**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**

the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court"), composed of the following judges:[*]

Nancy Hernández López, President.
Rodrigo Mudrovitsch, Vice President,
Humberto A. Sierra Porto,
Eduardo Ferrer Mac-Gregor Poisot,
Ricardo C. Pérez Manrique,
Verónica Gómez, and
Patricia Pérez Goldberg,

also present,

Pablo Saavedra Alessandri, Registrar, and,
Gabriela Pacheco Arias, Deputy Registrar

pursuant to Article 64(1) of the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") and Articles 70 to 75 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), issues the following advisory opinion, with the following structure:

[*] This advisory opinion was issued during the 176th regular session of the Court. In accordance with Articles 54(3) of the American Convention on Human Rights, 5(3) of the Court's Statute and 17(1) of its Rules of Procedure, judges whose mandate has concluded shall continue to serve with regard to cases that they have begun to hear and that remain pending a ruling. Consequently, and by decision of the full Court, the composition of the Court, including the Board, that took part in the deliberation and signature of this advisory opinion, is that which took cognizance of the matter.

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## I
## PRESENTATION OF THE REQUEST

1. On January 9, 2023, the Republic of Chile and the Republic of Colombia (hereinafter "Chile" and "Colombia" or "the requesting States") submitted a request for an advisory opinion concerning State obligations in response to the climate emergency within the framework of international human rights law[1] pursuant to Article 64(1) of the American Convention and the provisions of Articles 70(1), 70(2) and 71(1) of the Court's Rules of Procedure.

2. Chile and Colombia outline the considerations that prompted the request and noted the following:

> […] Our two countries face the ongoing challenge of addressing the consequences of the climate emergency, including the increasing occurrence of droughts, floods, landslides and fires. These phenomena underscore the urgent need for a response grounded in the principles of equity, justice, cooperation and sustainability, with a human rights-based framework.
>
> The aforementioned environmental problems also occur throughout the Americas and the rest of the world, with a significant impact on human rights, and are jeopardizing future generations. Nevertheless, the international community does not experience the effects of climate change uniformly. Unfortunately, the effects are now being felt by those communities that are the most vulnerable owing to their geography, socioeconomic and climate conditions, and infrastructure, as well as by several countries of the Americas. Moreover, it is significant that those communities and countries experience the said effects in a way that is disproportionate to their contribution to climate change.
>
> [The requesting States] are conscious of the relevance of the human right to a healthy environment and its close relationship to a series of substantive and procedural rights that have an impact on the life, survival and development of present and future generations and that are protected by the American Convention on Human Rights [...] and numerous inter-American and universal human rights and environmental treaties. In this regard, human rights not only provide a necessary perspective from which to assess the consequences of the emergency, but also essential tools to seek solutions that are opportune, just, equitable and sustainable.
>
> This is why the [requesting] States consider it necessary to move forward with the process of defining the scope of the relevant obligations established in the American Convention and other inter-American treaties to confront the situations arising from the climate emergency, their causes and consequences. In addition, the intention is to promote measures to guarantee human rights, and also the public policies required to respond to this phenomenon in an urgent, equitable, just and sustainable manner.
>
> Consequently, in order to advance and accelerate the responses to the climate emergency by each State, collectively, regionally and globally, we are posing a series of questions to the Court that will allow it to provide guidance towards human rights-based solutions with an intersectional perspective […].

[1] The complete text of the request may be consulted on the Court's website at the following link: https://www.corteidh.or.cr/solicitud_opiniones_consultivas.cfm?lang=en

3. Based on the foregoing, the requesting States submitted specific questions to the Court.[2]

4. As their agents for this request, the Republic of Chile appointed Tomás Ignacio Pascual Ricke, Director for Human Rights, of the Ministry of Foreign Affairs of the Republic of Chile, and the Republic of Colombia appointed Luis Ernesto Vargas Silva, Permanent Representative of the Republic of Colombia before the Organization of American States (hereinafter "the OAS").

## II
## PROCEEDINGS BEFORE THE COURT

5. Pursuant to paragraphs 1 and 2 of Article 73 of the Rules of Procedure, the Secretariat of the Court (hereinafter "the Secretariat") transmitted the request to the OAS Member States, the Secretary General, the President of the Permanent Council, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission"), and other OAS bodies. By notes dated March 16, 2023, the Secretariat informed that the President of the Court, in consultation with its members, had set August 18, 2023, as the deadline for the submission of written observations. Subsequently, in notes of July 5 and October 10, the Secretariat advised those mentioned above that this deadline was extended, first until October 18 and then until December 18, 2023.

6. As provided in Article 73(3) of the Rules of Procedure, the Secretariat, through notes dated March 22, April 13 and 24, and May 4, 2023, as well as via publications on the Court's website, circulated the President's invitation to all interested persons and organizations to submit written observations on the issues raised in the request. The Secretariat further communicated the original deadline and subsequent extensions.

7. Furthermore, in notes dated August 31, September 1 and 4, and October 11, 2023, the Secretariat invited regional courts to submit their jurisprudence on the climate emergency and human rights to the Court with the aim of fostering judicial dialogue among courts. The Secretariat received jurisprudence from the Council of State of the Republic of Colombia, the Superior Court of Justice and the Federal Supreme Court of the Federative Republic of Brazil, the National Court of Justice of the Republic of Ecuador, the Supreme Court of Justice of the Republic of Costa Rica, the National Supreme Court of Justice of the United Mexican States, the Constitutional Court of the Republic of Peru, the Supreme Court of Justice of the Oriental Republic of Uruguay, and the Environmental Appellate Chamber and the Environmental Court of San Salvador.

8. Within the established time frame, the Secretariat received 263 briefs with observations.[3] These briefs were submitted by 9 States, 4 organs of the Organization of American States, 14 international bodies, 10 state institutions, 62 communities, 178

[2] Due to their extent, the questions posed can be consulted at the following link: https://www.corteidh.or.cr/solicitud_opiniones_consultivas.cfm?lang=en

[3] The complete list of the written comments can be consulted at the following link: https://www.corteidh.or.cr/observaciones_oc_new.cfm?nId_oc=2634

non-governmental organizations, 70 non-governmental organizations together with members of civil society or academic institutions, 1 business enterprise, 134 academic institutions, and 131 members of civil society, for a total of 613 participants.

9. At the conclusion of the written proceedings, pursuant to Article 73(4) of the Rules of Procedure, on February 22, 2024, the President of the Court issued an order convening two public hearings and invited all those who had forwarded their written comments on the request to take part in them.[4]

10. The public hearings were held during the Court's 166th and 167th regular sessions. The first took place in Bridgetown, Barbados, on April 23, 24 and 25, 2024, and the second in Brasilia, Brazil, on May 24, 2024, and Manaus, Brazil, on May 27, 28 and 29, 2024. Overall, 185 delegations appeared before the Court.[5]

11. Following the public hearings, and as a result of requests made by the Court during those hearings, briefs with additional information were received from some delegations.[6]

12. In resolving this request for an advisory opinion, the Court examined and considered the written submissions, the participations in the hearings, and the interventions by States, the Inter-American Commission on Human Rights and other OAS bodies, international and State entities, community and Indigenous Peoples', organizations, non-governmental organizations, academic institutions, and civil society actors. The Court appreciates these valuable inputs which helped to inform the Court on the different issues raised in the request for the advisory opinion.

13. The Court deliberated on this Advisory Opinion virtually on February 10, March 17 to 20, April 7 to 9, 29 and 30, and May 26 to 28, 2025, and adopted it on May 29, this year.

## III
## JURISDICTION AND ADMISSIBILITY

14. Article 64(1) of the American Convention establishes that:

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[4] *Cf.* Request for Advisory Opinion OC-32. Call to a hearing. Order of the President of the Inter-American Court of Human Rights of February 22, 2024. Available at: https://corteidh.or.cr/docs/asuntos/solicitud_22_02_2024_spa.pdf.

[5] The complete list of participants in the public hearings and their respective interventions may be consulted at: XXX

[6] Following the public hearings, the Secretariat admitted briefs forwarded by: the State of Vanuatu; the State of Barbados; the State of Costa Rica; the International Trade Union Confederation (ITUC) and the Trade Union Confederation of the Americas CSA (TUCA); the Latin American Observatory on Human Mobility, Climate Change and Disasters (Move-LAN), UNHCR, the University for Peace and the South American Network for Environmental Migrations (RESAMA); The Global Litigation Council, the Caribbean Coalition of Civil Society Organizations; the Avaaz Foundation; the Interamerican Association for Environmental Defense; the Center for International Environmental Law; the Centro de Estudios de Derecho, Justicia and Sociedad; the Climate Action Network Latin America, Greenpeace International, EarthRights International, Earthjustice, World's Youth for Climate Justice, and Union of Concerned Scientists; Open Society Justice Initiative; Territorios Diversos por la Vida; the Universidad del Rosario; the Research Group on International Courts and Tribunals of the Universidade Federal de Minas Gerais; the Law School at McGill University, the Grupo Energía Bogotá, and Eulalia W. Petit de Gabriel and Iraida A. Giménez.

> The Member States of the Organization may consult the Court regarding the interpretation of this Convention or of other treaties concerning the protection of human rights in the American states. Within their spheres of competence, the organs listed in Chapter X of the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires, may in like manner consult the Court.

15. According to the Convention, the Court's jurisdiction to issue on a request for an advisory opinion depends, on the one hand, on whether the request was submitted by an OAS Member State or one of the organs established in Chapter X of its constituent treaty (jurisdiction *ratione personae*) and, second, that the request relates to the interpretation of the American Convention or other treaties concerning the protection of human rights in the States of the Americas (jurisdiction *ratione materiae*).

16. This request for an advisory opinion meets these two conditions because, first it was submitted by Chile and Colombia, Member States of the Organization of American States since 1953 and 1951, respectively, and second, the purpose of the request is "to determine the scope of the relevant obligations established in the American Convention and other inter-American treaties to address the situations arising from the climate emergency, including its causes and consequences."[7]

17. Furthermore, Articles 70 and 71 of the Rules of Procedure set forth the formal requirements that should be verified for a request for an advisory opinion to be deemed admissible. According to the Rules of Procedure, the request must comply with the following requirements: (i) clearly state the questions with precision; (ii) specify the provisions to be interpreted; (iii) indicate the considerations that prompted the request, and (iv) provide the names and addresses of the designated agent or the delegates.

18. The Court finds that these requirements were duly met by the requesting States. Thus, (i) the questions were stated with precision (*supra* para. 3) and (ii) they refer to the provisions that must be interpreted, namely: Articles 1(1), 2, 4(1), 5(1), 8, 11, 13, 19, 21, 23(1), 25 and 26 of the American Convention, which relate to the obligation of respect, guarantee, and normative adequacy concerning the rights to life and personal integrity, judicial guarantees, protection of honor and dignity, freedom of thought and expression, the rights of children, the right to private property, political rights, and economic, social, cultural and environmental rights. Additionally, the request refers to the duty to adopt measures to ensure the effectiveness of the rights to a healthy environment, food, and culture benefits under Articles 1, 11, 12 and 14 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador).

19. Similarly, the Court finds that the formal requirements (iii) and (iv) regulated in the Rules of Procedure were met because, as the requested clearly states, the brief submitted by the requesting States specifies with precision the considerations that gave rise to the request (*supra* para. 2), as well as the name and address of the agents appointed for the procedure before the Court (*supra* para. 4).

20. Finally, the Court recalls that, in addition to fulfilling the formal requirements

[7] *Cf.* Request for an advisory opinion on the Climate Emergency and Human Rights presented by the Republic of Colombia and the Republic of Chile, dated January 9, 2023, p. 2. Available at: https://www.corteidh.or.cr/solicitud_opiniones_consultivas.cfm?lang=en

for submitting a request, to determine its admissibility, it is necessary to take into account substantive considerations related to the characteristics inherent in the advisory function.[8] According to the Court's case law, this analysis entails verifying that the request: (i) does not mask a contentious case[9] or attempt to obtain a premature ruling on an issue or matter that could eventually be submitted to the Court by a contentious case;[10] (ii) is not being used as a mechanism to obtain an indirect ruling on a matter in litigation or in dispute at the domestic level;[11] (iii) is not being used as an instrument in a domestic political debate;[12] (iv) is not linked to issues on which the position of the Court has been clearly set out in its case law,[13] and (v) does not seek the resolution of factual matters, instead of seeking the interpretation of the meaning, purpose and reason for the international human rights norms and, above all, helping OAS Member States and organs to comply fully and effectively with their international obligations.[14]

21. In this regard, the Court considers that the request for an advisory opinion submitted by Chile and Colombia does not fall within any of the situations described above and, therefore, it does not observe any substantive reason for its inadmissibility. The Court notes, also, that none of the interventions during the proceedings before the Court questioned its jurisdiction or the admissibility of the request presented by Chile and Colombia.[15]

22. In particular, it should be emphasized that the request for an advisory opinion does not seek to resolve a contentious case currently pending before the Court; nor is its purpose linked to matters on which the Court has clearly established its position in prior jurisprudence, nor does it seek to resolve questions of facts. On the contrary, the Court notes that the request provides an opportunity to examine aspects of inter-

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[8] *Cf. "Other Treaties" subject to the Advisory Jurisdiction of the Court (art. 64 American Convention on Human Rights),* Advisory Opinion OC-1/82, September 24, 1982. Series A No. 1, para. 13, and *Article 55 of the American Convention on Human Rights.* Advisory Opinion OC-20/09 of September 29, 2009. Series A No. 20, para. 14.

[9] *Cf. Compatibility of Draft Legislation with Article 8.2.h of the American Convention on Human Rights,* Advisory Opinion OC-12/91, December 6, 1991. Series A No. 12, para. 28, and *Differentiated approaches with respect to certain groups of persons in detention (Interpretation and scope of Articles 1(1), 4(1), 5, 11(2), 12, 13, 17(1), 19, 24 and 26 of the American Convention on Human Rights and other human rights instruments).* Advisory Opinion OC-29/22 of May 30, 2022. Series A No 29, para. 21.

[10] *Cf. The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law,* Advisory Opinion OC-16/99, October 1, 1999. Series A No. 16, para. 45, and *Advisory Opinion OC-29/22*, *supra*, para. 21.

[11] *Cf. Rejection of the request for an advisory opinion presented by Costa Rica.* Order of the Inter-American Court of Human Rights of May 10, 2005, considering paragraph 13, and *Advisory opinion OC-29/22*, *supra*, para. 21.

[12] *Cf. Proposed Amendments to the Naturalization Provisions of the Constitution of Costa Rica,* Advisory Opinion OC-4/84, January 19, 1984. Series A No. 4, para. 30, and *Advisory Opinion OC-29/22*, *supra*, para. 21.

[13] *Cf. Rejection of the request for an advisory opinion presented the Inter-American Commission on Human Rights*. Order of the Inter-American Court of Human Rights of June 24, 2005, considering paragraphs 7 and 13, and *Advisory Opinion OC-29/22*, *supra*, para. 21.

[14] *Cf. Advisory Opinion OC-16/99, supra*, para. 47, and *Advisory Opinion OC-29/22*, *supra*, para. 21.

[15] Of all the written comments received, only six referred to issues of admissibility and jurisdiction. In each case, they agreed that the Court had jurisdiction to issue this advisory opinion. *Cf.* Brief with observations submitted by the State of Barbados, pp. 13-17; Brief with observations submitted by the State of Colombia, pp. 3-4; Brief with observations submitted by Fernando Arlettaz, pp. 4-7; Brief with observations submitted by the Semillero de Investigación Pacha Paqta and the Carlos Gaviria Díaz Legal Clinic at the Universidad Industrial de Santander, pp. 3-4, and World's Youth for Climate Justice (WYCJ), p. 6.

American public order, taking into account the regional and global interest[16] in determination of the scope of State obligations to address the impact of climate change on human rights.

23. In light of the foregoing considerations, the Court finds that it has jurisdiction to examine the request submitted by Chile and Colombia. Furthermore, the Court finds no formal or substantive grounds to abstain from responding to the questions posed. Therefore, the Court admits the request and will proceed to render its advisory opinion.

## IV
## PRELIMINARY CONSIDERATIONS

### *A. The Purpose of the Advisory Opinion and the Questions Posed by the Requesting States*

24. In excersing its advisory function, the Court is called on to interpret the meaning, purpose and rationale of international human rights norms.[17] To that end, the Court may have to define, clarify and, in certain instances, reformulate the questions poresented to it in order to determine the essential purpose of its interpretive mandate.[18]

25. On this occasion, as in prior instances,[19] the Court deems necessary to reformulate the questions posed by the requesting States to ensure an effective exercise of its advisory function. This will enable the Court to adequately the objective of the request: namely, "to clarify the scope of State obligations, in their individual and collective dimension, in order to respond to the climate emergency within the framework of international human rights law […]"[20] and, also, to assist and guide OAS Member States and organs in compliance with its mission within the inter-American system.[21]

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[16] This interest was reflected in the extensive participation in the advisory procedure before this Court and in the requests for an advisory opinion submitted to the International Court of Justice, the International Tribunal for the Law of the Sea, and the African Court of Human and Peoples' Rights.

[17] *Cf. International Responsibility for the Promulgation and Enforcement of Laws in violation of the Convention (Arts. 1 and 2 of the American Convention on Human Rights),* Advisory Opinion OC-14/94, December 9, 1994. Series A No. 14 , para. 23 and *Indefinite Presidential Re-election in Presidential Systems in the context of the Inter-American System of Human Rights (Interpretation and scope of Articles 1, 23, 24 and 32 of the American Convention on Human Rights, XX of the American Declaration of the Rights and Duties of Man, 3(d) of the Charter of the Organization of American States and of the Inter-American Democratic Charter).* Advisory Opinion OC-28/21 of June 7, 2021. Series A No 28, para. 35.

[18] *Cf. Advisory Opinion OC-14/94, supra,* para. 23, and *Advisory Opinion OC-28/21*, *supra*, para. 35.

[19] *Cf. Enforceability of the Right to Reply or Correction (Arts. 14.1, 1.1 and 2 American Convention on Human Rights),* Advisory Opinion OC-7/86, August 29, 1986. Series A No. 7, para. 12, and *Rights to freedom of association, to collective bargaining and to strike, and their relationship to other rights, with a gender perspective (interpretation and scope of Articles 13, 15, 16, 24, 25 and 26, in relation to Articles 1(1) and 2 of the American Convention on Human Rights, Articles 3, 6, 7 and 8 of the Protocol of San Salvador, Articles 2, 3, 4, 5 and 6 of the Convention of Belem do Pará, Articles 34, 44 and 45 of the Charter of the Organization of American States, and Articles II, IV, XIV, XXI and XXII of the American Declaration of the Rights and Duties of Man).* Advisory Opinion OC-27/21 of May 5, 2021. Series A No. 27, para. 30.

[20] Request for an advisory opinion on the Climate Emergency and Human Rights presented by the Republic of Colombia and the Republic of Chile, dated January 9, 2023, p. 1. Available at: https://www.corteidh.or.cr/docs/opiniones/soc_1_2023_es.pdf

[21] *Cf. Restrictions to the Death Penalty (Arts. 4.2 and 4.4 American Convention on Human Rights),* Advisory Opinion OC-3/83, September 8, 1983. Series A No. 3, para. 29.

26. The Court recalls that, in *Advisory Opinion OC-23/17*, it distinguished two groups of rights that closely links to the environment: (i) those whose enjoyment is particularly vulnerable to the environmental degradation harmful to the individual, also identified as substantive rights (for example, the rights to life, personal integrity, health or property), and (ii) the procedural rights whose exercise contributes to sound environmental governance (such as the rights to freedom of expression and association, access to information, participation in decision-making, and access to effective remedy).[22] In said Advisory Opinion, the Court also indicated that the effects on those rights might be felt with greater intensity by certain vulnerable groups (such as Indigenous Peoples, children, persons living in extreme poverty, and persons with disabilities).[23]

27. In their request for an advisory opinion, the questions posed by Chile and Colombia refer to the interpretation of the general obligations (respect and guarantee of rights, legislative adaptation), derived from the American Convention and, in some cases, the Protocol of San Salvador, with regard to both procedural and substantive human rights potentially affected by the climate emergency. In addition, the requesting States asked the Court to refer to those obligations in relation to various vulnerable groups. Therefore, and consistent with its prior jurisprudence, this Court finds it appropriate to rely on the tripartite distinction (substantive rights, procedural rights, and vulnerable groups) as a basis to systematically and comprehensively reformulate the questions posed in the request.

28. Consequently, the questions are reformulated as follows:

> 1. What is the scope of the obligations to respect and to guarantee rights and to adopt the necessary measures to ensure their exercise (Articles 1(1) and 2 of the American Convention and Articles 1 and 2 of the Protocol of San Salvador) in the case of substantive rights such as the right to life and to health (Article 4(1) of the American Convention and Article 10 of the Protocol of San Salvador), personal integrity (Article 5(1) of the American Convention), private and family life (Articles 11(2) and 17(1) of the American Convention and Article 15 of the Protocol of San Salvador), property (Article 21 of the American Convention), freedom of movement and residence (Article 22 of the American Convention), housing (Article 26 of the American Convention), water (Article 26 of the American Convention), food (Article 26 of the American Convention and 12 of the Protocol of San Salvador), work and social security (Article 26 of the American Convention and Articles 6, 7 and 9 of the Protocol of San Salvador), culture (Article 26 of the American Convention and 14 of the Protocol of San Salvador), education (Article 26 of the American Convention and 13 of the Protocol of San Salvador), and enjoyment of a health environment (Article 26 of the American Convention and 11 of the Protocol of San Salvador), in relation to the impact or threats caused or exacerbated by the climate emergency?

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[22] *Cf. The Environment and Human Rights (State obligations in relation to the environment in the context of the protection and guarantee of the rights to life and to personal integrity – interpretation and scope of Articles 4(1) and 5(1) of the American Convention on Human Rights).* Advisory Opinion OC-23/17 of November 15, 2017. Series A No. 23, para. 64.

[23] *Cf. Advisory Opinion OC-23/17, supra*, para. 67.

> 2. What is the scope of the obligations to respect and to guarantee rights and to adopt the necessary measures to ensure their exercise (Articles 1(1) and 2 of the American Convention and Articles 1 and 2 of the Protocol of San Salvador) in the case of the procedural rights, such as access to information (Article 13 of the American Convention), the right to participation (Article 23(1)(a) of the American Convention) and access to justice (Articles 8(1) and 25 of the American Convention) in relation to the harm caused or exacerbated by the climate emergency?
>
> 3. What is the scope of the obligations to respect and to guarantee rights and to adopt the necessary measures to ensure their exercise without discrimination (Articles 1(1) and 2 of the American Convention and Articles 1, 2 and 3 of the Protocol of San Salvador) in the case of environmental defenders, women, Indigenous Peoples, Afro-descendant and peasant farmer communities, as well as other vulnerable groups, in the context of the climate emergency?

29. This reformulation enables the Court to address the different aspects raised in the request (substantive rights, procedural rights, and the rights of vulnerable individuals or groups) in the context of the climate emergency, based on the general obligations established in the American Convention and in the Protocol of San Salvador.

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

30. The Court is aware of the wide-ranging and technical nature of the issues raised in the request. Therefore, before responding to the reformulated questions and determining the scope of the obligations arising from–the American Convention and the Protocol of San Salvador, the Court will examine the climate emergency from a factual and normative perspective.

31. Accordingly, the Court will divide this advisory opinion into two parts. The first part, consisting of an introductory chapter (*infra* Chapter V), presents the factual background of climate change and its effects on individuals and the environment they inhabit. It also addresses the international response to climate change, regulatory measures adopted by the States of the Americas, and the climate emergency.

32. The second part (*infra* Chapter VI) is devoted to the interpretation of the inter-American provisions that are the purpose of the request, and refers to the determination and scope of 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*

33. The Court notes that the 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 will primarily rely on the reports prepared by the Intergovernmental Panel on Climate Change (hereinafter "IPCC"), due to their representative character and methodologically rigor, which are widely recognized by the States.[24] These reports

[24] The IPCC consists of the Secretariat, the Plenary (composed of representatives of the member

compile and assess the results of the socio-economic, technical and scientific literature on climate change at a regional and global level, including its repercussions and future risks, as well as the options that exist in terms of adaptation[25] and mitigation.[26] The Court considers these reports to be the most authoritative source of scientific guidance on climate change when adopting this advisory opinion.[27]

34. Additionally, in addressing this request, the Court must resort to the special and general international rules for interpretation. Regarding the former category, the Court underscores that Article 29 of the American Convention expressly establishes certain interpretation criteria. Pursuant to this provision and in accordance with the *pro persona* principle, no clause of the Convention shall be interpreted as restricting the enjoyment or exercise of any right or freedom recognized under the domestic laws of any State Party or under another international treaty to which such State is a party; nor as limiting the legal effect excluding or limiting the effect that the American Declaration of the Rights and Duties of Man (hereinafter "the American Declaration") and other similar international instrument of the same nature may have.[28]

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States), the Executive Committee, the Working Group Technical Support Unit, the authors, contributors and reviewers. The missions of this body it to assess the science related to climate change, its impacts, and strategies to address them. To date, the IPCC has produced six reports that contain the broadest and most up-to-date scientific knowledge on climate change at the global level, as well as methodological reports, special reports and technical articles.
*Cf.* Intergovernmental Panel on Climate Change, "IPCC Secretariat", Available at: https://www.ipcc.ch/secretariat/; "About Us", Available at: https://archive.ipcc.ch/home_languages_main_spanish.shtml#:~:text=Actualmente%2C%20195%20pa%C3%ADses%20son%20miembros%20del%20IPCC, and "Structure," Available at https://www.ipcc.ch/about/structure/.

[25] According to the IPCC, climate "adaptation" refers to, "[i]n human systems, the process of adjustment to actual or expected climate and its effects, in order to moderate harm or exploit beneficial opportunities. In natural systems, [it refers to] the process of adjustment to actual climate and its effects; human intervention may facilitate adjustment to expected climate and its effects." *Cf.* IPCC, 2018: Annex I: Glossary [Matthews J.B.R. (ed.)]. In: Global warming of 1.5°C, Special Report of the IPCC on the impacts of global warming of 1.5ºC above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)], p. 542.

[26] According to the IPCC, "[i]n climate policy, mitigation measures are technologies, processes or practices that contribute to mitigation, for example, renewable energy (RE) technologies, waste minimization processes and public transport commuting practices." Cf. IPCC, 2018: Annex I: Glossary [Matthews J.B.R. (ed.)]. In: Global warming of 1.5°C, Special Report of the IPCC on the impacts of global warming of 1.5ºC above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)], p. 554.

[27] The IPCC reports have been used by international courts such as the European Court of Human Rights (ECtHR) and the International Tribunal for the Law of the Sea, and also by domestic high courts, such as the Federal Constitutional Court of Germany. *Cf.* ITLOS, The obligations of States to prevent, reduce and control pollution of the marine environment and to protect and preserve the marine environment in relation to climate change impacts. Advisory opinion of May 21, 2024, paras. 47-66; ECtHR, *Case of Verein Klimaseniorinnen Schweiz and Others v. Switzerland* [GS] no. 53600/20, of April 9, 2024, para. 429, and First Chamber of the Constitutional Court of Germany, Case 1, BvR 2656/18, BvR 78/20, BvR 96/20, 1 BvR 288/20, Ruling of March 24, 2021, paras. 16 and 17.

[28] *Cf. Rights and guarantees of children in the context of migration and/or in need of international protection.* Advisory Opinion OC-21/14 of August 19, 2014. Series A No.21, *supra*, para. 54, and *The Obligations in Matters of Human Rights of a State that has denounced the American Convention on Human Rights and the Charter of the Organization of American States (Interpretation and scope of Articles 1, 2, 27, 29, 30, 31, 32, 33 to 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States*). Advisory Opinion OC-26/20 of November 9, 2020. Series A No. 26, para. 136.

35. In turns, the general rules of interpretation set forth in the Vienna Convention on the Law of Treaties require that the object and purpose of a treaty must be taken into account during its interpretation; moreover, as treaties are living instruments, the Court's interpretation must evolve in light of contemporary conditions and current challenges when adopting this advisory opinion. Similarly, according to the Vienna Convention, "norms should be interpreted as part of a whole, whose meaning and scope must be established in function of the juridical system to which they belong." Bearing in mind the foregoing, the Court will take into account that the object and purpose of the treaties interpreted on this occasion is the protection of the fundamental rights of the human being[29] and will endeavor to ensure an appropriate understanding of the provisions interpreted in the context of the inter-American system of human rights and of the international law of which this system is a part.[30]

36. Therefore, in interpreting the American Convention and the Protocol of San Salvador, the Court will rely on the *corpus iuris* composed of the foundational instruments of the OAS and of the human rights protection system developed under its auspices, as well as other instruments forming part of international human rights law. The Court will also take into consideration relevant treaty-based and customary international norms relating to the environment and climate change. Additionally, in order to ensure an interpretation consistent with international obligations, the Court may further consider jurisprudence and other authorities decisions adopted at the international level.

37. In summary, when responding to this request, the Court is acting within its mandate as a human rights court, governed by the norms that regulate its advisory jurisdiction. Consequently, it will consider relevant sources of international law that may assist in elucidating the scope of the provisions under interpretation; without this implying that the Court extends its interpretative those supplementary instruments directly.[31]

38. In this regard, the Court notes that certain questions posed by the requesting States invite consideration of other international instruments such as the United Nations Framework Convention on Climate Change (hereinafter "the UNFCCC"), the Paris Agreement, the Convention on the Rights of the Child, and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (hereinafter "the Escazú Agreement"). The Court notes that, even though the request does not seek an interpretation of these instruments, it may – giving the nature of the subject matter – refer to them and other relevant instruments within the framework of its advisory function – as it has in prior

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29 *Cf. Advisory opinion OC-21/14, supra,* para. 31 and *Advisory opinion OC-28/21, supra*, para. 41.

30 The Court has indicated that "according to systematic criteria, norms should be interpreted as part of a whole, whose meaning and scope must be established in function of the juridical system to which they belong." *Cf. Case of González et al. ("Cotton Field") v. Mexico. Preliminary objection, merits reparations and costs.* Judgment of November 16, 2009. Series C No. 205, para. 43, and *Entitlement of Legal Entities to Hold Rights under the Inter-American Human Rights System (Interpretation and scope of Article 1(2), in relation to Articles 1(2), 8, 11(2), 13, 16, 21, 24, 25, 29, 30, 44, 46 And 62(3) of the American Convention on Human Rights, as well as of Article 8(1)(A) And (B) of the Protocol of San Salvador).* Advisory Opinion OC-22/16 of February 26, 2016. Series A No. 22, para. 44.

31 *Cf. Juridical Status and Human Rights of the Child,* Advisory Opinion OC-17/02, August 28, 2002. Series A No. 17, para. 35, and *The Institution of Asylum and its Recognition as a Human Right under Inter-American Protection System (interpretation and scope of Articles 5, 22(7) and 22(8), in relation to Article 1(1) of the American Convention on Human Rights).* Advisory Opinion OC-25/18 of May 30, 2018. Series A No. 25, para. 51.

opinions – as supplementary sources for interpretation of the content of the provisions of the American Convention and the Protocol of San Salvador to which the request relates, in light of the climate emergency.[32] Furthermore, the Court may also consider norms and principles forming part of the *corpus iuris* of international human rights law, general international law, international environmental and climate law, and also other norms of a general nature or of soft law that help guide the interpretation of the American Convention and the Protocol of San Salvador.

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

39. The Court notes that the provisions of the American Convention and the Protocol of San Salvador that form the subject of the request are closely related to other provisions contained in the foundation instruments of the OAS, including its Charter and the Inter-American Democratic Charter. It also observes that the rights whose scope will be determined in this advisory opinion are likewise enshrined in the American Declaration on the Rights and Duties of Man.

40. Similarly, the Court underscores that: (i) the Inter-American Democratic Charter serves as interpretative instrument of both the OAS Charter and the American Convention on Human Rights;[33] (ii) for OAS Member States, the American Declaration on the Rights and Duties of Man is the text that defines the human rights to which the OAS Charter refers and, consequently, constitutes a sources of international obligations;[34] (iii) according to Article 29 of the American Convention, the interpretation of its provisions cannot be used to limit the scope of the rights embodied in the American Declaration,[35] and (iv) in the exercise of its advisory jurisdiction, the Court must contribute to recognition and development of the fundamental human rights by OAS Member States[36] and, within this framework, strengthen the inter-American system for the protection of human rights for the consolidation of democracy in the hemisphere.[37]

41. Consequently, this Court considers that the interpretation of the American Convention and of the Protocol of San Salvador rendered in this advisory opinion must be considered integrally not only by the State Parties to those instruments, but also by all OAS Member States. Indeed, all OAS members are bound by the obligations set forth in the American Declaration, as well as those derived from the OAS Charter and the Inter-American Democratic Charter.

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[32] *Cf. Advisory opinion OC-14/94, supra,* para. 60, and *Advisory opinion OC-29/22, supra*, paras. 18 and 19.

[33] *Cf. Advisory opinion OC-26/20 supra*, para. 42, and *Advisory opinion OC-28/21, supra,* para. 29.

[34] Cf. *Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights,* Advisory Opinion OC-10/89, July 14, 1989. Series A No. 10, para. 45.

[35] Article 29(d) of the American Convention stipulates that "[n]o provision of this Convention shall be interpreted as: […] (d) excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have."

[36] Article 3(l) of the OAS Charter establishes that: "[t]he American States proclaim the fundamental rights of the individual without distinction as to race, nationality, creed, or sex."

[37] Article 8 of the Inter-American Democratic Charter establishes that: "[m]ember States reaffirm their intention to strengthen the inter-American system for the protection of human rights for the consolidation of democracy in the Hemisphere."

## V
## THE CLIMATE EMERGENCY

42. The climate emergency forms part of the broader context of the so-called "triple planetary crisis" stemming from the relationship and mutual reinforcement among three ongoing phenomena: climate change, pollution, and biodiversity loss.[38] This triple crisis "threatens the well-being and survival of millions of people throughout the world".[39] Based on the terms of the request, the Court will concentrate its analysis on the emergency directly related to climate change, without this implying a disregard for the context of the triple crisis in which it is embedded.

43. In order to broaden its understanding in this regard, in this section, the Court will address: (A) the causes of climate change; (B) the impact that it generates and may generate in the future; (C) international actions undertaken to confront it, and (D) the development of domestic regulations by OAS Member States. In addition, (E) the Court will refer to climate-related litigations at the global level and the judicial decisions adopted in those litigations. Finally, (F) the Court will set out the reasons why the present circumstances should be addressed in the terms of a climate emergency.

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

44. As indicated by the IPCC, the term "climate change" refers to a change in the state of the *climate* that persists for an extended period."[40] The Court will now address the causes of climate change, with particular emphasis on: (A.1) greenhouse gas emissions resulting from human activities, and (A.2) the way in which the different social and economic sectors, and also States and regions, contribute to the generation of these emissions.

#### A.1. Greenhouse Gas Emissions from Human Activities

45. From a geophysical standpoint, climate change results from natural and anthropogenic factors.[41] Natural factors include volcanic eruptions and fluctuations in

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[38] *Cf.* Case of the U'wa Indigenous Peoples and their members *v.* Colombia, Preliminary objection, merits reparations and costs. Judgment of July 4, 2024. Series C No. 530, para. 304. The Court has noted that the triple planetary crisis presents a complex and multifaceted challenge that calls for an integrated and urgent response to guarantee the sustainability of the planet and the well-being of its inhabitants.

[39] *Cf.* Message of the UN Secretary-General, António Guterres, on the occasion of International Mother Earth Day, April 22, 2022.

[40] *Cf.* IPCC, 2018: Annex I: Glossary [Matthews J.B.R. (ed.)]. In: Global warming of 1.5°C, Special Report of the IPCC on the impacts of global warming of 1.5ºC above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 75.

[41] *Cf.* Arias, P.A., N. Bellouin, E. Coppola, R.G, *et. al.* IPCC, 2021: Technical Summary. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* S.L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M.I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T.K. Maycock, T. Waterfield, O. Yelekçi, R. Yu, and B. Zhou (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 39-40.

the amount of solar energy received by the Earth.[42] Human factors are the result of activities such as fossil fuel combustion, land-use changes, solid waste management, and transportation. These activities produce gases that receive the name of greenhouses gases (hereinafter "GHG"). As the natural and anthropogenic GHG accumulate in the atmosphere, the amount of solar energy that is lost to space is reduced, and this translates into an increase in global temperature.[43]

46. Science has demonstrated that human activities have influenced the global climate since around 1750[44] – the approximate start of the industrial era[45] – and that they have been primarily responsible for global warming[46] since the mid-twentieth century.[47] Consequently, the Court will focus its analysis on the emissions generated by human activities. The GHG that have contributed most to global warming are carbon dioxide ($CO_2$), methane ($CH_4$) and nitrous oxide ($N_2O$).[48]

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[42] *Cf.* Arias, P.A., N. Bellouin, E. Coppola, R.G, *et. al.* IPCC, 2021: Technical Summary. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* S.L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M.I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T.K. Maycock, T. Waterfield, O. Yelekçi, R. Yu, and B. Zhou (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 39-40.

[43] *Cf.* Arias, P.A., N. Bellouin, E. Coppola, R.G, *et. al*., 2021: Technical Summary. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 39-40; IPCC, "Climate Change in Data", Available at: https://www.ipcc.ch/report/ar6/wg1/resources/climate-change-in-data/, e Bogner, J., M. Abdelrafie Ahmed, C. Diaz, *et. al.*, Waste Management, In Climate Change 2007: Mitigation. Contribution of Working Group III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [B. Metz, O.R. Davidson, P.R. Bosch, *et al.* (eds)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA., pp. 595-599.

[44] *Cf.* IPCC, 2013. Summary for Policymakers. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [eds. Stocker, T.F. et al.]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA., p. 22.

[45] *Cf.* IPCC, 2018: Annex I: Glossary [Matthews J.B.R. (ed.)]. In: Global warming of 1.5°C, Special Report of the IPCC on the impacts of global warming of 1.5ºC above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 89.

[46] The IPCC considers that, from 2011 to 2020, human activities, especially owing to their GHG emissions have caused a warming of approximately 1.1°C above the temperature that existed over the period 1850-1900. The latter is known as the "reference period" that the IPCC uses to compare the average global temperature of the Earth's surface in the pre-industrial period; that is, the period of several years prior to the start of large-scale industrial activity around 1750. This is because it is the oldest period for which global data are available. Meanwhile, the modern period comprises the years 1995 to 2014, and for projections, three future reference periods are generally used: near term (2021-2040), mid-term (2041-2060) and long term (2081-2100). *Cf.* IPCC, 2023: Summary for Policymakers. In: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, p. 4, and Ara Begum, R., R. Lempert, E. Ali, T.A. Benjaminsen, In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Portner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 136-137.

