

**INTER-AMERICAN COURT OF HUMAN RIGHTS\***

**ADVISORY OPINION AO-32/25**

**OF MAY 29, 2025**

**REQUESTED BY THE REPUBLIC OF CHILE AND THE REPUBLIC OF COLOMBIA**

**CLIMATE EMERGENCY AND HUMAN RIGHTS**

**(Interpretation and scope of Articles 1(1), 2, 4(1), 5(1), 8, 11(2), 13, 17(1), 19, 21, 22, 23, 25 and 26 of the American Convention on Human Rights; 1, 2, 3, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights “Protocol of San Salvador,” and I, II, IV, V, VI, VII, VIII, XI, XII, XIII, XIV, XVI, XVIII, XX, XXIII, and XXVII, of the American Declaration of the Rights and Duties of Man)**

**OFFICIAL SUMMARY ISSUED BY THE INTER-AMERICAN COURT**

On May 29, 2025, the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”) issued an Advisory Opinion in response to the request submitted by the Republic of Chile and the Republic of Colombia on Climate Emergency and Human Rights.

**I. Preliminary Considerations**

**A. Questions Posed by the Requesting States**

In order to perform its advisory function more effectively, the Court deemed it appropriate to reformulate the questions raised as follows:

1. What is the scope of the obligations to respect and guarantee rights and to adopt the necessary measures to ensure their exercise in the case of substantive rights, such as the right to life and to health, personal integrity, private and family life, property, freedom of movement and residence, housing, water, food, work and social security, culture, education, and the enjoyment of a healthy environment, in relation to the impact or threats caused or exacerbated by the climate emergency?
2. What is the scope of the obligations to respect and guarantee rights and to adopt the necessary measures to ensure their exercise in the case of procedural rights, such as access to information, the right to participation and access to justice, in relation to the harm caused or exacerbated by the climate emergency?
3. What is the scope of the obligations to respect and guarantee rights and to adopt the necessary measures to ensure their exercise without discrimination in the case of children, environmental defenders, women, Indigenous Peoples, Afro-descendant and peasant farmer communities, as well as other vulnerable groups, in the context of the climate emergency?

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\* Composed of: Judge Nancy Hernández López, President; Judge Rodrigo Mudrovitsch, Vice President; Judge Humberto Sierra Porto; Judge Eduardo Ferrer Mac-Gregor Poisot; Judge Ricardo Pérez Manrique; Judge Verónica Gómez, and Judge Patricia Pérez Goldberg. Also present, Pablo Saavedra Alessandri, Registrar, and Gabriela Pacheco Arias, Deputy Registrar.

## **B. The Structure of the Advisory Opinion**

This Advisory Opinion is divided into two parts. In the first part (Chapter V), the Court presents the factual background to climate change and its effects on individuals and the environment they inhabit. This part also addresses the international response to climate change, regulatory measures adopted by the States of the Americas, and the climate emergency.

The second part (Chapter VI) focuses on the interpretation of the inter-American provisions that are the purpose of the request, and it refers to the determination and scope of the general obligations in relation to the substantive and procedural rights, as well as the rights of vulnerable individuals and groups.

## **C. The Sources used by the Court**

Climate emergency is based on a robust and extensive body of technical and scientific knowledge, the systematization of which has been led by specialized international institutions. To establish the relevant facts supporting its legal analysis in the context of its interpretative entrusted mandate, the Court relied primarily on reports prepared by the Intergovernmental Panel on Climate Change, considering them to be the best source of scientific guidance available on climate change at the time of adopting the Advisory Opinion, due to their representative character and methodological rigor, which are widely recognized by States. These reports compile and assess the results of scientific, technical and socio-economic literature on climate change at the regional and global levels, including its repercussions and future risks, as well as existing options for adaptation and mitigation.

## **D. The Scope of the Advisory Opinion**

Considering that the provisions of the American Convention and the Protocol of San Salvador that are the subject of this request are closely related to other instruments which are binding for all Member States of the Organization of American States (hereinafter "OAS"), particularly the organization's Charter, the Inter-American Democratic Charter, and the American Declaration of the Rights and Duties of Man, the interpretation provided in this Advisory Opinion should be considered in its entirety by all OAS Member States.

# **II. The Climate Emergency**

Before answering the questions raised, the Court presented the factual background and regulatory developments related to climate change, examining its causes, consequences and the risks it poses for the effective exercise of human rights.

## **A. Climate Change and its Causes**

The Court referred to greenhouse gas (hereinafter "GHG") emissions resulting from human activities and the way in which different sectors of the economy and society, as well as States and regions, contribute to the generation of such emissions.

## **B. The Impacts of Climate Change**

According to the best available science, the magnitude of climate change's impacts at the global level is undeniable. All such impacts arising from this phenomenon are deeply interconnected and are evolving rapidly. Based on this understanding and bearing in mind the different types of impacts, as well as the harm inflicted upon natural systems and individuals, the Court highlighted climate change's impact on global temperatures, oceans, the cryosphere, biodiversity and ecosystems, life,

health, food and water security and the cultural heritage of humanity.

