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Climate emergency and human rights: 'no room for indifference'

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According to the advisory opinion issued on 29 May 2025 by the Inter-American Court of Human Rights (IACHR) on the climate emergency and human rights, the current situation affects countries and populations unevenly, and States have an obligation to keep their adaptation plans and climate change mitigation targets up to date in order to guarantee the right to a healthy climate. How is this opinion innovative? What is its transformative potential in terms of strengthening and creating rights at the interface between humanity and the environment?

What is the IACHR advisory opinion made up of?

The advisory opinion of 29 May 2025¹ comes in response to the consultation submitted by Chile and Colombia in January 2023. It is the most participatory process ever conducted by the IACHR, with nearly 265 written observations and 172 oral statements during three public hearings held in 2024.

The content of the document issued by the Court, in accordance with the Inter-American region practice, constitutes a binding mandate for the 20 countries that recognize its jurisdiction, in addition to establishing itself as a standard of conduct for all members of the Organisation of American States (OAS),² who will thus have to adapt their legal frameworks and public policies to the long list of obligations established by the Court.

When asked about the obligations of States on climate change and human rights, the Court structures its response around the following questions: What is the content of the obligations of respect, guarantee and action necessary to give effect to rights such as the right to life, health, integrity, privacy and family life, property, food, work, culture and education, as well as to a healthy environment? What is the scope of these obligations in the face of the climate emergency, particularly in terms of rights related to environmental democracy (information, participation and access to justice) and the protection of the rights of children, environmental defenders, women, indigenous peoples and vulnerable communities in the face of climate change and its harmful effects?

The advisory opinion's obligations

In the face of the climate emergency, all actors have obligations to 'respect, protect and cooperate'.³ Governments must not take measures that delay the fight against global warming, must reduce the risks associated with this crisis, and it is imperative to help one another, while bearing in mind that responsibility is not shared by all. The solution proposed by the Court is to advocate for the adoption of urgent and effective mitigation, adaptation and sustainable development measures that incorporate human rights and resilience perspectives. The Court clarifies the scope of these general obligations to respect, guarantee and ensure the progressive development of economic, social, cultural and environmental rights (ESCR), and to adopt national legal provisions.

The obligation to respect - With regard to this obligation, the IACHR recognizes that States are required to refrain from any conduct that nullifies, slows down or curtails the effect of measures necessary to protect human rights from the effects of climate change, and must adopt all necessary measures to reduce the risks arising from the degradation of the global climate system, as well as exposure and vulnerability to the effects of such degradation. To this end, the Court details the minimum obligations in terms of preventing environmental damage and specifies what level of enhanced due diligence must be appropriate and proportionate to the degree of risk of environmental damage.

The obligation to provide a legal framework - Under the general obligation to ensure the progressive development of economic, social and cultural rights, the Court stipulates that States must allocate the maximum available resources to protect individuals and groups who, due to their vulnerability, are exposed to the most serious impacts of climate change.

The obligation to establish standards – The Court reiterates the need for States to adopt regulatory measures. These domestic legal provisions must effectively and comprehensively address the causes and consequences of climate change, ensuring that they evolve in line with the best available scientific data and are applied in a sustainable manner consistent with international commitments in this area.

Major contributions of the advisory opinion

Based on the best available scientific evidence, the Court clarifies a number of key points for addressing the climate emergency. The opinion thus confirms the imperative prohibition of any human conduct that could irreversibly affect the vital balance of the shared ecosystem. For the Court, the interpretative evolution of States' obligations towards future generations represents a significant step forward for the protection of human rights in the context of the current

climate emergency.

The right to a healthy climate - Without straying from its highly progressive and eco-centric jurisprudence,⁴ the IACHR goes further in this advisory opinion and becomes the first international court to develop the 'right to a healthy climate'. This new human right is both a right in its own right, which can be invoked independently in climate litigation cases, and an essential complement to the right to a healthy environment, which encompasses climate, clean air and drinking water. Both individual and collective, this right, now recognized as a fundamental one by the IACHR, underpins and structures the obligations of States in the Americas.

Confirmation of rights for Nature - The opinion recognizes Nature and its components as subjects of rights, with Nature representing a contemporary manifestation of the principle of interdependence between human rights and the environment. For the Court, this recognition is part of a growing normative and jurisprudential trend. In this context, it maintains that States must not only refrain from any action causing significant environmental damage, but also have a positive obligation to adopt measures to ensure the protection, restoration and regeneration of ecosystems. Furthermore, the Court recognizes the obligation to preserve the balance of the ecosystem against anthropogenic behaviour causing irreversible damage as a norm from which no opposing agreement is permitted. It affirms that the imperative prohibition of any human behaviour likely to irreversibly affect the interdependence and vital balance of the common ecosystem that makes life possible for species constitutes a *jus cogens* norm.⁵ States are therefore required to cooperate in order to put an end to behaviour that violates the mandatory norms designed to protect a healthy environment.