[47] *Cf.* IPCC, 2013. Summary for Policymakers. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [eds. Stocker, T.F. et al.]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA., p. 17.

[48] *Cf.* Canadell, J.G., P.M.S. Monteiro, M.H. Costa, *et. al.* In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental

47. Carbon dioxide emissions are produced mainly by combustion of fossil fuels such as petroleum, coal and natural gas and, to a lesser extent, by land-use changes.[49] The latter category relates to activities that transform the ground cover which releases stored $CO_2$ so that the land can be used for other purposes such as agriculture, livestock, urban development or industry purposes.[50] Between 1750 and 2019, the concentration of $CO_2$ in the atmosphere increased by 47%.[51] That said, in the more recent period – from 2010 to 2019, between 81% and 91% of $CO_2$ emissions caused by human beings were produced by fossil fuel combustion, while the remaining $CO_2$ emissions were the result of land-use changes.[52]

48. Methane emissions are mainly generated by agriculture, livestock, fossil fuel production and distribution, and decomposition of organic matter, in landfills for example. In the case of livestock, methane is produced by ruminants such as cows, buffalos, sheep, goats and camels. Between 1850 and 2019, atmospheric methane concentrations more than doubled.[53] Furthermore, from 2008 to 2017, approximately 62% of global human methane emissions originated from agriculture, livestock, and waste management, 30% from fossil fuels, and the remainder from biomass and biofuel combustion.[54]

49. The third of the main GHG, nitrous oxide, is produced by human activities related to agriculture, including the use and management of synthetic fertilizers and

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Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 675-754.

[49] *Cf.* Canadell, J.G., P.M.S. Monteiro, M.H. Costa, et. al. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 673-816.

[50] *Cf.* Canadell, J.G., P.M.S. Monteiro, M.H. Costa, et. al. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 673-816.

[51] Canadell, J.G., P.M.S. Monteiro, M.H. Costa, et. al. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 673-816.

[52] *Cf.* Canadell, J.G., P.M.S. Monteiro, M.H. Costa, et. al. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 676, 687-691, e IPCC, 2018: Annex I: Glossary [Matthews J.B.R. (ed.)]. In: Global warming of 1.5°C, Special Report of the IPCC on the impacts of global warming of 1.5ºC above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 76.

[53] *Cf.* IPCC. Annex III: Tables of historical and projected well-mixed greenhouse gas mixing ratios and effective radiative forcing of all climate forcers [Dentener F.J., B. Hall, C. Smith (eds.)]. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, pp. 2139-2152.

[54] *Cf.* IPCC, 2021: Annex III: Tables of historical and projected well-mixed greenhouse gas mixing ratios and effective radiative forcing of all climate forcers [Dentener F.J., B. Hall, C. Smith (eds.)]. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 2141, and Canadell, J.G., P.M.S. Monteiro, M.H. Costa, et. al. in Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 676, 700-703.

animal manure, as well as by industrial activities, in particular, certain chemical manufacturing processes, wastewater treatment, and fossil fuel combustion. Carbon dioxide and nitrous oxide are "long-lived" GHG because they persisti in the atmosphere for decades or centuries after being emitted.[55]

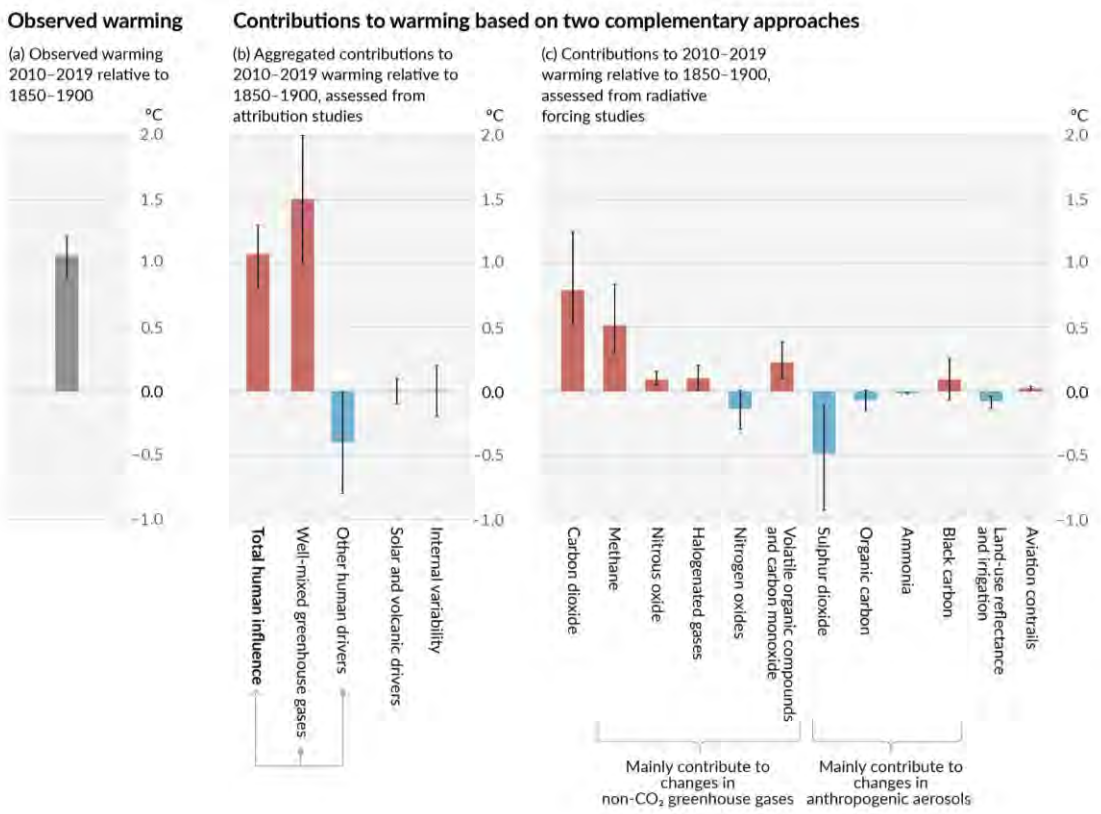
50. In addition to the above mentioned GHGs, other atmospheric agents known as "short-lived climate pollutants" (hereinafter "SLCP") also contribute to climate change. Major SLCP include aerosols (sulphate, nitrate, ammonium, carbonaceous aerosols, mineral species and sea salt), also referred to as particulate matter (PM), and chemically reactive gases [long-lived GGs] (methane, ozone, certain halogenated compounds, nitrous oxide, carbon monoxide, non-methane volatile organic compounds, sulphur dioxide and ammonia). Several SLCP, such as methane, tropospheric ozone, halogenated gases such as hydrofluorocarbons and black carbon are some of the main contributors to global warming other than $CO_2$.[56] These agents have a much shorter lifetime in the atmosphere than carbon dioxide; however, their global warming potential is significantly greater that the latter while they remain in the atmosphere.[57] Thus, for example, a specific amount of methane has a warming effect that is approximately 80 times more potent than the same amount of carbon dioxide over a 20-year timeframe.[58] The following table illustrates the contribution of $CO_2$, $CH_4$, $N_2O$, and some SLCP to average global warming:

[55] *Cf.* Canadell, J.G., P.M.S. Monteiro, M.H. Costa, et. al. in Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 708-713.

[56] *Cf*. Szopa, S., V. Naik, B. Adhikary, et. al. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 833–848.

[57] *Cf*. Brief submitted by the Coalición Latinoamericana por el Aire Libre (ALAire), pp. 3-4.

[58] Forster, P., T. Storelvmo, K. Armour, *et. al.*, 2021: The Earth's Energy Budget, Climate Feedbacks, and Climate Sensitivity. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, 923 Cambridge, United Kingdom and New York, NY, USA, tabla 7.15, p. 1017.

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### A.2. The Contribution of Different Social and Economic Sectors, States and Regions to GHG Emissions

51. The Court will now refer to the distribution of GHG emissions that are accelerating climate change between different economic activities, States, regions and segments of the population.

#### *A.2.1. The Contribution of Different Sectors of the Economy*

52. The rising levels of GHG emissions since the industrial revolution are the consequence of a transformation in production methods that has led to and unprecedented increasing in such emissions. This transformation was driven, among other factors, by the shift from biomass to coal as the predominant energy source in the early nineteenth century, thereby initiated a production model fundamentally reliant on fossil fuels. Subsequently, from the late nineteenth century to the early twentieth century, coal was largely superseded by petroleum. This hydrocarbon derivative is, today, the main source of energy at the global level, followed by two

59 *Cf.* IPCC, 2021: Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 7, Figure SPM.2.

other fossil fuels: coal and natural gas.[60]

53. Industrialization, the expansion of production, and mass consumption of goods and services has caused a sustained increase in GHG emissions, primarily due to fossil fuels use and changes in land-use. Regarding the latter, it can be seen that the transition from a subsistence economy to a transnational industrial economy, along with demographic growth has led to a significant loss of forests[61] and a drastic rise in agricultural emissions.[62]

54. Indeed, the sectoral distribution of the accumulated emissions in the atmosphere indicates that they originate primarily from the energy sector (34%), industry (24%), agriculture, livestock, forestry, and other land use (22%), transportation (15%),[63] and constructions (6%) (see *infra* Figure "a"). Moreover, it has been noted that most of the GHG emissions since the industrial revolution originated in only 90 companies, known as the "Carbon Majors." These companies are accounted for 71% of $CO_2$ emissions between 1988 and 2017. [64]

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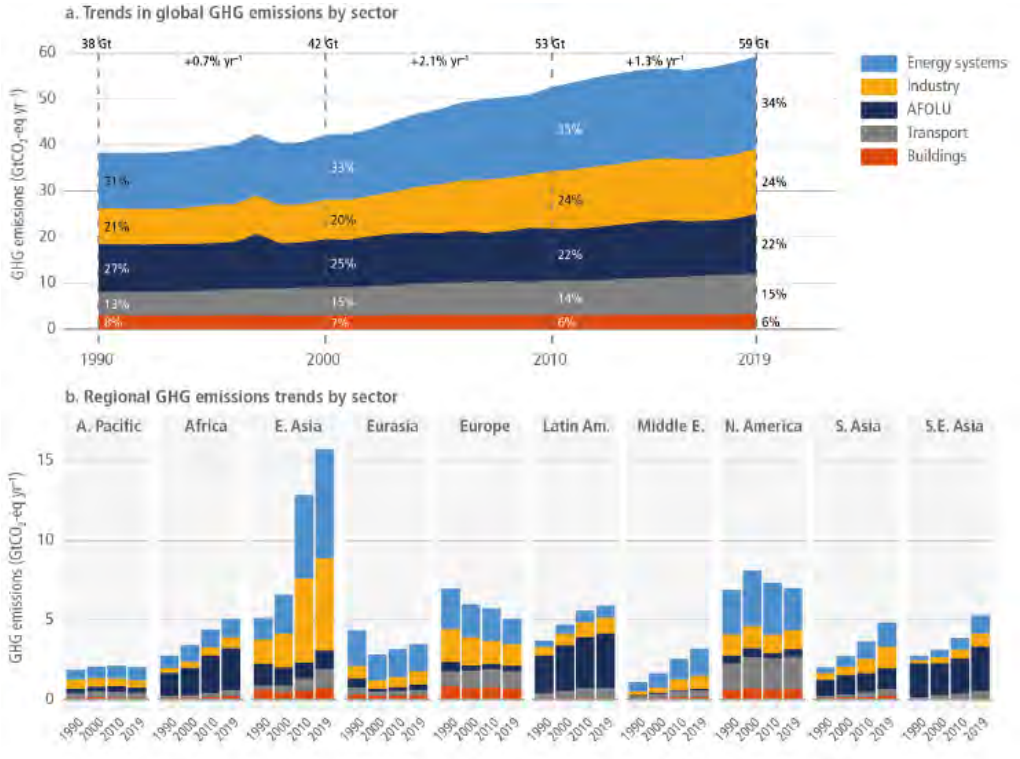
[60] Regarding the historical contribution of $CO_2$ emissions from 1850 to 2019 owing to the use of natural gas, coal and petroleum, among other fuels, see: Dhakal, S., J.C. Minx, F.L. Toth, *et. al.*, 2022: Emissions Trends and Drivers. In IPCC, 2022: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. R. Shukla, J. Skea, R. Slade, A., *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 231, Figure 2.7. According to the IPCC, in 2019, the participation of coal, petroleum and natural gas in the global total primary energy supply (TPES) was 27%, 31% and 23%, respectively. See: Clarke, L., Y.-M. Wei, A. De La Vega Navarro, A. *et. al.*, 2022: Energy Systems. In IPCC, 2022: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, A. *et. al.*, (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA. p. 622.

[61] *Cf.* Ometto, J.P., K. Kalaba, G.Z. Anshari, *et. al.*, 2022: CrossChapter Paper 7: Tropical Forests. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)], pp. 2375-2376.

[62] *Cf.* Ometto, J.P., K. Kalaba, G.Z. Anshari, *et. al.*, 2022: CrossChapter Paper 7: Tropical Forests. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2375- 2376, and Mbow, C., C. Rosenzweig, L.G. Barioni, *et. al.*, 2019: Food Security. In: Climate Change and Land: an IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems [P.R. Shukla, J. Skea, E. Calvo Buendia, *et. al.*, (eds.)], pp.439-440.

[63] The most rapidly increasing source of GHG emissions in the energy consumption sector is transportation which had an average annual growth of 1.8% in emissions over the decade from 2010-2019 *Cf.* Jaramillo, P., S. Kahn Ribeiro, P. Newman, *et. al.*, 2022: Transport. In IPCC, 2022: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 1056.

[64] The most used data source on historical GHG emissions by companies is the Carbon Majors database maintained by InfluenceMap, a British non-profit organization. The data is generated based on peer-review methods. *Cf.* "Carbon Majors", Available at: https://carbonmajors.org/index.html.

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55. In summary, although climate change has been accelerated by human activities since the industrial revolution,[66] starting in the last century such activities became the principal catalyst thereof[67] owing to factors such as intensive production and consumption and their associated impact on industrial emissions, fossil fuel combustion, and land-use changes.[68] As the IPCC notes, the unsustainability nature of current production and consumption, coupled with demographic pressures, is increasing the exposure of both ecosystems and humans to climate risks.[69]

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65 *Cf.* Dhakal, S., J.C. Minx, F.L. Toth, *et. al.*, in IPCC, 2022: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, *et. al.*, (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 238, Figure 2.13.

66 *Cf.* IPCC, 2013: Summary for Policymakers. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 11.

67 *Cf.* IPCC, 2013: Summary for Policymakers. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 17.

68 *Cf.* Dhakal, S., J.C. Minx, F.L. Toth, *et. al.* In Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, *et. al.*, (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 228-233, Figure 2.7.

69 *Cf.* IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et. al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 12.

### *A.2.2. The Contribution of Different States and Regions*

56. Historically, the contribution of different States and regions of the world to climate change has been markedly unequal. Various methods exist to analyze a State's contribution to climate change, including cumulative emissions, per capita emissions, and emissions in relation to the gross domestic product (hereinafter "GDP"). Using *cumulative emissions* which measure the total amount of GHG emissions over a specific period as a point of reference,[70] a group composed, above all, of industrial powers with economies that are highly dependent on fossil fuels has produced the highest amount of cumulative emissions.[71]

57. Some OAS Member States appear on the list among the highest cumulative $CO_2$ emitters between 1990 and 2024. Over that period, the United States produced 24.8%, Mexico 1.5% and Brazil 1.2% of cumulative $CO_2$ emissions. Other OAS Member States have had less effect on climate change because their cumulative emissions for the period from 1970 to 2022 represent 0.005% (Bahamas), 0.02% (Haiti), 0.01% (Suriname), 0.003% (Belize), 0.03% (Jamaica), 0.05% (Costa Rica), 0.04% (El Salvador), 0.10% (Cuba), 0.04% (Nicaragua), 0.06% (Panama), 0.08% (Dominican Republic), 0.07% (Paraguay), 0.12% (Bolivia), 0.05% (Honduras), 0.15% (Trinidad and Tobago), 0.20% (Ecuador), 0.22% (Peru), 0.06% (Guatemala), 0.35% (Venezuela), 0.25% (Chile), 0.30% (Colombia) and 0.45% (Argentina).[72] Even though most Latin American countries have low cumulative GHG emissions, their participation in global value chains related to extractive activities underlines the need to evaluate transnational carbon flows from a perspective of international cooperation.

58. In Latin America and the Caribbean, agriculture, forestry and other land use (AFOLU) account for 58% of total emissions[73] (see *supra* Figure "b"). One of the primary drivers within this sector is deforestation.[74] This has led to degradation of, among other areas, the Amazonian ecosystem, a crucial carbon sink that has begun

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[70] *Cf.* IPCC, 2018: Annex I: Glossary [Matthews J.B.R. (ed.)]. In: Global warming of 1.5°C, Special Report of the IPCC on the impacts of global warming of 1.5ºC above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 79-80.

[71] *Cf.* Dhakal, S., J.C. Minx, F.L. Toth, *et. al.*, 2022: Emissions Trends and Drivers. In IPCC, 2022: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, A. *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 218.

[72] *Cf.* European Commission, Joint Research Centre (JRC), *Emissions Database for Global Atmospheric Research (EDGAR), GHG emissions of all world countries report,* 2024*,* Available at: https://edgar.jrc.ec.europa.eu/report_2024#emissions_table

[73] *Cf.* Nabuurs, G-J., R. Mrabet, A. Abu Hatab, *et. al.*, 2022: Agriculture, Forestry and Other Land Uses (AFOLU). In IPCC, 2022: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, A. Al Khourdajie, *et. al.*, (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 756.

[74] *Cf.* Nabuurs, G-J., R. Mrabet, A. Abu Hatab, *et. al.*, 2022: Agriculture, Forestry and Other Land Uses (AFOLU). In IPCC, 2022: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, A. Al Khourdajie, *et. al.*, (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 756 and 767-770, and ECLAC, "Economics of climate change in Latin America and the Caribbean: a graphic view," United Nations, Santiago, 2023, p. 13. See also, FAO official data in FAOSTAT, webpage "Greenhouse gas emissions," subcategory "Land-use". Available at: https://www.fao.org/faostat/en/#data/GHG .

to emit large amounts of carbon, contributing to climate change and affecting local biodiversity and local livelihoods.[75]

59. The region has specialized in the exploitation of natural resources such as minerals, biomass, and fossil fuels, activities that have contributed to pollution and loss of biodiversity.[76]

*A.2.3. The Contribution of Different Sectors of the Population*

60. Meanwhile, the situation of the population in the various States in relation to climate change is not homogenous either. Within each State, both individuals and companies coexist, benefiting unequally from economic exchange and development itself and, are consequently, responsible in different proportions for the GHG emissions resulting from consumption.

61. Indeed, with regard to global $CO_2$ emissions, it has been indicated that half of such emissions may have been caused by the wealthiest 10% of the population, whereas half the population would be responsible for only 10% of them. In addition, it has been observed that an individual belonging to the wealthiest 1% of the population may use 175 times more $CO_2$ than someone who is among the poorest 10%.[77] According to 2019 data from Latin America and the Caribbean – considered a region that is one of the "most unequal in the world"[78] – the 10% of the population with the highest income emit 20 times more $CO_2$ than the poorest 10%.[79] In this regard, the emissions pattern reflects the prevailing inequality.[80]

62. In general, various multilateral organizations have warned that the adverse effects of climate change may disproportionately affect the social sectors with the fewest economic resources, insofar as they face greater structural barriers to anticipating, withstanding and recovering from extreme events. Nevertheless, climate vulnerability cannot be reduced solely to an economic dimension, it must instead be assessed by reference to multiple factors, including access to rights, the quality of environmental governance, and community resilience (*infra* paras. 589-594 and 619-629). In this regard, the impacts of climate change are neither neutral nor automatic, but are shaped by institutional structures, adaptive capacities, and pre-existing conditions of discrimination or exclusion.

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[75] *Cf.* Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), "The IPBES Regional Assessment Report on Biodiversity and Ecosystem Services for the Americas" , 2018, p. 25, and "Rapid assessment of the Biological Diversity and Ecosystem Services of the Amazon Basin/Region", August-September, 2023, Available at: https://files.ipbes.net/ipbes-web-prod-public-files/webform/stakeholder_days_virtual_posters/70214/view-file.pdf

[76] *Cf.* Economic Commission for Latin America and the Caribbean (ECLAC), "Natural resources outlook in Latin America and the Caribbean", 2023, chapter I, pp. 13, 135-144. Available at: https://www.ECLAC.org/en/publications/69139-natural-resources-outlook-latin-america-and-caribbean-2023 .

[77] *Cf.* Report of the Special Rapporteur on extreme poverty and human rights, "Climate change and poverty," A/HRC/41/39, July 17, 2019, para. 14.

[78] *Cf.* Inter-American Development Bank (IDB) "The Inequality Crisis. Latin American and the Caribbean at the Crossroads," 2022, p.22.

[79] *Cf.* Carlos J De Miguel and Jeannette Sánchez, "Environment and sustainable development: contemporary challenges for ECLAC and Latin America and the Caribbean," ECLAC Review, 2023, p. 137.

[80] *Cf.* Carlos J De Miguel and Jeannette Sánchez, "Environment and sustainable development: contemporary challenges for ECLAC and Latin America and the Caribbean," ECLAC Review, 2023, p. 135.

63. Inequality, both between States and among their population, must be regarded as a key factor in understanding the climate crisis. This factor is closely linked to the causes of climate change analyzed by this Court.

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

64. According to the best available science (*infra* paras. 486-487), the magnitude of the impacts of climate change at the global level is undeniable. This Court recognizes that all such impacts are deeply interconnected and are evolving rapidly. In this understanding, and bearing in mind that distinctions between the various types of impact, as well as between the harm caused to natural systems and to individuals, are relevant solely for explanatory purposes, the Court will describe, on the basis of the best available science at the time of adoption of the present decision: (B.1) the way in which climate change affects natural systems; (B.2) the impact that such effects do and may entails for individual, and (B.3) the impact in territories of particular vulnerability in the Americas.

#### B.1. The Impacts on Natural Systems

65. Scientific knowledge has established that, when the GHG emissions responsible for climate change accumulates in the atmosphere, they trigger a series of geophysical processes. These processes are exacerbated as emissions increase and they persist long after such emissions have been released.[81] These processes manifest in: (1) global temperatures and meteorological phenomena; (2) the oceans; (3) the cryosphere, and (4) ecosystems and biodiversity.

##### *B.1.1 Global Temperatures and Weather Impacts*

66. According to the IPCC, human activity is almost exclusively responsible for the rise in the average global temperature since the beginning of the nineteenth century. It is estimated that, between 1850 and 2020, natural variability has caused between -0.23°C and +0.23°C of the observed surface warming of approximately 1.1°C. This indicates that the vast majority of global warming has been attributed almost entirely to human activities, and particularly to GHG emissions.[82]

67. In turn, the increase in global temperatures has led to significant alterations in global weather patterns.[83] Among these impacts, increases in the intensity of cyclones and the frequency of heatwaves, and the unpredictability of rainfall and droughts stand

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[81] *Cf.* United Nations Environmental Program (UNEP). Adaptation Gap Report 2023: Underfinanced. Underprepared. Inadequate Investment and Planning on Climate Adaptation Leaves World Exposed, 2023, pp. 1, 4 and 10.

[82] *Cf.* Eyring, V., N.P. Gillett, K.M. Achuta Rao, *et. al.*, 2021: Human Influence on the Climate System. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 517.

[83] *Cf.* Seneviratne, S.I., X. Zhang, M. Adnan, *et. al.*, 2021: Weather and Climate Extreme Events in a Changing Climate. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1517-1520 and 1546-1597.

out.[84]

68. As for *tropical cyclones,* even though their total number is projected to decrease as a result of climate change,[85] it is estimated that they may intensify and acquire greater destructive potential due to changes in wind speed and in rainfall levels.[86] Climate change may also expand the areas affected by tropical cyclones, causing storms to form beyond the tropics. This would result in increased precipitation and flood risk, as well as in an expansion of cyclone impacts into mid-latitude regions of the planet.[87]

69. *Heatwaves* have become more intense and frequent since 1950. If global temperatures continue to rise, peaks of extreme heat will progressively become more frequent and severe. With an increase of 2°C above pre-industrial levels, the magnitude of extreme heat events would be double that expected under a 1.5°C scenario.[88]

70. Moreover, a warmer atmosphere, such as that caused by climate change contains more water por. Globally, atmospheric water vapor increases by approximately 7% for each degree of temperature increase in temperature.[89] At the local level, this relationship is more complex and depends on available of nearby water sources (such as the oceans) to supply vapor to the atmosphere. Consequently, in areas with abundant moisture sources, warming may lead to increased specific humidity and atmospheric moisture content, thereby intensifying storms and

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[84] *Cf.* Seneviratne, S.I., X. Zhang, M. Adnan, *et. al.*, 2021: Weather and Climate Extreme Events in a Changing Climate. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1517-1520 and 1546-1597.

[85] *Cf.* Seneviratne, S.I., X. Zhang, M. Adnan, *et. al.*, 2021: Weather and Climate Extreme Events in a Changing Climate. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1590-1592.

[86] *Cf.* Seneviratne, S.I., X. Zhang, M. Adnan, *et. al.*, 2021: Weather and Climate Extreme Events in a Changing Climate. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1590-1592.

[87] *Cf.* Seneviratne, S.I., X. Zhang, M. Adnan, *et. al.*, 2021: Weather and Climate Extreme Events in a Changing Climate. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1590-1592.

[88] That said, if global temperature increased by 3°C above pre-industrial levels, the magnitude of these alterations would quadruple. *Cf.* Seneviratne, S.I., X. Zhang, M. Adnan, *et. al.*, 2021: Weather and Climate Extreme Events in a Changing Climate. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1517-1518.

[89] Seneviratne, S.I., X. Zhang, M. Adnan, *et. al.*, 2021: Weather and Climate Extreme Events in a Changing Climate. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 1526.

associated flooding.[90]

71. In areas with limited sources of humidity, global warming could, to the contrary, lead to *drought*. These changes also have the potential to impact local exposure to extreme precipitation events, the generation of thunderstorms, and to alter storm tracks, which may cause that intense rainfall in areas that were previously less exposed to such phenomena.[91] Central America is one of the regions of the world that is most vulnerable to extreme weather events, particularly droughts, intense rainfall and tropical cyclones, whose impacts could be amplified.[92] Between 1992 and 2011, Honduras, Nicaragua and Guatemala were three of the ten countries most affected by extreme climate events at the global level.[93]

72. Moreover, phenomena such as wildfires not only affect biodiversity and soil health, but also increase GHG emissions. While human activity is currently the main source of ignition, climate variability and extreme events such as severe droughts, associated to agricultural expansion and deforestation, increase the frequency of wildfires, particularly in regions such as South America. The IPCC projects that rising temperature and declining rainfall will be the primary drivers of future wildfires, with a projected increase of 27% by 2050 compared to 2000 levels.[94]

### *B.1.2. Oceans*

73. The effects of climate change on the oceans include: sea level rise, acidification, heatwaves, and changes to ocean circulation currents.

74. To begin with, global sea levels have risen by an average of 20 centimeters (cm) since the beginning of the twentieth century and the rate of increase has

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[90] *Cf.* Seneviratne, S.I., X. Zhang, M. Adnan, *et. al.*, 2021: Weather and Climate Extreme Events in a Changing Climate. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 1526.

[91] Droughts are periods during which humidity is below average; they result in limitations to the availability of water and have a negative impact on diverse components of natural systems and economic sectors. Climate change has contributed to the increase in droughts in some regions owing to increases in evapotranspiration, as well as to the lack of humidity in the soil. The IPCC has classified droughts as: (i) meteorological, when there is a deficit of precipitation; (ii) agricultural, when there is a loss of or decrease in crops owing to the lack of humidity in the soil; (iii) ecological, when they occur owing to hydric stress on plants, or (iv) hydrologic, when there is a scarcity of water in streams or in deposits such as reservoirs, lakes, lagoons and underground water. *Cf.* Seneviratne, S.I., X. Zhang, M. Adnan, *et. al.*, 2021: Weather and Climate Extreme Events in a Changing Climate. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1570-1583.

[92] *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et. al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1691-1763.

[93] *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et. al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1698-1721.

[94] *Cf.* Jia, G., E. Shevliakova, P. Artaxo, *et. al*., 2019: Land–climate interactions. In: Climate Change and Land: an IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems [P.R. Shukla, J. Skea, E. Calvo Buendia, *et, al.* (eds.)], pp. 148-150.

accelerated to 3.7 millimeters (mm) a year in recent decades. This rise constitutes a delayed consequence of GHG emissions.[95]

75. It is projected that, between the beginning of the twentieth century and 2050, sea levels will increase an average of between 0.18 and 0.23 meters (m) above pre-industrial levels, with some regional variations.[96] Depending on the extent to which climate change is mitigated, sea levels are projected to rise from 0.38 to 0.77 m by the year 2100.[97]

76. Sea levels rise will heighten the risk of coastal lands erosion and submersion.[98] It will also destroy coastal ecosystems, salinize underground water sources, impact the livelihoods of coastal communities, destroy their properties and places of cultural significance, and result in forced displacements.[99] In the long term, if the rise in global temperature were to stabilize at between 2°C and 2.5°C above pre-industrial levels, the ocean will permanently inundate coasts under high tide lines, and this includes 25 mega-cities across the world where, already in 2010, between 0.6 and 1.3 billion people lived.[100]

77. Oceans play a key role in the equilibrium of the global climate because they generate approximately 50% of the oxygen required for life and absorb around 30% of atmosphere $CO_2$.[101] However, when $CO_2$ dissolves into ocean waters, it increases their acidity. Over the past 40 years, this phenomenon has reached levels

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[95] *Cf.* Fox-Kemper, B., H.T. Hewitt, C. Xiao, *et. al.*, 2021: Ocean, Cryosphere and Sea Level Change. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 1216.

[96] *Cf.* Fox-Kemper, B., H.T. Hewitt, C. Xiao, *et. al.*, 2021: Ocean, Cryosphere and Sea Level Change. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1216-1217.

[97] *Cf.* Fox-Kemper, B., H.T. Hewitt, C. Xiao, *et. al.*, 2021: Ocean, Cryosphere and Sea Level Change. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1216-1217.

[98] *Cf.* Cooley, S., D. Schoeman, L. Bopp, *et. al.*, 2022: Oceans and Coastal Ecosystems and Their Services. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 382-391.

[99] *Cf.* Cooley, S., D. Schoeman, L. Bopp, *et. al.*, 2022: Oceans and Coastal Ecosystems and Their Services. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 382-391.

[100] *Cf.* Cooley, S., D. Schoeman, L. Bopp, *et. al.*, 2022: Oceans and Coastal Ecosystems and Their Services. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 478.

[101] *Cf.* United Nations, "The Ocean – the world´s greatest ally against climate change," available at: https://www.un.org/en/climatechange/science/climate-issues/ocean.

unprecedented in the last 26,000 years.[102] Acidification reduces the growth and survival of a wide range of marine organisms, including coral reefs and other species, thereby diminishing marine biodiversity.[103] Simultaneously, ocean warming leads to a loss of dissolved oxygen. This phenomenon has occurred in most oceanic regions since the mid-twentieth century. On average, the oceans lost between 0.5% and 3.3% of their oxygen content between 1970 and 2010.[104] Under a scenario involving strong mitigation of future GHG emissions, the average content of oceanic oxygen levels observed at the beginning of the twenty-first century (from 1995 to 2014) are projected to decline by 4.1% to 4.2% at the end of this century (between 2081 and 2100).[105] Deoxygenation affects critical physiological functions of marine organisms, including their energy metabolism.[106]

78. Since the nineteenth, oceans have warmed by 0.88°C and now store 90% of the excess heat added to the atmosphere, climate change caused by the human being[107] also extends and intensifies marine heatwaves. Between 1982 and 2016, marine heatwaves doubled in frequency and became longer, more intense, and more widespread. Between 84% to 90% of these events occurring between 2006 and 2015 have been attributed to anthropogenic temperature increases.[108] It is estimated that, by the end of the twenty-first century, global warming exceeding 2°C above pre-industrial levels will result in marine heatwaves that are four times more frequent than those recorded at the beginning of this century.[109] By 2100, sea surface temperatures

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102 *Cf.* Arias, P.A., N. Bellouin, E. Coppola, *et. al.*, 2021: Technical Summary. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 76.

103 *Cf.* Cooley, S., D. Schoeman, L. Bopp, *et. al.*, 2022: Oceans and Coastal Ecosystems and Their Services. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 381-384.

104 *Cf.* Bindoff, N.L., W.W.L. Cheung, J.G. Kairo, *et. al.*, 2019: Changing Ocean, Marine Ecosystems, and Dependent Communities. In: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate [H.-O. Pörtner, D.C. Roberts, V. Masson-Delmotte, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 450.

105 *Cf.* Cooley, S., D. Schoeman, L. Bopp, *et. al.*, 2022: Oceans and Coastal Ecosystems and Their Services. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, 397.

106 *Cf.* Cooley, S., D. Schoeman, L. Bopp, *et. al.*, 2022: Oceans and Coastal Ecosystems and Their Services. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 400-401.

107 *Cf.* Arias, P.A., N. Bellouin, E. Coppola, *et. al.*, 2021: Technical Summary. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 74.

108 *Cf.* IPCC, 2019: Technical Summary [H.-O. Pörtner, D.C. Roberts, V. Masson-Delmotte, *et. al.* (eds.)]. In: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate [H.- O. Pörtner, D.C. Roberts, V. Masson-Delmotte, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 67.

109 *Cf.* Fox-Kemper, B., H.T. Hewitt, C. Xiao, *et. al.*, 2021: Ocean, Cryosphere and Sea Level Change. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 1214.

in Central and South America are projected to rise, on average, by 1°C under a moderate mitigation scenario, and by up to 2°C if emissions continue unabated, relative to the 1985–2014 baseline. The southeastern and northeastern coast of South America will be particularly affected, with projected temperature increases of 2°C under a moderate scenario and up to 4°C under a high- emissions trajectory.[110]

79. These marine heatwaves have had adverse impact on marine organisms and ecosystems in all ocean basins over the past two decades, including foundational species such as coral, sea grass and seaweed.[111] These effects are already occurring under current levels of global warming. Large-scale coral bleaching, which occurred continually in different part of the tropics between 2014 and 2016, is considered to be the longest and most severe coral bleaching event recorded at the global level.[112] If the warming reaches 1.5°C above pre-industrial levels, from 70% to 90% of coral reefs will be lost. With 2°C warming above pre-industrial levels, the IPCC predicts that 99% of coral reefs will be lost irreversibly.[113] The harm to coral reefs reduces their capacity to protect coastal areas.[114]

80. This consequence is particularly serious insofar as coral reefs are one of the most biodiverse ecosystems, valued for their ecological, economic, aesthetic and cultural functions.[115] They are home to numerous species of fish, crustaceans, and sponges among other marine life. In addition, at least 25% of all marine life depends on these ecosystems at some point of the life cycle.[116] Coral reefs also serve to shield coastal areas from storms and hurricanes.[117]

81. These effects are compounded by disruptions to ocean circulation. This is a critical process on which heat circulation around the Earth and prevailing climate patterns depend. The IPCC has estimated that the Atlantic Meridional Overturning

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110 *Cf.* Ranasinghe, R., A.C. Ruane, R. Vautard, *et. al.*, 2021: Climate Change Information for Regional Impact and for Risk Assessment. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1812-1820.

111 *Cf.* IPCC, 2019: Technical Summary [H.-O. Pörtner, D.C. Roberts, V. Masson-Delmotte, *et. al.* (eds.)]. In: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate [H.- O. Pörtner, D.C. Roberts, V. Masson-Delmotte, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 67.

112 *Cf.* Cooley, S., D. Schoeman, L. Bopp, *et. al.*, 2022: Oceans and Coastal Ecosystems and Their Services. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 412-415.

113 *Cf.* IPCC, 2018: Summary for Policymakers. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 8.

114 *Cf.* Oppenheimer, M., B.C. Glavovic, J. Hinkel, *et. al.*, 2019: Sea Level Rise and Implications for Low-Lying Islands, Coasts and Communities. In: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate [H.-O. Pörtner, D.C. Roberts, V. Masson-Delmotte, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 379.

115 *Cf.* Brief with observations submitted by the Centro Mexicano de Derecho Ambiental (CEMDA), Healthy Reefs for Healthy People and Asociación Interamericana para la Defensa del Ambiente (AIDA), p. 2.

116 *Cf.* Brief with observations submitted by the Centro Mexicano de Derecho Ambiental (CEMDA), Healthy Reefs for Healthy People and Asociación Interamericana para la Defensa del Ambiente (AIDA), p. 2.

117 *Cf.* Brief with observations submitted by the Centro Mexicano de Derecho Ambiental (CEMDA), Healthy Reefs for Healthy People and Asociación Interamericana para la Defensa del Ambiente (AIDA), p. 4.

Circulation (AMOC)[118] will probably weaken throughout the twenty-first century as a result of climate change and that it could collapse by 2300, depending on the magnitude of future global warming.[119]

### *B.1.3. The Cryosphere*

82. The word cryosphere refers to those portions of the Earth that are covered by water is its solid state. It thus encompasses snow cover, freshwater ice, sea ice, glaciers, ice sheets, and permafrost; namely, the permanently frozen layer of ice within the ground.[120]

83. Glaciers exist at most latitudes and high-altitude regions of the world. Over the past 150 years, their extent has decreased in every regions except Antarctica. Between 2010 and 2019, glaciers worldwide lost more mass that in any previous decade since observations began. Decadal to centennial scale global warming of anthropogenic origin is the principal cause of glacier melt.[121] This is because the area of a glacier is generally unaffected by short-term climate fluctuations, but highly affected by trends on a 10-year or 100-year scale, which, in turn, are evident consequences of human influence on the climate.[122]

84. Glaciers will continue decreasing in volume for at least several decades due to past GHG emissions, even if the global temperature were to stabilize. Many glaciers are destined to disappear by the end of the twenty-first century.[123] Even in a moderate

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[118] The Atlantic meridional overturning circulation is the main ocean current system in the Noth and South Atlantic oceans, it transports warm water from the upper layers of the ocean towards the north and returns cold water towards the south. Its weakening could lead to a decrease in marine productivity in the North Atlantic, the reduction of rainfall in the Sahel region in Africa and in South Asia, an increase in the regional sea level along the northeastern coast of North America, and more storms in Europe. See: Fox-Kemper, B., H.T. Hewitt, C. Xiao, *et. al.*, 2021: Ocean, Cryosphere and Sea Level Change. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al*. (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1236-1238, and IPCC, 2019: Summary for Policymakers. In: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate [H.-O. Pörtner, D.C. Roberts, V. Masson-Delmotte, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 19.