In addition, while not ignoring the significant impacts projected for other regions and ecosystems of the Americas, the Court referred, in particular, to the impacts that are expected to affect the Amazon region and the Caribbean Island States and territories.

### **C. The International Response to the Climate Emergency**

The Court described the main standards and initiatives adopted at the international and regional levels in relation to climate change. In this context, it mentioned the instruments that comprise the international legal framework on climate, relevant standards on environmental protection, the work carried out by various human rights treaty bodies and special procedures, as well as the standards adopted within the framework of the International Labour Organization and other international organizations in the area of trade. The Court also referred to international investment agreements and initiatives in the field of international climate finance.

### **D. Regulatory Developments in OAS Member States**

The Court highlighted the recognition of the right to a healthy environment in the region's constitutions. It also noted that some national constitutions establish specific obligations in the area of climate change and that several countries have strengthened their domestic regulatory frameworks to comply with international commitments in this area.

### **E. Climate Litigation and Judicial Decisions**

The Court noted the significant growth of an emerging field of litigation related to climate change, its causes and its consequences. It also referred to the rulings of international and domestic courts in the context of such litigation.

### **F. The Climate Emergency Landscape**

Based on the aforementioned considerations, the Court concluded that, according to the best available science, the current situation constitutes a climate emergency caused by the accelerated increase in global temperature resulting from various anthropogenic activities, produced unevenly by the States of the international community, which increasingly affect and seriously threaten humanity, especially the most vulnerable populations. This climate emergency can only be adequately addressed through urgent and effective mitigation and adaptation measures, and progress toward sustainable development, guided by human rights considerations and framed within the concept of resilience.

According to the established definition, the climate emergency is characterized by the confluence and interrelation of three factors: the urgency of effective action, the severity of the impacts, and the complexity of the required responses. The Court underscored the particular severity of the climate crisis for Latin America and the Caribbean due to their high exposure to various climate-related phenomena and the vulnerability of large sectors of the population due to the high levels of inequality prevailing in the region.

### III. State Obligations in the Context of the Climate Emergency

#### A. The Scope of General Human Rights Obligations in the Context of the Climate Emergency

The Court affirmed that, in accordance with **the obligation to respect** rights, States must refrain from any conduct that reverses, delays or curtails the results of measures required to protect human rights from the impacts of climate change. It also noted that any setback in climate or environmental policies that harm human rights must be exceptional, duly justified based on objective criteria, and comply with the standards of necessity and proportionality.

The Court also held that, by virtue of their **obligation to guarantee** rights, States must adopt all necessary measures to reduce the risks arising, on the one hand, from the degradation of the global climate system and, on the other, from exposure and vulnerability to the effects of such degradation.

The Court indicated that in accordance with its case law, the **obligation to guarantee** rights and, consequently, the obligation of prevention, require States to act with enhanced due diligence in the context of the climate emergency. Enhanced due diligence requires, among other relevant aspects: (i) identification and thorough, detailed and in-depth assessment of the risks; (ii) adoption of proactive and ambitious preventive measures to avoid the worst climate scenarios; (iii) utilization of the best available science in the design and implementation of climate actions; (iv) integration of the human rights perspective in the formulation, implementation and monitoring of all policies and measures related to climate change to ensure that these do not create new vulnerabilities or exacerbate existing ones; (v) permanent and adequate monitoring of the effects and impacts of the adopted measures ; (vi) strict compliance with the obligations arising from procedural rights, particularly access to information, participation, and access to justice; (vii) transparency and accountability regarding State climate action; (viii) appropriate regulation and supervision of corporate due diligence; and (xi) enhanced international cooperation, particularly regarding technology transfer, finance, and capacity-building.

Similarly, the Court specified that, by virtue of the obligation to ensure the *progressive development* of economic, social, cultural, and environmental rights, States must allocate the maximum available resources to protect individuals and groups who, due to their vulnerability, are exposed to the most severe impacts of climate change.

The Court referred to the essential nature of the **obligation to adopt domestic legislative provisions** in response to the climate emergency. In this regard, it considered that any laws and regulations adopted in this context should provide guidance to the State and individuals subject to their jurisdiction on how to address the causes and consequences of climate change effectively and comprehensively, ensuring the adequate evolution of such norms based on the best available science and their firm and coherent application in accordance with relevant international commitments.

The Court also noted that the **obligation of cooperation** on environmental issues is not restricted solely to situations of transboundary threat or harm. More generally, the obligation of cooperation has special relevance in all contexts in which the international community pursues common objectives or faces problems that require collective solutions. This is precisely the case when addressing the causes and impacts of climate change, particularly when these are devastating, as in the case of climate disasters and direct and indirect migration flows resulting from climate change. In these circumstances, the duty of cooperation is closely related to the

principle of equity, insofar as it requires the international community to take into account notions of justice in the establishment and application of international norms.

The Court considered that States have an obligation to cooperate in good faith in order to advance the obligations of respect, guarantee and progressive development of human rights threatened or violated by the climate emergency, taking into account their differentiated responsibilities in relation to the causes of climate change; their respective capabilities, especially in economic and technical matters, and their specific needs in order to achieve sustainable development.

