizens towards sound environmental governance and Sustainable Development⁹. Environmental democracy advocates for transparency, inclusivity, fairness and justice in order to ensure that all stakeholders, including vulnerable and marginalized communities, have a voice in shaping environmental policies and decisions that directly impact their lives, livelihoods and the needs of future generations¹⁰. It has been observed that environmental democracy not only involves protecting the environment but also ensuring that environmental decisions and policies are transparent, inclusive, participatory and accountable¹¹. According to environmental democracy, decisions and policies governing the environment should not be made and shaped solely by governments or experts, but they should also involve all relevant stakeholders including citizens, civil society organisations and affected communities¹².

Environmental democracy therefore captures the principle of equal rights for all stakeholders including the public, community groups, advocates, industrial leaders, workers, governments, academics and other professionals to be actively and meaningfully involved in environmental governance¹³. It has been observed that environmental democracy gives an opportunity to every individual to participate in environmental decision-making as freely as they do in other public interest matters like health care, education, finance and governance in general¹⁴. In order to achieve the objectives of transparency, inclusivity, fairness, justice and accountability in

⁹ Worker. J., & Ratte. S., 'What Does Environmental Democracy Look Like?' Available at <https://www.wri.org/insights/what-does-environmental-democracy-look> (Accessed on 03/09/2026)

¹⁰ Environmental Democracy., Available at <https://www.studysmarter.co.uk/explanations/environmental-science/environmental-policy/environmental-democracy/> (Accessed on 03/09/2026)

¹¹ Understanding Environmental Democracy., Available at <https://www.stefaniaattolini.eu/projects/understanding-environmental-democracy/> (Accessed on 03/09/2026)

¹² Ibid

¹³ Worker. J., & Ratte. S., 'What Does Environmental Democracy Look Like?' Op Cit

¹⁴ Lewa. S.K et al., 'Actors in Managing Human-Wildlife Conflict: The Case of Arabuko-Sokoke Forest, Kenya' *International Academic Journal of Arts and Humanities.*, Volume 1, Issue 2 (2017), pp 37-50

The Triad of Environmental Democracy: Supporting three Mutually Reinforcing Pillars- Open Access to Data, Inclusive Public Participation and Reliable Access to Justice

environmental governance, the ideal of environmental democracy is based on three mutually reinforcing pillars. These are: the ability of all people to freely access environmental information¹⁵; to participate meaningfully in decision-making relating to the environment and natural resources¹⁶; and to seek enforcement of environmental laws or compensation in respect of environmental harms through enhanced access to justice¹⁷.

The tenets of environmental democracy are set out under principle 10 of the *Rio Declaration on Environment and Development*¹⁸ which stipulates as follows:

*'Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided (Emphasis Added)*¹⁹.

The Rio Declaration on Environment and Development therefore captures the three mutually reinforcing pillars of environmental democracy which are public participation in environmental decision-making processes, access to environmental information and access to justice in environmental matters.

In addition, the pillars of environmental democracy are also stipulated under the *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)*²⁰. In order to foster environmental democracy, the *Aarhus Convention* requires all contracting states to enhance access to environmental information, promote public participation in environmental decision-making processes, and foster access to justice in environmental matters²¹. It has been argued that the *Aarhus Convention* provides an effective framework towards achieving environmental democracy since it stipulates a set of basic procedural rights for the public

¹⁵ Center for International Environmental Law., 'Environmental Democracy and Access Rights' Op Cit

¹⁶ Ibid

¹⁷ Ibid

¹⁸ United Nations General Assembly., 'Report of the United Nations Conference on Environment and Development: Rio Declaration on Environment and Development.' A/CONF. 151/26 (Vol.1)

¹⁹ Ibid, Principle 10

²⁰ The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters., 2161 UNTS 447, 38 ILM 517 (1999)

²¹ Ibid

The Triad of Environmental Democracy: Supporting three Mutually Reinforcing Pillars- Open Access to Data, Inclusive Public Participation and Reliable Access to Justice

including access to information, public participation, and access to justice, while also imposing obligations on states and public authorities to enforce the core tenets of environmental democracy, in order to enhance transparency, inclusivity, fairness and justice in environmental decision-making processes, and make governments more accountable to the people in environmental matters²².