[119] *Cf.* Fox-Kemper, B., H.T. Hewitt, C. Xiao, *et. al.*, 2021: Ocean, Cryosphere and Sea Level Change. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1236-1239.

[120] *Cf.* Abram, N., J.-P. Gattuso, A. Prakash, et. al., 2019: Framing and Context of the Report. In: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate [H.-O. Pörtner, D.C. Roberts, V. Masson-Delmotte, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 78-79.

[121] *Cf.* Fox-Kemper, B., H.T. Hewitt, C. Xiao, *et. al.*, 2021: Ocean, Cryosphere and Sea Level Change. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1215, 1273-1280.

[122] Cf. Lemke, P., Ren, J., Alley, R.B., Allison, I., Carrasco, J., Flato, G., Fujii, Y., Kaser, G., Mote, P., Thomas, R.H., & Zhang, T. (2007). Observations: Changes in Snow, Ice and Frozen Ground. In: Solomon, S., Qin, D., Manning, M., *et al*. (eds.), Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change. Cambridge University Press, Cambridge, p. 357.

[123] *Cf.* Fox-Kemper, B., H.T. Hewitt, C. Xiao, *et. al.*, 2021: Ocean, Cryosphere and Sea Level Change. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth

warming scenario, volume losses of between 78-97% are predicted in tropical glaciers before the end of the century.[124]

85. Seasonal glaciers and snow melt in the Andes has historically been a key source of streamflow for downstream communities, particularly during dry months. However, the accelerated melting of glaciers, increases in temperature and variations in rainfall have had a negative impact on ecosystems, access to water, and the lifestyles of the villages near the Andes, affecting water security, energy generation, and the production of crops that are vital for their survival and the economy.[125]

*B.1.4. Biodiversity and Ecosystems*

86. Climate change affects biodiversity and ecosystems. Some projections calculate that the current rate of extinction is between 100[126] and 1,000[127] times greater than the rate of natural extinction, and it is probable that, today, one million species are already at risk of extinction.[128] In terrestrial ecosystems, between 3 to14% of the species evaluated will face a very high risk of extinction at global warming levels of 1.5°C, with the amount of highly at-risk species increasing between 3 to18% at 2°C, between 3 to29% at 3°C, between 3 to39% at 4°C, and between 3 to48% at 5°C.[129] Similarly, the IPCC has estimated that, of the more than 2,700 species in critical biodiversity hotspots,[130] 44% are at high risk of extinction and 24% are at very high risk of extinction due to climate change.[131]

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Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 1215.

124 *Cf.* United Nations Educational, Scientific and Cultural Organization (UNESCO), "The Andean Glacier and Water Atlas," 2018, p.50.

125 *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et. al.,* 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1691, 1725, 1766.

126 *Cf.* Secretariat of the Convention on Biological Diversity, "Biodiversity, Development and Poverty Alleviation: Recognizing the Role of Biodiversity for Human Well-being", 2009, p. 4.

127 *Cf.* De Vos, J.M., Joppa, L.N., Gittleman, J.L., *et. al.*, Estimating the normal background rate of species extinction. Conservation Biology, 29: 452-462, 2015, p. 452, in: Arneth, A., F. Denton, F. Agus, *et. al.*, 2019: Framing and Context. In: Climate Change and Land: an IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems [P.R. Shukla, J. Skea, E. Calvo Buendia, *et. al.*, (eds.)], p. 88.

128 *Cf.* Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), "The global assessment report on Biodiversity and Ecosystem Services: summary for policy makers," 2019, p. 12.

129 *Cf.* IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et. al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 14.

130 Biodiversity hotspots are defined as those regions with significant global value as they are exceptionally rich in species and ecologically unique, because their species and habits are not found anywhere else in the world. See: Costello, M.J., M.M. Vale, W. Kiessling, *et. al.*, 2022: Cross-Chapter Paper 1: Biodiversity Hotspots. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2151.

131 *Cf.* Costello, M.J., M.M. Vale, W. Kiessling, et. al., 2022: Cross-Chapter Paper 1: Biodiversity Hotspots. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group

87. Climate change has caused significant and irreversible damage to ecosystems throughout the world.[132] These significant damages include the loss and extinction of species, an increase in diseases and events of mass mortality among plants and animals, an increase in the areas devastated by forest fires, and a decrease in crucial ecosystem services. The increase in global warming impacts the integrity of physical and terrestrial ecosystems, expedites the retreat of the Andean glaciers and exacerbates the reduction in the net primary production of tropical forests. Moreover, an increase in global warming affects the oceanic and coastal ecosystems in the region. Central and South America host ecosystems that are found nowhere else on the planet and a considerable percentage of global biodiversity, both of which will be strongly impacted by climate change.[133]

88. In sum, based on the aforementioned scientific reports, this Tribunal warns that climate change generates a series of alterations that will drastically change the physical and chemical processes of our planet. As will be described in the following section, these alterations have a severe and direct impact on human beings´ living conditions.

### B.2. The Impacts on Individuals

89. Environmental risks and the disinformation[134] that surround them represent one of the main threats that humanity currently faces.[135] According to the IPCC, climate change produces a series of consequences that have a profound impact on individuals, in relation to aspects such as a dignified existence, health, food and water security, and economic situation.[136] These consequences inevitably impact human rights.

90. Indeed, climate change impacts the conditions required for human beings to enjoy a **dignified existence**. The exposure to extreme climate events such as

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II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, et. al. (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2125.

[132] *Cf.* Pörtner, H.-O., D.C. Roberts, H. Adams, *et. al.*, 2022: Technical Summary. [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et. al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 45-48.

[133] *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et. al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1695-1721.

[134] According to a 2025 report by the World Economic Forum, "[m]isinformation and disinformation lead the short-term risks and may fuel instability and undermine trust in governance, complicating the urgent need for cooperation to address shared crises." *Cf.* World Economic Forum, "The Global Risks Report, 2025: conflict, environment and disinformation top the list of threats." Press release: at: https://www.weforum.org/press/2025/01/global-risks-report-2025-conflict-environment-and-disinformation-top-threats/

[135] *Cf.* Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, "Promotion and protection of human rights in the context of climate change", A/77/226, July 26, 2022, para. 88.

[136] Cf. IPCC, 2012: Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation. A Special Report of Working Groups I and II of the Intergovernmental Panel on Climate Change [Field, C.B., V. Barros, T.F. Stocker, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK, and New York, NY, USA, pp. 239-251.

heatwaves, floods, droughts, forest fires,[137] and air pollution[138] can, among others, lead to injury and death.

91. The World Health Organization (WHO) estimates that, by 2030, heat stress, malaria, diarrhea, and malnutrition will cause approximately 250,000 climate-related deaths per year.[139] In addition, **health** will be affected due to the increase in food, vector, and water-borne diseases and respiratory tract infections.[140] Regarding the former, dengue, in particular, is currently the most rapidly spreading vector-borne disease, with a threefold increase in global incidence that is largely attributable to climate change.[141]

92. Likewise, climate change increases diseases arising from inadequate access to food, water, clean air, and livelihoods.[142] Climate change can also cause emotional anguish, new mental health problems, and/or an exacerbation of the situation of those already living with such conditions.[143]

93. Climate change also results in a reduction in food production[144] because more frequent and/or more prolonged droughts and less rainfall translate into a decrease in the yields of crucial crops that may undermine **food security**.[145] Moreover, the

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137 *Cf.* Seneviratne, S.I., X. Zhang, M. Adnan, *et. al.*, 2021: Weather and Climate Extreme Events in a Changing Climate. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1546-1600.

138 *Cf.* World Health Organization, "Air pollution: A global assessment of exposure and burden of disease", 2016, pp. 23-50.

139 *Cf.* World Health Organization, "Quantitative Risk Assessment of the Effects of Climate Change on Selected Causes of Death, 2030s and 2050s", 2014.

140 Vector-borne diseases are those due to infections produced by viruses, bacteria, or parasites transmitted to human beings by the bites of infected arthropods such as mosquitos, ticks, triatomine bugs (known as bedbugs); sand flies and blackflies. The disease is caused by the infectious agent (such as a virus), not by the vector in itself, which merely acts as the transmitter. Cf. Confalonieri, U., B. Menne, R. Akhtar, et. al., 2007: Human health. Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, M.L. Parry, O.F. Canziani, J.P. Palutikof, *et. al.* Eds., Cambridge University Press, Cambridge, UK, pp. 391-431.; and Report of the then Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, A/74/161, July 15, 2019, paras. 31-32.

141 Cf. Report of the then Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, A/74/161, July 15, 2019, paras. 31-32.

142 Cf. Report of the then Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, A/74/161, July 15, 2019, paras. 31-32

143 *Cf.* World Health Organization, "Mental Health and Climate Change: Policy Brief", 2022, Available at: IPCC, 2023: Summary for Policymakers. In: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 6, 7 and 15.

144 *Cf.* Bezner Kerr, R., T. Hasegawa, R. Lasco, *et. al.*, 2022: Food, Fibre, and Other Ecosystem Products. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 717-719.

145 Understood as "a situation that exists when all peoples, at all times, have physical, social and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life." *Cf.* Food and Agriculture Organization, "The State of Food Insecurity in the World", 2001, p. 49.

decrease in the seasonal availability of water may result in **water insecurity.**[146]

94. Additionally, climate disasters can lead to irrevocable losses of sense of belonging,[147] and endanger sites that are the cultural[148] and natural heritage of humanity,[149] which would culminate in a violation of human beings´ right to access and enjoy cultural heritage. Indeed, certain extreme climate disasters could cause significant damage to sites that have been declared the cultural or natural heritage of humanity pursuant to the 1972 UNESCO Convention, thereby affecting the material conditions for the exercise of the right "to take part in cultural life" in the words of Article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). In contexts in which such sites constitute essential elements of the collective identity of peoples or communities, their degradation may have repercussions on the continuity of cultural practices, livelihoods, and territorial links, which deserve special attention by States within the framework of their obligations to protect and preserve rights (*infra* paras. 448-450).

95. Furthermore, climate disasters may have consequences such as damages to infrastructure, the suspension of basic services, the destruction of housing, and the loss of jobs and income; they may also lead to the interruption of livelihoods and to involuntary displacement and migration.[150] In addition to their devastating impact on the lives of those affected, the aforementioned consequences result in **extraordinary economic losses**. The main losses arise from damage to property and infrastructure, and interruptions to the supply chain owing to extreme climate events.[151] Similarly, the impact on crop yields, water availability, and outdoor labor productivity due to heat stress, among other effects, affect diverse sectors of the economy. The most significant economic losses occur in sectors with high direct exposure to the climate, including agriculture, forestry, fisheries, energy and regional tourism.[152]

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146 *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et. al.*, 2022: Central and South Ameica. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1722-1723.

147 *Cf.* IPCC, 2023: Sections. In: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, p. 51.

148 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et. al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2069.

149 For example, "glaciers in one-third of World Heritage sites will disappear by 2050 regardless of the applied climate scenario and glaciers in around half of all sites could almost entirely disappear by 2100 in a business-as-usual emissions scenario." *Cf.* UNESCO and IUCN, "World Heritage Glaciers: Sentinels of Climate Chance", 2022. p. 29.

150 *Cf.* Cissé, G., R. McLeman, H. Adams, *et. al.*, 2022: Health, Wellbeing, and the Changing Structure of Communities. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, et. al. (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1044-1047, and Statement at the conclusion of the country visit to Honduras by the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Mr. Ian Fry, September 27, 2023.

151 *Cf.* Pörtner, H.-O., D.C. Roberts, H. Adams, I. *et. al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 55.

152 *Cf.* IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et. al.*

96. The aforementioned economic impacts result in a significant loss in the Gross Domestic Product (GDP) for several countries. In fact, extreme climate events have already cost high percentages of GDP in some cases. From 2000 to 2019, five of the top twenty countries with the greatest economic losses as a share of GDP were located in the Caribbean.[153] According to the Inter-American Development Bank (IDB), climate-related natural disasters can reduce the GDP of some Caribbean countries by up to 3.6%.[154]

97. Impacts of climate change such as growing food insecurity, the economic downturn, migrations, water scarcity, and extreme weather events also create a challenge for **democracy.**[155] As a "threat multiplier," climate change also exacerbates underlying factors of conflict, exercises pressure on public finances, aggravates resource inequalities, and increases political and social tensions.[156]

98. These threats do not affect all human beings equally, nor are they distributed proportionately at the global level.[157] The risk of suffering the impacts of climate change depends on the dynamic interaction between exposure to climate impacts and vulnerability. Means of subsistence that depend on the climate, such as agriculture and fishing, are especially vulnerable to extreme events. When those sectors are affected, the communities that depend on them suffer economic losses, intensifying their **poverty.**[158] Given that these activities are usually concentrated in regions that are already vulnerable, these impacts also exacerbate existing inequalities.[159] In this

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(eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 54-55.

153 *Cf.* World Meteorological Organization, "Economic costs of weather-related disasters soars but early warnings save lives", Available at: https://wmo.int/media/news/economic-costs-of-weather-related-disasters-soars-early-warnings-save-lives, and World Bank Group, "A Roadmap for Climate Action in Latin America and the Caribbean 2021 – 2025", 2022, p. 42.

154 *Cf.* IDB, "Climate Change and Latin America and the Caribbean: Fact Sheets", Available at: https://www.iadb.org/en/news/climate-change-and-latin-america-and-caribbean.

155 *Cf.* International IDEA Discussion Paper No. 3/2021, "Democracy and the Challenge of Climate Change", 2021, pp. 12-22.

156 Some specific impacts of climate change related to increases in political instability, and violent and large-scale conflict are: the scarcity of key resources (such as, water, food, land, and other natural resources); the undermining of livelihoods – due to losses in crop yields, the destruction of natural resources, homes and properties, among other elements – culture and identity; increasing displacement and migration, all of which can contribute to political instability and violent conflict. *Cf.* United Nations Environment Programme (UNEP), "Climate change and human rights," 2015, pp. 7-8.

157 *Cf.* IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et. al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 13.

158 *Cf.* World Bank Group, "A roadmap for climate action in Latin America and the Caribbean 2021-2025", 2022, p.1; Birkmann, J., E. Liwenga, R. Pandey, *et. al.*, 2022: Poverty, Livelihoods and Sustainable Development. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1174-1177.

159 *Cf.* Birkmann, J., E. Liwenga, R. Pandey, *et. al.*, 2022: Poverty, Livelihoods and Sustainable *Development*. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1174-1177.

way, global hotspots of high human vulnerability have been observed in regions with low emissions such as West, Central and East Africa, South Asia, Central and South America, Small Island Developing States, and the Arctic.[160]

99. Even though the impacts of climate change are not distributed uniformly, their severity depends on both physical exposure and the institutional and economic capacity to prevent, mitigate or adapt to the risk. Activities such as agriculture and fishing, fundamental for many local economies, face significant risks due to extreme events. The correlation between fewer emissions and greater vulnerability observed by the IPCC should not be interpreted as a direct causal relationship, but rather as a reflection of structural asymmetries in access to infrastructure, climate financing, and adaptation capabilities.

100. It is the poorest and most unequal regions of the world that are the most susceptible to experiencing the most severe consequences of climate change; precisely because their means of subsistence are more climate sensitive, they have fewer resources and capabilities to address those consequences, they have limited access to basic services and resources, they usually face greater governance challenges, and they are more likely to experience violent conflicts.[161] These circumstances explain why more than 91% of deaths caused by disasters relating to climate change over the last 50 years have affected the people of the poorest countries.[162] In brief, it is people living in poverty, who have least contributed to emissions and who have the least adaptation capabilities, who will be the hardest hit by climate change.[163]

101. The difference between high and low vulnerability is not minor. For example, between 2010 and 2020, human mortality caused by floods, droughts and storms was 15 times greater in highly vulnerably regions than in regions with low vulnerability. In addition, this vulnerability is driven by intersectional socio-economic development patterns, unsustainable use of ocean and land, marginalization, historical and current-day patterns of inequality, and governance deficit. According to the IPCC, approximately 3.3 billion people live in countries with "high" or "very high" vulnerability levels.[164] The IPCC has also pointed out that the greatest impacts resulting from the increase in extreme climate and weather events, in terms of acute food insecurity and reduced water security, have been observed in communities in Africa, Asia, Central

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160 *Cf.* IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et. al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 13.

161 *Cf.* Birkmann, J., E. Liwenga, R. Pandey, *et. al.*, 2022: Poverty, Livelihoods and Sustainable Development. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1174-1176, 1251-1253, and Report of the Special Rapporteur on extreme poverty and human rights, "Climate change and poverty," A/HRC/41/39, July 17, 2019, para. 12.

162 *Cf.* World Meteorological Organization (WMO), "Atlas of Mortality and Economic Losses from Weather, Climate and Water-related Hazards (1970-2019)", 2021, p. 17.

163 *Cf.* Report of the Special Rapporteur on extreme poverty and human rights, "Climate change and poverty," A/HRC/41/39, July 17, 2019, para. 12.

164 *Cf.* Birkmann, J., E. Liwenga, R. Pandey, *et. al.*, 2022: Poverty, Livelihoods and Sustainable Development. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 1174.

and South America, the Least Developed Countries (LDCs), Small Island States, and the Arctic, as well as among small-scale food producers, low-income households, and indigenous communities throughout the world. This dynamic is replicated on all continents and within every State in the world.[165]

102. The damage to urban infrastructure, including transportation, water, sanitation and energy systems, caused by extreme events and slow development, has resulted in economic losses, disruption of services and impacts to well-being whose effects are felt most significantly by socially and economically marginalized urban residents, such as those living in informal settlements.[166] Additionally, the impacts on health depend, to a great extent, on the socio-economic conditions of the population, while displacement caused by climate and weather events especially harms the small island States in the Caribbean and the South Pacific, which are disproportionately affected in relation to the size of their populations.[167]

103. The inhabitants of the small island States face a growing risk of having to relocate due to increasing difficulties relating to access to food and water, and the decrease in habitable land.[168] As extreme climate events intensify, large-scale displacement will become more pronounced. In 2021, it was already calculated that, in Latin America, there would be 17.1 million displaced persons owing to climate change (2.6% of the total population). The World Bank estimates that, by 2050, 216 million people from the poorest regions and those most vulnerable to the climate will be displaced by events related to climate change[169].

104. The aforementioned impacts are particularly severe in the region of Latin America and the Caribbean[170] owing to factors such as the dependence on coastal ecosystems for food and livelihoods,[171] the existence of areas that are highly

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165 *Cf.* IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et. al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)], p. 9.

166 *Cf.* IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et. al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)], p. 11.

167 *Cf.* Cissé, G., R. McLeman, H. Adams, *et. al.*, 2022: Health, Wellbeing, and the Changing Structure of Communities. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1045-1059.

168 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et. al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2067-2068, 2073, 2077.

169 *Cf.* Clement, Viviane, Kanta Kumari Rigaud, Alex de Sherbinin, *et. al.* 2021. Groundswell Part 2: Acting on Internal Climate Migration. Washington, DC: The World Bank, pp 4-6. Available at https://openknowledge.worldbank.org/bitstreams/158b2f56-a4db-5a2d-93b9-0070068fa084/download

170 *Cf.* World Meteorological Organization, " Economic costs of weather-related disasters soars but early warnings save lives," 2023. Press Release 22052023. See: Brief with observations submitted by the Institute for Governance and Sustainable Development. Annex: "Climate science," 2023, pp. 27-28. https://www.igsd.org/contributions-to-the-inter-american-court-of-human-rights-advisory/

171 *Cf.* I Brief with observations submitted by the Institute for Governance and Sustainable Development. Annex: "Climate science," pp. 27, 31, and footnote 238.

vulnerable to extreme climate events,[172] and the region's susceptibility to natural catastrophes.[173] Moreover, Latin America and the Caribbean is also the most unequal region in the world, with high poverty levels.[174] The World Bank calculates that, in the region, the richest 10% accumulate 77% of the wealth and the poorest 50% accumulate only 1%.[175] By 2019, in Latin America, consumption by the richest 1% of the population had concentrated 92.03% of $CO_2$ emissions per capita, while the rest of the population had generated merely 7.97%.[176] Furthermore, the consumption of the wealthiest 0.1% was responsible for 70.41% of $CO_2$ emissions per capita, while the poorest 50% was responsible for 0.27% of annual emissions.[177]

### B.3. Climate impacts in territories with special vulnerability in the Americas

105. While not ignoring the important impacts predicted for other regions and ecosystems of the Americas, the Court will refer, in particular, to those that are projected to affect the Amazon region and the small island States of the Caribbean.

#### *B.3.1. The Amazon*

106. The Amazon, covering approximately 5.8 million square kilometers, constitutes the largest river basin,[178] and the most biological diverse area on the planet,[179] hosting the greatest number of plants and animals in Latin America.[180] The Court underscores the global importance of the Amazonian ecosystems, which regulate the climate

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[172] For example, the Dry Corridor in Central America, which is composed of a group of ecosystems with especially reduced precipitation, is an area that is extremely vulnerable to extreme climate events, and where long periods of drought are followed by intense rainfall that strongly affects the livelihoods and food security of local populations. *Cf.* United Nations Organization for Food and Agriculture (FAO). "*Países del corredor seco centroamericano fortalecen sus gestiones de apoyo frente a fenómenos climático"* [Countries of the Central American dry corridor strengthen their support mechanisms in the face of climate events] available at: https://www.fao.org/americas/news/news-detail/corredor-seco-gestiones/es. See also, Brief with observations submitted by La Ruta del Clima, p.7.

[173] *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et. al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1698-1724. Entre 2000 and 2019, Latin America and the Caribbean (LAC) was the second most disaster-prone region in the world, with 152 million people affected by 1,205 disasters; these included floods, storms, earthquakes, droughts, landslides, wildfires, and extreme heat. See: United Nations Office for the Coordination of Humanitarian Affairs, "Natural Disasters in Latin America and the Caribbean, 2000-2019", 2020, p. 2.

[174] *Cf.* Economic Commission for Latin America and the Caribbean (ECLAC), "Economic Survey of Latin America and the Caribbean 2024: low-growth trap, climate change and employment trends", LC/PUB.2024/10-P, 2024, p. 226, and "The Portal of inequalities in Latin America," 2024, p.2.

[175] *Cf.* Development Bank of Latin America and the Caribbean, "*Desigualdad and baja movilidad social en América Latina and the Caribbean*", 2022, Available at: https://www.caf.com/es/blog/desigualdad-y-baja-movilidad-social-en-america-latina-y-el-caribe/.

[176] *Cf.* Stockholm Environment Institute (SEI). Emissions Inequality Calculator. Comparison Dashboard, Latin America and World. Available at: https://emissions-inequality.org/compare/

[177] *Cf.* Stockholm Environment Institute (SEI). Emissions Inequality Calculator. Comparison Dashboard, Latin America and World. Disponible in: https://emissions-inequality.org/compare/

[178] *Cf*. United Nations Development Programme (UNDP), "The Amazon and Agenda 2030 (Policy Paper)", 2016, p. 11, available at: https://www.undp.org/sites/g/files/zskgke326/files/migration/latinamerica/UNDP-RBLAC-AmazonAgenda2030EN.pdf

[179] *Cf.* Science Panel for the Amazon (United Nations Sustainable Development Solutions Network), C. Nobre, A. Encalada, E. Anderson, *et al.*, "Amazon Assessment Report 2021 — Chapter 3 | Biological diversity and ecological networks in the Amazon", 2021, p. 4-7.

[180] *Cf.* IPCC, "IPCC Technical Paper V: Climate change and biodiversity," 2002, p. 36.

through evapotranspiration – removing latent heat from the surface and releasing it to the atmosphere through condensation and cloud formation- and also function as carbon sinks, especially in the undisturbed regions of the Amazon lowland forest in which between 150 and 200 billion tons of carbon are stored.[181]

107. Climate change is causing the transition from humid to drier forests in the region[182], undermining – to "a point of no return"[183] – the potential of the Amazon tropical forests to function as carbon sinks[184]. This is due, in particular, to fires, forest degradation, and the long-term loss of forest structure.[185] During the public hearings held by the Court, it was informed that the dry season in the southern part of the Amazon had lengthened by from four to five weeks over the past 40 years, with concerns raised that if it extends to six weeks, the climate could shift towards that of a tropical savannah. It was argue that, in order to avoid a point of no return, it was essential to halt deforestation and fires, encourage reforestation, and take advantage of the knowledge of the Indigenous Peoples.[186] According to the IPCC, it is predicted that, by 2050, climate change is projected to have greater impact than deforestation on the loss of tree species in the Amazon.[187] Biodiversity loss is further accelerated by pollution, ecosystem fragmentation, overexploitation and the effects of climate change.[188]

108. Eighty percent of the population of the Amazon basin population resides in flood-prone areas, heightening their vulnerability. In particular, the Indigenous Peoples, whose subsistence depends on natural resources, face even greater risks from extreme climate events that affect their food systems. The presence of endemic diseases in the region intensifies the disproportionate impacts on t suffered by these

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181 *Cf.* Science Panel for the Amazon (United Nations Sustainable Development Solutions Network), C. Nobre, A. Encalada, E. Anderson *et al*. "Executive Summary of the Amazon Assessment Report 2021", 2021, pp. 11-13.

182 *Cf.* Ometto, J.P., K. Kalaba, G.Z. Anshari, *et. al.*, 2022: CrossChapter Paper 7: Tropical Forests. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2371.

183 *Cf.* Comments made by Eduardo Assad, Julia Areira, Diego Oliverira and Carlos Nobre, at the public hearing held in Manaus, Brazil, during the Court's 167th regular session.

184 *Cf.* Ometto, J.P., K. Kalaba, G.Z. Anshari, *et. al.*, 2022: CrossChapter Paper 7: Tropical Forests. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2371.

185 *Cf.* Ometto, J.P., K. Kalaba, G.Z. Anshari, *et. al.*, 2022: CrossChapter Paper 7: Tropical Forests. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2371.

186 *Cf.* Comments made by Eduardo Assad, Julia Areira, Diego Oliverira and Carlos Nobre, at the public hearing held in Manaus, Brazil, during the Court's 167th regular session.

187 *Cf.* Ometto, J.P., K. Kalaba, G.Z. Anshari, *et. al.*, 2022: CrossChapter Paper 7: Tropical Forests. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2379.

188 *Cf.* Science Panel for the Amazon (United Nations Sustainable Development Solutions Network), C. Nobre, A. Encalada, E. Anderson, *et al.* "Executive Summary of the Amazon Assessment Report 2021", 2021, p. 30.

communities.[189]

109. Among the expected effects of climate change in Central America and South America, including Amazonia, comprise: (i) food insecurity due to droughts; (ii) risk to life and infrastructure resulting from events such as flooding and landslides; (iii) water insecurity; (iv) severe health impact due to increase increased incidence of epidemics (in particular, vector-borne diseases), and (v) large-scale changes and alterations in the region's biome.[190]

110. Protected areas and Indigenous territories are one of the cornerstones of conservation, self-determination and land rights of Indigenous Peoples and local communities. These areas show lower deforestation rates relative to unprotected forests, despite the continuous threats from the expansion of the agricultural expansion infrastructure development, extractive concessions, and policies aiming at modifying their boundaries and level of protection.[191]

*B.3.2. Insular Territories and the Caribbean States*

111. The Secretary-General of the United Nations has recognized the Caribbean as the "ground zero" of the global climate emergency, owing to the intensity of climate-related disasters and the degradation cause by slow-onset events, such as sea levels rise, in the region.[192] Islands and small insular States share common challenges arising from climate change. Chief among them is sea level rise, which constitute one of the most significant threats to the survival of small island States.[193] In addition, these territories share a number of challenges such as their dependence on natural resources, exposure to fluctuations in global trade, natural disasters, high transportation and communication costs, and mounting pressure on their coastal and marine environments.[194]

112. Rising global temperature is generating direct and disproportionate impacts on

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189 *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et. al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1704-1705.

190 *Cf*. Castellanos, E., M.F. Lemos, L. Astigarraga, *et. al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1722-1723.

191 *Cf.* Science Panel for the Amazon (United Nations Sustainable Development Solutions Network), C. Nobre, A. Encalada, E. Anderson, *et al*. "Executive Summary of the Amazon Assessment Report 2021", 2021, p. 24.

192 *Cf.* Intervention of the Institute of Small and Micro States at the public hearing held in Bridgetown, Barbados, during the Court's 166th regular session, and United Nations, "The Caribbean is "ground zero" for the global climate emergency, says the Secretary-General," available at: https://news.un.org/es/story/2022/07/1511242.

193 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et. al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2045-2048, 2050-2070.

194 *Cf.* United Nations Environment Programme (Regional Office for Latin America and the Caribbean), Climate Change in the Caribbean and the Challenge of Adaptation, 2008, p. 6. https://bvearmb.do/handle/123456789/2292 .

the insular territories and Caribbean States,[195] owing specifically to their low land mass and fragile marine environment.[196] These impacts include an increase in tropical cyclones[197] — which will become more frequent and destructive[198] — storm surges, droughts, changes in rainfall patters, coral bleaching, and the presence of invasive species, especially in coastal towns and rural communities. All these threats cause significant harm to their population, infrastructure, economy[199] and culture of the region.[200]

113. Moreover, nearly 50% of the terrestrial species currently considered at risk of global extinction are located within these regions.[201] Water security is small islands faces increasing risk, particularly in contexts where resource demand relates to factors such as population growth, urbanization, and tourism.[202] In addition, coastal flood risk is projected to rise rapidly and incrementally over the coming decades and this, in turn, would adversely affect elements such as public and private infrastructure, and

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195 *Cf.* Brief with observations submitted by the State of Barbados, paras. 12 and 266; Brief with observations submitted by the State of Vanuatu, paras. 2 and 73; and Brief with observations submitted by the Commission of Small Island States on Climate Change and International Law, para. 42.

196 *Cf.* Brief with observations submitted by the State of Barbados, para. 109.

197 Of the 29 islands of the Caribbean, 22 were affected by at least one category 4 or 5 tropical cyclone in recent years; for example, hurricane Irma lashed countries such as Antigua and Barbuda, Bahamas, Barbados, Cuba, Dominican Republic, Haiti and Saint Kitts and Nevis, or hurricane Maria that caused significant destruction in the infrastructure of Dominica, with estimated losses of more than 226% of the country's GNP, both in 2017. See: Brief with observations submitted by the Commission of Small Island States on Climate Change and International Law, paras. 51-52; Brief with observations submitted by the Institute of Small and Micro States (ISMS), para. 24; and Mycoo, M., M. Wairiu, D. Campbell, *et. al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2045-2048.

198 *Cf.* Brief with observations submitted by the State of Barbados, para. 99 ; and Brief with observations submitted by the Institute of Small and Micro States (ISMS), paras. 21-22.

199 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et. al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2067, 2096–2097, and Written observations submitted by the Institute of Small and Micro States (ISMS), para. 20.

200 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et. al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2068-2069. Written observations submitted by the Institute of Small and Micro States (ISMS), p. 7.

201 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et. al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2045.

202 For example, Barbados is using almost 100% of its available water resources, and Saint Lucia has a shortage in the water supply of around 35%. *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et. al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2065.

the food security of small island States.[203] Indeed, it is estimated that sea level rise[204] could result in the flooding of nearly all port facilities and docks[205] in the Caribbean.[206] The heightened risk stemming from rising sea levels has also exacerbated major challenges to protecting coastal assets and properties.[207]

114. The sea constitutes one of the main sources of employment and livelihood in the countries of the Caribbean. In addition to the critical role of fisheries in sustaining regional economies,[208] it is estimated that half of the gross domestic product of these countries comes from tourism linked to coral reefs. Revenues from reef diving alone are estimated to exceed USD 2 billion in net value.

115. The Caribbean island States face potential transboundary and interregional climate impacts and risks such as: (i) large, distant-origin ocean waves that cause considerable seasonable damage to beaches, marine ecosystems and coast infrastructure across the Caribbean; (ii) the influx of sargassum seaweed, resulting in the massive algal deposits that harm coastal habitats and cause die-offs of seagrass meadows and associated coral reefs; (iii) the movement and impact of introduced an invasive species across boundaries; (iv) transcontinental dust clouds, especially Saharan dust transported across the Atlantic that may interact with the climate conditions of the Caribbean to contribute to the appearance of asthma cases;[209] (v) the spread of pests and pathogens within and between island regions, such as the Black Sigatoka disease of bananas, and (vi) transboundary risks to food security.[210]

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203 *Cf.* Glavovic, B.C., R. Dawson, W. Chow, *et. al.*, 2022: Cross-Chapter Paper 2: Cities and Settlements by the Sea. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2165-2168, and IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et. al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 17.

204 The increase in the level of the Caribbean Sea, for example, already represents risks for some islands and their population. This is the case of the inhabitants of the Panamanian island of Cartí Sugdupu who have had to displace to other areas. *Cf.* Brief with observations submitted by the Institute of Small and Micro States (ISMS), para. 26.

205 For example, the port of Bridgetown in Barbados is the State's main coastal economic asset; however, it has already been severely affected by rising sea levels, storm surges, and coastal erosion. *Cf.* Brief with observations submitted by the State of Barbados, para. 111.

206 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et. al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2064.

207 *Cf.* Alliance of Small Island States (AOSIS), "Declaration on Climate Change", 2009, para. 6(f).

208 *Cf.* Written observations submitted by the Centro Mexicano de Derecho Ambiental (CEMDA), Healthy Reefs for Healthy People and Asociación Interamericana para la Defensa del Ambiente (AIDA), pp. 3-4.

209 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, V. Duvat, Y. Golbuu, S. Maharaj, J. Nalau, P. Nunn, J. Pinnegar, and O. Warrick, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem, B. Rama (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2070.

210 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, V. Duvat, Y. Golbuu, S. Maharaj, J. Nalau, P. Nunn, J. Pinnegar, and O. Warrick, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental

116. In light of the foregoing, certain areas of the Caribbean are projected to become almost uninhabitable as a result of climate change. In this regard, it is notable that, between 2012 and 2022, approximately 5.3 million people in the Caribbean region were internally displaced due to natural disasters, and projections indicate that this figure is likely to rise.[211] The Small Island Developing States (SIDS) of the Caribbean are among the regions with the highest levels of internal displacement per capita globally.[212]

117. These effects are disproportionate in view of the minimal contribution of Caribbean States to global GHG emissions. These States face outsized climate challenges due to their geographical location, economies that are heavily reliant on limited natural resources and tourism, and constrained capacity to adapt to adapt to adverse environmental changes.[213]

118. In sum, the adverse effects of climate change are, and will increasingly become, pervasive across all aspects of human life worldwide. These adverse effects constitute threats to and violations of human rights, the consequences of which will not be evenly distributed across regions or population sectors. States in Latin America and the Caribbean are particularly vulnerable, not only because of their geographical position, but also because of their direct dependence on natural resources to ensure the subsistence of broad sectors of their population and their commodity-based economies. Such risks are further exacerbated by conditions of development and marginalization within the different States. As a result, vast sectors of the population of region are especially vulnerable to the most devastating effects of climate change; particularly those residing in the Amazon region and in the Caribbean Island States.

119. Having described the overall landscape of the causes and effects of climate change, and the specific vulnerability faced by certain territories in the Americas, the Court will now refer to the actions and norms adopted at the international level with a view to addressing this phenomenon.

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

120. The Court will describe the principal international norms and initiatives adopted in relation to climate change, its causes and consequences.

#### C.1. Legal Frameworks on Climate and the Environment

Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem, B. Rama (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2070.

[211] *Cf.* International Organization for Migration (IOM), "IOM Caribbean Supports Civil Society Collaboration on Environmental Migration and Disaster Displacement Issues", 2024, available at: https://lac.iom.int/en/news/iom-caribbean-supports-civil-society-collaboration-environmental-migration-and-disaster-displacement-issues.

[212] *Cf.* Ama Francis, "Free-Movement Agreements & Climate-Induced Migration: A Caribbean Case Study," Sabin Center for Climate Change Law, Columbia Law School, 2019, p. 4.

[213] *Cf.* Brief with observations submitted by the Institute of Small and Micro States (ISMS), paras. 17-56, and Brief with observations submitted by the Commission of Small Island States and International Law, paras. 41-62.

### C.1.1. The International Legal Framework on Climate

*i. Background*

121. Concerns over climate change have been part of the international agenda for more than three decades. Even though the Declaration of the United Nations Conference on the Human Environment 1972 (commonly referred to as the "Stockholm Declaration)[214] did not refer to climate change expressly, the United Nations body created pursuant to the conference –the United Nations Environment Programme (hereinafter "UNEP") – began to promote this issue at the international level since the 1980s.

122. Although the establishment of an international regime specifically dedicated to addressing climate change began with the adoption of the **United Nations Framework Convention on Climate Change** (hereinafter **"UNFCCC"** or **"the Framework Convention")** in 1992, two earlier developments merit particular mention. First, the adoption, in 1985, of the **Vienna Convention on the Protection of the Ozone Layer** followed two years later by the **Montreal Protocol on Substances that Deplete the Ozone layer-** both instruments aimed at preventing the adverse effects that the ozone layer depletion, including those affecting the global climate.[215] The Montreal Protocol became the first and only environmental treaty to be ratified by all the States in the world. Its implementation has led to the elimination of approximately 99% of the ozone-depleting substances.[216] The Protocol was amended by the **Kigali Amendment** aimed at the elimination of the production and use of hydrofluorocarbons (HFC), compounds that replaced ozone-depleting substances, but possess a global warming potential significantly higher than that of carbon dioxide, and that are damaging for the climate.[217] It is believed that the Montreal Protocol- widely regarded as one of the world's most successful environmental treaties,[218] will

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[214] *Cf.* United Nations Declaration on the Human Environment (Stockholm Declaration), United Nations Conference on the Human Environment. Stockholm, June 5 to 16, 1972, UN Doc. A/CONF.48/14/Rev.1, available at: https://docs.un.org/es/A/CONF.48/14/Rev.1.

[215] *Cf.* Vienna Convention for the Protection of the Ozone Layer, March 1985, article 2, available at: https://ozone.unep.org/sites/default/files/2020-03/The%20Ozone%20Treaties%20SP%20-%20WEB.pdf.