Thus, States must cooperate effectively and also receive cooperation because the opportune and comprehensive response to the multiple causes and effects of the climate emergency depend on this. The Court emphasized that, since the protection of human rights in the context of climate emergency is not limited to mitigation and adaptation actions, or to responding to loss and damage, the obligation of cooperation encompasses all the measures required to respond integrally to the climate emergency.

### **B. Obligations Arising from Substantive Rights**

The Court recalled that the rights that have special links to the environment have been classified in two groups: (i) rights whose enjoyment is particularly vulnerable to environmental degradation, also identified as substantive rights (for example, the rights to life, personal integrity, health or property), and (ii) rights whose exercise supports better environmental policymaking, also identified as procedural rights (such as the rights to freedom of expression and association, to information, to participation in decision-making, and to an effective remedy

The Court referred to the specific content of each of the substantive rights which, according to the questions posed by the requesting States and the comments received during the oral and written procedures, are most threatened or violated in the context of climate emergency.

#### ***The Right to a Healthy Environment***

The Court recalled that the right to a healthy environment is included among the rights protected by Article 26 of the American Convention, under the obligation of States to achieve the “integral development” of their people, which arises from Articles 30, 31, 33, and 34 of the OAS Charter. It also noted that the human right to a healthy environment has been understood as a fundamental right for the existence of humanity, with both individual and collective connotations. In its collective dimension, this right constitutes a universal value owed to both present and future generations. In its individual dimension, the violation of the right to a healthy environment may have direct or indirect repercussions on the individual due to its connectivity with other rights, such as the rights to health, personal integrity and life, among others.

The Court reiterated that, in keeping with its jurisprudence, when transboundary damage occurs that affects treaty-based rights, it is understood that the individuals whose rights have been violated are under the jurisdiction of the State in which the damage originated if there is a causal link between the act that originated in its territory and the infringement of the human rights of persons outside its territory.

#### **- The Protection of Nature as a Subject of Rights**

The Court noted that ecosystems are complex and interdependent systems in which each component plays an essential role for the stability and continuity of the whole.

The degradation or alteration of these components may cause negative cascading effects with impacts on other species as well as human beings, as part of such systems. Recognition of Nature's right to conserve its essential ecological processes contributes to strengthening a truly sustainable development model that respects planetary limits and ensures the availability of crucial resources for present and future generations.

In that regard, recognizing Nature and its components as subjects of rights is a regulatory development that strengthens the protection of the integrity and functionality of ecosystems in the long term, providing effective legal tools to address the triple planetary crisis and facilitating the prevention of existential damage before it becomes irreversible. This concept represents a contemporary expression of the principle of the interdependence between human rights and the environment, and it reflects a growing international trend toward strengthening the protection of ecological systems against present and future threats.

The Court further emphasized that the protection of Nature, as a collective subject of public interest, provides an appropriate framework for States – and other relevant stakeholders – to advance towards building a global regulatory system oriented toward sustainable development. Such a system is essential to preserve the conditions that sustain life on our planet and ensure a decent and healthy environment, which is indispensable for the realization of human rights. This understanding is consistent with a harmonious interpretation of the *pro natura* and *pro persona* principles.

Based on this understanding, the Court underscored that States have a positive obligation to adopt measures to ensure the protection, restoration and regeneration of ecosystems. These measures must be compatible with the best available science and must also recognize the value of traditional, local and Indigenous knowledge. In addition, they must be guided by the principle of non-retrogressivity and ensure the full exercise of procedural rights.

**- The *Jus Cogens* Nature of the Obligation to not Cause Irreversible Damage to the Climate and the Environment**

According to the best available science, the rupture of the vital equilibrium of our common ecosystem – caused by behaviors that result in irreversible damage – is progressively and collectively changing the conditions required for the healthy life of the species that inhabit the planet in an interdependent manner, to the point of generating consequences of existential proportions. As stated above, anthropogenic contributions to climate change and the resulting irreversible deterioration of the common ecosystem constitute risks of an existential nature that call for universal and effective legal responses.

Given that the equilibrium of the conditions for healthy life in the common ecosystem is a requirement for the present and future habitability of the planet, its legal protection is essential for the protection of the legal rights already protected by international law, including those relating to officially designated non-derogable prohibitions. Conversely, considering anthropogenic behaviors with an irreversible impact on the vital equilibrium of the planetary ecosystem as not categorically prohibited by international law would logically undermine the essential conditions required for the enforceability of fundamental human rights that are already protected under international law by peremptory provisions. Therefore, the obligation to preserve this equilibrium should be interpreted as a peremptory international obligation.

From an eminently juridical perspective, the prohibition of conducts that irreversibly

harm the vital equilibrium of the interdependent ecosystems that make the survival of present and future generation on a habitable planet viable, and their normative hierarchy, can be deduced from general principles of law, such as the *principle of effectiveness*. The aim of the principle of effectiveness is to ensure that the rights and obligations recognized in legal systems are interpreted and applied effectively in order to achieve their purpose.