Upholding the pillars of environmental democracy is vital towards promoting sound environmental governance and Sustainable Development. For example, UNEP correctly notes that the tenets of environmental democracy play an important role in promoting transparent, inclusive, fair and accountable environmental governance²³. In particular, access to information empowers citizens and incentivizes them to participate in environmental decision and policy-making processes in an informed and meaningful manner²⁴. It has been observed that by being informed, the public can participate more effectively in environmental policies and decision-making processes and hold corporations and governments accountable for actions that violate the right to a clean, healthy and sustainable environment²⁵. In addition, effective, inclusive and meaningful public participation in environmental decision-making processes can improve information flow between communities and government or private sector decision-makers²⁶. Public participation in environmental governance can help avoid unintended harmful consequences, increase support for environmental decisions and policies, and lead to a more equitable distribution of environmental costs and benefits²⁷. It has been correctly observed that public participation can improve the quality of environmental decision-making by providing decision-makers with additional, unique information on local conditions in the context of social, environmental and economic decision-making²⁸. In addition, access to justice is a fundamental pillar of environmental democracy which facilitates the public's ability to enforce their right to participate, to be informed, and to hold regulators and polluters accountable for environmental harm²⁹. Access to justice

²² European Commission., 'The Aarhus Convention and the EU' Available at https://environment.ec.europa.eu/law-and-governance/aarhus_en (Accessed on 03/09/2026)

²³ United Nations Environment Programme., 'Principle 10' Available at <https://www.unep.org/civil-society-engagement/partnerships/principle-10> (Accessed on 03/09/2026)

²⁴ Ibid

²⁵ Worker. J., & Ratte. S., 'What Does Environmental Democracy Look Like?' Op Cit

²⁶ Ibid

²⁷ Ibid

²⁸ Cerezo. L, & Garcia. G., 'Lay Knowledge and Public Participation in Technological and Environmental Policy.' Available at <https://scholar.lib.vt.edu/ejournals/SPT/v2n1/pdf/CEREZO.PDF> (Accessed on 03/09/2026)

²⁹ United Nations Environment Programme., 'Principle 10' Op Cit

The Triad of Environmental Democracy: Supporting three Mutually Reinforcing Pillars- Open Access to Data, Inclusive Public Participation and Reliable Access to Justice

empowers citizens to hold government and corporations accountable for environmental injustices towards enforcing the right to a clean, healthy and sustainable environment³⁰.

Promoting the tenets of environmental democracy is therefore necessary towards achieving sound environmental governance for people and planet. By enforcing the pillars of environmental democracy, it is possible to promote effective, inclusive and equitable environmental governance towards a healthier and sustainable planet for both present and future generations³¹. Environmental democracy is crucial in ensuring the inclusion of multiple stakeholders including governments at local levels, the civil society, the private sector, indigenous and local communities, women and the youth in environmental and development decisions in order to deliver effective responses on climate change, biodiversity loss and pollution among other environmental threats³². It has been argued that strengthening democratic processes through access to information, meaningful involvement of the public in environmental decision-making processes, and access to adequate remedies is vital in bolstering environmental governance and addressing global environmental challenges including climate change, pollution, and biodiversity loss towards Sustainable Development³³.

Despite its role in promoting sound environmental governance and Sustainable Development, achieving environmental democracy remains an elusive goal in most countries. For example, it has been observed that marginalized and vulnerable groups including women, the youth, indigenous peoples and local communities suffer from low levels of representation and participation in environmental policies and decision-making processes³⁴. In addition, barriers in access to justice including high costs, geographical barriers, technicalities and case backlog affect the ability of vulnerable and marginalized

³⁰ Ibid

³¹ Environmental Democracy., Op Cit

³² Burke, J., & Ooko. T. B., 'Building momentum towards the realisation of environmental rights in Africa' Available at <https://www.universal-rights.org/building-momentum-towards-the-realisation-of-environmental-rights-in-africa/#:~:text=Recognising%20the%20need%20to%20strengthen,momentum%20for%20the%20negotiations%20and> (Accessed on 03/09/2026)

³³ WFD's approach to environmental democracy., Available at https://www.wfd.org/sites/default/files/2021-11/Global-environmental-crises-a-democratic-response_WFD_2020-updated.pdf (Accessed on 03/09/2026)

³⁴ United Nations Development Programme., 'Environmental Governance: Bolstering inclusive and effective governance systems that champion environmental justice and sustainability' Available at <https://www.undp.org/nature/our-work-areas/environmental-governance> (Accessed on 03/09/2026)

populations to enforce their environmental rights including the right to a clean, healthy and sustainable environment³⁵.

Consequently, it is imperative to uphold the pillars of environmental democracy towards strengthening environmental governance and promoting Sustainable Development.

3.0 Promoting Open Access to Data, Inclusive Public Participation and Reliable Access to Justice towards Environmental Democracy

There is need to uphold the tenets of environmental democracy in order to foster sound environmental governance for Sustainable Development. In particular, it is imperative to ensure broad and open access to data concerning the environment that is held by both public and private authorities in order to enable citizens to effectively and meaningfully participate in environmental policies and decision-making processes³⁶. In order to ensure open access to data, governments and companies have been urged to make environmental information including Environmental Impact Assessments (EIAs), development project plans, and pollution discharges freely available to the public towards informed decision-making processes³⁷. In addition, it has been observed that environmental information should not only be available, but also accessible to the public through formats they can readily use taking into account factors such as literacy levels, language, readability and use of technology³⁸.