[216] The Kigali Amendment was signed in 2016. It sought to avoid a temperature increase of between 0.3°C and 0.5°C by 2100 through the elimination of a type of SLCP that depletes the ozone layer: hydrofluorocarbons (HFC). *Cf.* Kigali Amendment to the Montreal Protocol on substances that deplete the ozone layer, of October 15, 2016. Available at: https://treaties.un.org/doc/Publication/ CN/2016/CN.872.2016-Eng.pdf

[217] *Cf.* Kigali Amendment to the Montreal Protocol on substances that deplete the ozone layer, of October 15, 2016. Available at: https://treaties.un.org/doc/Publication/ CN/2016/CN.872.2016-Eng.pdf

[218] The effectiveness of the Protocol stems from the facts that: (i) it includes clear timetables and staged reductions adapted to the impact of each controlled substance; (ii) it establishes specific enforceable short- and long-term goals for each climate pollutant based on scientific assessments; (iii) it imposes the obligation to elaborate and execute national plans with concrete actions and measurable results; (iv) it establishes the duty of the developed countries to lead the reduction of controlled substances and (v) provide support in the form of financial resources, technology transfer, and assistance for capacity building, and (vi) it promotes the imposition of trade controls and sanctions on States that do not comply with their obligations, and it establishes comprehensive systems for monitoring emissions, verifying reductions, and guaranteeing the transparency of progress reports.

permit the ozone layer to recover to 1980 levels by the middle of this century[219] and to close the ozone hole over Antarctica around the year 2060s.[220]

123. In 1988, in response to calls from the United Nations General Assembly strengthen international cooperation in environmental matters and protecting the climate,[221] UNEP and the World Meteorological Organization established the **Intergovernmental Panel on Climate Change (IPCC)**. The IPCC is composed of a Secretariat,[222] the Plenary Committee (comprised of representatives of member governments[223]), an Executive Committee, a Technical Support Unit for the Working Groups,[224] as well as authors, contributors and expert reviewers. Its mandate is to prepare scientific assessments on the climate, its impacts, and strategies for response.[225] To date, the IPCC has issued six assessment reports compiling the most comprehensive up-to-date scientific knowledge on climate change, along with methodological reports, special reports, and technical papers.[226] As this Court has recognized, the IPCC'S reports are subjected to a meticulous review process that ensures rigorous, comprehensive and objective findings (*supra* para. 33).

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219 *Cf.* United Nations Environment Programme (UNEP), "Ozone layer recovery is on track helping avoid global warming by 0.5, 2023, available at: https://www.unep.org/news-and-stories/press-release/ozone-layer-recovery-track-helping-avoid-global-warming-05degc .

220 *Cf.* United Nations, Climate Action, "Preserving the Ozone Layer", available at: https://www.un.org/en/climatechange/preserving-the-ozone-layer

221 *Cf.* United Nations General Assembly, Resolutions No. 42/184, "International cooperation in the field of the environment," of December 11, 1987, available at: https://docs.un.org/en/A/Res/42/184 , and No. 43/53, "Protection of global climate for present and future generations of humanity," of December 6, available at: https://docs.un.org/A/res/43/53.

222 The Secretariat is responsible for coordinating and providing assistance to the work of the Intergovernmental Panel on Climate Change. It supports the Working Groups, manages the IPCC Trust Fund, manages expenditure, auditing and reporting, and also contractual and legal matters. *Cf.* IPCC, "the IPCC Secretariat," https://archive.ipcc.ch/organization/organization_secretariat.shtml .

223 The IPCC is composed of 195 countries of which 33 are members of the OAS (Antigua and Barbuda; Argentina; Bahamas; Barbados; Belize; Bolivia; Brazil; Canada; Chile; Colombia; Costa Rica; Cuba; Dominica; Dominican Republic; Ecuador; El Salvador; Grenada; Guatemala; Guyana; Haiti; Honduras; Jamaica; Mexico; Panama; Paraguay; Peru; Saint Kitts and Nevis; Saint Vincent and the Grenadines; Saint Lucia; Suriname; Trinidad and Tobago; Uruguay, and Venezuela (Bolivarian Republic of)). *Cf.* IPCC, "About Us." https://archive.ipcc.ch/ipcc_languages_e_master.shtml .

224 The IPCC has working groups on: the physical science basis; impacts, adaption and vulnerability; and mitigation of climate change. It also has a special task force on national greenhouse gas inventories. *Cf.* IPCC, "Structure", https://archive.ipcc.ch/organization/organization_structure.shtml .

225 *Cf.* IPCC, "Structure", https://archive.ipcc.ch/organization/organization_structure.shtml .

226 *Cf.* IPCC, First Assessment Report, 1990, available at : https://archive.ipcc.ch/publications_and_data/publications_ipcc_first_assessment_1990_wg1.shtml; IPCC, Second Assessment Report, 1995, available at : https://archive.ipcc.ch/pdf/climate-changes-1995/ipcc-2nd-assessment/2nd-assessment-en.pdf; IPCC, Third Assessment Report, 2001, available at: https://www.ipcc.ch/site/assets/uploads/2018/05/SYR_TAR_full_report.pdf; IPCC, Fourth Assessment Report, 2007, available at: https://www.ipcc.ch/report/ar4/syr/; IPCC, Fifth Assessment Report, 2014, available at: https://www.ipcc.ch/site/assets/uploads/2018/04/ipcc_ar5_leaflet.pdf, and IPCC, Sixth Synthesis Report, 2023, available at: https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_FullVolume.pdf.

*ii. The United Nations Framework Convention on Climate Change*[227]

124. The main purpose of the **UNFCCC,**[228] adopted in 1992, is to stabilize GHG concentrations[229] at a level that would prevent dangerous interferences with the climate system by human beings, within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened, and enable sustainable economic development to proceed. The Secretariat of the Framework Convention is the United Nations body tasked with supporting the global response to the threat of climate change. In particular, it facilitates intergovernmental negotiations, provides technical assistance, and support the analysis and review of the climate change- related information submitted by the 198 State Parties to the treaty.[230]

125. To achieve its goal of stabilizing GHG concentrations, the Framework Convention establishes both common obligations for all State Parties and differentiated obligations for certain States. These obligations evolve around three central pillars: (i) mitigation, i.e., reduction of GHG emissions; (ii) adaptation, involving measures to cope with the effects of climate change, and (iii) reparation, aimed at addressing loss and damage caused by such effects. The three pillars are anchored in a common duty of cooperation applicable to all State Parties.

126. From its preamble, the UNFCCC makes explicit reference to the distinction between developed and developing countries, to the respective levels of responsibility based on emissions, and to the need for cooperation between them. Consistent with this, the Convention gives special prominence to the principles of equity, common but differentiated responsibilities and respective capabilities, precaution; sustainable development and international cooperation.[231]

127. The Framework Convention provides that "the developed country Parties should take the lead in combating climate change," and that "full consideration should be given to the specific needs and special circumstances of developing country Parties, […]should be given full consideration."[232] In this regard, certain provisions emphasize the particular situation of States whose economies are heavily reliant on the production, processing, and export of fossil fuels.[233]

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[227] *Cf.* United Nations Framework Convention on Climate Change, 1992, https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

[228] The OAS Member States in the region that have ratified the Framework Convention include: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Ecuador, El Salvador, Dominican Republic, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States of America, Uruguay, Venezuela. *Cf.* United Nations, General Secretariat, United Nations Treaty Collection, United Nations Framework Convention on Climate Change, Status of ratifications, available at: https://treaties.un.org/Pages/Home.aspx?clang=_en

[229] In particular, the Framework Convention establishes regulations for GHG that were not controlled by the Montreal Protocol.

[230] *Cf.* UNFCCC, "About the Secretariat", available at: https://unfccc.int/es/about-us/about-the-secretariat#:~:text=%C2%BFQui%C3%A9n%20trabaja%20en%20la%20secretar%C3%ADa,17%20de%20julio%20de%202022 .

[231] *Cf.* 1992 United Nations Framework Convention on Climate Change, Preamble, https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

[232] *Cf.* 1992 United Nations Framework Convention on Climate Change, articles 3.1 and 3.2 https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

[233] *Cf.* 1992 United Nations Framework Convention on Climate Change, article 4 https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

128. Among the common obligations of State Parties under the UNFCCC are: the preparation, updating and publication of inventories of GHG emissions and sinks; the adoption of mitigation and adaptation measures to climate change; cooperation in the development, transfer and dissemination of technologies; the promotion of sustainable management and conservation of sinks; cooperation in preparing for adaptation planning, particularly with regard to coastal areas, water resources and agriculture, and the rehabilitation of areas affected by drought, desertification and flooding; integration of climate change considerations into policy-making and planning, the use of methods to reduce adverse climate impacts; the communication of information concerning implementation of the Convention, and the promotion of education, training, participation and awareness related to climate change and its effects.[234]

129. According to the UNFCCC, States listed in Annex I – that is, those classified as developed or as economies in transition[235] – are obliged to take the lead in mitigation. Thus, this instrument provides that those countries shall reduce their GHG emissions to levels existing in 1990. Additionally, the Framework Convention specifies that "the developed country Parties and other developed Parties included in Annex II" shall provide financial resources to cover the costs incurred by "developing country Parties" in fulfilling the obligations" established under the Framework Convention.[236]

130. Finally, regarding financial cooperation, the Framework Convention provides that "[t]he Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties […]."[237] To this end, the UNFCCC has established financing mechanisms such as the Special Climate Change Fund (SCCF)[238] and the Least Developed Countries Fund (LDCF),[239] both administered by the Global Environment Facility (GEF).[240] These funds finance projects related to:

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[234] *Cf.* 1992 United Nations Framework Convention on Climate Change, article 4 https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

[235] Following the modifications made by an amendment adopted by the Conference of the Parties that entered into force on August 13, 1998, the following were included in Annex 1: Australia, Austria, Belorussia, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, European Economic Community, Finland, France, Germany, Greece, Hungary, Ireland, Iceland, Italy, Japan, Letonia, Liechtenstein, Lithuania, Luxemburg, Monaco, Norway, New Zealand, Netherland, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, and Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America.

[236] *Cf.* 1992 United Nations Framework Convention on Climate Change, article 4 https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

[237] *Cf.* 1992 United Nations Framework Convention on Climate Change, article 3 https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

[238] The Special Fund for Climate Change (SCCF), established under the United Nations Framework Convention on Climate Change (UNFCCC) at the ninth Conference of the Parties, finances technology transfer programs, activities and measures based on voluntary contributions from States. It focuses on four areas: adaptation to climate change, technology transfer, sectors such as energy and waste management, and economic diversification in countries that depend on fossil fuels. See: GEF, "Access to resources of the Special Fund for Climate Change", available at: https://www.thegef.org/what-we-do/topics/special-climate-change-fund-sccf

[239] The Least Developed Countries Fund (LDCF) was also established under the United Nations Framework Convention at the ninth Conference of the Parties to fund, exclusively, the climate mitigation and adaptation programs of a group of particularly vulnerable countries classified as "Least Developed Countries." See, GEF, "Least Developed Countries Fund," available at: https://www.thegef.org/what-we-do/topics/least-developed-countries-fund-ldcf

[240] The GEF provides funding to help developing countries comply with the objectives of international environmental conventions. In particular, the GEF acts as the "financial mechanism" for six conventions:

adaptation; technology transfer and capacity building; energy, transportation, industry, agriculture, forestry, and waste management, and also economic diversification.

*iii. The Conference of the Parties and Subsequent Developments*

131. The Conference of the Parties (hereinafter "COP") is the main decision-making body of the United Nations Framework Convention on Climate Change (UNFCCC). At the COP meetings, the Parties, with the support of the Secretariat, examine the IMPLEMENTATION of the Convention, adopt decisions for its execution, including institutional and administrative arrangements, and review national communications and emission inventories submitted by the Parties to assess the effects of the measures adopted and the programs made.[241] The COP has been key in monitoring the progress of the Parties and taking decisions on climate action.

132. Thus, in 1997, COP3 adopted the **Kyoto Protocol.**[242] This instrument assigns a permitted emissions amount (assigned emissions) to each State listed in its Annex B, which includes the countries mentioned in Annex I of the UNFCC. In addition to actual emissions, the GHG absorbed by ecosystems that retain or capture them (known as sinks), are also taken into account to achieve that target. Also, the developed countries can promote investment in emission-reducing projects in developing countries to meet their own targets.[243] These possibilities, which take place through International Emissions Trading, Joint Implementation and a Clean Development Mechanism are considered additional to national emission-reduction measures.[244]

133. The Kyoto Protocol establishes less rigorous obligations for developing countries which must provide periodic reports on the mitigation and adaptation measures implemented, as well as on their emission inventories. Also, taking into account, the principle of common but differentiated responsibilities, developing countries must report on their development priorities, objectives and circumstances. Meanwhile, developed countries commit to providing new and additional financial resources and facilitating technology transfer, through the UNFCCC financial mechanism to support developing Parties in meeting these obligations.[245]

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the Convention on Biological Diversity (CBD), the United Nations Framework Convention on Climate Change (UNFCCC), the Stockholm Convention on Persistent Organic Pollutants, the United Nations Convention to Combat Desertification (UNCCD), the Minamata Convention on Mercury, and the Agreement on Marine Biological Diversity of Areas beyond National Jurisdictions (BBNJ). See: GEF, "Who we are", available at: https://www.thegef.org/who-we-are/organization.

241 *Cf.* 1992 United Nations Framework Convention on Climate Change, article 7 https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

242 The States Parties to the Kyoto Protocol in the region include: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, Ecuador, El Salvador, Dominican Republic, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, Saint Kitts and Nevis, Santa Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

243 *Cf.* Kyoto Protocol, 1997, article 6(3), available at: https://unfccc.int/resource/docs/convkp/kpeng.pdf.

244 *Cf.* UNFCCC, "What is the Kyoto Protocol?", available at: https://unfccc.int/es/kyoto_protocol

245 *Cf.* 1997 Kyoto Protocol, articles 10 and 11, available at: https://unfccc.int/resource/docs/convkp/kpeng.pdf.

134. The Kyoto Protocol only entered into force in 2005, once it had been ratified by States representing 55% of global $CO_2$ emissions. Following its entry into force, the first commitment period under the Protocol ran from 2008 to 2012.[246]

135. AtCOP13, held in 2007, the **Bali Action Plan** was adopted, which aimed, among other matters, to define clear and measurable provide reductions targets for developing countries; enhance transparency in mitigation actions for developed countries, and establish appropriate mechanisms for climate financing and governance.[247] The process of preparing this new "roadmap" culminated at COP15, held in Copenhagen in 2009, where it was agreed, *inter alia*: (i) to keep the increase in global average temperature below 2°C; and (ii) to provide developing countries with "enhanced, new and additional, predictable and adequate financing as well as improved access to such resources" in order "to enable and support enhanced action on mitigation, including substantial finance to reduce emissions from deforestation and forest degradation (REDD+ activities)[248]). In order to strengthen international financing, developed countries committed to jointly mobilizing USD 100 billion per year by 2020, a "significant share" of which was to be channeled through the "Copenhagen Green Climate Fund," intended to serve as the financial mechanism of the UNFCCC.[249]

136. At COP16, held in Cancun in 2010, it was agreed to assess, every two years, the progress made in mitigating the increase in global average temperature and to review in 2015 whether the maximum target should be adjusted from 2°C to 1.5°C. It was also decided to promote the development and transfer of clean technologies and to assist particularly vulnerable populations around the world in adapting to the unavoidable effects of climate change through a coordinated approach to adaptation strategies. Likewise, this COP formalized the "Green Climate Fund," whose operational rules were to be designed by a Transitional Committee, and invited the World Bank to act as its interim trustee.[250]

137. At COP17, held in Durban in 2011, the Parties decided to develop new negotiation platforms aimed at achieving a new legal instrument, to be applicable from 2015 onwards, that would establish the necessary rules for reducing greenhouse gas (GHG) emissions starting in 2020. They also resolved to review whether the global goal of keeping the increase in global average temperature below 2°C should be adjusted to 1.5°C. Additionally, they adopted the governing instrument of the Green Climate Fund.[251]

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246 *Cf.* 1997 Kyoto Protocol, articles 10 and 11, available at: https://unfccc.int/resource/docs/convkp/kpeng.pdf.

247 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, "Bali Action Plan", Decision 1/CP.13, December 2007, available at: https://unfccc.int/files/meetings/cop_13/application/pdf/cp_bali_action.pdf .

248 The REDD+ mechanism, established by the UNFCCC Conference of the Parties, seeks to promote the adoption of concrete measures to reduce emissions from deforestation and forest degradation.

249 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, "Copenhagen Agreement", Decision 2/CP.15, December 2009, available at: https://unfccc.int/resource/docs/2009/cop15/eng/l07.pdf .

250 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, "Cancun Agreements", Decision 1/CP.16, December 2010, available at: https://unfccc.int/resource/docs/2010/cop16/spa/07a01s.pdf.

251 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, "Report of the Conference of the Parties on its seventeenth session, held in Durban from November 28 to December 11, 2011, FCCC/CP/2011/9, available at: https://unfccc.int/resource/docs/2011/cop17/eng/09.pdf

138. Subsequently, at COP18, held in 2012, the Doha Amendment was adopted, formally extending the application of the Kyoto Protocol from 2013 to 2020. However, due to a lack of ratification, this amendment only entered into force on December 31, 2020—the very day on which the extended commitment period ended.[252]

*iv. The Paris Agreement and Subsequent Developments*

139. Inconclusive aspects and discussions begun in previous COP meetings were revisited in COP21 held in 2015. The **Paris Agreement** adopted on that occasion[253] reaffirmed the need to act in accordance with the principle of common but differentiated responsibilities and to address climate change on the basis of the best available scientific knowledge, in a comprehensive manner that includes the protection of human rights and of groups in situations of particular vulnerability..[254] Its core objectives are: (i) to keep the global temperature increase well below 2°C, while pursuing efforts to limit it to 1.5°C; (ii) to enhance countries' adaptive capacity to cope with the adverse effects of climate change; and (iii) to strengthen mechanisms for climate finance.

140. Under the Agreement, Parties committed to submitting their Nationally Determined Contributions (NDCs) to the UNFCCC Secretariat every five years.[255] These documents must set forth each Party's commitments in relation to climate change mitigation, the measures they intend to implement in order to meet such commitments, as well as their strategies for climate adaptation and the means of securing adequate financial support to that end.[256] According to Article 4(3) of the Paris Agreement: "Each Party's successive nationally determined contribution will represent a progression beyond the Party's then current nationally determined contribution and reflect its highest possible ambition."

141. The Paris Agreement also establishes global goals for climate adaption and calls upon Parties to formulate and implement National Adaptation Plans, which must be periodically updated and include clearly defined priorities, needs, strategies, and

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252 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Doha Amendment to the Kyoto Protocol, December 2012, available at: https://unfccc.int/files/kyoto_protocol/application/pdf/kp_doha_amendment_spanish.pdf

253 The Paris Agreement has been ratified by the following States in the region: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States of America, Uruguay and Venezuela.

254 The Preamble to the Paris Agreement acknowledges that "climate change is a common concern of humanity, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity." *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, 2015 Paris Agreement, available at: https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf

255 According to article 4(12) of the Paris Agreement, the NDCs communicated by Parties shall be recorded in a public registry maintained by the UNFCCC Secretariat. The NDCs register can be consulted at: https://unfccc.int/NDCREG.

256 United Nations Development Programme (UNDP), "What are NDCs and how do they drive climate action?" May 31, 2023, available at: https://climatepromise.undp.org/news-and-stories/NDCs-nationally-determined-contributions-climate-change-what-you-need-to-know

actions.[257] At July 2024, 58 developing States[258] and two developed States[259] had communicated their climate Adaptation Plans to the UNFCCC Secretariat.

142. Furthermore, the Paris Agreement replaces the carbon credits and markets previously created under the Kyoto Protocol with the Paris Agreement's Article 6 mechanism, referred to as the "Paris Agreement Accreditation Mechanism" (PAAM). This mechanism identifies and promotes opportunities for verified emission reductions, facilitates the mobilisation of finance to support such efforts, and enables cooperation between States and other actors (including private enterprises) in the implementation of mitigation activities.[260] At the same time, the Agreement established the Warsaw International Mechanism for Loss and Damage associated with the impacts of climate change, and enhanced the framework for transparency.[261]

143. Following COP22 in 2016—whose outcomes were reflected in the Marrakech Action Proclamation[262] and in the Marrakech Partnership for Global Climate Action,[263] COP23, saw the launch of the Talanoa Dialogue Mechanism, intended to foster communication between States and non-State actors and to identify best practices in climate mitigation and adaptation.[264] This process concluded with COP24, held in Katowice in 2018, with the adoption of the Paris rulebook establishing guidelines for planning NDCs, implementing mitigation and adaptation efforts, and assessing individual and collective progress.[265] In 2021, during COP26, the **Glasgow Climate Pact** was adopted expressing the Parties' commitment to accelerate efforts to phase

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257 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, articles 2 and 7.9 available at: https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf

258 According to the Paris Agreement, developing States can receive technical support from the Least Developed Countries Expert Group, a technical body of the Framework Convention. The developing countries that have transmitted their National Adaptation Plans (NAPs) can be consulted at: NAP Central, "Submitted NAPs from developing countries," available at: https://napcentral.org/submitted-NAPs.

259 *Cf.* NAP Central, "National Adaptation Plans (NAPs) shared by developed country Parties," available at: https://napcentral.org/developedcountriesnaps.

260 Regarding the functioning of the PACM see: UNFCCC, "Paris Agreement Crediting Mechanism", available at: https://unfccc.int/process-and-meetings/the-paris-agreement/article-64-mechanism.

261 The Glasgow Climate Pact under the Paris Agreement establishes transparency mechanisms, rules for the functioning of carbon markets and non-market approaches. See: "The Glasgow Climate Pact – Key Outcomes from COP26", available at: https://unfccc.int/process-and-meetings/the-paris-agreement/the-glasgow-climate-pact-key-outcomes-from-cop26.

262 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, "Marrakech Action Proclamation", 2016, available at: https://unfccc.int/files/meetings/marrakech_nov_2016/application/pdf/marrakech_action_proclamation.pdf

263 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Marrakech Partnership for Global Climate Action, November 2016, available at:https://unfccc.int/files/meetings/marrakech_nov_2016/application/pdf/marrakech_action_proclamation.pdf

264 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its twenty-third session held in Bonn from November 6 to 18, 2017, FCCC/CP/2017/11/Add.1, available at: https://unfccc.int/documents/65126.

265 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its twenty-fourth session held in Katowice from December 2 to 15, 2018, FCCC/CP/2018/10/Add.1, available at: https://unfccc.int/documents/193360.

down coal production and eliminate inefficient fossil fuel subsidies.[266] At COP27, held in 2022, the **Sharm El-Sheik Implementation Plan** was adopted.[267]

144. In 2023, at COP28 held in Dubai, the Parties agreed on a series of actions to be implemented before 2030. These included: (i) advancing a transition away from fossil fuels in energy systems, in a just, orderly, and equitable manner; (ii) strengthening climate finance mechanisms;[268] (iii) operationalize the Loss and Damage Fund[269] and (iv) developing concrete strategies for meeting the Global Adaptation Goals.[270] On this last point, on that occasion also, the **United Arab Emirates Framework for Global Climate Resilience** was adopted presenting, for the first time, a series of goals,[271] thematic subgoals,[272] and enabling factors,[273] in relation to adaptation. At COP29, held in Baku in 2024, the Parties adopted a new global goal for climate finance, amounting to USD 300 billion by 2035.

C.1.2. Relevant International Environmental Protection Norms

145. Beyond the specific international legal regime governing climate change, there exist additional sources of international environmental law that reinforce and complement it in addressing the climate crisis. The Court underscores the particular significance of international norms concerning biodiversity, the oceans, the fight against desertification, and disaster risk reduction.

146. In the field of biodiversity, the principal legal instrument is the **Convention on Biological Diversity**[274] (hereinafter, "CBD"), adopted in 1992. This treaty pursues three main objectives: (i) the conservation of biological diversity; (ii) the sustainable use of its components; and (iii) the fair and equitable sharing of the benefits arising

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266 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its twenty-sixth session held in, held in Glasgow from October 31 to November 13, 2021, FCCC/CP/2021/12/Add.1, available at: https://unfccc.int/documents/460954.

267 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its twenty-seventh session held in Sharm El-Sheikh from November 6 to 20, 2022, FCCC/CP/2022/10/Add.1, available at: https://unfccc.int/documents/626561.

268 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its twenty-eighth session held in the United Arab Emirates from November 30 to December 13, 2023, FCCC/CP/2023/11/Add.1, Decision 1/CP.28, available at: https://unfccc.int/documents/637067.

269 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its twenty-eighth session held in the United Arab Emirates from November 30 to December 13, 2023, FCCC/CP/2023/11/Add.1, Decisions 4/CP.28 ("Long-term climate finance") and 6/CP.28 ("Report on the Green Climate Fund to the Conference of the Parties and guidance to the Green Climate Fund "), available at: https://unfccc.int/documents/637067.

270 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Report of held in the United Arab Emirates from November 30 to December 13, 2023, FCCC/PA/CMA/2023/16/Add.1, Decision 2/CMA.5 ("Global goal on adaptation"), available at: https://unfccc.int/documents/637073.

271 The goals are established based on an iterative cycle that includes: impact, vulnerability and risk assessment; planning; implementation and monitoring, evaluation and lessons learned.

272 The thematic or sectoral subgoals focus on: water, food and agriculture, health, ecosystems and biodiversity, infrastructure, poverty eradication, and cultural heritage.

273 The enabling factors are: information, knowledge and communications; capacity building and educational infrastructure; institutional arrangements, funding, commitments, and leadership.

274 The States Parties to the Convention in the region include: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, Saint Kitts and Nevis, Santa Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

from the utilization of genetic resources, including appropriate access to such resources and the transfer of relevant technologies.[275] The Convention is supplemented by two key protocols: the **Cartagena Protocol on Biosafety**[276] and the **Nagoya Protocol on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits arising from their utilization.**[277]

147. The Court likewise highlights the adoption, in 1994, of the **United Nations Convention to Combat Desertification**[278] and, in 2015, of the **Sendai Framework for Disaster Risk Reduction 2015-2030**[279] whose objectives are totally aligned with those of the UNFCCC.

148. With regard to the protection of the oceans, the Court observes that the **United Nations Convention on the Law of the Sea** establishes among its core objectives, establishes the prevention, reduction and control of the pollution of the marine ecosystem.[280] Pursuant to this, States are required to adopt, individually or jointly, all necessary measures to prevent such pollution, both domestically and in the transboundary context. [281] he International Tribunal for the Law of the Sea has clarified, in an advisory opinion, that this obligation also encompasses greenhouse gas (GHG) emissions insofar as they constitute a form of marine environmental pollution.[282] The Court also highlights the adoption, in 2023, of the **Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction,**[283] an instrument that recognizes the impact of

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275 *Cf.* Convention on Biological Diversity, 1993, article 1, available at: www.cbd.int/doc/legal/cbd-en.pdf

276 Its purpose to protect biological diversity by managing cross-border movements of living modified organisms (LMOs) as a result of the application of modern technology. The States Parties to the Protocol include: Antigua and Barbuda, Bahamas, Barbados, Belize, Bolivia, Brazil, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, Saint Kitts and Nevis, Santa Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

277 It seeks just and equitable participation in the benefits derived from the use of genetic resources, thus contributing to the conservation of biological diversity and the sustainable use of its components. The States Parties to the Protocol include: Antigua and Barbuda, Argentina, Bahamas, Bolivia, Brazil, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Guyana, Honduras, Mexico, Panama, Peru, Saint Kitts and Nevis, Saint Lucia, Uruguay and Venezuela.

278 *Cf.* United Nations Convention to Combat Desertification, 1996, available at: https://www.unccd.int/resource/convention-text .

279 *Cf.* United Nations, Sendai Framework for Disaster Risk Reduction (2015-2030), 2015, available at: https://www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030

280 *Cf.* International Tribunal for the Law of the Sea (ITLOS), State obligations to prevent, reduce and control marine pollution and to protect and preserve the marine ecosystem from the impacts of climate change. Advisory opinion of May 21, 2024, para. 197.

281 *Cf.* United Nations Convention on the Law of the Sea, 1982, article 194.1.

282 *Cf.* ITLOS, State obligations to prevent, reduce and control marine pollution and to protect and preserve the marine ecosystem from the impacts of climate change. Advisory opinion of May 21, 2024, para. 197, and United Nations Convention on the Law of the Sea, 1982, article 194.1.

283 This instrument, which is not yet in force, seeks the implementation of measures to protect and preserve the marine environment; to conduct environmental impact assessments to prevent, mitigate and manage the adverse effects of human activities, and to enhance capacities in the States Parties, especially the developing States, to conduct these assessments. Adopted on June 19, 2023, entry into force 120 days after achieving 60 ratifications.

climate change on marine ecosystems[284] and underlines the need to build their resilience.[285]

149. The Court further underscores that other rules of customary international law are also of relevance in this context, particularly the obligation to prevent transboundary environmental harm (infra paras. 274–277) and the obligation of international cooperation (infra paras. 247–265).[286]

### C.1.3. Relevant Regional Norms on the Environment and Climate change

150. In the Americas, various regulatory frameworks relating to environmental protection and climate change have been developed. Within the framework of the Organization of American States (OAS), the Member States adopted the "Inter-American Action Plan on Climate Change 2023–2030."[287] In North America, Canada and the United States have signed agreements on air quality,[288] and water quality in the Great Lakes area.[289] In Central America, under the aegis of the Central American Integration System (SICA), adaptation initiatives have been promoted,[290] and regional climate change strategies adopted.[291] In the Caribbean, the Court underlines the adoption of the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (WCR)[292] and its respective protocols.[293] Also, within the framework of the Caribbean Community (CARICOM) the Agreement

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[284] *Cf.* United Nations, Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, 2023, Preamble, available at: https://www.un.org/bbnjagreement/en/bbnj-agreement/text-bbnj-agreement

[285] *Cf.* United Nations, Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, 2023, articles 7 and 17, available at: https://www.un.org/bbnjagreement/en/bbnj-agreement/text-bbnj-agreement

[286] The Court takes note of the existence of recent initiatives aimed at the adoption of an international treaty on the non-proliferation of fossil fuels and of another linked to the fight against plastic contamination. See, "Fossil Fuel Non-Proliferation Treaty, Government Endorsements," available at: https://fossilfueltreaty.org/endorsements/#governments and United Nations Environmental Program (UNEP), "Intergovernmental Negotiating Committee on Plastic Pollution," available at: https://www.unep.org/inc-plastic-pollution.

[287] This instrument promotes actions to develop solutions to climate change that prioritize sustainability, resilience and inclusion. *Cf.* OAS, "Inter-American Climate Change Action Plan 2023-2030," OAS/Ser.K/XLIII.4, of October 4, 2023.

[288] Agreement Between the Government of the United States of America and the Government of Canada on Air Quality, 1991. Available at: https://www.epa.gov/sites/default/files/2015-07/documents/agreement_between_the_government_of_the_united_states_of_america_and_the_government_of_canada_on_air_quality.pdf

[289] Agreement Between the Government of the United States of America and the Government of Canada on Great Lakes Water Quality. Available at: https://binational.net/agreement/full-text-the-2012-great-lakes-water-quality-agreement/.

[290] SICA, "Cambio Climático en *en Centroamérica: Vulnerabilidad and adaptación. Proyectos en la región*", available at: https://www.sica.int/cambioclimatico/_vulnerabilidad_adaptacion_proyectos.aspx?IdEnt=_879&Idm=1&IdmStyle=1

[291] SICA, "*Estrategia Regional de* Cambio Climático", 2010, available at: https://www.cac.int/sites/default/files/Estrategia_Regional_de_Cambio_Climático.pdf

[292] *Cf.* Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, 1983, available at: https://www.unep.org/cep/who-we-are/cartagena-convention.

[293] *Cf.* 1983 Protocol concerning Cooperation in Combatting Fuel Spills in the Wides Caribbean Region, 1999 Protocol concerning Pollution from Land-based Sources and Activities, and 1990 Protocol concerning Specially Protected Areas and Wildlife, available at: Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, 1983, available at: https://www.unep.org/cep/who-we-are/cartagena-convention.

establishing the Caribbean Community Climate Change Center was adopted,[294] together with the Declarations[295] of Liliendaal on Climate Change and Development,[296] and on CARICOM Climate Action.[297] Meanwhile, in South America, important international treaties include the Amazon Cooperation Treaty,[298] the Environmental Treaty signed between Chile and Argentina,[299] the Environmental Cooperation Agreement between Chile and Peru,[300] and the Cooperation Framework relating to the Subregional Action Program for the Sustainable Development of the American Gran Chaco.[301] Lastly, two instruments of particular relevance for the protection of biodiversity may be noted: the 1940 Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere,[302] and the 1981 Convention for the Protection of the Marine Environment and Coastal Area of the South-East Pacific.[303]

151. In Europe, a range of legal instruments has been adopted to address the climate emergency and promote corporate sustainability. Among these, Regulation (EU)

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294 This agreement establishes the general functions of the Climate Change Center. It also establishes that the main objectives of the Center are the Protection of the climate system of CARICOM Member States, enhancing regional institutional capabilities to respond to the negative effects of climate change, providing comprehensive policy and technical support, and granting state assessment on climate matters. *Cf.* CARICOM, Agreement Establishing the Caribbean Community Climate Change Centre, 2002, available at: https://caricom.org/treaties/agreement-establishing-the-caribbean-community-climate-change-centre-ccccc/.

295 In both Declarations, CARICOM Member States call for urgent, ambitious and decisive action by the international community to avoid the disappearance of Small Islands and Low-lying Coastal Developing States (SIDS) due to climate change. They also establish the priorities for the countries of the Caribbean, including: long-term stabilization of atmospheric greenhouse gas concentrations at or below 1,5°C of pre-industrial levels; recognition of the value and potential of standing forest in the region; adaptation and development of capabilities; a commitment to provide more effective preparedness for response to natural disasters, and to facilitate the development, diffusion and deployment of appropriate and affordable low- and zero-emission technologies and renewable energy services.

296 *Cf.* Conference of Heads of Government of the Caribbean, Liliendaal Declaration on Climate Change and Development, 2009, available at: https://caricom.org/liliendaal-declaration-on-climate-change-and-development-issued-by-the-thirtieth-meeting-of-the-conference-of-heads-of-government-of-the-caribbean-community-2-5-july-2009-georgetown-guyana/.

297 *Cf.* CARICOM, Declaration for Climate Action, Caricom, 2015, available at: https://caricom.org/caricom-declaration-for-climate-action/, Amended on 26/07/2024.

298 The Amazon Cooperation Treaty is aimed at promoting the harmonious development of the Amazon, the preservation of the environment, and the rational use of the Amazon's natural resources. *Cf.* Amazon Cooperation Treaty,1978, available at: https://treaties.un.org/doc/Publication/UNTS/Volume%201202/volume-1202-I-19194-English.pdf

299 *Cf.* Environmental treaty between the Argentina Republic and the Republic of Chile, 1991, available at: https://faolex.fao.org/docs/pdf/arg43337.pdf.

300 *Cf.* Environmental cooperation agreement between the Republic of Chile and the Republic of Peru, 2014, available at: https://www.minrel.gob.cl/minrel_old/site/artic/20160906/asocfile/20160906160658/acuerdo_de_cooperaci_n_ambiental.pdf.

301 *Cf. Acuerdo Marco de Cooperación entre la República del Paraguay, la República Argentina, and la República de Bolivia, relativo al Programa de Acción Subregional para el Desarrollo Sostenible del Gran Chaco Americano* [Framework Cooperation Agreement between the Republic of Paraguay, the Republic Argentina and the Republic of Bolivia relating to the Subregional Action Program for the Sustainable Development of the American Gran Chaco], 2009, available at: https://faolex.fao.org/docs/pdf/mul-89810.pdf.

302 *Cf.* Convention on Nature Protection and Wild Life Preservation in the Western Hemisphere, 1940, available at: https://www.oas.org/juridico/english/treaties/c-8.html.

303 *Cf.* Convention for the Protection of the Marine Environment and Coastal Area of the South-East Pacific. 1981, available at: https://www.ecolex.org/details/treaty/convention-for-the-protection-of-the-marine-environment-and-coastal-area-of-the-south-east-pacific-tre-000741/

2021/111 (European Climate Law),[304] which establishes the binding legal framework to achieve climate neutrality before 2050. Also, the recent Directive (EU) 2024/176[305] introduces obligations of due diligence in relation to human rights and the environment for large companies, including the assessment of their environmental impact across global value chains. Meanwhile, the European Economic and Social Committee has issued around 87 opinions[306] and 28 technical reports or publications[307] that refer, among other issues, to climate justice, the just transition to a low carbon economy, and the need for multi-level climate governance that promotes the participation of all interested parties. Similarly, the Organization for Economic Cooperation and Development[308] (hereinafter "OECD") has adopted Guidelines for Multinational Enterprises on Responsible Business Conduct.[309]

### C.2. The Climate Issue According to Different Treaty Bodies and Special Human Rights Procedures

152. In response to the grave implications of the climate crisis, over recent decades, different treaty bodies and special procedures of intergovernmental organizations have adopted relevant initiatives at both the inter-American and the universal level.

153. In this regard, the Court underscores, first, Resolution No. 3/2021 entitled "Climate Emergency: Scope of Inter-American Human Rights Obligations,"[310] adopted by the Inter-America Commission, as well as the relevant sections of its thematic report on Business and Human Rights.[311]

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304 *Cf.* Regulation (EU) 2021/1119 of the European Parliament and of the Council, of June 30, 2021, that establish the framework for achieving climate neutrality and that amend Regulations (EC) No 401/2009 and (EU) 2018/1999 ('Europea Climate Law').

305 *Cf.* Directive (EU) 2024/1760 of the European Parliament and of the Council, of June 13, 2024, on due diligence of companies in relation to sustainability and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, article 73.

306 The European Economic and Social Committee (EESC) is an EU platform that seeks to give a voice to organized civil society in Europe. It represents entrepreneurs, workers and civil society organizations. The "opinions" issued by the EESC are forwarded to the EU legislators (the Council, the European Commission, and the European Parliament). *Cf.* European Economic and Social Committee, "Climate action – Related Opinions," available at: https://www.eesc.europa.eu/en/policies/policy-areas/climate-change/opinions.

307 *Cf.* European Economic and Social Committee, "Climate action – Related Publications", available at: https://www.eesc.europa.eu/en/policies/policy-areas/climate-change/publications.

308 The States of Chile, Colombia, Costa Rica and Mexico are members of the OECD. *Cf.* OECD, "Member and Partners", available at: https://www.oecd.org/en/about/members-partners.html.