In conclusion, the principle of effectiveness, combined with considerations of dependence, necessity, the universality of underlying values and compatibility with existing law, provides the legal basis for the recognition of the *peremptory prohibition against causing massive and irreversible damage to the environment* and contributes to compliance with obligations already recognized under international law. Therefore, given the nature of *jus cogens* norms, the Court has determined that all States must cooperate to terminate conduct that violates the prohibitions derived from peremptory norms of general international law that protect a healthy environment.

#### **- Protection of the Global Climate System**

The Court considers that there can be no doubt that the global climate system – that is, the series of components that interact to determine the planet’s climate – is an essential part of the environment, because the harmonious development of the many processes that are essential for the conservation of life at the global level depend on it. Consequently, harm to the climate system is a specific form of environmental damage. The environmental damage that affects the climate system, or climate damage, is, by definition, transboundary damage because it does not remain within the territory of the State that contributes to its production; rather, and necessarily, it extends beyond its borders.

That said, as it concluded in *Inhabitants of La Oroya v. Peru* regarding the right to clean air and water, the Court considers that the right to a healthy environment also gives rise to the right to a healthy climate that protects the component of the environment directly affected by the climate emergency, that is, the global climate system.

#### **- The Right to a Healthy Climate**

The Court recognized the existence of the human right to a healthy climate derived from the right to a healthy environment. This recognition is also in line with developments in international human rights law and international environmental law, insofar as it strengthens the protection of individuals against one of the most serious threats to their rights, both now and in the future. The Court understands that a healthy climate derives from a climate system free of anthropogenic interferences that are dangerous to humans and Nature as a whole. This entails acknowledgement that, in functional conditions and even in the absence of such interference, the climate is variable and such variability involves inherent risks that may affect the safety of ecosystems.

As a substantive element of the right to a healthy environment, the right to a healthy climate has both individual and collective connotations. In its individual dimension, this right protects the possibility of each individual to live in a climate system free from dangerous anthropogenic interference. Therefore, its protection acts as a precondition for the exercise of other human rights. In the collective sphere, this right protects the collective interest of present and future generations of human beings and other species in preserving a climate system that is suitable for ensuring their well-being and the equilibrium between them vis-à-vis the severe existential threats from the effects of the climate emergency. The entitlement to this dimension of the right to a healthy climate belongs indivisibly and non-exclusively to the groups

composed of those who share in this collective interest. Non-compliance with the international obligations aimed at protecting the global climate system necessarily affects this interest and gives rise to State responsibility. Therefore, the measures aimed at ending the violation, avoiding its repetition, and redressing the consequences should simultaneously benefit present and future humanity, as well as Nature as a whole.

The Court emphasized that the obligations arising from the right to a healthy climate are intended to protect the global climate system for the benefit of humanity as a whole, including both present and future generations.

In accordance with the **principle of intergenerational equity**, States must actively contribute through environmental policies to ensure that current generations leave behind a stable environment that will allow future generations similar opportunities for development. This principle is closely related to the principles of prevention, precaution and progressivity. Accordingly, States must ensure an equitable distribution of the burden of climate action and climate impacts, taking into account their contribution to the causes of climate change and their respective capabilities. This distribution should avoid the imposition of disproportionate burdens on members of both future and present generations.

This aspect is particularly relevant in the context of the climate emergency, given that the impacts of climate change are progressive, intensify over time, and have a more severe impact on certain age groups. Thus, climate change will have a greater impact on people who are very young today and who will have to consequently live their entire lives in an increasingly adverse climate.

**The right to a healthy climate also extends to Nature**, as the physical and biological basis of life. Protecting the global climate system means safeguarding the integrity of ecosystems and the living and non-living components that sustain them. In turn, the preservation of climatic conditions compatible with life is essential to maintaining the balance and functionality of these ecosystems. This reciprocal interdependence between climate stability and ecological balance reinforces the need for an integrative legal approach capable of articulating the protection of human rights and the rights of Nature within a regulatory framework consistent with the harmonious interpretation of the *pro persona* and *pro natura* principles.

To this end, it is necessary to adopt a systemic and integrative perspective that is significantly strengthened when Nature is recognized as a subject of rights. The Court notes that the promotion of legal concepts and protection mechanisms by States at the national and international levels that go beyond the traditional anthropocentric approach and recognize Nature and its components—including the climate system—as subjects of autonomous legal protection strengthens States response to the challenges posed by the climate emergency.

#### **- Obligations Arising from the Right to a Healthy Environment in the Context of the Climate Emergency**

In the context of the climate emergency, the right to a healthy environment and climate gives rise to specific obligations related to action against the causes of climate change, the protection of Nature and its components, and gradual progress towards sustainable development.

#### **Mitigation of GHG Emissions**

To comply with their duty to mitigate GHG emissions, States must regulate, monitor, enforce, require and approve environmental impact assessments. In turn, the



obligation to regulate mitigation entails various duties for States, in particular: define a mitigation target; define a human rights-based strategy to achieve it and keep it updated, and regulate corporate conduct.