In addition, it is imperative to support inclusive and meaningful public participation towards environmental democracy. In particular, there is need to ensure that all stakeholders including women, the youth, civil society organisations, indigenous peoples and local communities are actively and meaningfully involved in environmental policies and decision-making processes in order to improve the quality of environmental decisions³⁹. In order to ensure inclusive public participation, it is imperative to provide the public with environmental information needed to meaningfully participate in decision-making processes while also utilising forums such as town hall meetings and community workshops for public consultation⁴⁰. In addition, ensuring the Free, Prior,

³⁵ United Nations Development Programme., 'Environmental Justice and the Right to a Clean, Healthy, and Sustainable Environment' Available at <https://www.undp.org/rolhr/human-rights/environmental-justice> (Accessed on 03/09/2026)

³⁶ United Nations General Assembly., 'Report of the United Nations Conference on Environment and Development: Rio Declaration on Environment and Development.' Op Cit

³⁷ Worker. J., & Ratte. S., 'What Does Environmental Democracy Look Like?' Op Cit

³⁸ Ibid

³⁹ WFD's approach to environmental democracy., Op Cit

⁴⁰ Worker. J., & Ratte. S., 'What Does Environmental Democracy Look Like?' Op Cit

and Informed Consent (FPIC) of indigenous peoples and local communities is also key towards achieving environmental democracy by supporting inclusive and meaningful public participation⁴¹. FPIC has been identified as a fundamental right of self-determination that ensures participation by indigenous communities and local communities in environmental and development projects in order to ensure that such projects are conducted in a sustainable manner taking into account their economic, social and cultural impact⁴². Promoting FPIC can thus ensure effective, meaningful and inclusive participation of indigenous and local communities in environmental governance for environmental democracy while also supporting sound environmental protection and conservation⁴³.

It is also imperative to promote reliable access to justice towards environmental democracy. It has been correctly observed that without access to justice, citizens have no ability to hold governments and corporations accountable for environmental harm thus undermining environmental democracy while also fuelling and worsening environmental injustices⁴⁴. It is therefore necessary to strengthen access to justice through both court processes and Appropriate Dispute Resolution (ADR) techniques including negotiation, mediation, conciliation and arbitration. For instance, it has been observed that courts can issue binding judgments that uphold the tenets of environmental democracy, enforce the purposes of environmental laws and policies including those on public participation and access to information, and issue injunctions towards stopping and preventing acts that undermine the right to a clean, healthy and sustainable environment⁴⁵. In addition, due to challenges in litigation, embracing ADR processes is necessary towards strengthening access to justice in environmental matters for environmental democracy⁴⁶. In particular, ADR processes such as negotiation, conciliation and mediation can ensure the participation of all stakeholders in

⁴¹ Muigua. K., 'Maximising the Right to Free, Prior, and Informed Consent for Enhanced Environmental Justice in Kenya.' Available at <http://kmco.co.ke/wp-content/uploads/2019/03/Maximising-the-Right-to-FPIC-in-Kenya-Kariuki-Muigua-29th-March-2019.pdf> (Accessed on 03/09/2026)

⁴² Owen, J.R. and Kemp, D., "Free Prior and Informed Consent', Social Complexity and the Mining Industry: Establishing A Knowledge Base," *Resources Policy*, Vol.41 (2014): 91-100

⁴³ Ibid

⁴⁴ WFD's approach to environmental democracy., Op Cit

⁴⁵ The Role of the Courts in Delivering Environmental Justice., Available at https://lec.nsw.gov.au/documents/speeches-and-papers/Preston_CJ_-_The_Role_of_the_Courts_in_Delivering_Environmental_Justice.pdf (Accessed on 03/09/2026)

⁴⁶ Muigua. K., 'Attaining Environmental Justice through Alternative Dispute Resolution' Available at <https://kmco.co.ke/wp-content/uploads/2023/07/Attaining-Environmental-Justice-through-Alternative-Dispute-Resolution.pdf> (Accessed on 03/09/2026)

environmental decision-making processes while also allowing parties to come up with collaborative and creative remedies that can strengthen environmental democracy and justice⁴⁷. Embracing both court processes and ADR techniques is therefore necessary towards reliable access to justice for environmental democracy.