309 This instrument recommends prioritizing the reduction of emission sources over measures of compensation and neutralization, establishing the use of carbon credits or compensation as a last resort. *Cf.* OECD, "OECD Guidelines for Multinational Enterprises on Responsible Business Conduct," 2023, available at: https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_81f92357-en.html

310 In this Resolution, the Commission refers to: (i) a rights-based approach in the construction of climate change instruments, policies, plans, programs and norms on climate change; (ii) the rights of individuals and groups in situations of vulnerability or historical discrimination in environmental and climate matters; (iii) the rights of Indigenous Peoples, tribal communities, Afro-descendants and peasant farmers or those working in rural areas in the face of climate change, also those of land and nature defenders; (iv) the rights of access to information, participation and access to justice in environmental and climate matters; (v) extraterritorial obligations of States in environmental and climate matters; (vi) responsibility of companies to respect human rights and remedy possible violations thereof in the environmental and climate context, and (vii) fiscal economic and social policies for a just transition. *Cf.* IACHR and REESCER, Resolution No.3/2021 "Climate Emergency: Scope of Inter-American Human Rights Obligations," of December 31, 2021.

311 *Cf.* IACHR and REESCER, "Business and Human Rights: Inter-American Standards," November 1, 2019, OAS/Ser.L/V/II, paras. 47 and 50.

154. Second, the Court notes the adoption of numerous resolutions on climate change and its links to environmental protection and human rights by the United Nations General Assembly. These resolutions have called, *inter ali*a, for: (i) protection of the climate system for the benefit of present and future generations;[312] (ii) promotion of international cooperation to address climate change;[313] (iii) adoption of a global legal framework to combat climate change,[314] and (iv) an increase in international cooperation to address the risks of the possible security implications of climate change.[315]

155. In this context, the Court notes that, in Resolution No. 70/1 of 2015, the United Nations General Assembly adopted Agenda 2030 for Sustainable Development.[316] When referring to the preservation of the planet, climate change is underscored as one of the major challenges because its adverse effects jeopardize the capacity of States to achieve sustainable development.[317]

156. The Court also underlines that, in Resolution No. 76/300 of 2022, the United Nations General Assembly recognized the human right to a clean, healthy and sustainable environment and emphasized the importance of human rights in climate action.[318] A year later, in Resolution No. 77/276, the United Nations General Assembly adopted, by consensus, the initiative to request an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change.[319]

157. Third, The Court underlines that, since 2008,[320] in numerous resolutions, the Human Rights Council has explored in detail the links between climate change and human rights. In particular, the Council has indicated that "human rights obligations, standards and principles have the potential to inform and strengthen international and

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312 *Cf.* United Nations General Assembly, Resolution A/RES/ 43/53, "Protection of global climate for present and future generations of humanity," December 6, 1988. Available at: https://docs.un.org/es/a/res/43/53

313 *Cf.* United Nations General Assembly, Resolution A/RES/44/207, "Protection of global climate for present and future generations of humanity," December 22, 1989. Available at: https://docs.un.org/en/A/RES/44/207

314 *Cf.* United Nations General Assembly, Resolution A/RES/45/212, "Protection of global climate for present and future generations of humanity," December 21, 1990. Available at https://docs.un.org/en/A/RES/45/212, and Resolution A/RES/63/281 "Climate change and its possible security implications," June 3, 2009. Available at: https://docs.un.org/en/A/RES/63/281

315 *Cf.* United Nations General Assembly, Resolution A/RES/63/281, "Climate change and its possible security implications" June 3, 2009. Available at: https://docs.un.org/en/A/RES/63/281

316 *Cf.* United Nations General Assembly, Resolution A/RES/70/1, "Transforming our world: the 2030 Agenda for Sustainable Development," September 25, 2015. Available at: https://docs.un.org/en/A/RES/70/1.

317 *Cf.* United Nations General Assembly, Resolution A/RES/70/1, "Transforming our world: the 2030 Agenda for Sustainable Development," September 25, 2015, para. 14. Available at: https://docs.un.org/en/A/RES/70/1.

318 *Cf.* United Nations General Assembly, Resolution A/RES/76/300, "The human right to a clean, healthy and sustainable environment," July 28, 2022. Available at: https://docs.un.org/en/A/RES/76/300

319 *Cf.* United Nations General Assembly, Resolution A/RES/77/276, "Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change," April 4, 2023. Available at: https://docs.un.org/en/A/RES/77/276

320 *Cf.* United Nations Human Rights Council Resolution 7/23, of March 2008. Available at: https://ap.ohchr.org/documents/e/hrc/resolutions/a_hrc_res_7_23.pdf

national policymaking in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes."[321]

158. In its resolutions, the Council has recognized, for example: (i) the need to integrate human rights into climate change mitigation and adaptation policies;[322] (ii) the urgency for all States to prevent, minimize and respond to the loss and damage associated with the adverse effects of climate change;[323] (iii) the disproportionate impact of climate change on the rights of individuals in a situation of special vulnerability,[324] and the special protection of older persons,[325] persons with disabilities,[326] women,[327] children,[328] and migrants and displaced persons;[329] (iv) the need to integrate the gender-based approach into climate policies,[330] and (v) the impacts of climate change on the rights to health[331] and to development.[332] Likewise,

[321] *Cf.* United Nations Human Rights Council Resolution 18/22, A/HRC/RES/18/22, October 2011. Available at: https://docs.un.org/en/A/HRC/RES/18/22

[322] *Cf.* United Nations Human Rights Council Resolution 32/33, A/HRC/RES/18/22, July 2016. Available at: https://undocs.org/es/A/HRC/RES/32/33

[323] *Cf.* Human Rights Council, Resolution 53/6, A/HRC/RES/53/6, July 2023. Available at: https://docs.un.org/en/A/HRC/RES/53/6

[324] *Cf.* Human Rights Council, Resolution 47/24, A/HRC/RES/47/24, July 2021. Available at: https://undocs.org/A/HRC/RES/47/24

[325] *Cf.* Human Rights Council, Resolution 44/7, A/HRC/RES/44/7, July 2020. Available at: https://undocs.org/A/HRC/RES/44/7

[326] *Cf.* Human Rights Council, Resolution 41/21, A/HRC/RES/41/21, July 2019. Available at: https://undocs.org/A/HRC/RES/41/21

[327] *Cf.* Human Rights Council, Resolution 38/4, A/HRC/RES/38/4, July 2018. Available at: https://undocs.org/A/HRC/RES/38/4

[328] *Cf.* Human Rights Council, Resolution 32/33, A/HRC/RES/32/33, July 2016. Available at: https://undocs.org/A/HRC/RES/32/33

[329] *Cf.* Human Rights Council, Resolution 35/20, A/HRC/RES/35/20, July 2017. Available at: https://undocs.org/A/HRC/RES/35/20

[330] *Cf.* Human Rights Council, Resolution 38/4, A/HRC/RES/38/4, July 2018. Available at: https://undocs.org/A/HRC/RES/38/4

[331] *Cf.* Human Rights Council, Resolution 29/15, A/HRC/RES/29/15, July 2015. Available at: https://undocs.org/A/HRC/RES/29/15

[332] *Cf.* Human Rights Council, Resolution 26/27, A/HRC/RES/26/27, July 2014. Available at: https://undocs.org/A/HRC/RES/26/27

within the framework of the Human Rights Council the special rapporteurs[333] and the working groups[334] have submitted reports on such matters

159. Fourth, different human rights treaty bodies of the universal protection system have referred to the effects of climate change on the exercise and enjoyment of human rights, and on the need to integrate a human rights approach into the global response to climate change. This is the case of: (i) the Human Rights Committee (HRC) in its *General Comment No. 36 on the right to life;*[335] (ii) the Committee on Economic, Social and Cultural Rights (CESCR), in its statement on climate change and the International Covenant on Economic, Social and Cultural Rights (ICESCR)[336] and its General Comment No. 26 on the right to land;[337] (iii) the Committee on the Rights of the Child (CRC);[338] (iv) the Committee on the Rights of Persons with Disabilities (CRPD),[339] and (v) the 2020 Joint Statement on human rights and climate change adopted by the Committee for the Elimination of All Forms of Discrimination against Women (CEDAW), the CESCR, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the CRC and the CRPD.[340] The Court also notes that, in

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333 See, *inter alia*, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal, "Towards a just transformation: climate crisis and the right to housing," A/HRC/52/28, of December 23, 2022; Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, "Providing legal options to protect the human rights of persons displaced across international borders due to climate change," A/HRC/53/34, April 18, 2023; Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, "Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment." A/74/161, July 15, 2019; Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, "Promotion and protection of human rights in the context of climate change," A/77/226, 26 July 26, 2022; Report of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally, "Trafficking in persons, especially women and children," A/77/170, July 15, 2022; Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voulé, "Exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice," A/76/222, July 23, 2021; Report of the Special Rapporteur on the right to development, "Climate action at the national level," A/HRC/48/56, July 2, 2021; Report of the Special Rapporteur in the field of cultural rights, Karima Bennoune, "Field of cultural rights," A/75/298, August 10, 2020; Report of the Special Rapporteur on extreme poverty and human rights, "Climate change and poverty," A/HRC/41/39, July 17, 2019; Interim report of the Special Rapporteur on the right to food, Hilal Elver, "Right to food," A/70/287, August 5, 2015; Report of the Special Rapporteur on the human rights of migrants, François Crépeau, "Human rights of migrants," A/67/299, August 13, 2012, and Report of the then Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, "Protection of and assistance to internally displaced persons," A/66/285, August 9, 2011

334 See, for example, Working Group of Experts on People of African Descent, "Environmental justice, the climate crisis and people of African descent," A/HRC/48/78 of September 21, 2021.

335 *Cf.* Human Rights Committee, General comment No. 36 (2018) "The right to life," CCPR/C/GC/36, September 3, 2019, para. 62.

336 *Cf.* Committee on Economic, Social and Cultural Rights "Climate change and the International Covenant on Economic, Social and Cultural Rights," E/C/12/2018/1, October 8, 2018.

337 *Cf.* Committee on Economic, Social and Cultural Rights, General Comment No. 26 on " Land and Economic, Social and Cultural Rights," E/C.12/GC/26, January 24, 2023.

338 *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on children's rights and the environment with a special focus on climate change," CRC/C/GC/26, August 22, 2023.

339 *Cf.* Committee on the Rights of Persons with Disabilities, "Statement on Disability Inclusion in Climate Action," November 2024, available at: https://www.ohchr.org/en/treaty-bodies/crpd/statements-declarations-and-observations

340 *Cf.* The Committee for the Elimination of All Forms of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities, "Joint Statement on human rights and climate change," HR1/2019/1, May 14, 2020.

2023, the Working Group on the issue of human rights and transnational corporations and other business enterprises ruled on the relationship between Climate Change and the Guiding Principles on Business and Human Rights.[341]

### C.3. The Issue of Climate Change within the International Labour Organization

160. The Court notes that the States of the international community have adopted instruments and initiatives relating to the climate crisis within the framework of the International Labour Organization (ILO). The most important of these are the Guidelines for a just transition towards environmentally sustainable economies and societies for all" and the recommendations and guidelines for the protection of workers in the context of the climate emergency. In this context, the ILO has underscored the important that States and other interested stakeholders collaborate to ensure a **just transition to a green economy** based on "maximizing the social and economic opportunities of climate action, while minimizing and carefully managing any challenges – including through effective social dialogue among all groups impacted and respect for fundamental labour principles and rights."[342]

### C.4. Trade and International Investment Treaties

#### *C.4.1. The Climate Change Issue within the World Trade Organization*

161. The World Trade Organization (WTO), for its part, published a report entitled *Overview of Trade Policies Adopted to Address Climate Change*, which compiled the main trade-related measures adopted in response to climate change.[343] It also created an *environmental database* that systematizes good practices reported by Member States regarding trade and climate change. Moreover, the organization

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[341] *Cf.* Working Group on the issue of human rights and transnational corporations and other business enterprises, "Information Note on Climate Change and the Guiding Principles on Business and Human Rights," June 2023, pp. 5 and 6. Available at: https://www.ohchr.org/sites/default/files/documents/issues/business/workinggroupbusiness/Information-Note-Climate-Change-and-UNGPs.pdf.

[342] *Cf.* International Labour Organization (ILO), "Climate change and financing a just transition," October 28, 2021, available at: https://www.ilo.org/resource/other/climate-change-and-financing-just-transition. The Preamble to the Paris Agreement also refers to the need for "[t]aking into account the imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities." During COP26, held in Glasgow, several of the developed States present issued a statement "Supporting the conditions for a just transition internationally" in which they undertook to make progress, together, on six thematic issues: (i) support for workers in the transition to new jobs; (ii) support for and promotion of social dialogue and stakeholder engagement; (iii) development of economic and industrial strategies to create economies that are sustainable, competitive and efficient in the use of resources, promoting growth, poverty reduction, and the creation of decent work; (iv) promotion of local, inclusive, and decent work; (v) ensuring that both existing and emerging supply chains create decent and equitable employment, particularly for the most marginalized, and (vi) reporting progress towards just transition in the Biennial Transparency Reports, in the context of reporting on policies and measures to achieve the Nationally Determined Contributions. See: Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, Preamble, available at: https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf and The National Archive, "Statement supporting the conditions for a just transition internationally, May 2023, available at: https://webarchive.nationalarchives.gov.uk/ukgwa/20230313132211/https://ukcop26.org/supporting-the-conditions-for-a-just-transition-internationally/

[343] *Cf.* World Trade Organization (WTO), "Trade and Climate Change: Overview of trade policies adopted to address climate change", pp. 4 and 6-9, available at: https://www.wto.org/english/news_e/news21_e/clim_03nov21-1_e.pdf.

developed a policy aimed at leveraging trade in environmental goods and services to address climate change.[344] Lastly, the WTO issued a report on *Climate Adaptation and Trade*, highlighting the role of international trade in preventing and reducing climate-related risks.[345]

### *C.4.2. International Investment Agreements*

162. Certain international investment agreements and model bilateral investment treaties—particularly more recent ones—include provisions and clauses concerning environmental protection and climate change.[346] Such provisions may play a crucial role in promoting climate-related investment and in preventing potentially adverse effects in this area.

163. In this regard, the Expert Mechanism on the Right to Development of the United Nations Human Rights Council has observed that international investment treaties are frequently misaligned with the environmental and climate-related obligations undertaken by States. This tension is not inherent to the investment regime itself but rather depends on the legal design of the instruments and the use of investor-State dispute settlement mechanisms. Accordingly, the Mechanism has emphasized the importance of achieving an appropriate balance in investor-State dispute settlement systems—one that enables States to adapt and amend their legal frameworks in response to the climate crisis and ecological transitions..[347] In this sense, it is essential to foster a balance that allows States to adopt legitimate regulatory measures to address the climate crisis, without undermining the legal certainty and predictability that international investment agreements seek to provide as essential incentives for foreign direct investment.

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[344] *Cf.* World Trade Organization (WTO), "Leveraging trade in environmental goods and services to tackle climate change", available at: https://www.wto.org/english/tratop_e/envir_e/policy_brief_environmental_goods_e.pdf

[345] *Cf.* World Trade Organization (WTO), "Climate Change Adaptation and Trade", available at: https://www.wto.org/english/news_e/news22_e/dgo_ted_climate_change_sept22.pdf

[346] Cf. Agreement on "Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part ", 2000, articles 21.2, 23.2, 34, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22000A1028(01); "Free Trade Agreement between Chile and the United States of America," 2003, Preamble and article 8.10, available at: https://ustr.gov/trade-agreements/free-trade-agreements/chile-fta/final-text; Agreement on Strategic Economic Partnership between the Government of Chile and the Government of Japan, 2007, Preamble, available at: https://www.mofa.go.jp/region/latin/chile/joint0703/agreement.pdf; "Reciprocal Investment Promotion and Protection, and Agreement between the Government of the Kingdom of Morocco and the Government of the Federal Republic of Nigeria", 2016, articles 13 and 14, available at: https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/5409/download.
Also, in September 2019, the States of Costa Rica, Iceland, New Zealand, and Switzerland adopted the text of the Agreement on Climate Change, Trade and Sustainability (ACCTS) the goal of which is to contribute to the objectives of decarbonization of the economy and global sustainability by the negotiation of matters specifically related to international trade that reflect the coherence and support that may exist between environmental and trade policies among the member countries and at the global level." See, Ministry of Foreign Trade of Costa Rica, "*Acuerdo sobre Cambio Climático, Comercio and Sostenibilidad (ACCTS)"* available at: https://www.comex.go.cr/tratados/accts/. Agreement on Climate Change, Trade and Sustainability (ACCTS)]" available at: https://www.seco.admin.ch/seco/en/home/ Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/internationale_organisationen/WTO/ACCTS.html].

[347] *Cf.* United Nations General Assembly, Human Rights Council, Expert Mechanism on the Right to Development, "Right to development in international investment law," A/HRC/54/82, of June 26, 2023, paras. 42-49.

164. The aforementioned clauses are also significant insofar as they may help prevent the so-called *regulatory chilling effect* in the field of climate governance—i.e., the deterrent effect on State regulation that may arise from the potential imposition of costly compensation awards, which could discourage governments from implementing public policies consistent with their environmental and climate obligations.[348]

### C.5. Initiatives in the Field of International Climate Finance

165. The Court observes that both the International Monetary Fund (IMF) and the World Bank (WB) have incorporated the issue of climate change into their respective work agendas. Specifically, the IMF has gradually integrated climate-related risks and opportunities into its public policy advice mechanisms,[349] capacity development activities,[350] and lending operations.[351] In 2021, it published its "Strategy to help members address climate change related policy challenges – priorities, modes of delivery, and budget implications."[352]

166. Meanwhile, in 2023, the WB destined USD 38.6 billion for funding climate action, which represents a 22% increase in relation to the previous year.[353] This institution also provides assessment for the implementation of the NDCs and the

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348 *Cf.* United Nations General Assembly, Human Rights Council, Expert Mechanism on the Right to Development, "Right to development in international investment law," A/HRC/54/82, of June 26, 2023, para. 42.

349 To promote the adoption of climate policies, the IMF has developed the Climate Change Indicators Dashboard. See: IMF, "Climate Change Dashboard", available at: https://climatedata.imf.org/.

350 The IMF has also developed the "Climate Policy Assessment Tool" (CPAT), a spreadsheet-based model which helps policymakers to assess, design, and implement climate mitigation policies. In addition, the IMF has created the program "Climate Policy Diagnostic" (CPD) which provides countries with an in-depth analysis of their climate policies, focusing on mitigation and adaptation strategies. See: IMF, "Climate Change Policy Assessment Tool," available at: https://www.imf.org/en/Topics/climate-change/CPAT, and FMI, "What is a Climate Policy Diagnostic (CPD)?" available at: https://www.imf.org/en/Topics/climate-change/climate-policy-diagnostic.

351 The IMF has established the Resilience and Sustainability Trust (RST) to help low-income and vulnerable middle-income countries build resilience to external shocks and ensure sustainable growth, contributing to their longer-term balance of payments stability. See: IMF, "Resilience and Sustainability Trust", available at: https://www.imf.org/en/Topics/Resilience-and-Sustainability-Trust

352 *Cf.* IMF, "Strategy to help members address climate change related policy challenges – priorities, modes of delivery, and budget implications", of July 30, 2021, available at: https://www.imf.org/en/Publications/Policy-Papers/Issues/2021/07/30/IMF-Strategy-to-Help-Members-Address-Climate-Change-Related-Policy-Challenges-Priorities-463093.

353 Regarding the distribution of climate funding, the Court underlines that the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA), both World Bank organizations, delivered $29.4 billion in climate finance ($12 billion of which was aimed at supporting investments in adaptation and resilience). In addition, the International Finance Corporation, the private sector arm of the World Bank, provided $7.6 billion in climate finance, representing 46% of its investment commitments for the year. Furthermore, the Multilateral Investment Guarantee Agency (MIGA), the World Bank organization responsible for political risk insurance and credit enhancement, delivered $1.5 billion in climate finance. *Cf.* World Bank. *Climate-Related Financial Disclosures Fiscal Year 2023*. The World Bank Group, 2023. Web. https://thedocs.worldbank.org/en/doc/23a63a4bde452fe676c0843ab879405a-0340022023/original/World-Bank-FY23-Climate-Related-Financial-Disclosure.pdf.

"Long-term Climate Strategies,"[354] and has created a "Climate Change Knowledge Portal ("CCKP").[355]

167. Furthermore, at COP28, the multilateral development banks[356] issued a joint statement in which they reaffirmed, *inter alia*, their commitment to: jointly report on climate finance commitments; support States in developing long-term low-emission development strategies and other long-term climate plans in line with the Paris Agreement; intensify efforts to mobilize private capital; and scale up finance for climate adaptation.[357]

168. In addition, the regional development banks, such as the African Development Bank,[358] the Asian Development Bank,[359] the Islamic Development Bank,[360] and the European Investment Bank,[361] have also adopted policies favoring climate resilience, adaptation and mitigation.

169. In Latin America and the Caribbean, such policies have been advance by the Development Bank of Latin America and the Caribbean (formerly *Corporación Andina de Fomento*")[362] and the Inter-American Development Bank (IDB). In 2016, IDB Board

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354 *Cf.* World Bank Group, "Climate Change Action Plan 2021-2025: Supporting Green, Resilient and Inclusive Development", 2021, available at: https://openknowledge.worldbank.org/server/api/core/bitstreams/19f8b285-7c5b-5312-8acd-d9628bac9e8e/content.

355 The Portal provides global data on historical and future climate, vulnerabilities, and impacts in different development countries, as well as on national adaptation and mitigation strategies. *Cf.* World Bank Group, "Climate Change Knowledge Portal", available at: https://climateknowledgeportal.worldbank.org/,

356 The financial entities that signed the statement were: African Development Bank, Asian Development Bank, Asian Infrastructure Investment Bank, Council of Europe Development Bank, European Bank for Reconstruction and Development, European Investment Bank, Inter-American Development Bank Group, Islamic Development Bank, New Development Bank, and the World Bank Group.

357 *Cf.* COP28 Multilateral Development Banks (MDB), "Joint Statement," 2023, available at: https://www.ifc.org/en/statements/2023/cop28-mdb-joint-statement.

358 *Cf.* African Development Bank, "Climate and Green Growth Strategic Framework: projecting Africa´s voice policy," March 4, 2022, available at: https://www.afdb.org/en/documents/climate-and-green-growth-strategic-framework-projecting-africas-voice-policy "Climate and Green Growth Strategic Framework: Projecting Africa's Voice - Strategy 2021–2030," 2022, available at: https://www.afdb.org/en/documents/climate-and-green-growth-strategic-framework-projecting-africas-voice-strategy-2021-2030; "Climate and Green Growth Strategic Framework: Operationalising Africa's Voice - Action Plan 2021-2025", 2023, available at: https://www.afdb.org/en/documents/climate-change-and-green-growth-strategic-framework-operationalising-africas-voice-action-plan-2021-2025, and "Africa Climate Change Fund - Annual Report 2022," 2024, available at: https://www.afdb.org/en/documents/africa-climate-change-fund-annual-report-2022.

359 *Cf.* Asian Development Bank, "Climate Change and Disaster Risk Management," available at: https://www.adb.org/what-we-do/topics/climate-change/overview; "Strategy 2030: Tackling climate change, building climate and disaster resilience, and enhancing environmental sustainability, 2019-2024," 2019, available at: https://www.adb.org/documents/strategy-2030-op3-climate-change-resilience-sustainability; "Climate Change Action Plan, 2023-2030," 2023, available at: https://www.adb.org/documents/climate-change-action-plan-2023-2030, and "Revised Disaster and Emergency Assistance Policy," 2021, available at: https://www.adb.org/documents/revised-disaster-and-emergency-assistance-policy-r-paper.

360 *Cf.* Islamic Development Bank, "Climate Change," available at: https://www.isdb.org/climate-change; "Climate Change Policy," 2019, available at: https://www.isdb.org/publications/isdb-climate-change-policy, and "Climate Action Plan 2020-2025," 2020, available at: https://www.isdb.org/climate-change/publications/climate-action-plan-2020-2025.

361 *Cf.* European Investment Bank, "Climate and Environmental Sustainability: How we work," 2025, https://www.eib.org/en/projects/topics/climate-action/how-we-work.

362 The Development Bank of Latin America and the Caribbean is a regional financial entity that promotes sustainable development and green economies in over 15 countries, supporting the financial and

of Governors adopted the Bahamas Resolution on the "Increase of finance for climate change."[363]

170. To implement the commitments set forth therein, the IDB adopted the *IDB Group Climate Change Action Plan (2021–2025)* and has sought to develop climate-related strategies through its IDB Invest[364] and IDB Lab.[365]

171. Having addressed the international initiatives undertaken to confront climate change and its impacts, the Court will now turn to an overview of comparative law developments in OAS Member States.

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

172. The right to a healthy and/or "ecologically balance" environment, as it is referred to most frequently, has been recognized in the constitutions of this region. Currently, the States of Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Venezuela and Uruguay establish this in their constitutions.[366]

173. In addition, certain constitutions establish specific obligations in relation to climate change. For instance, the Constitution of Ecuador provides, *inter alia*, for the obligation to "adopt appropriate and cross-cutting measures for climate change mitigation, including through the limitation of greenhouse gas emissions, deforestation and air pollution," as well as to "take action" for "the conservation of forests and vegetation" and "the protection of at-risk populations."[367] Similarly, the Constitution of the Dominican Republic declares it a State priority to formulate and implement, through legislation, a territorial planning strategy to "ensure the efficient and

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technical structuring of projects. *Cf.* Development Bank of Latin America and the Caribbean: "Action Areas: Environment and Climate Change," available at: https://www.caf.com/en/action-areas/environment-and-climate-change/

363 In it, the Bank committed "to the goal of increasing the financing of climate change related projects in LAC to 30% of the IDB's and IIC's combined total approvals of loans, guarantees, investment grants, technical cooperation, and equity operations." *Cf.* IDB, "IDB Group Climate Change Action Plan: 2021-2025", p. 5, available at: https://publications.iadb.org/en/inter-american-development-bank-group-climate-change-action-plan-2021-2025

364 *Cf.* IDB Invest, "Climate Change: Challenges and Opportunities", available at: https://idbinvest.org/en/solutions/climate-change . The IDB Invest program seeks to structure loans and grants to expand the pool of funds available for investment in the private sector.

365 IDB Lab is the innovation and venture capital arm of the Inter-American Development Bank Group. Its projects can be consulted at: IDB Lab, "Projects", available at: https://bidlab.org/en/projects.

366 The constitutions of the following States establish the right to a healthy environment: (1) Constitution of the Argentine Nation, art. 41; (2) Constitution of Bolivia, art. 33; (3) Constitution of the Federative Republic of Brazil, art. 225; (4) Constitution of the Republic of Chile, art. 19.8; (5) Constitution of Colombia, art. 79; (6) Constitution of Costa Rica, art. 50; (7) Constitution of the Republic of Ecuador, art. 14; (8) Constitution of the Republic of El Salvador, art. 117; (9) Constitution of the Republic of Guatemala, art. 97; (10) Constitution of the United Mexican States, art. 4; (11) Constitution of the Republic of Haiti, arts. 253-258; (12) Constitution of Jamaica, art. 13.3.l; (13) Constitution of Nicaragua, art. 60; (14) Constitution of the Republic of Panama, arts. 118 and 119; (15) Constitution of the Republic of Paraguay, arts. 7 and 8; (16) Constitution of the Dominican Republic, arts. 66 and 67, (17) Constitution of the Bolivarian Republic of Venezuela, arts. 127 and 129, and (18) Constitution of the Oriental Republic of Uruguay, article 47 declares that environmental protection is of general interest.

367 *Cf.* Constitution of the Republic of Ecuador, article 414.

sustainable use of the Nation's natural resources in accordance with the need for adaptation to climate change."[368]

174. In order to give effect to these constitutional mandates and to fulfill their international obligations on climate change, States across the Americas have strengthened their domestic legal frameworks. To date, a number of States have enacted dedicated climate change legislation. According to the Economic Commission for Latin America and the Caribbean (ECLAC)[369] as of March 2024, twelve countries in the region had adopted specific climate change laws: Argentina, Bahamas, Brazil, Chile, Colombia, Dominica, Guatemala, Honduras, Mexico, Paraguay, Peru and Saint Lucia.[370] In addition, Canada[371] and the United States of America[372] have adopted legal provisions on climate change.

175. The NDCs and National Adaptation Plans serve as key instruments for coordinating domestic climate agendas and aligning national targets with the global objectives set forth in the Paris Agreement and successive COPs. According to the UNFCCC Secretariat, between 2016 and the present, the following 33 countries in the region have submitted their NDCs: following countries in the region have submitted their NDCs: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States of America, Venezuela and Uruguay.[373] Moreover, 15 States in the region have submitted their National Adaptation Plans to the UNFCCC Secretariat.[374]

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368 *Cf.* Constitution of the Dominican Republic, article 194.

369 *Cf.* ECLAC, "Observatory on Principle 10", "Latin America and the Caribbean: Countries with climate change laws," of March 20, 2024, available at: https://observatoriop10.ECLAC.org/en/maps/latin-america-and-caribbean-countries-climate-change-laws.

370 The legislation referred to is: Argentina (Minimum Budgets for Adaptation and Mitigation of Global Climate Change Act); Bahamas (Climate change and carbon market initiatives Act); Brazil (Law establishing the National Climate Change Policy); Chile (Framework Climate Change Law); Colombia (Law establishing Directives for the Management of Climate Change); Dominica (Climate Resilience Act); Guatemala (Framework Climate Change Law), Honduras (Climate Change Act), Mexico (General Law on Climate Change), Paraguay (National Law on Climate Change); Peru (Framework Climate Change Law), and Saint Lucia (Climate Change Act).

371 *Cf.* Canadian Net-Zero Emissions Accountability Act, S.C. 2021, c. 22, available at: https://laws-lois.justice.gc.ca/eng/acts/c-19.3/fulltext.html.

372 At the federal level, the Congress of the United States of America has adopted legislation to reduce emissions of greenhouse gases (GHG) and pollutants; in particular, the 2022 Inflation Reduction Act (IRA), which imposes a Waste Emissions Charge (WEC) on petroleum and gas facilities based on excessive methane emissions; the 2020 American Innovation and Manufacturing Act (AIM), which regulates the reduction of hydrofluorocarbons (HFCs) to limit their climate impact, and the Clean Air Act (CAA), which controls emissions of volatile organic compounds (VOCs) and dangerous pollutant such as benzene. *Cf.* https://www.congress.gov/public-laws/118th-congress

373 *Cf.* UNFCCC, "NDC Registry," available at: https://unfccc.int/NDCREG.

374 These are the States of: Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Haiti, Paraguay, Peru, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, and Uruguay. See: UNFCCC, "Submitted NAPs from developing country Parties", available at: https://napcentral.org/submitted-NAPs.

*E. Climate Litigations and Judicial Decisions*

176. The Court observes a considerable increase in an emerging field of litigation concerning climate change, its causes, and its consequences. Climate-related cases are brought before a wide variety of jurisdictions, including administrative bodies, judicial authorities, and other decision-making mechanisms.[375] Some cases have been filed against States and companies, *inter alia*, for inaction or insufficient action in response to climate change, for the payment of compensation for damages caused by this phenomenon, to ensure the integration of climate considerations into public policy, and, in general, to safeguard respect for human rights in the context of the energy transition and in mitigation and adaptation measures. In Latin America, the Court notes the existence of several cases related to energy policies,[376] deforestation,[377] oil exploration and extraction,[378] and fracking,[379] among other matters.

177. As of the date of adoption of this decision, approximately 2,666 climate-related cases had been filed globally, of which nearly 70% were initiated after 2015 following the adoption of the Paris Agreement.[380] Even though 87% of these cases have been processed in the United States of America,[381] an increase in climate litigation can be

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375 *Cf.* United Nations Environment Programme (UNEP), "Global Climate Litigation Report: 2023 Status Review," p. 3, available at: https://wedocs.unep.org/bitstream/handle/20.500.11822/43008/global_climate_litigation_report_2023.pdf?sequence=3.

376 See, *inter alia*, Supreme Court of Justice of the Nation of the United Mexican States, Habeas corpus review No. 610/2019, Second Chamber, judgment of January 15, 2020, available at: https://www.scjn.gob.mx/derechos-humanos/sites/default/files/Judgments-emblematicas/Judgment/2022-02/AR%20610-2019.pdf

377 See, *inter alia*, Supreme Court of Justice of the Republic of Colombia, Judgment No. STC4360-2018, of April 4, 2018, available at: https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2018/20180405_11001-22-03-000-2018-00319-00_decision-2.pdf

378 See, *inter alia*, High Court of the Supreme Court of Judicature of Guyana, Constitutional Administrative Division, *Case Collins v. Environmental Protection Agency*, No. 2022-HC-DEM-CIV-FDA-1314, May 3, 2023.

379 See, *inter alia*, Supreme Court of Justice of Mendoza, *Oikos Environmental Network v. Government of the province of Mendoza, ref. Action for unconstitutionality,* of September 10, 2019, and Council of State, Administrative Chamber, Case No. 11001-03-26-000-2016-00140-00 (57.819), procedure of September 17, 2019.

380 *Cf.* Grantham Research Institute on Climate Change and the Environment, "Global Trends in Climate Change Litigation: 2024 Snapshot", 2024, p. 10. Available at: https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-a2024-snapshot/

381 *Cf.* Grantham Research Institute on Climate Change and the Environment, "Global Trends in Climate Change Litigation: 2024 Snapshot", 2024, p. 13. Available at: https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2024-snapshot/

noted in the countries of Latin America[382] Asia[383] and Europe.[384] Climate litigation has now entered the inter-American[385] and the European human rights systems,[386] and also the universal system for the protection of human rights before the Committee on the Rights of the Child[387] and the Human Rights Committee.[388]

178. Within the framework of these proceedings, at the international level, the effects of climate change on human rights have been recognized;[389] specific criteria have been developed on the condition of victims in climate-related matters and their

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382 For example, several cases in Latin America related to climate change and environmental protection are underlined. In Mexico: (i) the judgment declaring constitutional the prohibition to distribute non-recyclable plastic bags in the state of Oaxaca; (ii) the rulings that supported the so-called "green taxes" in Baja California Zacatecas, and (iii) the action filed by Greenpeace against the Mexican State in relation to the alleged reduction in the climate policy budget. In Colombia, cases include the Office of the Inspector General *v.* the Ministry of the Environment and Sustainable Development, and the cases of Future Generations *v.* the Ministry of the Environment. In Brazil: (i) the case relating to fires in the Pantanal and the Amazon forest; (ii) Public Prosecution Service *v.* Oliveira, on the reduction of greenhouse gases (GHG), and (iii) the PSB case, which required the execution of the mitigation measures established in federal legislation. In Ecuador, it is worth mentioning Herrera Carrión *v.* the Environmental Ministry. Most of these proceedings relate to GHG emission reduction and trade, and the protection of the right to a healthy environment. See, Sabin Center for Climate Change Law, "Global Climate Change Litigation database", available at: https://climatecasechart.com/non-us-climate-change-litigation/.

383 For example, the Court notes that, in the regions of Asia and Oceania, some courts have examined the compulsory nature of adopting mitigation measures in cases such as: *Ashgar Leghari v. Pakistan, Shrestha v. the Office of the Prime Minister of Nepal*, *Sharma v. the Ministry of Environment of Australia.* Other precedents – for example, *Waratah Coal Pty. Ltd. v. Youth Verdict Ltd. & Ors.*, *MK Ranjitsinh et al. v. Union of India*, and *Smith v. Fonterra Co-Operative Group Ltd* – address the monitoring of activities of non-state actors that have an impact on the protection of the environment and biodiversity. See, Sabin Center for Climate Change Law, "Global Climate Change Litigation database", available at: https://climatecasechart.com/non-us-climate-change-litigation/.

384 For example, the Court notes that, in Europe, several courts have examined whether States have complied with the necessary measures to mitigate the causes and effects of climate change pursuant to international law and their domestic legal frameworks. The following are among the most relevant precedents, *Urgenda Foundation and Others v. the Netherlands, Friends of the Irish Environment v. Ireland, Neubauer v. Germany, Notre Affaire à Tous et al. v. France, Commune de Grande-Synthe v. France, and VZW Klimaatzaak v. Belgium*. Also, in *Milieudefensie v. Royal Dutch Shell,* the possible attribution of climate loss and damage to a non-state actor – a transnational corporation – was examined owing to its contribution to GHG emissions. See, Sabin Center for Climate Change Law, "Global Climate Change Litigation database", available at: https://climatecasechart.com/non-us-climate-change-litigation/.

385 Under inter-American system, see, for example, the following petitions lodged before the Inter-American Commission on Human Rights: (i) request for reparation for violation of the rights of the Arctic Athabaskan People resulting from the rapid warming and melting of the Arctic attributable to black carbon emissions by Canada, and (ii) request for reparation for violations of the rights of the child in Cité Soleil, Haiti. See, Sabin Center for Climate Change Law, "Global Climate Change Litigation database", available at: https://climatecasechart.com/non-us-climate-change-litigation/.

386 Under the European system, see, ECtHR [GS], *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* no. 53600/20, of April 9, 2024; *Duarte Agostinho and Others v. Portugal and Others,* no. 39371/20, of April 9, 2024, and *Carême v. France*, no. 7189/21, of April 9, 2024. See, Sabin Center for Climate Change Law, "Global Climate Change Litigation database", available at: https://climatecasechart.com/non-us-climate-change-litigation/.

387 *Cf.* Committee on the Rights of the Child, *Sacchi et al. v. Argentina et al.*, Communication No. 104/2019, decision of September 22, 2021.

388 *Cf.* Human Rights Committee, *Teitiota v. New Zealand*, Communication No. 2728/2016, views of January 7, 2020 and *Billy and Others v. Australia*, Communication No. 3624/2019, views of September 24, 2022.

389 *Cf.* ECtHR [GS], *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* no. 53600/20, of April 9, 2024, para. 431.

*locus standi,*[390] and violations have been declared of the international adaptation[391] and mitigation[392] obligations of States.

179. In turn, domestic courts have ruled, among other matters, on the obligations of States with regard to determination of mitigation goals,[393] the violation of mitigation objectives,[394] the need to reduce deforestation as a mitigation measure,[395] the need to establish state bodies with competence in relation to climate adaptation,[396] and the value of the Paris Agreement as a human rights treaty.[397]

180. Furthermore, at the international level, in addition to the present Advisory Opinion, various requests concerning States' obligations regarding climate change have been submitted. In this respect, on 21 May 2024, the International Tribunal for the Law of the Sea (ITLOS) issued its advisory opinion on climate change and its implications for the Law of the Sea, in response to the request submitted by the Commission of Small Island States on Climate Change and International Law..[398] Likewise, as of the adoption of this decision, the International Court of Justice is considering a request for an advisory opinion submitted by the United Nations General Assembly regarding the scope of States' obligations in relation to climate change under international law,[399] while the African Court on Human and Peoples' Rights is processing a request for an advisory opinion submitted by the Pan African Lawyers Union concerning States' obligations with respect to the climate crisis.[400]

### *F. The Climate Emergency Landscape*

181. The purpose of the request submitted to the Court is to clarify the scope of States' obligations in responding to the climate emergency. Accordingly, the

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390 *Cf.* ECtHR [GS], *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* no. 53600/20, of April 9, 2024, paras. 458-537

391 *Cf.* Human Rights Committee, *Billy and Others v. Australia*, Communication No. 3624/2019, views of September 24, 2022, paras. 8.2 and 8.14.