The mitigation target should be established based on the principles of progressivity, common but differentiated responsibilities, equity, prevention, and precaution. When setting its target, each State should take into account the best available science, its current and cumulative historical contribution to climate change, its capacity to contribute to mitigation measures, and its circumstances. The mitigation target should be as ambitious as possible, be included in a binding regulation for the State, set specific deadlines for compliance, and progressively increase.

Similarly, States must define a mitigation strategy based on human rights. With that framework, they must establish appropriate measures that are realistic to implement, taking into account the sectors in which the State produces the most GHG emissions, the costs associated with reducing them, and the benefits that this can bring in terms of preserving the global climate system. Likewise, States must prioritize measures that have prompt and sustainable effects over time and that are compatible with progress toward sustainable development. These measures should reflect the maximum use of available resources, establish measurable objectives and specific deadlines for their fulfillment, and regulate in detail how the reduction process should be carried out by public and private stakeholders.

The Court emphasized that States must take steps to prevent their actions or omissions from becoming direct or indirect obstacles to the effective fulfillment of their mitigation targets or to the progressive implementation and updating of their strategies in this area. This updating should reflect their capabilities, relevant changes in their circumstances, and advances in the best available science.

In this regard, taking into account the enhanced due diligence standard to which they are subject, States have a duty to ensure consistency between their commitments, both domestic and international, and their obligations in relation to climate change mitigation. Therefore, they must adopt measures that enable coherent international action in all areas and contribute to the implementation of their mitigation strategy, particularly with regard to foreign investment, financing, and international trade. Similarly, at the domestic level, States must ensure regulatory consistency and prevent domestic law provisions from undermining the mitigation objectives that the State has set itself. Thus, among other measures, States must ensure that public financing and incentives for activities that generate GHG emissions are conditional on strict compliance with national mitigation standards and policies.

The Court recalled that States are required to adopt legislative and other types of measures to prevent human rights violations by state-owned and private enterprises. Thus, among other aspects, States must: urge all business enterprises domiciled or operating in their territory to adopt effective measures to combat climate change and its impacts on human rights; enact legislation requiring business enterprises to exercise due diligence in relation to human rights and climate change throughout the entire value chain; require state-owned and private businesses to disclose the GHG emissions in their value chains in an accessible manner; require business enterprises to take steps to reduce these emissions and to address their contribution to climate change and climate mitigation targets in all their operations; discourage greenwashing and undue corporate influence in the political and regulatory sphere in this area, and support the actions of human rights defenders.

Furthermore, bearing in mind the standard of enhanced due diligence in preventing damage to the climate system, States are obligated to strictly monitor and control public and private activities that generate GHG emissions, in accordance with their

mitigation strategy.

Given that damage to the climate system constitutes environmental harm which the State is obligated to prevent, in its environmental impact studies, the State must include an assessment of the potential effects on the climate system, particularly when projects or activities involve the risk of generating significant GHG emissions.

In this regard, in line with this Court's case law, regulations relating to environmental impact assessments—which must also include climate impact—must, at a minimum, clearly specify the following points: the proposed activities and the impacts that should be examined; the process for assessing climate impact; the responsibilities and duties of companies and individuals proposing the project, the competent authorities, and the decision-making bodies or entities; how the results and the climate impact assessment process will be used to approve the proposed activities, and what steps and measures should be taken if the established procedure for conducting the impact assessment or implementing the terms and conditions of approval is not followed.

### **Protection of Nature and its Components**

The Court recalled that, in the context of climate emergency, the right to a healthy environment requires States to protect Nature and its components from the impacts of climate change. Accordingly, the Court emphasized that the protection of ecosystems must consider all their components, including humans, and the relationships that exist between them. For this reason, all strategies and plans developed must respect procedural rights and, with them, the principle of environmental democracy, as well as ensure adequate protection of the rights of Indigenous and Tribal Peoples and communities that have a close relationship with these ecosystems. Similarly, any decisions must be based on the best available science.

### **Gradual Progress towards Sustainable Development**

The climate emergency is a complex phenomenon. To tackle it effectively, measures must be taken to address the structural circumstances that led to it. In this regard, the main obligation imposed on States, to ensure the progressive realization of human rights threatened and violated by climate change, is to promote a transition focused on sustainable development.

### **Other Rights Threatened or Affected by Climate Impacts**

The Court has established that in order to protect other substantive rights threatened or affected by climate impacts —such as **life, personal integrity, health, property, housing, freedom of residence and movement, water, food, work, social security, culture, and education**— States have an immediately enforceable obligation to define and update their national adaptation targets and plans, in accordance with the highest possible ambition.

These plans must be designed to achieve each State's adaptation goals and include all necessary measures to prevent and mitigate human rights impacts caused by climate change, in accordance with a standard of enhanced due diligence. The Court emphasized that these measures must be suitable for reducing vulnerability and increasing the resilience of individuals, communities, and ecosystems to the effects of climate change. It also indicated that plans must be based on the best available science and be designed in such a way as to minimize the negative side effects of adaptation measures.