4.0 Conclusion

Environmental democracy provides an effective and appropriate approach towards achieving equity, inclusivity, fairness, transparency, accountability and justice in environmental governance. It is therefore necessary to support the three mutually reinforcing pillars of environmental democracy through open access to data, inclusive public participation and reliable access to justice in order to bolster environmental governance and promote Sustainable Development.

⁴⁷ Ibid

References

Burke. J., & Ooko. T. B., 'Building momentum towards the realisation of environmental rights in Africa' Available at <https://www.universal-rights.org/building-momentum-towards-the-realisation-of-environmental-rights-in-africa/#:~:text=Recognising%20the%20need%20to%20strengthen,momentum%20for%20the%20negotiation%20and>

Center for International Environmental Law., 'Environmental Democracy and Access Rights' Available at <https://www.ciel.org/issue/environmental-democracy-access-rights/>

Cerezo. L, & Garcia. G., 'Lay Knowledge and Public Participation in Technological and Environmental Policy.' Available at <https://scholar.lib.vt.edu/ejournals/SPT/v2n1/pdf/CEREZO.PDF>

Environmental Democracy Index., 'Environmental Democracy Background' Available at https://environmentaldemocracyindex.org/about/background_and_methodology.html

Environmental Democracy., Available at <https://www.studysmarter.co.uk/explanations/environmental-science/environmental-policy/environmental-democracy/>

European Commission., 'The Aarhus Convention and the EU' Available at https://environment.ec.europa.eu/law-and-governance/aarhus_en

European Environment Agency., 'Caring for the Environment is Caring for Ourselves' Available at <https://www.eea.europa.eu/en/newsroom/editorial/editorial-caring-for-the-environment#:~:text=It%20gives%20us%20clean%20air,harm%20our%20own%20well%2Dbeing>

Lewa. S.K et al., 'Actors in Managing Human-Wildlife Conflict: The Case of Arabuko-Sokoke Forest, Kenya' *International Academic Journal of Arts and Humanities.*, Volume 1, Issue 2 (2017), pp 37-50

Muigua. K., 'Attaining Environmental Justice through Alternative Dispute Resolution' Available at <https://kmco.co.ke/wp-content/uploads/2023/07/Attaining-Environmental-Justice-through-Alternative-Dispute-Resolution.pdf>

The Triad of Environmental Democracy: Supporting three Mutually Reinforcing Pillars- Open Access to Data, Inclusive Public Participation and Reliable Access to Justice

Muigua. K., 'Maximising the Right to Free, Prior, and Informed Consent for Enhanced Environmental Justice in Kenya.' Available at <http://kmco.co.ke/wp-content/uploads/2019/03/Maximising-the-Rightto-FPIC-in-Kenya-Kariuki-Muigua-29th-March-2019.pdf>

Owen, J.R. and Kemp, D., "'Free Prior and Informed Consent', Social Complexity and the Mining Industry: Establishing A Knowledge Base," *Resources Policy*, Vol.41 (2014): 91-100

The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters., 2161 UNTS 447, 38 ILM 517 (1999)

The Role of the Courts in Delivering Environmental Justice., Available at https://lec.nsw.gov.au/documents/speeches-and-papers/Preston_CJ_-_The_Role_of_the_Courts_in_Delivering_Environmental_Justice.pdf

Understanding Environmental Democracy., Available at <https://www.stefaniaattolini.eu/projects/understanding-environmental-democracy/>

United Nations Development Programme., 'Environmental Governance: Bolstering inclusive and effective governance systems that champion environmental justice and sustainability' Available at <https://www.undp.org/nature/our-work-areas/environmental-governance>

United Nations Development Programme., 'Environmental Justice and the Right to a Clean, Healthy, and Sustainable Environment' Available at <https://www.undp.org/rolhr/human-rights/environmental-justice>

United Nations Environment Programme., 'Frequently Asked Questions' Available at <https://www.unep.org/frequently-asked-questions>

United Nations Environment Programme., 'Principle 10' Available at <https://www.unep.org/civil-society-engagement/partnerships/principle-10>

United Nations General Assembly., 'Report of the United Nations Conference on Environment and Development: Rio Declaration on Environment and Development.' A/CONF. 151/26 (Vol.1)

WFD's approach to environmental democracy., Available at https://www.wfd.org/sites/default/files/2021-11/Global-environmental-crises-a-democratic-response_WFD_2020-updated.pdf

The Triad of Environmental Democracy: Supporting three Mutually Reinforcing Pillars- Open Access to Data, Inclusive Public Participation and Reliable Access to Justice

Worker. J., & Ratte. S., 'What Does Environmental Democracy Look Like?' Available at <https://www.wri.org/insights/what-does-environmental-democracy-look>

World Commission on Environment and Development., 'Our Common Future.' Oxford, (Oxford University Press, 1987)