392 *Cf.* ECtHR [GS], *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* no. 53600/20, of April 9, 2024, para. 545.

393 *Cf.* The Hague District Court, *Urgenda Foundation v. the Netherlands* of June 24, 2014, paras. 4.83, 4.84, and 5.1, and First Chamber of the Constitutional Court of Germany, Case 1, BvR 2656/18, 1 BvR 78/20, 1 BvR 96/20, of March 24, 2021, paras. 246 and 265.

394 *Cf.* High Administrative Court of Berlin-Brandenburg, Case OVG 11 A 11/22, of November 30, 2023, pp. 2 and 45.

395 *Cf.* Supreme Court of Justice of the Republic of Colombia, Judgment No. STC4360-2018, of April 5, 2018, pp. 42, 43 and 47.

396 *Cf.* Lahore High Court*, Leghari v. Federation of Pakistan,* No. 25501/2015, April 4, 2015, paras. 4-19.

397 *Cf.* Supreme Federal Court of Brazil. "Arguição de Descumprimento de Preceito Fundamental No. 708 (Fundo Clima)." Constitutional law on the environment. "Arguição de Descumprimento de Preceito Fundamental." Climate Fund. Failure to allocate resources aimed at mitigating climate change. Unconstitutionality. Violation of international commitments. Plaintiff: Brazilian Socialist Party (PSB) and Socialism and Freedom Party (P-SOL). Rapporteur: Justice Luís Roberto Barroso, of June 24, 2022, pp. 9, 18 and 19 and paras. 17, 34 and 36.

398 *Cf.* ITLOS, Obligations of the States to prevent, reduce and control marine pollution and to protect and preserve the marine ecosystem from the impacts of climate change. Advisory Opinion of May 21, 2024.

399 *Cf.* "Request for Advisory Opinion transmitted to the International Court of Justice, pursuant to General Assembly Resolution No. 77/276." Available at: https://www.icj-cij.org/sites/default/files/case-related/187/187-20230412-app-01-00-en.pdf

400 *Cf.* "Request for Advisory Opinion in the matter of a request by the Pan African Union of Lawyers on the obligations of the States with respect to the climate crisis." Available at: https://climatecasechart.com/non-us-case/request-for-an-advisory-opinion-on-the-human-rights-obligations-of-african-states-in-addressing-the-climate-crisis/

interpretation provided in this Advisory Opinion requires determining the nature and contours of such an emergency.

182. To this end, as noted in the preceding sections, the Court finds that, according to the best available scientific evidence, climate change is a phenomenon accelerated by greenhouse gas (GHG) emissions resulting from human activities (see supra paras. 45–50). Its impacts are numerous and constitute an unprecedented risk to both individuals and natural systems (see supra paras. 65–103). In view of the need to take action, States and international organizations have advanced diverse initiatives, reflected in international treaties and other instruments (see supra paras. 120–159), primarily aimed at reducing GHG emissions (mitigation), adopting measures to address the effects of climate change (adaptation), and providing support in the face of irreversible impacts (loss and damage).

183. Despite progress in each of these areas, the Court notes, as emphasized by the requesting States, that the current situation may indeed be considered a climate emergency. In the Court's view, consistent with the best available science, this emergency results from the accelerated increase in global temperature caused by various anthropogenic activities, which incrementally affect and severely threaten humanity—particularly those in situations of heightened vulnerability. The increase in temperature is produced unequally among States within the international community. This climate emergency can only be adequately addressed through urgent, effective, and coordinated actions, guided by human rights considerations and framed within the concept of resilience.

184. For the purposes of the present 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. In the present section, the Court will address each of these factors with a view to determining the scope of the climate emergency as a decisive element for interpreting States' obligations under the American Convention on Human Rights, the Protocol of San Salvador, and other applicable instruments within the framework of this Advisory Opinion.

### F.1. The Urgency of Effective Actions

185. Assessments conducted by various international bodies reveal the pressing need to adopt effective mitigation and adaptation measures to prevent climate-related risks from continuing to increase exponentially.

#### *F.1.1. Mitigation and Future Scenarios*

186. In 2018, the IPCC stated that the level of emissions reductions achieved during this decade and the next would largely determine the feasibility of limiting warming to below 1.5°C or 2°C relative to pre-industrial level.[401] It further indicated that limiting warming to 1.5°C would not only require rapid and sustained reductions in GHG

[401] *Cf.* IPCC, 2018: Summary for Policy Makers. In: Global warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)], p.14.

emissions, but would also necessitate achieving so-called "carbon neutrality"[402] around the year 2050—that is, ensuring that GHG emissions are balanced by those removed from or absorbed by the atmosphere. In light of the foregoing, in 2024, UNEP affirmed that attaining the temperature limits set by the Paris Agreement remains possible, but constitutes a challenge of considerable magnitude.[403]

187. Two elements are particularly useful for understanding the scale of this challenge. First, the concept of "carbon budget" should be considered. This budget determines the maximum amount of gigatonnes of $CO_2$ (derived from net human-caused global emissions) that can accumulate in the atmosphere without significantly jeopardizing the 1.5°C or 2°C temperature increase target above pre-industrial levels. [404] To maintain warming below 1.5°C (with a 66% probability), emissions must not exceed 420 $GtCO_2$, and to remain below the same threshold with a probability greater than 50%, they must not exceed 580 $GtCO_2$.[405]

188. Second, the urgency of mitigation is underscored by considering the "emissions gap," calculated annually by UNEP. According to 2024 forecasts, if emissions continue following the trajectory derived from current policies, there is a 10% probability that the temperature increase will exceed 3.6°C above pre-industrial levels, and a 66% probability that the increase will reach up to 3.1°C within this century. While the continuation of unconditional or conditional NDCs reduces these projections, even in the most ambitious scenario it would not be possible to maintain warming below 2.5°C with at least a 66% probability. By 2050, such scenarios foresee global warming well above 1.5°C, with up to a 34% probability that warming would already have surpassed 2°C by that time.[406]

189. Accordingly, as of the date of adoption of this decision, the implementation of effective measures to accelerate mitigation is more urgent than ever; and the longer such measures are delayed, the more difficult it will become to achieve the targets set under the Paris Agreement.

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402 *Cf.* Rogelj, J., D. Shindell, K. Jiang, *et. al.*, 2018: Mitigation Pathways Compatible with 1.5°C in the Context of Sustainable Development. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 95.

403 *Cf.* United Nations Environment Programme (UNEP), "Emissions Gap Report 2024: No more hot air…please!", 2024, p. 11. Available at: https://www.unep.org/resources/emissions-gap-report-2024.

404 *Cf.* IPCC, 2018: Annex I: Glossary [Matthews, J.B.R. (ed.)]. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 554.

405 *Cf.* Rogelj, J., D. Shindell, K. Jiang, *et. al.*, 2018: Mitigation Pathways Compatible with 1.5°C in the Context of Sustainable Development. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, et. al. (eds.)], Table 2.2., pp. 96, 108.

406 *Cf.* United Nations Environment Programme (UNEP), "Emissions Gap Report 2024: No more hot air…please!", 2024, p. 33. Available at: https://www.unep.org/resources/emissions-gap-report-2024.

### *F.1.2. Climate Adaptation Requirements*

190. As a result of the first global stocktake in 2023, the Parties to the Paris Agreement warned that "most observed adaptation actions were fragmented, incremental, sector specific and unequally distributed across regions."[407] Supplementing this diagnosis, in 2024, UNEP indicated that even though progress had been made in drawing up National Adaptation Plans, data on the results and effectiveness of those plans was still very limited.[408]

191. According to the IPCC, the main barriers to adaptation include limited resources, lack of private sector and popular participation, insufficient finance mobilization (including research funding), lack of political commitment, and a limited perception of urgency.[409]

192. According to data from 2023, the needs in this regard range from USD 215 to 387 billion a year. UNEP has indicated that this sum is less than the interest earned on loans contracted by developing States (with the exception of China). Indeed, according to the same body, with the exception of donations, all the other forms of funding available to developing States mean that, at the end of the day, it is they who assume the costs of adaptation, which is contrary to the principle of common but differentiated responsibilities and the polluter pays principle.[410] In this regard, the Court observes that, in the context of COP28, the State Parties to the Paris Agreement underscored "the importance of reforming the multilateral financial architecture, *inter alia*, multilateral development banks," and "call[ed] on their shareholders to expeditiously implement that vision and continue to significantly scale up the provision of climate finance in particular through grants and concessional instruments."[411]

193. Progress on adaptation is more urgent than ever because, with each temperature increase, the effectiveness of adaptation decreases.[412] In addition, the most effective actions – in other words, those that have the potential to transform different systems and that seek to counter structural inequities – tend to receive less funding than those that merely seek to prevent or react to isolated impacts. Consequently, this deficit increases vulnerability to climate impacts. Measures relating to technology and knowledge transfer face similar difficulties.[413]

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407 *Cf.* Report of the Conference of the Parties to the United Nations Framework Convention on Climate Change serving as the meeting of the Parties to the Paris Agreement, November 30 to December 13, 2023, Decision 1/CMA.5, FCCC/PA/CMA/2023/16/Add.1, para. 15 (c)."

408 *Cf.* United Nations Environment Programme (UNEP), "Emissions Gap Report 2024," p. XIII. Available at: https://www.unep.org/resources/adaptation-gap-report-2024

409 *Cf.* IPCC, 2023: Summary for Policymakers. In: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, p. 9.

410 *Cf.* United Nations Environment Programme (UNEP), "Emissions Gap Report 2024," p. 49 and 60. Available at: https://www.unep.org/resources/adaptation-gap-report-2024

411 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, serving as the meeting of the Parties to the Paris Agreement, November 30 to December 13, 2023, Decision 1/CMA.5, FCCC/PA/CMA/2023/16/Add.1, para. 95.

412 *Cf.* IPCC, 2023: Summary for Policymakers. In: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, p. 19.

413 *Cf.* United Nations Environment Programme (UNEP), "Emissions Gap Report 2024," pp. 25-86. Available at: https://www.unep.org/resources/adaptation-gap-report-2024.

194. In sum, mitigation and adaptation measures must be increased rapidly. Delays in this regard mean transferring an extraordinary responsibility to future generations, and increase the risk of suffering the negative effects of climate change, particularly for the most vulnerable.

### F.2. The Severity of Climate Impacts

195. In the Court's opinion, the second factor that should be taken into account to define the climate emergency is the extreme s*everity* of climate impacts. Indeed, with each additional gigaton of GHG emitted, and each degree of increase in the global temperature, the number of people exposed to disease, displacement, cultural losses, hunger, water insecurity, unemployment, poverty and, in general, inhuman living conditions increases exponentially. The level of intensity of these impacts, in both their individual and collective dimensions, is determined to a great extent by the vulnerability of those who suffer them. According to the IPCC, the vulnerability of individuals and ecosystems is a multidimensional and dynamic phenomenon, delimited by the intersection of historical and contemporary processes of political, economic and cultural marginalization, the magnitude of which differs between regions and even within them.[414] As a result of these processes, those who have contributed least to the climate crisis are those who have the fewest resources to confront its most devastating consequences and, therefore, it is they who suffer these consequences most intensely (*supra* paras. 60-63).

196. In this context, the Court notes the special severity of the climate crisis for Latin America and the Caribbean owing to the elevated exposure of the States to diverse events from climate change and the vulnerability of broad sectors of the population owing to the high levels of inequality in the region (*supra* paras. 102-118).

197. That said, the severity is accentuated when it is considered that, with each increase in the global average temperature, the risks and interactions also increase and this results in compound and cascading risks that will be increasingly complex and difficult to address.[415] The increase in the global average temperature also increases the probability of exceeding the **tipping points**, understood as the critical thresholds that, when exceeded, produce "[a] level of change in the system properties beyond which a system reorganizes, often abruptly, and does not return to the initial state even if the drivers of the change are abated."[416] The risks inherent in exceeding the tipping points, such as the instability of ice caps or the loss of tropical forest ecosystems, become "high risk" with temperatures of between 1.5°C and 2.5°C, and

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414 *Cf.* Pörtner, H.-O., D.C. Roberts, H. Adams, *et. al.*, 2022: Technical Summary. [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et. al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 52-53.

415 *Cf.* IPCC, 2023: Summary for Policymakers. In: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, p. 14.

416 *Cf.* IPCC, 2018: Annex I: Glossary [Matthews, J.B.R. (ed.)]. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 559.

"very high risk" when these range from 2.5°C to 4°C.[417] The feedback between these crucial points could increase the risk of triggering a global cascade in which other tipping points are exceeded, including the uncontrolled release of carbon from permafrost and the devastation of coral reefs.

198. Apart from these considerations, the Court notes that, even if the targets are met, the limits to temperature increase established in the Paris Agreement are not sufficient to prevent the impact of climate change on human rights. The IPCC has warned that "warming of 1.5°C is not considered 'safe' for most nations, communities, ecosystems and sectors, and poses significant risks to natural and human systems."[418] In this context, effective response mechanisms are required to provide reparation for the damage caused as a result of climate impacts.

199. In this regard, the Court notes that article 8 of the Paris Agreement recognizes the importance of responding to loss and damage associated with the adverse effects of climate change. The mandate to tackle this issue was assigned, in particular, to the Warsaw International Mechanism for Loss and Damage related to the repercussions of climate change, created in 2013.[419] In 2022, in the context of COP27, the Parties agreed on the need to enhance their efforts in this regard and decided to create a Fund for responding to loss and damage.

200. The purpose of this Fund, according to its governing instrument, is to assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage associated with the adverse effects of climate change, including with a focus on addressing loss and damage by providing and assisting in mobilizing new and additional resources."[420] At COP28, the State Parties determined that the Fund should serve as an "aid" mechanism that offered a "multilateral funding channel," and "mobilized external funding" or "provided funding" when this was required to supplement a humanitarian action following an extreme weather event or to undertake medium- or long-term recovery,

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417 *Cf.* IPCC, 2023: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, p. 77.

418 In the words of the IPCC, "[t]he impacts of 1.5°C of warming would disproportionately affect disadvantaged and vulnerable populations through food insecurity, higher food prices, income losses, lost livelihood opportunities, adverse health impacts and population displacements (medium evidence, high agreement). Some of the worst impacts […] are expected to be felt among agricultural and coastal dependent livelihoods, indigenous people, children and the elderly, poor labourers, poor urban dwellers in African cities, and people and ecosystems in the Arctic and Small Island Developing States (SIDS) (medium evidence, high agreement)." *Cf.* Roy, J., P. Tschakert, H. Waisman, *et. al.*, 2018: Sustainable Development, Poverty Eradication and Reducing Inequalities. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 447.

419 Article 8 of the Paris Agreement stipulates that: "Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage." *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, Preamble, available at: https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf

420 *Cf*. Conference of the Parties to the United Nations Framework Convention on Climate Change "Funding arrangements for responding to loss and damage associated with the adverse effects of climate change, including a focus on addressing loss and damage," FCCC/CP/2022/10/Add.1, Decision 2/CP.27, November 6 to 29, 2022, para. 2.

reconstruction or rehabilitation, as well as to respond to slow-onset events. To this end, the Fund "will provide financing in the form of grants and highly concessional loans." The allocation of resources will take into account factors including: the priorities and needs of developing countries, the scale of impacts of particular climate events, and the need to safeguard against the overconcentration of support provided by the Fund in any given country, group of countries or region.[421]

201. The results of the operationalization of the Fund cannot be assessed yet. However, the Court notes that, given the scale of the anticipated damage and loss, to fulfill its function, the Fund will require very significant resources. Indeed, some estimates indicate that just the global cost of the damage resulting from extreme weather events recorded between 2000 and 2019 could total USD 2.86 trillion, which indicates a yearly average of USD 143 billion.[422] Similarly, the European Environmental Agency estimates that economic losses from extreme weather events amounted to over 162 billion euros between 2021 and 2023.[423] These figures are expected to increase significantly as the effects of climate change intensify, thereby making the Fund's mandate even more pressing and challenging.

202. Notwithstanding the foregoing, the Court notes that the establishment and operation of this mechanism does not seek to ensure full reparation of the damage that could be attributed to States Partes as a result of the violation of the obligations established in the Paris Agreement and the commitments assumed under this instrument.

203. Furthermore, the Fund does not have the purpose of achieving a just distribution of the **climate debt** based on the principle of common but differentiated responsibilities. The climate debt, understood as the sum of the damage caused by the accumulated negative effects of GHG emissions, whose costs are imposed on the planet without any compensation,[424] places a disproportionate burden on the most vulnerable States, with elevated public debt, and a limited tax base to implement their climate action initiatives.[425] In fact, it is calculated that, today, 52 States with "serious debt problems" are home to 40% of all those living in extreme poverty, and half of the latter also live in the countries that are the most vulnerable to climate change.[426]

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421 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change serving as the meeting of the Parties to the Paris Agreement, "Operationalization of the new funding arrangements, including a fund for responding to loss and damage referred to in paragraphs 2-3 of decisions 2/CP.27 and 2/CMA.4." FCCC/PA/CMA/2023/16/Add.1, Decision 5/CMA.5, of November 30, paras. 1-60.

422 *Cf.* World Economic Forum, "Climate change is costing the world $16 million per hour: study", 2023, available at: https://www.weforum.org/stories/2023/10/climate-loss-and-damage-cost-16-million-per-hour/ with regard to Newman, R., Noy, I. The global costs of extreme weather that are attributable to climate change. *Nat Commun* 14, 6103 (2023).

423 *Cf.* European Environmental Agency, "Economic losses from weather and climate-related extremes in Europe", available at: https://www.eea.europa.eu/en/analysis/indicators/economic-losses-from-climate-related.

424 *Cf.* See, similarly, International Monetary Fund, "Settling the Climate Debt", Benedict Clements, Sanjeev Gupta, Jianhong Liu, Finance & Development Magazine, 2023, available at: https://www.imf.org/en/Publications/fandd/issues/2023/09/settling-the-climate-debt-clements-gupta-liu

425 *Cf.* United Nations, "Finance & Justice", available at: https://www.un.org/en/climatechange/raising-ambition/climate finance#:~:text=Climate%20adaptation%20is%20becoming%20more,make%20them%20fit%2Dfor%2Dpurpose.

426 *Cf.* United Nations, "Our common agenda policy Brief 6: Reforms to the International Financial Architecture", 2023, p. 9. available at: https://www.un.org/sites/un2.un.org/files/our-common-agenda-policy-brief-international-finance-architecture-en.pdf.

### F.3. The Complexity of the Responses Required

204. The Court considers that the third essential factor to understand the climate emergency is its *complexity.* In this regard, the Court underlines that, to address climate change effectively, , international action must be coherently directed towards resilience. Moreover, such action must be grounded in the best available science and framed around sustainable development as a means of protecting both human rights and the environment.

#### *F.3.1. Coordination around Resilience*

205. The Court notes that, to respond appropriately to the climate emergency, it is not sufficient to concentrate only on mitigation, adaptation and reparation actions; rather measures aimed at the structural circumstances that led to this emergency and at building resilience to confront its effects should also be included. Such measures entail important changes.[427] In this regard, the IPCC has underscored the need to combine adaptation and mitigation with efficient institutions in order to achieve sustainable development. According to the IPCC, efforts of this sort lead to climate resilience. This concept, crucial in this context, articulates the hope that climate action processes will permit a decrease in the disruptions caused by climate change and promote opportunities addressed at sustainable development.[428] More specifically, resilience is defined as "[t]he ability of individuals, households, communities, cities, institutions, systems and societies to prevent, resist, absorb, adapt, respond and recover positively, efficiently and effectively when faced with a wide range of risks, while maintaining an acceptable level of functioning and without compromising long-term prospects for sustainable development, peace and security, human rights and well-being for all."[429]

206. The effectiveness of the measures adopted to this end depends on efficient coordination at the domestic and international level, in all areas of regulation and public policies, with public and private stakeholders, and by coordinating the different branches of international law. As noted by the United Nations Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural

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[427] According to the United Nations Special Rapporteur on the right to development, the response to the climate crisis requires a focus on transformation. This should lead to "a model of planet-centred participatory development [which] will ensure that development is both inclusive and sustainable." *Cf.* Report of the Special Rapporteur on the right to development, Surya Deva, "Climate justice: loss and damage." A/79/168, of July 17, 2024, para. 30.

[428] *Cf.* T.J. Wilbanks, A.C. Abeysinghe, I. Burton, *et. al.*, 2014: Climate-resilient pathways: adaptation, mitigation, and sustainable development. In: Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field, C.B., V.R. Barros, D.J. Dokken, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1101-1131.

[429] *Cf.* United Nations Sustainable Development Group, "UN Common Guidelines on Building Resilient Societies," 2021, p.38. Similarly, Pope Francis asserted that a "global ecological conversion" was needed that required a change of heart and a commitment to care for the people and for the ecosystems in which we live. *Cf.* Encyclical letter "*Laudato Sí*" of the Holy Father, Pope Francis, "on care for our common home," available at: https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html

rights, the world is experiencing a "polycrisis" that "requires breaking of siloes so that it can be resolved holistically" in order to achieve sustainability and resilience.[430]

207. The Court observes that a broad set of international norms and instruments relating to climate change has developed in parallel with the legal framework established under the UNFCCC (supra paras. 145–170). Given the severity of the risks facing humanity, as well as the scale and urgency of the actions required to address them, the coherent articulation of the various rules governing State action in response to climate change is essential in order to address adequately the complexity of this phenomenon.

208. Coordination appears particularly desirable in the area of climate finance. In this regard, adopting objectives that integrate the fight against climate change with the protection of human rights would prevent the high levels of debt incurred by States with fewer resources—due to disaster response and other cumulative impacts—from increasing the vulnerability of sovereign debt. Indeed, such States may face interest rates up to eight percentage points higher than those demanded of many wealthier countries on international capital markets.[431] Therefore, coordination is essential to preserve resources necessary for mitigation, adaptation, and addressing the root causes of climate vulnerability.[432] This harmonization would also allow extending the effects of noteworthy efforts[433] addressed at reducing the grave risk facing the guarantee of all human rights, particularly in the States with least resources.

209. In the Court's opinion, the coordination of international action requires the strengthening of cooperation and multilateral fora in order to channel the shared responsibility of the international community (infra paras. 247–265). In this context, the Court underscores the importance of reinforcing multilateral cooperation mechanisms. In this regard, the Tribunal concurs with the position expressed by the United Nations General Assembly when it affirmed that "multilateralism is not an option, but a necessity in our task of building back better for a more equal, more resilient, and more sustainable world."[434]

### *F.3.2. Sustainable Development as a means of Protecting both Human and Environmental Rights*

210. Addressing the climate crisis is a highly complex task, given the scale of resources and measures required to ensure a comprehensive response. Such measures must promote sustainable development, understood as a process aimed at the

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430 *Cf.* Report of the Independent Expert on the e effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris, "Effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights," A/78/179, July 14, 2023, paras. 4 and 53(c).

431 *Cf.* United Nations, "Finance & Justice," available at : https://www.un.org/tr/node/112830

432 As the United Nations Secretary-General, Antonio Guterres, has stated, the debt and climate crisis is piling injustice upon injustice. *Cf.* United Nations, Press release No. SG/SM/19782-ENV/DEV/2008, 2019, available at: https://press.un.org/en/2019/sgsm19782.doc.htm.

433 *Cf.* Bridgetown Initiative on the Reform of the International Development and Climate Finance Architecture, available at: https://www.bridgetown-initiative.org/wp-content/uploads/2024/05/The-2022-Bridgetown-Initiative.pdf and Paris Pact for Prosperity, People and the Planet, available at: https://www.pact-prosperity-people-planet.org/

434 *Cf.* United Nations General Assembly, "Declaration on the commemoration of the seventy-fifth anniversary of the United Nations," A/RES/75/1, of September 21, 2020, para. 6.

constant improvement of the well-being of the entire population, which necessarily requires the protection of all human rights and the environment as a means of ensuring, in the long term, the resilience of both natural and human systems.

211. In this regard, it is worth recalling that every human person and all peoples are entitled to participate in, contribute to, and enjoy development,[435] understood as "comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population." [436] Therefore, this development must be sustainable; in other words, based on a balance between economic development, social development, and environmental protection.[437] Social development necessarily incorporates human rights,[438] not as a mere hypothesis, but as a central objective that requires, inescapably, the protection of the environment; while economic development should be conceived as a means of achieving the full enjoyment of human rights within the limits imposed by the said environmental protection.

212. his interpretation underpins, among other things, the definition of the objectives and targets of the 2030 Agenda for Sustainable Development, as an expression of global consensus on the scope and content of sustainable development.[439] The Sustainable Development Goals (SDGs) set forth in this instrument constitute a roadmap aimed at respecting, protecting and fulfilling all human rights; and are intended to serve as a framework for articulating State action, both domestically and internationally, in order to advance towards the construction of a more just, sustainable, and resilient global society that collectively addresses the causes and consequences of climate change.

213. The Court thus observes the pressing need to strengthen and coordinate climate action at both the domestic and international levels, aimed at achieving sustainable development as a path to securing the joint protection of human rights and the environment.

214. According to Article 15 of the Inter-American Democratic Charter, "[t]he exercise of democracy promotes the preservation and good stewardship of the environment" and '[i]t is essential that the States of the Hemisphere implement policies and strategies to protect the environment, including application of various treaties and conventions, to achieve sustainable development for the benefit of future generations."[440] Consequently, the Court underlines that, without prejudice to the urgent nature of an effective response in this regard, this response must be based on strengthening the democratic rule of law as an essential condition for the protection of

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435 *Cf.* United Nations General Assembly, "Declaration on the right to development," Resolution 41/128, December 4, 1986.

436 *Cf.* Thematic study by the Expert Mechanism on the Right to Development, "Operationalizing the right to development in achieving the Sustainable Development Goals," A/HRC/48/63, of July 6, 2021, para. 11.

437 *Cf.* United Nations World Summit on Sustainable Development, Johannesburg Declaration on Sustainable Development," A/CONF.199/204, September 2002, para. 5

438 *Cf.* Thematic study by the Expert Mechanism on the Right to Development, "Operationalizing the right to development in achieving the Sustainable Development Goals," A/HRC/48/63, of July 6, 2021, para. 19.

439 *Cf.* Thematic study by the Expert Mechanism on the Right to Development, "Operationalizing the right to development in achieving the Sustainable Development Goals," A/HRC/48/63, of July 6, 2021, para. 19.

440 *Cf.* Inter-American Democratic Charter, of September 11, 2001, Article 15.

human rights. Therefore, neither the urgency of effective measures, nor the severity of climate impacts and the complexity of the response required can be invoked to justify weakening democratic systems or ignoring the guarantees inherent in them. In this regard, the Court recalls that, according to Principle 10 of the Rio Declaration, "[e]nvironmental issues are best handled with the participation of all concerned citizens," adequate access to environmental information, and effective access to administrative and judicial proceedings.[441]

215. In this regard, the response to the climate emergency calls for constant dialogue with scientific, traditional, local and indigenous knowledge (*infra* paras. 471-487). This dialogue should be aimed at avoiding disinformation, misinformation, and other forms of manipulation of information on the climate crisis undermining public trust and hindering effective participation and decision-making[442] (*infra* paras. 524-527). On this point, the Cout notes that, according to the IPCC, the dissemination of misleading scientific information on climate change may encourage polarization, which has negative implication for climate policy.[443] In this regard, the IPCC has also warned that, in some cases, the emergence of "rhetoric" and "misleading information" that "undermines climate science and disregards the risk and urgency" of climate change, results in a polarization of public support for climate measures, "delaying the urgent planning and application of adaptation measures."[444]

216. Based on the foregoing considerations, the task of interpretation with which this Court has been entrusted on this occasion will be undertaken under the guidance not only of the principles inherent in the international protection of human rights, such as the *pro persona* principle, the best interests of the child, the principle of progressivity, and the prohibition of discrimination; but also, taking into consideration fundamental principles and obligations in the context of the climate emergency such as the *pro natura* principle, the precautionary and prevention principles, the polluter pays principle, intra- and inter-generational equity, common but differentiated responsibilities, the obligation of cooperation, and the prohibition of transboundary damage. The Court will also take into account the relevance of the best available science and key concepts such as climate resilience.

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441 *Cf. Case of Baraona Bray v. Chile. Preliminary objections merits, reparations and costs.* Judgment of November 24, 2022. Series C No. 481, para. 98. Principle 10 of the Rio Declaration stipulates that: "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." See, 1992 Rio Declaration on Environment and Development, Principle 10.

442 *Cf.* Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Elisa Morgera, "Promotion and protection of human rights in the context of climate change," A/79/176, of July 18, 2024, paras. 4, 67, 70.

443 *Cf.* M. Pathak, R. Slade, P.R. Shukla, J., *et. al.*,2022: Technical Summary. In: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, *et. al.*, (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 127.

444 *Cf.* Hicke, J.A., S. Lucatello, L.D., Mortsch, *et. al.*, 2022: North America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 1931.

## VI
## STATES' OBLIGATIONS IN THE CONTEXT OF THE CLIMATE EMERGENCY

217. The purpose of this Advisory Opinion is to determine the obligations derived from the American Convention and the Protocol of San Salvador in the context of the climate emergency and their scope. To respond to the questions posed (*supra* para. 28), the Court will refer: (A) to the scope of the obligations derived from the American Convention and the Protocol of San Salvador in the context of the climate emergency; and then, (B) address the determination of the specific obligations arising from substantive rights, followed by (C) the determination of the specific obligations arising from procedural rights and, finally, it will rule on (D) the differentiated obligations that exist with regard to vulnerable individuals or groups in the context of the climate emergency.

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

218. In this section, the Court will rule on the scope of the general obligations derived from the American Convention and the Protocol of San Salvador in relation to the substantive and procedural rights in the context of the climate emergency. The Court will refer to the general obligations of (A.1) respect, (A.2) guarantee, and (A.3) adoption of measures to ensure the progressive development of the economic, social, cultural, and environmental rights (the "ESCER"). In addition, the Court will rule on the obligations (A.4) to adopt domestic legal provisions, and on (A.5) cooperation.

#### A.1. The Obligation to Respect Rights

219. This Court has repeatedly pointed out that Article 1(1) and 2 of the American Convention establish general obligations in relation to all the rights established in this instrument. The first general obligation assumed by State Parties, according to Article 1(1), is "to respect the rights and freedoms recognized" in the American Convention.[445] This obligation includes the notion of the restriction of the exercise of state authority.[446]

220. Bearing in mind the different forms in which human rights may be threatened or violated in the context of the climate emergency (*infra* paras. 269-457), the obligation to respect rights may take diverse forms that will depend on the essential means of protecting each of those rights in specific circumstances.

221. Nevertheless, in general, to comply with the obligation to respect human rights in the context of the climate emergency, States must refrain from any conduct that results in a setback or delay or that limits the results of measures required to protect human rights from the impacts of climate change. Therefore, the Court stresses the importance of States refraining from adopting any measure that obstructs or impedes access to the reliable, truthful, and complete information that the population needs in order to address the risks to human rights owing to the causes and consequences of

[445] *Cf. Case of Velásquez Rodríguez v. Honduras. Merits*, *supra*, para. 165, and *Case of Leite de Souza et al. v. Brazil. Preliminary objection, merits, reparations and costs*. Judgment of July 4, 2024. Series C No. 531, para. 166.

[446] *Cf. Case of Velásquez Rodríguez v. Honduras. Merits*, *supra*, para. 169, and *Case of Vera Rojas et al. v. Chile. Preliminary objections, merits, reparations and costs*. Judgment of October 1, 2021. Series C No. 439, para. 81.

the climate emergency (*infra* paras. 488-529).

222. Furthermore, in compliance with the obligation of respect, States must refrain from adopting retrogressive measures. This obligation derives from the principle of progressivity and non-retrogression which is applicable to all the rights that are under threat in this context, and requires than any setback in climate and environmental policies that harm human rights must be exceptional, duly justified based on objective criteria, and comply with the standards of necessity and proportionality.[447]

223. Finally, based on the general duty of respect and non-discrimination established in Article 1(1) of the American Convention, States must refrain from acts or omissions that, directly or indirectly, obstruct, restrict or harm effective access, in equal conditions, to the enjoyment of human rights of individuals affected by the climate emergency. This obligation includes preventing both formal and substantive discriminatory practices that may arise in the design, implementation or assessment of public policies relating to climate mitigation and adaptation. In particular, States must adopt differentiated and reasonable measures to ensure that vulnerable individuals and groups – including Indigenous Peoples, rural communities, persons with disabilities, children and adolescents – can exercise their rights in equal conditions in the face of the effects of climate change and state responses to address this.

### A.2. The Obligation to Guarantee Rights

224. The second general obligation of State Parties, also established in Article 1(1) of the American Convention, is that of ensuring or guaranteeing the free and full exercise of the rights recognized therein.[448] Without prejudice to the considerations that will be set out below in relation to the obligation to guarantee the right to a healthy environment and other related rights (*infra* paras. 269-457), in this section, the Court will refer to the general scope of the obligation of guarantee in the context of the climate emergency, as well as the standard of due diligence that is applicable in this context.

#### *A.2.1. The Obligation of Guarantee in the Context of Climate Emergency*

225. The obligation of guarantee requires organizing the whole government apparatus and, in general, all the structures through which public powers are

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447 The preamble to the Universal Declaration of Human Rights proclaims: "this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction." Meanwhile, the International Covenant on Economic, Social and Cultural Rights indicates that: "[n]o restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent." *Cf.* Universal Declaration of Human Rights, 1948, Preamble, available at: https://www.un.org/en/about-us/universal-declaration-of-human-rights, and International Covenant on Economic, Social and Cultural Rights, 1966, Article 5(2), available at: https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights .

448 *Cf. Case of Velásquez Rodríguez v. Honduras. Merits, supra*, para. 166, and *Case of Leite de Souza et al. v. Brazil, supra,* para. 130.

exercised, in a manner that is capable of legally ensuring the free and full exercise of human rights.[449] Compliance with this obligation in relation to the climate emergency requires all the powers of the State, in both its domestic and international sphere of action, to be coordinated so as to protect the human rights threatened and affected by this phenomenon.

226. This Court has indicated that the obligation of guarantee extends beyond the relationship between State agents and the people subject to its jurisdiction, encompassing also the duty, in the private sphere, to prevent third parties from violating the protected rights.[450] This duty is fulfilled when, in situations of real and immediate risk where the State is, or should be, aware of and has a reasonable possibility of preventing or avoiding said risk, the State adopts measures addressed at guaranteeing the rights of the individual or group of individuals who are at risk.[451]

227. This aspect of the obligation of guarantee is fundamental in the context of the climate emergency. Consequently, to comply with the obligation of guarantee, States must take all necessary measures to reduce, on the one hand, the risks derived , on the one hand, from the degradation of the global climate system and, on the other, from exposure and vulnerability to the effects of this degradation.

228. In this context, the obligation of prevention is supplemented by the application of the precautionary principle. The Court has observed that, in relation to the environment, this principle has been incorporated into domestic law and into the case law of high courts of various OAS Member States,[452] and it has also been established in diverse international instruments including the UNFCCC. The latter establishes that the lack of full scientific certainty cannot be used as a reason for postponing the prevention of climate change and reducing its adverse effects.[453]

229. Thus, taking into account the most common wording in the most relevant international instruments and in domestic laws in the region, this Court has indicated that, based on the *pro persona* principle and the obligation of due diligence, even in the absence of scientific certainty, States must adopt "effective" measures that are required to prevent severe or irreversible damage to the environment.[454] This standard extends to both the degradation of the global climate system and to the resulting human rights violations. Therefore, even though the measures adopted may vary in line with the specific circumstances, States are obligated to guarantee human rights when they are, or should be, aware of the possibility that the acts or omissions of their agents or of private individuals may create a risk of severe and irreversible damage, within or outside their territory, even when they lack absolute certainty in this regard. This aspect of the duty of prevention is fundamental in the context of the climate emergency because it seeks to prevent the creation of new risks of serious human

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449 *Cf. Case of Velásquez Rodríguez v. Honduras. Merits, supra*, para. 166, and *Case of the Inhabitants of La Oroya v. Peru. Preliminary objections, merits, reparations and costs*, Judgment of November 27, 2023. Series C No. 511, para. 108.

450 *Cf. Case of the "Mapiripán Massacre" v. Colombia.* Judgment of September 15, 2005. Series C No. 134, para. 111, and *Case of the Inhabitants of La Oroya v. Peru, supra*, para. 108.

451 *Cf. Case of the Pueblo Bello Massacre v. Colombia.* Judgment of January 31, 2006. Series C No. 140., para. 123, and *Case of the Inhabitants of La Oroya v. Peru, supra*, para. 156.

452 *Cf. Advisory Opinion OC-23/17, supra*, paras. 178-179.

453 *Cf.* United Nations Framework Convention on Climate Change, 1992, article 3.3, available at: https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

454 *Cf. Advisory Opinion OC-23/17, supra*, para. 180.

rights violations or the exacerbation of existing risks resulting from the impacts of climate change.

230. Even if the measures that should be adopted to comply with the obligation of prevention vary according to the right that is sought to protect and the circumstances of each State Party,[455] the Court has established certain minimum obligations in relation to the prevention of human rights violations resulting from environmental damage. In this context, the State complies with the obligation of prevention when it: (i) regulates, (ii) supervises, and (iii) monitors the activities of private individuals that entail risks for the human rights recognized in the American Convention and other treaties for which it has jurisdiction.[456] Bearing in mind the special nature of environmental damage, the State must also (iv) require and adopt environmental impact assessments (*infra* paras. 358-363) (v); establish contingency plans, and (vi) mitigate situations in which environmental damage has occurred. In the context of the climate emergency, the last two obligations are complied with when the State plans and executes its response to the impacts of climate change on both the environment (*infra* paras. 269-376.), and the individual (*infra* paras. 377-457).