Recognition of specific vulnerabilities - The Court specifies specific obligations in situations of particular vulnerability, such as those faced by children, indigenous peoples, tribal peoples and people of African descent, as well as farming and fishing communities, and people who suffer differentiated impacts in the context of climate-related disasters. It also recognizes the need for States to adopt measures to protect persons who, although not belonging to traditionally protected categories, find themselves in situations of vulnerability due to dynamic or contextual factors.

Rights and safeguards for environmental defenders - The Court emphasizes that States and companies must redouble their efforts to protect those who defend the environment, whose essential role is recognized both for their efforts to ensure climate stability and their ability to hold others accountable. In this context, the State's obligation is subject to a heightened standard of diligence to investigate, prosecute and punish crimes committed against environmental defenders. The Court adds that States must combat the phenomenon of criminalization, as well as patterns of impunity in cases of violence and harassment against environmental defenders. The Court thus undertakes a process of 'compiling' and 'harmonizing' the best protection standards available in the region, including the guarantees contained in the Escazú Agreement ([IDDRI, 2019](#)),⁶ existing international standards and those already developed by the Court itself.

What can the advisory opinion change?

The IACHR's opinion calls on the international community, States, and private actors, stating in particular that 'any regressive measure must be justified by objective criteria and comply with the standards of necessity and proportionality.'⁷

Higher standards for action - The opinion sets a high standard for climate action based on human rights. It sends a clear, science-based signal to governments and courts in Latin America and the Caribbean, as well as around the world, regarding the climate measures that international human rights law requires of States and companies. It

defines legal standards to hold polluting States and companies accountable for their destructive actions. It also confirms, through the right to access to justice—which it recognizes as a fundamental one—a legitimate right to full reparation for climate damage. Through this opinion, the Court interprets binding human rights obligations by establishing legal guidelines that OAS Member States can no longer ignore. But above all, its importance is also global, as the fundamental rights concerned—such as the rights to life, self-determination and a healthy environment—are protected by numerous international treaties, constitutions and national laws.

Obligations for private actors – The Court emphasizes that companies must not only respect human rights, but also remedy any violations caused by their activities. They must ensure that exposure risks are reduced, that human rights are integrated into their structures, and that they fulfil their obligation not to increase or create vulnerabilities. Here, the duty of due diligence takes on its full meaning, as companies cannot exempt themselves from the requirement to carry out environmental impact assessments.

The advisory opinion's impact on climate justice – The opinion is not limited to a specific region or area, and will undoubtedly have an impact on the field of justice. It is part of a growing wave of climate litigation and a global movement in favour of climate justice. Claims for liability and compensation for climate-related damage are emerging everywhere. Strategic litigation targeting companies is gaining momentum. More communities are turning to the courts to demand legally binding measures. The opinion is also part of a series of advisory opinions and court decisions on climate change.⁸ It could feed into the advisory opinion on climate change requested from the International Court of Justice (IDDRI, 2025) and the similar process led by the African Court on Human and Peoples' Rights,⁹ and could also have a strong impact on international negotiations at COP30, to be held next November in Brazil (IDDRI, 2025). It will serve as a roadmap for climate justice in local, regional and national courts, as well as a basis for the development of climate policies that could anchor national legislation and global negotiations in binding mandates.

The IACHR's advisory opinion marks its leadership over other international courts, thanks to its innovative and universal nature. The Court shows that human rights are not abstract ideals but lived realities. Through the obligations thus defined, human rights, in the context of the climate crisis, are also recognized, particularly in the Americas, as 'tools for survival', guiding behaviour through the ecological crisis. Nevertheless, this is an opinion, and one that is rather declarative in nature. Two paths to implementation are now possible—and compatible: on the one hand, this opinion will serve as a guide for OAS Member States, which will now have to comply with it; on the other hand, it will provide a legal basis for potential litigation. It will now be difficult to ignore it in this part of the world.

¹

<https://corteidh.or.cr/tablas/OC-32-2025/index-eng.html>

²

<https://www.oas.org/fr/#:~:text=L'Organisation%20des%20%C3%89tats%20Am%C3%A9ricains,opportunit%C3%A9s%20li%C3%A9s%20%C3%A0%20la%20r%C3%A9solution%20de%20la%20crise%20climatique>

³

Advisory opinion, § 217 and following.

⁴

It had already ruled on the right to a healthy environment in an opinion dating from 2017; more recently, in the [La Oroya v. Peru case](#) , it recognized the collective right to compensation for industrial pollution.

5

A mandatory norm that refers to rules of general international law that are universally accepted and recognized as not subject to any derogation.

6

The Court encourages countries that have not yet done so to ratify this first binding regional treaty promoting environmental democracy.

7

Advisory opinion, § 222 and following.

8

[European Court of Human Rights](#) ; [International Tribunal for the Law of the Sea](#) .

9

<https://www.ejiltalk.org/africas-turn-the-african-courts-advisory-opinion-on-climate-change/>

CLIMATE

GOUVERNANCE ET DROIT