The Court also stressed that, in light of the precautionary principle, States must refrain from developing or authorizing any adaptation strategy that could affect the integrity of ecosystems without a prior environmental impact assessment ensuring its viability. Furthermore, in light of the principle of progressivity, the Court considered that States must ensure that their climate adaptation goals and plans are progressively more ambitious.

In addition, the Court referred to the specific duties of States to protect substantive rights from the specific risks that each one faces in the context of the climate emergency, under a standard of enhanced due diligence.

Thus, it highlighted some of the State's duties to protect the rights to life, health and personal integrity from the risks arising from weather events such as heat waves, droughts, floods and diseases caused or exacerbated by climate change.

Furthermore, the Court emphasized States' obligations to protect the right to private and family life from risks arising from human mobility caused by climate-related disasters or progressive environmental degradation; the rights to property and housing in the face of certain effects of climate change, such as sea level rise and extreme weather conditions; freedom of movement and residence in the face of climate-induced displacement; the rights to water and food in the face of potential threats to water and food security; the rights to work and social security in the face of risks arising from unemployment caused by climate impacts or transition policies; the right to culture in the face of damage and destruction to culture and cultural heritage caused by climate change; and the right to education in the face of impacts caused by the increased frequency and intensity of extreme weather events, and the consequences for food security, livelihoods, air and water pollution, health and energy.

### **C. Obligations Arising from Procedural Rights**

In this section, the Court first referred, from a general perspective, to democracy and procedural rights in the context of the climate emergency. It then addressed the interpretation of each of the procedural rights. On this occasion, given the specific nature and context of the climate emergency, the Court referred to procedural rights additional to those traditionally addressed in its case law. Thus, the Court analyzed the scope of state obligations in relation to: the right to science and the recognition of local, traditional and Indigenous knowledge; access to information; political participation; access to justice, and the right to defend human rights.

#### **- Democracy and Procedural Rights in the Context of the Climate Emergency**

The connection between democracy, the rule of law and human rights is becoming increasingly relevant in the face of the climate emergency. Climate impacts such as food insecurity, economic decline, migration, water scarcity and extreme weather events also pose a major challenge to democracy. This challenge is accentuated in a context where democracies are weakening and citizens' trust in elected officials, institutions, and experts is declining. As a threat multiplier, climate change also exacerbates the underlying factors of conflict, puts pressure on public budgets, widens resource inequalities, and increases political and social tensions.

The Court emphasized the need to ensure that, in the context of the climate emergency, decisions are made in a participatory, open and inclusive manner. In this way, it also seeks to ensure that such decisions result in the protection of the environment and human rights through progress toward sustainable development. For this reason, it is essential that States ensure the full enforcement of procedural

rights, under a standard of enhanced due diligence. This standard not only enshrines these rights in law but also strengthens the State's technical and legal capabilities to ensure the broadest and most effective involvement of citizens in the response to the climate emergency.

To this end, among other measures, States are called upon to: (i) promote climate action for empowerment through environmental education, capacity building for all people, and support for the work of civil society, environmental law associations and other non-state actors that contribute to addressing deficiencies in state environmental governance systems; (ii) facilitate dialogue, through open channels of participation at all stages of planning, implementation and monitoring of climate-related policies and programs; (iii) ensure environmental auditing, reporting and other mechanisms of transparency, ethics and integrity to prevent and combat corruption in environmental management. Finally, and in relation to the right to a healthy climate, (iv) promote mechanisms to integrate the interests of Nature and future generations in their climate actions.

- **The Right to Science and to the Recognition of Local, Traditional and Indigenous Knowledge**

The Court recognized that the *right to science* includes every person's access to the benefits of scientific and technological progress, as well as opportunities for them to contribute to scientific activity, without discrimination. In that regard, the Court stressed that, although the right to science has a substantive dimension, in the context of environmental protection and, more specifically, of the climate emergency, it may also be considered a procedural right. Indeed, this right constitutes an essential means for effective access to other fundamental rights, for addressing the potential adverse consequences of climate change, and provides an objective basis for public decision-making.

In order to determine what constitutes the best available science, the Court indicated that States must consider, among other criteria, whether the knowledge at their disposal: (i) is the most up-to-date; (ii) is based on peer-reviewed methodologies, practices and internationally recognized scientific standards, where such standards exist; (iii) is disseminated through rigorous review processes by high-quality peers or equivalent organizations; (iv) clearly communicates the uncertainties and assumptions in the scientific basis of its conclusions; (v) is verifiable and reproducible through the publication of the non-confidential data and models used to reach its conclusions; (vi) accurately presents its sources of information, based on relevant, empirically tested, and up-to-date scientific literature, without omitting, altering or misrepresenting relevant data and literature, and (vii) accurately derives its conclusions from the available data, without omitting, altering or misrepresenting relevant results.

The right to science also extends to local, traditional and Indigenous knowledge, which is particularly relevant in the context of the climate emergency because, given the urgency and complexity of the measures required to address it, the corresponding decisions must necessarily be based on the best knowledge available.