### *A.2.2. The Standard Of Enhanced Due Diligence*

231. The Court recalls that, in keeping with its case law, the obligation of guarantee and, consequently, the obligation of prevention is one of means or conduct. Therefore, non-compliance is not demonstrated by the mere fact that a right has been violated,[457] but rather, by the application of a standard of due diligence. This standard has been determined by international law and used in fields such as international humanitarian law,[458] the law of the sea,[459] and international environmental law.[460] Under international human rights law, the duty to act with due diligence has been addressed, in particular, in relation to actions to prevent human rights violations, and the progressive adoption of "all appropriate means" to achieve the full effectiveness of economic, social, cultural and environmental rights (ESCER) (*infra* paras. 238-243).[461]

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455 *Cf. Case of Velásquez Rodríguez v. Honduras. Merits, supra,* para. 175, and *Advisory Opinion OC-23/17, supra,* para. 144.

456 *Cf. Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus and their family members v. Brazil*. Preliminary objections, merits, reparations and costs. Judgment of July 15, 2020. Series C No. 407, para. 118, and *Case of the Inhabitants of La Oroya v. Peru, supra*, para. 156.

457 *Cf. Velásquez Rodríguez v. Honduras. Merits, supra,* para. 166 and *Case of the U'wa Indigenous People and its members v. Colombia*, *supra*, para. 292.

458 *Cf.* Article 1 common to the 1949 Geneva Conventions, and ICJ, *Application of the Convention for the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment of February 26, 2007, para. 430.

459 *Cf.* ITLOS, Request for an advisory opinion sent by the Sub-regional Fisheries Commission (SRFC). Advisory Opinion of April 2, 2015, paras. 128 and 129; Responsibilities and Obligations of States sponsoring persons and entities with respect to activities in the Area. Advisory Opinion of February 1, 2011, paras. 110 a 120, and Obligations of States to prevent, reduce and control pollution of the marine environment and to protect and preserve the marine environment in relation to climate change impacts. Advisory Opinion of May 21, 2024, para. 241.

460 See, *inter alia*, Stockholm Declaration on the Human Environment, United Nations Conference on the Human Environment, Stockholm, June 5 to 16, 1972, A/CONF.48/14/Rev.1, Principle 7, available at https://docs.un.org/es/A/CONF.48/14/Rev.1., and ICJ, *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* and *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, Judgment of December 16, 2015, para. 104. See also, ICJ, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment of April 20, 2010, para. 101.

461 *Cf. Case of Muelle Flores v. Peru. Preliminary objections, merits, reparations and costs*. Judgment of March 6, 2019. Series C No. 375, para. 190, and *Case of the Quilombolas Communities of Alcântara v.*

232. This Court has held that the standard of due diligence must be appropriate and proportionate to the level of risk of environmental damage.[462] Thus, the Court concurs with the International Tribunal for the Law of the Sea in that due diligence is a variable concept that depends on the specific circumstances, available scientific and technological information, relevant international rules and standards, the risk of harm, and the urgency involved.[463]

233. Considering, first, the existing information and that which the State should produce in relation to the climate emergency (*infra* paras. 501-518); second, the extreme gravity of climate impacts and, lastly, the urgency of effective measures to avoid irreparable harm to the individual (*supra* paras. 185-194), the Court finds that States must act with enhanced due diligence to comply with the obligation of prevention arising from the obligation to guarantee the rights protected by the American Convention in the context of the climate emergency.

234. The content of the standard of due diligence will depend on the specific risks to each of the human rights that are threatened in the context of the climate emergency. As will be noted, in addition to the extraordinary risk that climate change represents to the right to a healthy environment, climate impacts threaten numerous other rights. Thus, manifestations of climate change such as floods, droughts, heatwaves, sea level rise, and the increase of vector-borne diseases jeopardize the enjoyment of rights such as to life, personal integrity, health, private and family life, property, housing, freedom of movement and residence, water, food, work and social security, culture, and education (*infra* paras. 392-457). According to scientific advances, these risks together with the magnitude and irreversible nature of the harm that the impacts can cause are, to a great extent, predictable. Moreover, it is predictable that such harm will particularly affect vulnerable individuals and groups.

235. The way in which enhanced due diligence is put in practice in each case will depend on the specific risk faced, the measures required to protect the threatened rights, and the possible situation of vulnerability of the victims. The Court will refer in detail to the main risks, the measures required to prevent them (*infra* paras. 279-457) and the main situations of vulnerability (*infra* paras. 595-629).

236. Nevertheless, the Court notes that, in general, 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 (*infra* paras. 486-487); (iv) integration of the human rights perspective into the formulation, implementation and monitoring of all policies and measures related to climate change to ensure that they do not create

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*Brazil*. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2024. Series C No. 548, para. 211.

462 *Cf. Advisory Opinion OC-23/17, supra*, para. 142. See also, ITLOS, Responsibilities and Obligations of States sponsoring persons and entities with respect to activities in the Area. Advisory Opinion of February 1, 2011, para. 117, and International Law Commission, United Nations General Assembly, Resolution 62/68, "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm," of December 6, 2007, and its annex.

463 *Cf.* ITLOS, Obligations of States to prevent, reduce and control pollution of the marine environment and to protect and preserve the marine environment in relation to climate change impacts. Advisory Opinion of May 21, 2024, para. 239.

new vulnerabilities or exacerbate preexisting ones (*infra* paras. 341, 342 and 388); (v) permanent and adequate monitoring of the effects and impacts of the adopted measures (*infra* paras. 349, 354, 355, 366, 389, 528, 560, 578 and 579); (vi) strict compliance with the obligations arising from procedural rights (*infra* paras. 471-587.), in particular, access to information, participation, and access to justice; (vii) transparency and accountability in relation to State climate action; (viii) appropriate regulation and supervision of corporate due diligence (*infra* paras. 345-351), and (xi) enhanced international cooperation, particularly regarding technology transfer, financing, and capacity-building (*infra* para. 264).

237. The necessary measures to comply with this standard may vary over time, for example, based on scientific discoveries, new technologies, or the identification of new forms of risk.[464] The scale and cost of those measures are also determined by the principle of common but differentiated responsibility, as well as by the particular circumstances of each State. However, the existence of this obligation does not depend on States´ level of development; in other words, the obligation of prevention applies equally to developed and developing States,[465] without prejudice to the details relating to the obligation to cooperate and the principle of common but differentiated responsibilities that will be referred to subsequently (*infra* paras. 258-265).

### A.3. The Obligation to Adopt Measures to Ensure the Progressive Development of the ESCE

238. The source of the obligation to adopt measures to ensure the progressive development of the ESCER is Article 1 of the Protocol of San Salvador and Articles 2 and 26 of the American Convention. The Protocol states that State Parties must "adopt the necessary measures, both domestically and through cooperation among states, especially economic and technical, to the extent allowed by their available resources, and taking into account their degree of development, for the purpose of achieving progressively and pursuant to their internal legislations, the full observance of the rights recognized in this Protocol." From a more general perspective, Article 2 of the American Convention establishes the obligation to "adopt […] such legislative or other measures as may be necessary to give effect to" the rights established in this treaty, including the ESCER. In addition, Article 26 of the American Convention establishes *mutatis mutandis* the same obligation, but in regard to "rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires."[466]

239. The Court has established that, based on a literal, systematic and teleological interpretation, Article 26 of the American Convention protects those rights that are derived from the economic, social, educational, scientific and cultural provisions set forth in the OAS Charter. In this way, the said provision has served as treaty-based

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[464] *Cf. Advisory Opinion OC-23/17, supra,* para. 142. See also, ITLOS, Responsibilities and Obligations of States sponsoring persons and entities with respect to activities in the Area. Advisory Opinion of February 1, 2011, para. 117.

[465] *Cf. Advisory Opinion OC-23/17, supra,* para. 142. See also: ITLOS, Responsibilities and Obligations of States sponsoring persons and entities with respect to activities in the Area. Advisory Opinion of February 1, 2011, para. 158.

[466] *Cf.* American Convention on Human Rights, 1978, Articles 2 and 26, available at: https://www.IACHR.oas.org/basicos/english/basic3.american%20convention.htm and Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"),1988, Article 1, available at: https://digitallibrary.un.org/record/520843?ln=en

grounds for the rights to health, work, culture, water, housing, food, education, and to enjoy a healthy environment.[467] These rights should be understood in relation to the other articles of the American Convention and are therefore subject to the general obligations contained in Articles 1(1) and 2 of the Convention (respect and guarantee).[468] Consequently, all the aforementioned considerations apply to these rights.

240. Furthermore, the Court has indicated that two types of obligations are applicable to the ESCER based on the content of Article 26. On the one hand, the obligation to adopt progressive measures and, on the other, the obligation to adopt immediate measures. The former results in a specific and constant duty to advance as effectively and expeditiously as possible towards the full realization of the rights. This does not mean that, while they are being implemented, these obligations lack specific content or that States can indefinitely delay the adoption of measures to make the rights in question effective. Moreover, in the case of such measures, there is a duty of

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467 *Cf. Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office) v. Peru. Preliminary objection, merits, reparations and costs.* Judgment of July 2, 2009. Series C No. 198, paras. 97 to 103*; Case of Lagos del Campo v. Peru. Preliminary objections, merits, reparations and costs*. Judgment of August 31, 2017. Series C No. 340, paras. 142 and 154*; Case of the Dismissed Workers of PetroPeru et al. v. Peru. Preliminary objections, merits, reparations and costs*. Judgment of November 23, 2017. Series C No. 344, *para. 192; Case of San Miguel Sosa et al. v. Venezuela. Merits, reparations and costs.* Judgment of February 8, 2018. Series C No. 348, para. 100*; Case of Cuscul Pivaral et al. v. Guatemala. Preliminary objection, merits, reparations and costs.* Judgment of August 23, 2018. Series C No. 359, paras. 75 to 97*; Case of Muelle Flores v. Peru. Preliminary objections, merits, reparations and costs.* Judgment of March 6, 2019. Series C No. 375, paras. 33 to 34*; Case of Hernández v. Argentina. Preliminary objection, merits, reparations and costs.* Judgment of November 22, 2019. Series C No. 395, para. 62; *Case of the Indigenous Communities of the Lhaka Honhat Association (Our Land) v. Argentina. Merits, reparations and costs.* Judgment of February 6, 2020. Series C No. 400, para. 195; *Case of Spoltore v. Argentina. Preliminary objection, merits, reparations and costs.* Judgment of June 9, 2020. Series C No. 404, para. 85; *Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus and their family members v. Brazil, supra*, para. 23; *Case of Casa Nina v. Peru. Preliminary objections, merits, reparations and costs.* Judgment of November 24, 2020. Series C No. 419, paras. 26 and 27; *Case of Guachalá Chimbo et al. v. Ecuador. Merits, reparations and costs.* Judgment of March 26, 2021. Series C No. 423, para. 97; *Case of the Miskito Divers (Lemoth Morris et al.) v. Honduras.* Judgment of August 31, 2021. Series C No. 432, paras. 62 to 66; *Case of Vera Rojas et al. v. Chile, supra*, paras. 32 to 35; *Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala. Merits, reparations and costs.* Judgment of October 6, 2021. Series C No. 440, para. 182; *Case of the Former Employees of the Judiciary v. Guatemala. Preliminary objections, merits and reparations.* Judgment of November 17, 2021. Series C No. 445, paras. 100 to 104; *Case of Palacio Urrutia et al. v. Ecuador. Merits, reparations and costs.* Judgment of November 24, 2021. Series C No. 446, para. 153; *Case of National Federation of Maritime and Port Workers (FEMAPOR) v. Peru. E Preliminary objection, merits and reparations.* Judgment of February 1, 2022. Series C No. 448, para. 107; *Case of Pavez Pavez v. Chile. Merits, reparations and costs. Jud*gment of February 4, 2022. Series C No. 449, para. 87; *Case of Guevara Díaz v. Costa Rica. Merits, reparations and costs.* Judgment of June 22, 2022. Series C No. 453, paras. 55 to 61; *Case of Mina Cuero v. Ecuador. Preliminary objection, merits, reparations and costs*. Judgment of September 7, 2022. Series C No. 464, para. 127; *Case of Benites Cabrera et al. v. Peru. Preliminary objections, merits, reparations and costs.* Judgment of October 4, 2022. Series C No. 465, paras. 109 to 111; *Case of Brítez Arce et al. v. Argentina. Merits, reparations and costs.* Judgment of November 16, 2022. Series C No. 474, para. 58; *Case of Nissen Pessolani v. Paraguay. Merits, reparations and costs.* Judgment of November 21, 2022. Series C No. 477, paras. 99 to 104; *Case of Aguinaga Aillón v. Ecuador. Merits, reparations and costs.* Judgment of January 30, 2023. Series C No. 483, paras. 91 to 101; *Case of Rodríguez Pacheco et al. v. Venezuela. Preliminary objections, merits, reparations and costs.* Judgment of September 1, 2023. Series C No. 504., para. 114; *Case of the Inhabitants of La Oroya v. Peru, supra*, para. 24, and *Case of Gutiérrez Navas et al. v. Honduras. Merits, reparations and costs.* Judgment of November 29, 2023. Series C No. 514, para. 130, and *Case of Members of the ECASA Workers Union (SUTECASA) v. Peru. Preliminary objections, merits, reparations and costs.* Judgment of June 6, 2024. Series C No. 526, para. 28, *inter alia*.

468 *Cf. Case of Lagos del Campo v. Peru, supra*, para. 141, and *Case of Members of the ECASA Workers Union (SUTECASA) v. Peru, supra,* para. 29.

non-retrogression in relation to the level of realization of such rights. The Court has clarified that retrogression in environmental matters may constitute a violation of the obligation of progressive development if it is not adequately justified, in relation to the best available science and reasonable criteria of proportionality and necessity[469] (*infra* para. 283).

241. The obligations of an immediate nature require the adoption of effective measures in order to guarantee access, without discrimination, to the services recognized for each right. These measures must be adequate, deliberate and concrete, to ensure the full realization of such rights.

242. Therefore, the State Parties to the Protocol of San Salvador and/or the American Convention are obligated to respect, guarantee, and advance progressively in the protection of the ESCER. Compliance with these obligations is essential to prevent the risks from the climate emergency. The Court notes that, in the context of the climate emergency, the situation of disproportionate vulnerability of some individuals and groups regarding the impacts of climate change is determined by the lack of a sufficient level of compliance with rights, such as, to health, work and social security, education, housing, culture, water, food and, of course, a healthy environment. The climate emergency accentuates the need to devote the maximum of available resources to protect individuals and groups that, due to their vulnerable situation, are exposed to climate change´s particularly severe impacts (*infra* paras. 595-629), without implying a disregard for the need to protect the population as a whole.

243. On this point, the Court underlines that obtaining the necessary resources to respond to the climate emergency should not compromise the right of individuals and peoples to take part in, contribute to and enjoy development,[470] understood as a "comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals"[471] (*supra* para. 211).

### A.4. The Obligation to Adopt Domestic Legislative Provisions

244. Article 2 of the American Convention establishes a general obligation for the State Parties to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms protected by the Convention.[472] Article 2 of the Protocol of San Salvador includes exactly the same wording. Consequently, the obligation to adopt legislation applies equally to the rights protected by the Protocol and by the Convention.

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469 *Cf. Mutatis mutandis, Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office") v. Peru, supra*, para. 103, and *Case of the Inhabitants of La Oroya vs. Peru*, *supra*, paras. 183 and 185.

470 *Cf.* United Nations General Assembly, "Declaration on the right to development," Resolution 41/128, of December 4, 1986.

471 *Cf.* Thematic study by the Expert Mechanism on the Right to Development, "Operationalizing the right to development in achieving the Sustainable Development Goals," A/HRC/48/63, of July 6, 2021, para. 11.

472 *Cf. Case of Castillo Petruzzi et al. v. Peru. Merits, reparations and costs*. Judgment of May 30, 1999. Series C No. 52, para. 207, and *Case of Members of the ECASA Workers Union (SUTECASA) v. Peru, supra,* para. 169.

245. This obligation entails the adoption of two types of measures. On the one hand, the elimination of laws and practices of any nature that entail violations of the guarantees established in the Convention[473] and, on the other, the enactment of laws and the implementation of practices leading to the effective observance of such guarantees.[474] This obligation is particularly relevant in the context of the climate emergency because compliance with it depends on whether the domestic legal framework includes the necessary regulation to ensure the respect, guarantee, and progressive development of human rights in the context of the climate emergency.

246. The Court notes that it is essential to adapt the law to address the climate emergency, because the law defines the actions of the State and its agents, at both the domestic and the international level, and establishes legal obligations for private individuals, including business enterprises, whose activities may have significant effects on the environment, leading to legal consequences in cases of non-compliance. The laws and regulations adopted in this context should provide guidance to the States and to the 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.

### A.5. The Obligation of Cooperation

247. The obligation for States to cooperate in good faith forms part of customary international law and derives from the principle of good faith in international relations.[475] It also appears in Article 1(3) of the United Nations Charter,[476] and in Resolution 2625 of 1970 of the United Nations General Assembly.[477] The latter stresses the importance of the international community respecting their obligations in relation to cooperation so as to ensure international peace and security and for the implementation of the other goals of the United Nations.[478]

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473 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra*, para. 207, and *Case of Members of the ECASA Workers Union (SUTECASA) v. Peru, supra,* para. 169.

474 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra*, para. 207, and *Case of Members of the ECASA Workers Union (SUTECASA) v. Peru, supra,* para. 169.

475 *Cf.* ICJ, *Nuclear tests (Australia v. France) (New Zealand v. France).* Judgments of December 20, 1974, paras. 46 and 49, respectively*; Legality of the Threat or Use of Nuclear Weapons.* Advisory Opinion of July 8, 1996, para. 102, *Pulp Mills on the River Uruguay (Argentina v. Uruguay).* Judgment of April 20, 2010, para. 145 and Arbitration Tribunal, Lac Lanoux Arbitration (France v. Spain). Decision of November 16, 1957, p. 21 and ff.

476 The United Nations Charter calls on the States to "achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion." *Cf.* United Nations Charter, 1948, article 1(3).

477 The United Nations General Assembly has recognized that "States have the duty to cooperate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international cooperation free from discrimination based on such differences." *Cf.* United Nations General Assembly, Resolution 2625, "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations," A/8082, of October 24, 1970, available at: https://docs.un.org/en/A/RES/2625(XXV).

478 The United Nations General Assembly has considered that: "the faithful observance of the principles of international law concerning friendly relations and cooperation among States and fulfilment in good faith of the obligations assumed by States, in accordance with the Charter, is of the greatest importance for the

248. Furthermore, cooperation is a cardinal principle established in the OAS Charter. In its preamble, the Charter recognizes that the welfare and progress of all the peoples of the Americas will "increasingly" require "intensive continental cooperation."[479] This instrument also emphasizes that "[t]he Member States, inspired by the principles of Inter-American solidarity and cooperation, pledge themselves to a united effort to ensure international social justice in their relations and integral development for their peoples, as conditions essential to peace and security",[480] and, similarly, that "Inter-American cooperation for integral development is the common and joint responsibility of the Member States, within the framework of the democratic principles and the institutions of the Inter-American system. It should include the economic, social, educational, cultural, scientific, and technological fields, support the achievement of national objectives of the Member States, and respect the priorities established by each country in its development plans, without political ties or conditions."[481] Moreover, according to the Charter, cooperation should focus on ensuring equality of opportunity, the elimination of extreme poverty, equitable distribution of wealth and income, and the full participation of Member States´ peoples in decisions relating to their own development.[482]

249. With regard to the environment, cooperation is one of the principles included in the 1972 Stockholm Declaration and the 1992 Rio Declaration. The former stresses the importance of cooperation "to control, prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres."[483] The latter refers to the purpose of cooperation through a broader scope, indicating that cooperation should serve "to conserve, protect and restore the health and integrity of the Earth's ecosystem."[484]

250. The Rio Declaration also refers to the principle of cooperation together with the principle of common but differentiated responsibilities. In this regard, it indicates that "[i]n view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command."[485] In addition, the Rio Declaration refers to cooperation as an obligation with additional purposes, including: (i) "to eradicate poverty as an indispensable requirement for sustainable development";[486] (ii) "to promote a supportive and open international economic

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maintenance of international peace and security and for the implementation of the other purposes of the United Nations". *Cf.* United Nations General Assembly, Resolution 2625, ""Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations," A/8082, of October 24, 1970, available at: https://docs.un.org/en/A/RES/2625(XXV).

479 *Cf.* Charter of the Organization of American States, 1948, Preamble.

480 *Cf.* Charter of the Organization of American States, 1948, article 30.

481 *Cf.* Charter of the Organization of American States, of April 30, 1948, Article 31. Other relevant mentions of cooperation can be found in Articles 48, 51 and 111 of this instrument.

482 *Cf.* Charter of the Organization of American States, 1948, article 34.

483 *Cf.* Stockholm Declaration on the Human Environment, United Nations Conference on the Human Environment, Stockholm, June 5 to 16, 1972, A/CONF.48/14/Rev.1, Principle 24, available at https://docs.un.org/en/A/CONF.48/14/Rev.1.

484 *Cf.* Río de Janeiro Declaration on Environment and Development, 1992, Principle 7.

485 *Cf.* Río de Janeiro Declaration on Environment and Development, 1992, Principle 7.

486 *Cf.* Río de Janeiro Declaration on Environment and Development, 1992, Principle 5.

system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation,"[487] and (iii) "to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction."[488]

251. Taking into account the content and scope of the instruments examined above, the Court notes that, in addition to being essential to achieve the objectives they indicate, cooperation is an obligation established in binding legal instruments in both the regional and the universal sphere. Therefore, it has binding legal force, and is essential for the effective implementation of international commitments and for guaranteeing compliance with the objectives established at the global level.

252. The principle of good faith established in Article 2(2) of the Charter of the United Nations constitutes an essential element for the interpretation of the obligation of cooperation.[489] It requires not only formal compliance with undertakings, but also faithful, coherent and diligent action to achieve the common goals of the international community. Consequently, in the context of the climate emergency, international cooperation must be implemented in good faith, which excludes evasive, retrogressive or merely declarative conduct that thwarts the effective realization of the rights and principles established in the treaties.

253. Furthermore, the Court notes that the obligation of environmental cooperation is not restricted solely to situations of transboundary threat or harm, which this Court has already examined.[490] 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 in relation to addressing the causes and impacts of climate change, particularly when these are devastating as in the case of climate-related disasters (*infra* para. 411), and direct and indirect migratory flows resulting from climate change (*infra* para. 432). In these circumstances, the duty of cooperation is closely related to the equity principle insofar as it requires the international community to take into account notions of justice in the establishment and application of international norms.[491] This means that cooperation must consider factors such as the differences among States, their capabilities, and their responsibilities.

254. This is precisely the idea that underlies the establishment of the obligation of cooperation in the legal framework resulting from the UNFCCC. The Preamble to this instrument acknowledges that "the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions."[492]

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487 *Cf.* Río de Janeiro Declaration on Environment and Development, 1992, Principle 12.

488 *Cf.* Río de Janeiro Declaration on Environment and Development, 1992, Principle 13.

489 The United Nations Charter establishes that: "[a]ll Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter." *Cf.* United Nations Charter, 1948, Article 2(2).

490 *Cf. Advisory Opinion OC-23/17, supra,* paras. 182 to 210.

491 *Cf.* ICJ, *Fisheries Jurisdiction (United Kingdom v. Iceland)*. Judgment of July 25, 1976, paras. 69 and 78.

492 *Cf.* United Nations Framework Convention on Climate Change, 1992, Preamble, available at: https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

In addition, the convention reiterates the duty of the Parties "to cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change."[493]

255. Taking into account their common but differentiated responsibilities and the specific nature of their national and regional development priorities, their goals and their circumstances, the Parties to the Paris Agreement undertook to promote and support cooperation on technology transfer, adaptation preparations, research, data collection and storage, information exchange, education, and training and awareness-raising on the causes and consequences of climate change. The Paris Agreement also recognizes specific opportunities for voluntary cooperation in the domestic application of the NDCs;[494] indicates the obligation "to enhance understanding, action and support, […] on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change"[495] and, finally, it asserts that "[d]eveloped country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention."[496]

256. That said, the Court underscores that cooperation is also referred to in the American Convention and in the Protocol of San Salvador. These two instruments establish the duty of State Parties to adopt the necessary measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to progressively achieving, via legislation or other appropriate means, the full realization of the ESCER (*supra* paras. 238-243). The Protocol of San Salvador also stipulates that the adoption of such measures should be in keeping with "the extent allowed by their available resources," and the "degree of development" of the States.[497]

257. Bearing in mind these provisions and the scope of the obligation of cooperation under international environmental law, the Court has established that, in order to guarantee the rights to life and personal integrity, States have the obligation to cooperate, in good faith, to protect against environmental harm.[498] This obligation of cooperation is a priority in the case of shared resources whose development and exploitation should be carried out in a manner that is equitable and reasonable in relation to the rights of other States with jurisdiction over such resources.[499] Even though this rule is applicable with regard to environmental harm, the Court notes that

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493 *Cf.* United Nations Framework Convention on Climate Change, 1992, Article 3(5), available at: https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

494 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, article 6, available at: https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf

495 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, article 8.3., available at: https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf

496 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, article 9.1, available at: https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf

497 *Cf.* Protocol Additional to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), 1998, Article 1, available at: https://www.oas.org/juridico/english/treaties/a-52.html .

498 *Cf. Advisory Opinion, OC-23/17, supra*, paras. 182 and 185.

499 *Cf. Advisory Opinion, OC-23/17, supra*, para. 185.

the obligation of cooperation has an even more specific content in relation to the protection of human rights within the context of the climate emergency.

258. In this context, the obligation of cooperation must be interpreted in light of the principles of equity and common but differentiated responsibilities. The Court considers that States have the obligation to cooperate in good faith to make progress towards the respect and guarantee of the progressive development of the 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, particularly with regard to economic and technical matters; and their specific needs in order to achieve sustainable development.

259. 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 emphasizes that, since the protection of human rights in the context of the 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.

260. The Court also recalls that the Social Charter of the Americas recognizes that poverty constitutes "an obstacle to development" and, in particular, to "the full democratic development of the peoples of the Hemisphere," and therefore "its elimination is essential and constitutes a common and shared responsibility of the American States." Consequently, it establishes that States should "develop and implement comprehensive social protection policies and programs, based on the principles of universality, solidarity, equality, non-discrimination, and equity that give priority to persons living in conditions of poverty and vulnerability, taking into account their national circumstances."[500]

261. In this regard, the Court notes the role of inequality between individuals and nations in relation to the human causes of climate change and its disproportionate impact on those who have contributed least to those causes and yet are in a situation of greater vulnerability to its impacts (*supra* paras. 98-101). The Court also reiterates its observations on the insufficiency of the resources made available to the States who most require them to move forward with climate action, and the difficulties resulting from the public debt in this context (*supra* paras. 203 and 208).

262. Therefore, the Court draws attention to the obligation of States to cooperate in the promotion of an open and advantageous international economic system that leads to sustainable development, particularly for developing countries, thereby allowing them to better address climate change. In the Court's opinion, this obligation, established by the UNFCCC, constitutes an essential and immediate component of the obligation to guarantee the rights derived from the American Convention and the Protocol of San Salvador that are threatened or violated in the context of the climate emergency.

263. The Court also notes that, in implementing the obligation of cooperation, States can promote coordinated measures on matters such as progressive taxation,

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500 *Cf.* Social Charter of the Americas, September 20, 2012, Preamble and Article 14.

reinforcement of tax collection capacities, and combatting tax evasion, corruption, and illicit financial flows.[501]

264. Therefore, the obligation of cooperation entails, *inter alia*: (i) financial and economic aid to the least developed countries to contribute to a just transition; (ii) technical and scientific cooperation involving communication and common enjoyment of the benefits of progress; (iii) implementation of mitigation, adaptation and reparation actions that can benefit other States; and (iv) establishment of international forums and formulation of collaborative international policies. The Court also notes that, within the United Nations, it has been indicated that cooperation includes the transfer of resources, technical cooperation and assistance, policy assessment, exchange and diffusion of information on experiences, specialized knowledge and practices, and the establishment of networks and the development of technologies.[502]

265. Lastly, the Court recalls that, according to the OAS Charter, cooperation should preferably be channeled through multilateral agencies, without prejudice to bilateral cooperation between States, in order to ensure integral development.[503] Consequently, the Court highlights the importance of strengthening multilateral cooperation channels, in particular between the States of this hemisphere, whose collective commitment is fundamental for effectively addressing common challenges and moving towards integral and sustainable development that respects human rights (*infra* paras. 368-376). In this regard, the Court underlines, as has the United Nations Secretary-General, that, without solid and sustained international cooperation based on trust and solidarity, it will be impossible to address challenges – such as the climate emergency – which far exceed the capacity of any single State.[504] It also stresses that solidarity is a fundamental value "by virtue of which global challenges must be managed in a way that distributes costs and burdens fairly, in accordance with basic principles of equity and social justice, and ensures that those who suffer or benefit the least receive help from those who benefit the most."[505]

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

266. The Court recalls 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

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501 *Cf.* Report of the United Nations High Commissioner for Human Rights, "Implementation and enhancement of international cooperation in the field of human rights," A/HRC/50/51, of April 14, 2022, para. 80.

502 *Cf.* Human Rights Council "Human rights and international solidarity." Report of the independent expert on human rights and international solidarity, Rudi Muhammad Rizki. A/HRC/9/10, August 15, 2008, para. 32. Additionally, the Paris Agreement establishes that cooperation can also take the form of technology, information or knowledge transfer, and economic or educational support, among other aspects. *See,* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, Articles 6, 8 and 9, available at: https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf

503 *Cf.* Charter of the Organization of American States, 1948, Article 32.

504 *Cf.* United Nations General Assembly, "The Pact for the future," A/RES/79/1, of September 22, 2024, para. 5.

505 *Cf.* United Nations General Assembly, "Promotion of a democratic and equitable international order," Resolution 57/213, A/RES/57/213, February 25, 2003, para. 4(f).

in decision-making, and to an effective remedy).[506]

267. In this section, the Court will refer to the specific content of each of the substantive rights that, according to the questions posed by the requesting States and the comments received during the oral and written procedures, are the most threatened or violated in the context of the climate emergency.

268. All the considerations relating to the general obligations derived from the American Convention and the Protocol of San Salvador are applicable to the duties that will be described in the section. The Court will refer, first, (1) to the right to a healthy environment, as the main right affected by climate change and, then, (2) to other substantive rights that may be violated as a result of climate impacts.

### B.1. The Right to a Healthy Environment

269. In this section, the Court will: (1) reiterate its case law on the right to a healthy environment; (2) clarify its position on the protection of nature as a subject of rights; (3) rule on the *jus cogens* nature of the obligation not to cause irreversible damage to the climate and the environment;and (4) refer to the obligation to protect the climate system, and (5) to the right to a healthy climate; lastly, it will develop (6) the obligations derived from the right to a healthy environment in the context of the climate emergency.

#### *B.1.1. A Healthy Environment in the Jurisprudence of the Court*

270. The Court has indicated that the right to a healthy environment is one of 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.[507] Regarding the content and scope of this right, the Court recalls that Article 11 of the Protocol of San Salvador stipulates that "[e]veryone shall have the right to live in a healthy environment and to have access to basic public services" and that State Parties "shall promote the protection, preservation, and improvement of the environment."[508] Additionally, the United Nations General Assembly has recognized the right to a clean, healthy and sustainable environment as a human right,[509] and the Human Rights Council has established that States must adopt policies for the enjoyment of the right to a clean, healthy and

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506 *Cf. Advisory Opinion OC-23/17*, *supra*, para. 64.

507 *Cf. Advisory Opinion OC-23/17*, *supra*, para. 57, and *Case of the Rama and Kriol Peoples, and the Black Creole Indigenous Community of Bluefields et al. v. Nicaragua.* Merits, reparations and costs. Judgment of April 1, 2024. Series C No. 522, para. 406.

508 In order to measure the level of progress in the enjoyment of environmental rights, the Working Group of the Protocol of San Salvador has developed a series of key indicators related to: (i) the way in which this right has been assimilated into the structure of the States, in public polices and results achieved; (ii) the financial context and the budgetary commitment; (iii) the administrative, technical, political and institutional capacity of the State to guarantee this right; (iv) access to justice in environmental matters; (v) the enjoyment of the right to a healthy environment from a perspective of equality and non-discrimination, and (vi) access to environmental information and participation. *Cf.* Working Group of the Protocol of San Salvador, "Progress Indicators for Measuring Rights under the Protocol of San Salvador," 2015, p. 109-117.

509 *Cf.* United Nations General Assembly, "The human right to a clean, healthy and sustainable environment," Resolution 76/300, A/RES/76/300, July 28, 2022, paras. 1 and 2.

sustainable environment, in particular with regard to biodiversity and ecosystems.[510]

271. Although these and other international sources refer to the right to a "healthy environment," hereinafter the Court will refer to the right to enjoy a "healthy environment" to better reflect the conjunction between the individual and collective dimensions of the right. In fact, the Court finds that the "environment" can be understood as a series of elements and systems that are inextricably related and that enable present and future life.

272. 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 that is owed to both present and future generations. That said, the right to a healthy environment also has an individual dimension insofar as its violation may have direct or indirect repercussions on the individual owing to its connectivity with other rights, such as the rights to health, personal integrity and life, among others.[511]

273. This Court also reiterates that, as an autonomous right, the right to a healthy environment protects the components of the environment, such as forests, rivers, and seas, as legal rights in themselves, even in the absence of certainty or evidence of the risk to the individual. This means that it protects nature, not only because of the effects that its degradation may have on other human rights, but because of its vital interdependence with other living organisms that make life on this planet possible.[512] In this regard, the Court has noted a tendency to recognize legal personhood and, consequently, rights to Nature in constitutions and court judgments (see *infra* para. 286).

274. The Court has emphasized that the right to a healthy environment, as an autonomous right, differs from the environmental content that arises from the protection of other rights, such as the right to life or the right to personal integrity. Thus, this Court has reiterated that, in addition to violating the right to enjoy a "healthy environment," environmental damage may affect all human rights, and that some rights, precisely substantive rights, are more susceptible to such effects. Consequently, protection of the right to a healthy environment necessarily results in the protection of substantive human rights.

275. That said, this Court has recognized that the obligation to guarantee rights and, specifically, the duty of prevention, acquires a specific content in relation to the right to a healthy environment. In this context, the Court has indicated that the principle of prevention forms part of customary international law[513] and imposes on States "the

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[510] *Cf.* Human Rights Council "The human right to a clean, healthy and sustainable environment," A/HRC/RES/48/13, October 28, 2021, paras. 1 and 2.

[511] *Cf.* Advisory Opinion OC-23/17, *supra,* para. 59.

[512] *Cf. Advisory Opinion OC-23/17, supra*, paras. 59, 62 and 64, and *Case of the Rama and Kriol Peoples, and the Black Creole Indigenous Community of Bluefields et al. v. Nicaragua, supra,* para. 409.

[513] The customary nature of the principle of prevention has been recognized by the International Court of Justice. *Cf. Inter alia,* ICJ, *Legality of the Threat or Use of Nuclear Weapons,* Advisory Opinion of July 8, 1996, para. 29; ICJ, *Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)*. Judgment of September 25, 1997, para. 140; ICJ, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment of April 20, 2010, para. 101; and ICJ, *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)* and *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, Judgment of

responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."[514] This obligation is linked to the international obligation of due diligence to avoid causing or allowing damage to the environment of other States.[515]

276. The Court has noted that, although the principle of prevention in environmental matters is established within the framework of inter-state relations, the obligations that it imposes are similar to those arising from the general obligation to prevent human rights violations.[516] Indeed, States are obligated to adopt measures in relation to activities that represent a risk for human rights and also in relation to activities that represent a risk for the environment beyond their own territory.

277. Considering that environmental damage jeopardizes the enjoyment of human rights, the Court has indicated that States must take measures to prevent significant environmental damage within or outside their territory. Based on this consideration, the Court has also concluded that, for the purposes of the American Convention, when transboundary damage occurs that affects treaty-based rights, it is understood that the persons 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.[517]

278. The exercise of jurisdiction by a State of origin in the case of transboundary harm is based on the understanding that it is the State in whose territory, or under whose jurisdiction the activities were carried out, that has the effective control over them and that is in a position to prevent said activities from causing transboundary harm that impacts the enjoyment of human rights of persons outside its territory. The potential victims of the negative consequences of such activities are under the jurisdiction of the State of origin for the purpose of the possible responsibility of that State for failing to comply with its obligation to prevent transboundary harm.[518]

### *B.1.2. The Protection of Nature as a Subject of Rights*

279. 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 have a negative cascading effect with impacts on

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December 16, 2015, para. 104. Both ITLOS and the Permanent Court of Arbitration (hereinafter "PCA") have also recognized this. *Cf.* ITLOS, *Dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana v. Côte d'Ivoire)***.** Case number 23, Order for provisional measures of April 25, 2015, para. 71; PCA, *Iron Rhine Arbitration (Belgium v. the Netherlands)*. Award of May 24, 2005, para. 222; PCA, *Indus Waters Kishanganga Arbitration (Pakistan v. India)*. Partial award of February 18, 2013, paras. 448 to 450 and Final award of December 20, 2013, para. 112, and PCA, *South China Sea Arbitration (Philippines v. China)*. Award of July 12, 2016, para. 941.

514 *Cf.* United Nations Conference on Environment and Development. Rio Declaration on Environment and Development, 1992, Principle 2, and United Nations Conference on the Human Environment, Stockholm Declaration on the Human Environment, 1972, Principle 21.

515 *Cf. Inter alia,* ICJ, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*. Judgment of April 20, 2010, para. 101. See also, Arbitration Tribunal*, Trail Smelter Case (United States of America v. Canada)*. Decision of April 16, 1938, and March 1941, p. 1965, and ICJ, *Corfu Canal (United Kingdom of Great Britain and Northern Ireland v. Albania)*. Judgment of April 9, 1949, p. 22.

516 *Cf. Advisory Opinion OC-23/17, supra,* para. 133.

517 *Cf. Advisory Opinion OC-23/17, supra,* para. 101.

518 *Cf. Advisory Opinion OC-23/17, supra,* para. 102.

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. Making progress towards a paradigm that recognizes rights inherent in the ecosystems is fundamental for the protection of their long-term integrity and functionality, and it provides coherent and effective legal tools in relation to the triple planetary crisis to prevent existential harm before the latter becomes irreversible.