- **The Right to Access Information**

The effective guarantee of access to climate-related information is an essential requirement for the protection of, *inter alia*, the rights to life, integrity, health, the environment, and a healthy climate. This information facilitates participation in public affairs through social oversight that can be exercised with such access and, in turn, promotes transparency in government activities, encouraging accountability among public officials responsible for public administration. In the context of the climate

emergency, access to information also enables the activation of disaster protection mechanisms, promotes citizens' participation and oversight, and is essential for defining mitigation and adaptation objectives, plans and strategies, as well as for adopting remedial measures.

On this point, the Court reiterated the importance of collecting and producing data to guide the protection of human rights, especially in situations where historical discrimination increases the risk and vulnerability of certain groups of people to human rights violations.

In this regard, mindful of the shortcomings and gaps in this area, the Court noted that States have an obligation of active transparency and must produce complete, accurate, truthful, useful, and timely information to identify and mitigate threats to human rights arising from both the adverse impacts of climate change and the measures adopted to address them. Such information should include, among other aspects, indicators to measure progress in implementing their strategies for advancing towards sustainable development, the data necessary to establish and update their mitigation and adaptation strategies and targets, and information on public funds allocated to climate action.

States should also establish clear strategies for the regular publication and dissemination of information on the state of the environment, the basis, progress and updating of their strategies for moving toward sustainable development, and their goals and strategies for mitigation, adaptation, and disaster risk management. To this end, they should implement and promote comprehensive mechanisms for disseminating climate information, including early warning systems, public databases, computer tools, audiovisual materials, online portals, social networks, and the media, as well as awareness-raising and education campaigns.

States must also ensure that information related to the climate emergency issued by the authorities is clear, accurate, accessible, and timely, so that citizens can exercise democratic and critical control over its content. In addition, States have an obligation to adopt progressive measures to counteract climate misinformation and disinformation, while also ensuring that these are compatible with respect for freedom of expression.

#### **- The Right to Public Participation**

The Court recalled that public participation is one of the fundamental pillars of procedural rights. Through it, individuals exercise democratic control over state actions and can question, investigate, and assess the fulfillment of public functions. In this sense, public participation allows individuals to be part of the decision-making process, makes it easier for communities to hold authorities accountable, and improves the efficiency and credibility of government processes.

The Court reiterated that States must guarantee meaningful participation of citizens in decision-making processes and policies that may affect the climate system, including those relating to mitigation targets and strategies, adaptation and risk management plans and strategies, financing, international cooperation, and redress for damage in the context of the climate emergency. Participation mechanisms should be designed taking into account the characteristics and needs of vulnerable population groups, in order to ensure that they participate on equal terms. The results, consensus and decisions reached through participatory processes should be central elements in guiding the decisions of authorities, who should explain how they have taken such inputs into account.

Similarly, the Court established that, in addition to ensuring prior consultation with

Indigenous and tribal peoples, where appropriate, the State must also encourage the participation of Afro-descendant, peasant and fishing communities, taking into account their particular vulnerability to the climate emergency and the importance of including traditional, local and Indigenous knowledge in the decision-making processes necessary to respond to that emergency. Likewise, given the need to base decisions on the best available science, States must encourage the participation of independent individuals, organizations, and scientific institutions.

#### **- The Right of Access to Justice**

The Court emphasized that States must ensure key aspects of access to justice in the face of the climate emergency, such as the provision of sufficient resources for the administration of justice; the application of the *pro actione* principle; the assurance of promptness and reasonable time in judicial proceedings, and the application of adequate provisions regarding legal standing, evidence and redress.

With regard to active legal standing, the Court advised that, given the collective nature of climate issues, it is important for States to move forward in creating, within their domestic regulations, procedural mechanisms that allow for broad legal standing in order to request the adoption of environmental protection measures. It also indicated that, when legal systems establish forms of direct or personal standing, the assessment of legal standing should be flexible and take into account factors such as the exposure and vulnerability of individuals, communities, and ecosystems affected or threatened by climate change, considering their geographical location, adaptive capacities, and structural inequalities that may exacerbate vulnerability to climate impacts. With regard to transboundary damage, the Court stressed that the guarantee of access to justice implies recognizing the legal standing of individuals and entities that do not reside in the territory of the State.

With regard to evidence, the Court emphasized that it is incumbent that judicial authorities interpret evidentiary rules flexibly, in accordance with the principles of availability of evidence, procedural cooperation, *pro persona*, *pro natura* and *pro actione*, in order to prevent such rules from becoming unjustified procedural barriers for victims, particularly for those in especially vulnerable situations, in the context of the climate emergency. This calls for a specific assessment of any potential asymmetries between the parties and the adoption of appropriate measures – such as reversing the burden of proof – to ensure effective access to justice.

The Court also held that States are obligated to provide effective mechanisms, both judicial and administrative, that enable victims to access comprehensive reparation. Such mechanisms, and the reparation measures provided through them, must be appropriate to the nature of the harm and take into account the particular circumstances of the harm caused to individuals and to Nature. These measures should also aim to strengthen the adaptive capacity and resilience of affected people and ecosystems, thereby contributing to sustainable recovery from the adverse effects of climate change.

At the same time, the Court recalled that, in order to guarantee access to justice, the competent authorities must carry out due control of conventionality based on the standards developed by the Court in its case law and, in particular, in this Advisory Opinion to ensure adequate protection of human rights. It emphasized that these standards apply to all States of the Inter-American System, since they derive from the American Convention and the Protocol of San Salvador, as well as from the American Declaration of the Rights and Duties of Man, the OAS Charter and the Inter-American Democratic Charter.

## **- The Right to Defend Human Rights**

Finally, the Court emphasized that, by virtue of procedural rights, States have a special duty to *protect environmental defenders*. This duty translates into specific obligations, including, among other things, to: establish or strengthen national protection programs; investigate, prosecute and, where appropriate, punish attacks, threats, or intimidation against them; and counteract the “criminalization” of the defense of the environment.

In this regard, the Court noted that environmental rights defenders are at heightened risk of having their rights violated because of the activities they carry out in the context of the climate emergency. This risk is manifested through censorship of debates on the environment and climate, violence online and in other spaces, repression of protests and public gatherings, arbitrary detention, and Strategic Lawsuits Against Public Participation (known as SLAPPs), among others.

The Court emphasized that, within the group of environmental defenders, there are populations that, for reasons of intersectionality, are particularly vulnerable to extreme forms of violence. This group includes Indigenous Peoples, Afro-descendant populations, rural communities, women, and journalists. Therefore, national protection programs must include an intersectional approach. Likewise, these programs must guarantee the participation of beneficiaries in risk analysis and the implementation of protection measures.

### **D. Obligations Arising from the Principle of Equality and the Prohibition of Discrimination in the Context of Climate Emergency**

The Court noted that climate change gives rise to extraordinary and increasingly severe risks for the human rights of certain population groups whose vulnerability is increased by the convergence of intersectional and structural factors of discrimination. Among these factors, poverty and inequality stand out. Indeed, the poorest and most unequal regions in the world are the most vulnerable to experiencing the harshest consequences of climate change, precisely because they have the fewest resources and the least capacity to address those consequences, face greater governance challenges, have limited access to basic goods and services, are experiencing violent conflicts, and their livelihoods are most sensitive to climate impacts.

The way in which different factors of vulnerability determine the magnitude of the risks generated by climate change varies according to the circumstances of each State and its population. Consequently, States should compile all the information concerning such risks, their scale, the characteristics of the population groups that may be affected, and the most appropriate measures to guarantee the full enjoyment of their rights. This information should be taken into account in all public policies to address the climate emergency, including those aimed at advancing towards sustainable development, mitigation strategies and targets, and adaptation strategies and plans.

The inclusion of differentiated measures in all actions undertaken by States is necessary to guarantee real equality in the enjoyment of rights in the context of the climate emergency. Although these measures must be defined in response to the particular risks identified by each State, the Court found that certain common situations of vulnerability exist. This is the case for children and adolescents; Indigenous and Tribal Peoples; Afro-descendant, peasant, and fishing communities, and population groups such as women, persons with disabilities, and older persons who may suffer disproportionate effects in the context of climate disasters. Many of

them depend on ecosystems that are particularly prone to the effects of climate change and extreme weather events such as floods, droughts, heatwaves, forest fires and cyclones.

These peoples' vulnerability is particularly acute when they find themselves in situations of multidimensional poverty, which amplifies their exposure to risks and further reduces their chances of overcoming the adverse consequences of climate change. Accordingly, based on the principle of equality and the prohibition of discrimination, States have specific obligations with regard to all these people.

Furthermore, the Court considered that, in compliance with the general obligations arising from Inter-American instruments, and in accordance with the principles of progressivity, equality, and non-discrimination, States must gather all necessary information to design and implement policies and strategies that guarantee access for persons living in poverty to the goods and services necessary to achieve a dignified life in the context of the climate emergency and progressively eradicate the causes that perpetuate and increase climate vulnerability. The Court also underscored the importance of States ensuring that measures implemented within the framework of a just climate transition do not exacerbate multidimensional poverty, but rather are used as an opportunity to integrate these individuals and enable them to fully enjoy their rights through access to new sustainable employment opportunities, strengthening local capacities, and promoting community projects that protect their livelihoods and subsistence and promote their well-being and resilience in the face of the climate emergency.

In addition, the Court emphasized that, in the context of the climate emergency, vulnerability must be understood as a dynamic and contextual condition, determined by the diversity and complexity of the impacts associated with climate change. Therefore, it highlighted the need to recognize new forms of vulnerability and adopt specific, reasonable and differentiated measures to prevent and reduce climate-related risks, mitigate their effects, and facilitate sustainable adaptation processes.

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The full text of this Advisory Opinion is available at the following link: <https://jurisprudencia.corteidh.or.cr/en/vid/1084981967>

Judge Nancy Hernández López, Judge Humberto Antonio Sierra Porto and Judge Patricia Pérez Goldberg advised the Court of their partially dissenting opinions. Judge Rodrigo Mudrovitsch, Judge Eduardo Ferrer Mac-Gregor Poisot, Judge Ricardo C. Pérez Manrique and Judge Verónica Gómez advised the Court of their concurring opinions.