280. This recognition allows us to transcend inherited legal concepts that conceived Nature exclusively as an object of ownership or an exploitable resource. Recognition of Nature as a subject of rights also emphasizes its structural role in the vital balance of the conditions that make this planet inhabitable. This approach reinforces a paradigm focused on the protection of the ecological conditions that are essential for life and empowers local communities and Indigenous peoples, who have historically been the guardians of the ecosystems and possess deep-rooted traditional knowledge of their functioning.[519]

281. The Court also emphasizes that this approach is fully compatible with the general obligation to adopt domestic legislative provisions (Article 2 common to the American Convention and the Protocol of San Salvador), as well as the principle of progressivity that governs the realization of the economic, social, cultural and environmental rights (Article 26 of the Convention and Article 2 of the Protocol of San Salvador). Indeed, the protection of Nature, as a collective subject of general interest, provides an appropriate framework for States – and other relevant stakeholders – to advance towards building a global legal system for sustainable development. Such a system is essential to preserve the conditions that support life on our planet and to guarantee a decent and healthy environment, essential for the realization of human rights.[520] This understanding is coherent with a harmonious interpretation of the *pro natura* and *pro persona* principles.

282. The Court recalls that, pursuant to Article 29 of the American Convention, the interpretation of the rights protected by the Inter-American system must be guided by an evolutive perspective in keeping with the progressive development of international human rights law.[521] Thus, recognition of Nature as a subject of rights does not introduce content that is alien to the Inter-American *corpus iuris* but rather represents

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519 This understanding is fully coherent with the solid protection that inter-American case law has granted to the special relationship that unites indigenous and tribal peoples with their territories. Respect and guarantee of their rights not only protects the individual members of these communities today, but also the collective entity they represent, their future generations, and the natural surroundings with which they have a spiritual, cultural and subsistence relationship. See, *inter alia*, *Case of the Yakye Axa Indigenous Community v. Paraguay. Merits, reparations and costs*. Judgment of June 17, 2005. Series C No. 125, para. 135 and *Case of the U'wa Indigenous People and its members v. Colombia*, *supra,* para. 123.

520 *Cf. Case of Kawas Fernández v. Honduras*. Merits, reparations and costs. Judgment of April 3, 2009. Series C No. 196. para. 148, and *Advisory Opinion OC-23/17*, *supra*, para. 47.

521 Article 29 of the American Convention stipulates that: "No provision of this Convention shall be interpreted as: a. permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein; b. restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a party; c. precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government; or d. excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have."

a contemporary expression of the principle of the interdependence between human rights and the environment. This interpretation is also aligned with advances in international environmental law which has established structural principles such as inter-generational equity, the precautionary principle, and the duty of prevention, all aimed at preserving the integrity of the ecosystems in the face of current and future threats.

283. Based on this understanding, the Court underscores that States must not only refrain from acting in a way that causes significant environmental damage, but have the positive obligation to adopt measures to guarantee the protection, restoration and regeneration of ecosystems (*infra* paras. 364-367 and 559). These measures must be compatible with the best available science and recognize the value of traditional, local and indigenous knowledge. Additionally, they must be guided by the principle of non-retrogressivity and ensure the full exercise of procedural rights (*supra* para. 240 and *infra* paras. 468, 478 and 480).

284. The Court stresses the efforts made at the international level to promote an integrative perspective into the protection of Nature. In this regard, the 1982 World Charter for Nature states that "[m]ankind is a part of nature and life depends on the uninterrupted functioning of natural systems which ensure the supply of energy and nutrients,"[522] and that "[e]very form of life is unique, warranting respect regardless of its worth to man, and, to accord other organisms such recognition, man must be guided by a moral code of action."[523] This instrument also indicates that "Nature shall be respected and its essential processes shall not be impaired."[524] Meanwhile, the Preamble to the Convention on Biological Diversity recognizes "the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components."[525] For the implementation of this convention, the Kunming-Montreal Global Biodiversity Framework establishes that "[b]oth nature and nature's contributions to people are vital for human existence and good quality of life […]."[526] The Court also underlines that one of the purposes of the Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction is "to act as stewards of the ocean in areas beyond national jurisdiction on behalf of present and future generations by […] conserving the inherent value of biological diversity."[527]

285. The Court takes note that the United Nations General Assembly has adopted

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[522] *Cf.* United Nations General Assembly, "World Charter for Nature, Resolution. 37/7, 1982, Preamble, para 2(a).

[523] *Cf.* United Nations General Assembly, "World Charter for Nature, Resolution. 37/7, 1982, Preamble, para 3(a).

[524] *Cf.* United Nations General Assembly, "World Charter for Nature, Resolution. 37/7, 1982, Principles, para 1.

[525] *Cf.* Convention on Biological Diversity, 1992, Preamble, para 1..

[526] *Cf.* Conference of the Parties to the Convention on Biological Diversity, "Global Biodiversity Framework," CBD/COP/DEC/15/4, Decision 15/4, of December 19, 2022, Section C (7)(b).

[527] *Cf.* Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, 2023, Preamble, para. 11. Available at: https://www.un.org/bbnjagreement/sites/default/files/202408/Text%20of%20the%20Agreement%20in%20.pdf.

fifteen resolutions[528] and twelve reports[529] that reflect the increasing recognition of the case law on the Earth and the rights of Nature at the global level. Additionally, the Pact for the Future, adopted by Member States of the United Nations in 2024, declares "the urgent need for a fundamental shift in our approach in order to achieve a world in which humanity lives in harmony with nature."[530]

286. Finally, the Court notes a growing tendency in legislation and case law to recognize Nature as a subject of rights. This tendency is reflected in judicial decisions at the regional[531] and global[532] level, as well as in the domestic laws of several countries of the Americas, such as, Canada,[533] Ecuador,[534] some subnational entities

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528 *Cf.* United Nations General Assembly, "International Mother Earth Day," Resolution 63/278, A/RES/63/278, of May 1, 2009; "Harmony with Nature," Resolution 64/196, A/RES/64/196, of February 12, 2010; "Harmony with Nature," Resolution 65/164, A/RES/65/164, of March 15, 2011; "Harmony with Nature," Resolution 66/204, A/RES/66/204, of March 29, 2012; "Harmony with Nature," Resolution 67/214, A/RES/67/214, of March 15, 2013; "Harmony with Nature," Resolution 68/216, A/RES/68/216, of February 12, 2014; "Harmony with Nature," Resolution 69/224, A/RES/69/224, of February 3, 2015; "Harmony with Nature," Resolution 70/208, A/RES/70/20, of February 17, 2016, "Harmony with Nature," Resolution 71/232, A/RES/71/232, of February 6, 2017; "Harmony with Nature," Resolution 72/223, A/RES/72/223, of January 17, 2018; "Harmony with Nature," Resolution 73/235, A/RES/73/235, of January 11, 2019; "Harmony with Nature," Resolution 74/224, A/RES/74/224of January 17, 2020; "Harmony with Nature," Resolution 75/325, A/RES/75/220, of December 30, 2020; "Harmony with Nature," Resolution 77/169, A/RES/77/169, of December 28, 2022, and "Harmony with Nature," Resolution 79/210, A/RES/79/210, of December 23, 2024.

529 *Cf.* Reports of the Secretary-General of the United Nations, "Harmony with Nature," A/65/314, of August 19, 2010; "Harmony with Nature," A/66/302, of August 15, 2011; "Harmony with Nature," A/67/317, of August 17, 2012; "Harmony with Nature," A/68/325, of August 15, 2013; "Harmony with Nature," A/69/322, of August 18, 2014; "Harmony with Nature," A/70/268, of August 4, 2015; "Harmony with Nature," A/71/266, of August 1, 2016; "Harmony with Nature," A/72/175, of July 19, 2017; "Harmony with Nature," A/73/221, of July 23, 2018; "Harmony with Nature," A/74/236, of July 26, 2019; "Harmony with Nature," A/75/266 of July 28, 2020; "Harmony with Nature," A/77/244, of July 28, 2022, and "Harmony with Nature," A/79/253, of July 29, 2024.

530 *Cf.* United Nations General Assembly, "The Pact for the Future", A/RES/79/1, of September 22, 2024, para. 29.

531 See, for example, Constitutional Court of Colombia, Judgment T-622-16 of November 10, 2016, paras. 9.27 to 9.31; Supreme Court of Justice of Colombia, Judgment STC 4360-2018 of April 5, 2018, p. 45; Judgment STC 3872-2020 of June 18, 2020, p. 37; Superior Court of Justice of Brazil, Special Appeal No 1.797.175 - SP of March 21, 2019, pp. 9 to 21; Constitutional Court of Ecuador, Judgment No. 22-18-IN/21 of September 8, 2021, operative paragraph 1; Judgment No. 1149-19-JP/21 of November 20, 2021, para. 347; Judgment No. 2167-21-EP/22 of January 19, 2022, operative paragraph 4, and Third Constitutional Chamber of the Supreme Court of Justice of Lima, Resolution No. 11 of June 28, 2024, pp. 18 a 20, *inter alia*.

532 See, *inter alia*. Erfurt District Court, Germany, Case 8 O 1373/21, decision of August 2, 2024, paras. 31 and ff., available at: https://ecojurisprudence.org/wp-content/uploads/2024/10/Germany-District-Court-ruling.pdf; Madras High Court, India, decision of April 19, 2022, para. 23. https://ecojurisprudence.org/wp-content/uploads/2022/06/Madras-High-Court-Ruling-Rights-of-Nature.pdf; High Court of Punjab and Haryana at Chandigarh, India, decision March 2, 2020, p. 137. http://files.harmonywithnatureun.org/uploads/upload994.pdf, and High Court of Uttarakhand At Naintal, India, Petition (PIL) No. 140 of 2015, decision of March 30, 2017, pp. 61 to 63. https://ueppcb.uk.gov.in/upload/contents/File-77.pdf

533 See, Municipalité régionale de comté de Minganie, *Résolution no. 025-21 reconnaissant la personnalité juridique de la rivière Magpie (Mutehekau-shipu)*, February 16, 2021, Quebec, Canada. Available at: https://mrc.minganie.org/wp-content/uploads/2021/02/résolution-025-21-Reconnaissance-de-la-personnalité-juridique-et-des-droits-de-la-rivière-Magpie-Mutehekau-Shipu-1.pdf

534 The Constitution of the Republic of Ecuador stipulates that "Nature or Pacha Mama, which reproduces and realizes life, has the right to have its existence and the conservation and regeneration of its vital cycles, structure, functions and evolutive processes respected integrally. Every person, community, people or nationality may require the public authorities to comply with the rights of Nature." *Cf.* Constitution of the Republic of Ecuador, 2008, article 71.

in the United States of America,[535] Bolivia,[536] Brazil[537] Mexico,[538] Panama[539] and Peru.[540]

### *B.1.3. The Jus Cogens Nature of the Obligation not to Cause Irreversible Damage to the Climate and the Environment*

287. This Court has indicated the importance of the legal concepts used by the international community to guarantee the realization of values that are essential for humanity.[541] The development of legislative instruments – necessary to make the

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[535] In the United States of America, recognition of Nature as a subject of rights has been developed under local regulations. There are declarations recognizing this right in the localities of: Nederland (2021); the territory of the Nez Perce tribe, the territory of the Menominee tribe and Orange County (2020); the territory of the Yurok tribe and Santa Mónica (2019); Crestone (2018); Grant Township, Mendocino County and San Francisco (2014); Mora County (2013); Broadview Heights and Yellow Springs (2012); Baldwin, Forest Hills, Mountain Lake Park, State College, Wales and West Homestead (2011); Licking, Packer and Pittsburgh (2010); Newfield (2009); Halifax, Mahanoy and Nottingham (2008), and Tamqua (2006), *inter alia*. *Cf.* United Nations, "Harmony with Nature," available at: http://harmonywithnatureun.org/rightsOfNature/.

[536] The Preamble to the Constitution of the Plurinational State of Bolivia stipulates that "[i]n ancient times, rivers displaced, lakes were formed. Our Amazon, our Chaco, our highlands and our plains and valleys were covered with grasses and flowers. We peopled this sacred Mother Earth with different faces, and since then we have always understood the plurality that exists in all things and our diversity as human beings and cultures." Also, article 33 of the Constitution establishes that "people have the right to a healthy, protected and balanced environment. The exercise of this right should permit individuals and collectivities of present and future generations, and other living beings, to evolve normally and permanently." *Cf.* Constitution of the Plurinational State of Bolivia, Preamble and article 33.

[537] See, Law adopted by the municipality of Goiás recognizing the River Vermelho as a subject with rights (2024); Law of the municipality of Linhares recognizing the Sea Waves of the Doce River Mouth as entities entitled to rights (2024); Law of the municipality of Piauí recognizing the rights of Nature (2024); law of the municipality of Santo Antônio Do Itambé recognizing the rights of Nature of Serra do Itambé together with its rivers and the Itambé Mountain Peak (2024); Law adopted by the municipality of Guajará-Mirim recognizing the River Laje as a subject of rights (2023); Law adopted by the municipality of Cáceres recognizing Nature as a subject of rights (2023), *inter alia*. *Cf.* United Nations, "Harmony with Nature," available at: http://harmonywithnatureun.org/rightsOfNature/.

[538] See, article 13 of the *Constitution of Mexico City* establishes that: "[e]veryone has the right to a healthy environment for their development and well-being. […] 3. To comply with this provision, a secondary law shall be issued in order to recognize and regulate the broadest possible protection for the rights of Nature composed of all the ecosystems and species as a collective entity"; article 2 of the *Constitution of the Free and Sovereign State of Colima* establishes that*:* "[e]very person has the right: [...] IX. To live in an environment that is healthy and safe for development and well-being; (a) Nature, composed of all its ecosystems and species as a collective entity subject to rights, must be respected in relation to its existence, and restoration and the regeneration of its natural cycles, as well as the conservation of its structure and ecological functions, as established by law"; article 5 of the *Constitution of the Free and Sovereign State of Mexico* establishes that: "[i]n the state of Mexico, Nature and biodiversity, endemic and native species are subjects of rights that are granted, protected and promoted by the constitution and the laws of the state"; Article 12 of the *Constitution of the Free and Sovereign State of Oaxaca* establishes that: "Nature, the environment and its biodiversity are subjects of rights and have the right that their existence, conservation and regeneration of their vital cycles, structure, functions and evolutive process are respected integrally. The state guarantees the rights of Nature, to be respected, preserved, protected and restored integrally. It is considered the ethical duty of every person to respect Nature," and article 2 of the *Constitution of the Free and Sovereign State of Guerrero* establishes: "[i]n the state of Guerrero, dignity is the basis for both individual and collective human rights. […] The precautionary principle shall be the basis for economic development and the state must guarantee and protect the rights of Nature in the respective legislation."

[539] *Cf.* Law recognizing the rights of Nature and the obligations of the State in relation to those rights in Panama, Law No. 287 of February 24, 2022.

[540] *Cf.* Municipal order of the province of Melgar recognizing the River Llallimayo as a subject of rights, of September 23, 2019; municipal order of the district municipality of Orurillo in the province of Melgar recognizing water as a subject of rights, of December 26, 2021, and order of the regional council of Puno recognizing Lake Titicaca as a subject of rights, of April 24, 2025.

[541] *Cf. Advisory Opinion OC-26/20, supra*, para. 105.

survival of present and future generations viable on a habitable planet – constitutes a universal value that is the subject of growing interest, deliberation and action on the part of the international community. Specifically, the Court notes that international environmental law has established fundamental principles, including the precautionary principle and the principle of polluter pays, and the obligation *erga omnes* not to cause transboundary environmental damage; international agreements have been adopted to address climate change, pollution, and the loss of biodiversity; the concept of intergenerational equity has been developed owing to the increasing medium- and long-term implications of these challenges, and efforts have been undertaken to penalize conducts that give rise to massive and long-lasting damage to our ecosystems at the national and international level. The progressive crystallization of certain obligations reveals the creation of a body of law, the protection of which cannot be derogated, particularly regarding the risk of irreversible damage to the ecosystems that sustain life.

288. Over recent decades – owing to the evolution of the relevant scientific knowledge – the States of the international community have established consensuses on the existential risks and have identified specific anthropogenic conducts that can irreversibly affect the interdependence and vital equilibrium of the common ecosystem that enables the life of all planetary species. Indeed, conducts that can be identified as a direct cause of irreversible effects on the vital equilibrium of the ecosystems include: large-scale and irreversible deforestation of primary forests crucial to biodiversity, climate regulation and hydrological cycles; the destruction or extensive and lasting damage to biodiversity with a mass and irreversible loss of species and the degradation of critical habitats; the persistent and large-scale pollution of vital resources, such as potable water sources, the oceans and the atmosphere, with long-lasting and irreversible effects on the health of species and the viability of ecosystems, including the release of persistent toxic substances; large-scale radioactive pollution and severe oceanic acidification, and the irreversible alteration of natural biogeochemical cycles such as those of carbon, nitrogen or phosphorus on which the life of the species on our planet depends; for example, the irreversible alteration produced by the effect of anthropogenic climate change in its extreme manifestations. These are factors that, according to the best available science, threaten the conditions necessary for life on Earth.

289. As the best available science has established, the rupture of the vital equilibrium of our common ecosystem – caused by those conducts that give rise to irreversible damage – progressively and jointly modify the conditions for the healthy life of the species that inhabit our plant interdependently, to the point of generating consequences of existential proportions. Based on the foregoing, the anthropogenic contribution to climate change and the consequent irreversible deterioration of the common ecosystem constitute risks of an existential nature that call for a universal and effective legal response (*supra* paras. 65-119).

290. 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. A *contrario sensu*, if it was considered that there was no peremptory prohibition under international law regarding anthropogenic conducts with irreversible

impacts on the vital equilibrium of the planetary ecosystem, this would, logically, undermine the conditions required *sine qua non* 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.

291. The existential interests of all individuals and species of all kinds – given their temporal and geographical importance – whose rights to life, personal integrity, and health have already been recognized by international law, crystallize the obligation to abandon anthropogenic conducts that pose a critical threat to the equilibrium of our planetary ecosystem. The prohibitions arising from the obligation to preserve our common ecosystem, as a precondition to the enjoyment of other rights that have already been identified as fundamental, are of peremptory importance and are, therefore, of a *jus cogens* nature.

292. 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 generations on a habitable planet viable, and their normative hierarchy, can be deduced from general principles of law, such as the *principle of effectiveness*. The object of the principle of effectiveness is to guarantee that the rights and obligations recognized in legal systems are interpreted and applied effectively in order to achieve their purpose. When compliance with a recognized obligation is not possible without acknowledgement of a prior obligation, the principle of effectiveness operates to ensure recognition of the latter.

293. In this regard, it should be stressed, first, that there is a clear and demonstrable dependence between the protection of the rights to life, integrity, health and non-discrimination, among others, and the prohibition of anthropogenic conducts with an irreversible impact on the vital equilibrium of the planetary ecosystem. It is evident that preservation of the vital equilibrium of the ecosystem that enables the life of all species – including ours – on the plant, constitutes a condition *sine qua non* for the enforceability of all the human rights recognized by international law, and immediately of the rights to life, integrity, health, and non-discrimination. Second, legal recognition of the obligation to preserve the equilibrium of the ecosystem in the face of anthropogenic conducts that give rise to irreversible harm constitutes a manifestation of the collective interest of humanity, and is necessary and not merely convenient or desirable, in relation to effective compliance with the obligations that have already been codified by international human rights law, and there is no other way to guarantee their enforceability. Third, the obligation to preserve the equilibrium of the ecosystem in the face of anthropogenic conducts that give rise to irreversible harm has a solid basis in general principles of law (*supra* para. 287), fundamental human rights, and a growing consensus within the international community. It is worth noting that its recognition is not arbitrary; rather, it is based on extensive and solid legal considerations. Lastly, and fourthly, recognition of the obligation to preserve the equilibrium of the ecosystem in the face of anthropogenic conducts that give rise to irreversible harm as a peremptory norm does not contradict current positive law. Rather, it contributes to give effect to existing norms more integrally and has achieved a degree of consolidation and universal recognition that justifies its characterization as a norm of *jus cogens*, owing to its essential connection to the protection of human life, dignity and inter-generational justice. State practice, the elaboration of multilateral environmental treaties, the resolutions of the United Nations General Assembly and

the case law of regional courts constitute a process of progressive consolidation that should be interpreted as an emerging juridical recognition of the non-derogable prohibition of irreversible environmental damage.

294. In conclusion, the principle of effectiveness added to the considerations of dependence, necessity, the universality of the underlying values and the fact that there is no conflict with current law, forms the legal grounds for recognition of the peremptory prohibition to generate massive and irreversible damage to the environment, and it contributes to compliance with existing obligations recognized by international law. Therefore, and given the nature of *jus cogens* norms, the Court finds that all States should cooperate to end conducts that violate the prohibitions derived from peremptory norms of general international law that protect a healthy environment.[542]

*B.1.4. Protection of the Global Climate System*

295. 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.

296. Consequently, the obligation of prevention of environmental damage includes also the duty to adopt measures to prevent climate damage. Such measures should be addressed at reducing GHG emissions (*infra* paras. 321-363). Compliance with the obligation of prevention in relation to climate damage is subject to the standard of enhanced due diligence (*supra* paras. 231-237). Furthermore, according to this Court's case law, the violations of treaty-based rights as a result of climate damage are subject to the jurisdiction of the State in which it originated, or which contributed to the production of the damage if there is a causal link between this fact and the violation of the human rights of individuals outside its territory.[543]

297. That said, as it considered in *Inhabitants of La Oroya v. Peru* in relation to the right to clean air and water,[544] the Court that, derived from the right to a healthy environment, is also the right to a healthy climate which protects the component of the environment that is directly affected in the context of the climate emergency, that is, the global climate system.

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542 *Cf.* United Nations, International Law Commission, "Peremptory norms of general international law (*jus cogens*)," A/CN.4/L.967, of May 11, 2022, conclusions 10, 11 and 19. See also, Vienna Convention on the Law of Treaties, A/CONF.39/27, of January 27, 1980, articles 53 and 64; and United Nations, International Law Commission, "Peremptory norms of general international law (*jus cogens*)," A/CN.4/L.967, of May 11, 2022, conclusions 10 and 11.

543 *Cf. Mutatis mutandis*, *Advisory Opinion OC-23/17, supra,* para. 101.

544 *Cf. Case of the Inhabitants of La Oroya vs. Peru*, *supra*, para. 115 to 125.

*B.1.5. The Right to a Healthy Climate*

298. The environment is composed of inextricably interrelated elements and systems. The protection of each of them necessarily contributes to the protection of the equilibrium that makes present and future life possible. The Court notes that, consequently, the individual and collective dimensions of the right to a healthy environment protect both the environment as a whole and the diverse systems and elements that compose it.

299. The climate system forms part of this whole and, consequently, even though it is necessarily connected to other components of the environment, its protection should be understood as a specific objective in the context of protecting the environment. Indeed, protection of the climate system acquires specific and differentiated characteristics based on its functions at the global level, the elements that compose it, and the necessary dynamics to ensure its equilibrium. The Court underscores that harm to the climate system constitutes a form of environmental damage that, even though related, can and should be distinguished from other forms of environmental damage such as those resulting from pollution or harm to biodiversity.

300. This distinction acquires special relevance in the context of the climate emergency owing to the urgency, specificity and complexity of the actions required to protect the global climate system. In view of this situation, the Court considers that recognition of a human right to a healthy climate as an independent right – derived from the right to a healthy environment – responds to the need to endow the Inter-American legal order with a base, within its own entity, on which the specific State obligations in relation to the climate crisis can be clearly delimited and compliance with them required independently of other duties related to environmental protection. This recognition is also aligned with the evolution of international human rights law and international environmental law, insofar as it reinforces the protection of individuals vis-à-vis one of the most severe threats that their rights are facing and will face in the future. The Court understands that a healthy climate derives from a climate system free of anthropogenic interferences that are dangerous[545] for human beings and Nature as a whole. This entails acknowledgement that, in functional conditions and even in the absence of such interferences, the climate is variable and this variability involves inherent risks that can affect the safety of the ecosystems.

301. Climate protection has been recognized as a substantive element of the right to a healthy environment by the Committee on the Rights of the Child,[546] CEDAW,[547] and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.[548] Likewise, the

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[545] *Cf.* Report of the then Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, A/74/161, July 15, 2019, para. 43.

[546] *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on children's rights and the environment, with special focus on climate change, CRC/C/GC/26, of August 22, 2023, para. 64.

[547] *Cf.* Committee for the Elimination of Discrimination against Women. General Recommendation No. 39 (2022) on the rights of indigenous women and girls, of October 31, 2022, CEDAW/C/GC/39, para. 60.

[548] *Cf. Inter alia*, Report of the then Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, A/74/161, July 15, 2019, para. 96; "Right to a clean, healthy and sustainable environment: non-toxic environment," A/HRC/49/53, of January 12, 2022, para. 3; "Issue of human rights obligations relating to the enjoyment

Inter-American Commission has considered that States have the obligation to reduce GHG emissions "to guarantee a safe climate that makes it possible to exercise rights.""[549] This position has been adopted by domestic courts which have recognized that, in response to climate change, protection is not a contingent issue, but rather an obligation derived from the obligation of environmental protection, because the consequences of the planet's warming jeopardize human survival on Earth.[550] They have also stated that the right to a healthy environment derives from the right to a climate system that sustains life[551] and that this right is essential for a free and orderly society.[552]

302. As a substantive element of the right to a healthy environment, the right to a healthy climate has both individual and collective connotations. 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 (*infra* paras. 557-560).

303. Conversely, in its individual sphere, the right to a healthy climate protects the possibility of each individual being able to live in a climate system free of dangerous anthropogenic interference.[553] Therefore, its protection acts as a precondition for the exercise of other human rights. In this regard the individual sphere of the right will be violated when the State's non-compliance with its obligations concerning the protection of the global climate system affects, not only this system, but also leads to the direct violation of the particular rights of one or several individuals. Consequently, the duty to make integral reparation for individual or collective harm caused to the victims arises from the international responsibility resulting from the said violation (*infra* paras. 557-560).

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of a safe, clean, healthy and sustainable environment," A/HRC/40/55, of January 8, 2019, para. 17, and "Business, planetary boundaries, and the right to a clean, healthy and sustainable environment," A/HRC/55/43, of January 2, 2024, para. 24.

549 *Cf.* IACHR and REDESCA, Resolution No.3/2021 "Climate Emergency: Scope of Inter-American Human Rights Obligations," December 31, operative paragraph 10.

550 *Cf.* Supreme Federal Court of Brazil. "Claim on non-compliance with a fundamental precept No. 708 (Climate Fund)." Constitutional environmental law. Failure to allocate resources to mitigate climate change. Unconstitutionality. Violation of international commitments. Plaintiff: Brazilian Socialist Party (PSB) and Socialism and Freedom Party (P-SOL). Rapporteur: Justice Luís Roberto Barroso, of June 24, 2022, pp. 9, 18 and 19 and paras. 17, 34 and 36.

551 *Cf.* First Circuit Court of the state of Hawaii, Navahine F. v. Transportation Department of the state of Hawaii, Civil No. 1CCV-22-0000631 (Conciliation agreement and release), June 20, 2024, pp. 3 and 4.

552 *Cf.* District Court of the United States of America for the District of Oregon (Eugene Division) *Juliana et al. v. United States of America,* Civ. No. 6:15-cv-01517-AA (*Opinion and Order*), Decision of December 29, 2023, p. 39.

553 *Cf.* Report of the then Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, A/74/161, July 15, 2019, para. 43.

304. In addition to violating the individual dimension of the right to a healthy climate, non-compliance with the State's general obligations in relation to the causes of climate change (paras. 219-365.) can also affect other collective interests. On this point, taking into account, in particular, the questions posed by the requesting States in relation to the protection of future generations, the Court finds it necessary to include some additional clarifications in relation to the interests protected by the collective dimension of the right to a healthy climate; namely, present and future humanity and Nature.

*i. Equity and Protection of Present and Future Humanity*

305. As the Court noted in the judgment in *Inhabitants of La Oroya v. Peru*, the principle of intergenerational equity is derived from different instruments of international law,[554] including the UNFCCC, and the Paris Agreement. It has also been taken into consideration by different international bodies[555] and courts such as the International Court of Justice,[556] the International Tribunal for the Law of the Sea,[557] and the European Court of Human Rights,[558] as well as by domestic courts.[559] References to intergenerational equity by treaty bodies of the United Nations system

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554 *Cf.* Stockholm Declaration on the Human Environment. United Nations Conference on the Human Environment, Stockholm, 1972; Rio Declaration on Environment and Development, 1992; Inter-American Democratic Charter, September 11, 2001, article 15; Social Charter of the Americas, 2012, articles 20 and 21; Paris Agreement, 2015, Preamble and article 1, and the Declaration on the Responsibilities of Present Generations Towards Future Generations, 1997, *inter alia*. *Cf. Case of the Inhabitants of La Oroya v. Peru, supra*, para. 128.

555 *See*, *inter alia,* Human Rights Committee, *Case of Teetotal vs. New Zealand*, Communication No. 2728/2016, views of January 7, 2020, para. 9.4 and *Case of Billy and Others v. Australia*, Communication No. 3624/2019, views of September 24, 2022, para. 5.8.

556 *Cf. ICJ, Legality of the Threat or Use of Nuclear Weapons,* Advisory Opinion of July 8, 1996, para. 29

557 *Cf.* ITLOS*,* Obligations of States to prevent, reduce and control pollution of the marine environment and to protect and preserve the marine environment in relation to climate change impacts. Advisory Opinion of May 21, 2024, para. 166.

558 *Cf.* ECtHR [GS], *Case of Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* no. 53600/20, of April 9, 2024, paras. 410 and 420.

559 See, *inter alia*, Supreme Court of Justice of the Nation of the United Mexican States, Amparo review No. 610/2019, Amparo review 307/2016, Judgment of November 14, 2018, pp. 21 and 22; Supreme Court of Justice of the Republic of Colombia, Judgment No. STC4360-2018, of April 5, 2018, paras. 11.2; Supreme Court of Canada, *Case of Tsilhqot'in Nation v. British Columbia*, June 26, 2014, paras. 15, 74 and 86; Philippine Supreme Court, *Case of Oposa et al. v. Fulgencio S. Factoran*, *Jr. et al*. (G.R. No. 101083); Second District Judge for Administrative matters, specialize in the economic, broadcasting and telecommunications jurisdiction, Indirect amparo proceeding No. 104/2020 of November 17, 2020, p. 72; Meanwhile, the First Chamber of the German Constitutional Court has indicated that "[t]he duty to afford protection against risks to life and health can also establish a duty to protect future generations […]. This is all the more applicable where irreversible processes are at stake. However, this duty to afford intergenerational protection has a solely objective dimension because future generations – either as a whole or as the sum of individuals not yet born – do not yet carry any fundamental rights in the present." See, First Chamber of the German Constitutional Court, Case 1, BvR 2656/18, 78/20, 96/20 and 288/20, Order of March 24, 2021, paras. 146.

should also be noted[560] and also the special procedures of its Human Rights Council.[561]

306. The Court also recalls that considerations on the concept of intergenerational equity have been taken into account for the protection of Indigenous Peoples. In several cases, the Court has noted that "the relationship with the land is not merely a matter of possession and production, but rather a substantive and spiritual element which they should enjoy fully, including to preserve their cultural legacy and transmit this to future generations."[562] Thus, case law has supported the transmission of collective cultural heritage, and this encompasses both the land and the resources traditionally used by Indigenous Peoples and that are necessary for their physical and cultural survival and for the development and continuity of their world view.[563]

307. Furthermore, the Court notes that intergenerational equity is included in the text of numerous constitutions and domestic laws of the States of the Americas.[564] It also notes an emerging tendency to recognize future generations as possessors of rights.[565]

308. This Court has already pointed out that, pursuant to the principle of intergenerational equity, States are required to actively contribute through the creation of environmental policies[566] aimed at ensuring that current generations leave

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560 *Cf.* Human Rights Committee, *Case of Billy and Others v. Australia*, Communication No. 3624/2019, views of September 24, 2022, para. 8.3; Human Rights Committee, General Comment No. 36, "Right to life," CCPR/C/GC/36, of September 3, 2019, para. 62; Committee on Economic, Social and Cultural Rights, General Comment No. 26 on "Land and economic, social and cultural rights," E/C.12/GC/26, of January 24, 2023, paras. 11 and 28; Committee on the Rights of the Child. General Comment No. 26 (2023) on children's rights and the environment, with special focus on climate change, CRC/C/GC/26, of August 22, 2023, para. 11, and Committee for the Elimination of Discrimination against Women. General Recommendation No. 37 (2018) on gender-related dimensions of disaster risk reduction in a changing climate, of March 13, 2018, CEDAW/C/GC/37, paras. 1 and 19.

561 *Cf.* Report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment, Astrid Puentes Riaño, on "Overview of the implementation of the human right to a clean, healthy and sustainable environment," A/79/270, of August 2, 2024, paras. 4 and 46; report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, on "Promotion and protection of human rights in the context of climate change", A/78/255, of July 28, 2023, para. 59, and Report of the Special Rapporteur on the right to development, Surya Deva, on "Right to development of children and future generations," A/HRC/57/43, of July 24, 2024, paras. 10 and 30.

562 *Cf. Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua, supra,* para. 149, and *Case of the Quilombolas Communities of Alcântara v. Brazil*. Preliminary objections, merits, reparations and costs. Judgment of November 21, 2024. Series C No. 548, para. 141. Similarly, see, Human Right Committee, *Billy and Others v. Australia*, Communication No. 3624/2019, views of September 24, 2022, paras. 8.10 to 8.13.

563 *Cf. Case of the Yakye Axa Indigenous Community v. Paraguay, supra*, paras. 124, 135 and 137, and *Advisory Opinion OC-23/17, supra,* para. 169.

564 This is the case of the following countries: Antigua and Barbuda ("Environmental Protection and Management Act", articles 3.1.a, 3.1.b., 53.1. and 76); Argentina ("Constitution of the Argentine Nation); Brazil ("Constitution of the Federative Republic of Brazil," article 225); Chile: ("Framework Law on climate change," article 2.d); Colombia ("Law establishing guidelines for the management of climate change," article 2.9); Costa Rica ("Organic Environmental Law," articles 2(c) and 4); Cuba ("Constitution of the Republic of Cuba," article 75); Ecuador ("Constitution of the Republic of Ecuador, articles 317 and 395); El Salvador ("Environmental Act," article 1); Guyana ("Constitution of the Cooperative Republic of Guyana," article 149 (J); Mexico ("General Law on climate change," article 26); Peru ("Framework Law on climate change," articles 1 and 3.6), and Dominican Republic ("Constitution of the Dominican Republic," article 67).

565 *Cf.* Maastricht Principles on the Human Rights of Future Generations, 2023, Principle 7.

566 The Court notes that the protection of the interests of future generations is not limited to the environmental sphere, because it also encompasses other human rights such as to food and culture and the rights of Indigenous Peoples. See, *inter alia*, *Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, *supra*, para. 149. and *Case of the Indigenous Communities of the Lhaka Honhat Association (Our Land) v. Argentina*, *supra*, para. 220.

behind a stable environment that will allow future generations similar opportunities for development.[567] In this way, this principle is closely related to the principles of prevention, precaution and progressivity.

309. That said, in the context of the climate emergency, intergenerational equity is reinforced by the principles of intragenerational equity and common but differentiated responsibilities. In this regard, the UNFCCC states that "[t]he Parties should protect the climate system for the benefit of present and future generations of humanity, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof."[568]

310. Based on these principles, States should 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. The former may occur if, for example, climate action is unjustifiably postponed, leaving the damage and cost to future generations.[569] The latter would happen if, for example, the costs of the energy transition are allocated without taking into account the vulnerability of certain groups of the population today.

311. The Court underscores that the purpose of the obligations arising from the right to a healthy climate is to protect the global climate system for the benefit of humanity as a whole, and both present and future generations are part of this. The Court notes that, even though international human rights law recognizes that everyone is a possessor of non-derogable rights, the ethical and legislative grounds for this transcend those who inhabit the planet today, extending also to humanity as a legal and moral community that endures over time. The protection of this community has been established in international instruments such as those relating to the common heritage of humanity.[570]

312. Taking into account that human generations exist within an unbroken continuum that is continually renewed and redefined as untold new members join the living human community,[571] their protection requires the adoption of measures that ensure equity in both the effective enjoyment of rights by present generations, and in their transmission to future generations. This Court considers that this aspect acquires special relevance in the context of the climate emergency, because the impacts of climate change are progressive, increase over time, and have more severe effects on

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567 *Cf. Case of the Inhabitants of La Oroya v. Peru*, *supra*, para. 128.

568 *Cf.* United Nations Framework Convention on Climate Change, 1992, article 3.1, https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf

569 *Cf.* First Chamber of the German Constitutional Court, Case of 1, BvR 2656/18, 78/20, 96/20, and 288/20 of March 24, 2021, paras. 40 and 110.

570 *Cf.* United Nations Convention on the Law of the Sea, 1982, Part XI, available at: www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf. Agreement Governing the Activities of States on the Moon and Other Celestial Bodies; this agreement should regulate State activities on the Moon and other celestial bodies, 1979, article 11, available at: https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/intromoon-agreement.html and Universal Declaration on the Human Genome and Human Rights, 1997, article 1, available at: https://www.ohchr.org/en/instruments-mechanisms/instruments/universal-declaration-human-genome-and-human-rights

571 *Cf.* Maastricht Principles on the Human Rights of Future Generations, 2023, Preamble.

certain age groups. Climate change has greater effects on those who, today, are very young and who must live their whole lives in a climate environment that is increasingly adverse. Similarly, owing to their age, older persons are more vulnerable in a context of climate risks that increase day by day.

313. Consequently, the guarantee of intra- and intergenerational equity is essential for the interpretation and implementation of the obligations arising from the right to a healthy climate because this right, in its collective dimension, seeks the comprehensive protection of humanity as a whole.

*ii. The Protection of Nature*

314. Human interference with the climate system affects and will continue to affect numerous natural components and systems increasingly. These impacts not only give rise to direct consequences for the human species, but also cause profound alterations in the life cycles, processes and forms that Nature comprises. Thus, the protection of the right to a healthy climate reaffirms the need for a holistic understanding of the many interactions that support life on our planet and requires that humanity be recognized as just one more manifestation of Nature's interdependent network.

315. Understood in this way, the right to a healthy climate relates not only to present and future generations, but also to Nature, conceived as the physical and biological foundation of life. Protection of the global climate system requires safeguarding the integrity of ecosystems and the living and non-living components. Preserving climate conditions compatible with life is essential for maintaining equilibrium and functionality within ecosystems. This reciprocal interdependence between climate stability and ecological equilibrium reinforces the need for integrated legal approach, capable of uniting the protection of human rights and the rights of Nature within a legal framework coherently aligned with the harmonious interpretation of the *pro persona* and *pro natura* principles (*supra* para. 281).

316. The Court notes that this form of protection acquires particular significance in relation to the climate emergency, as it enables the consolidation of a robust standard of protecting the right to a healthy climate. The effective defense of this right imposes the need to advance decisively towards a model of development which is truly sustainable, and aligned with human activity with the ecological thresholds of the planet. To this end, it is necessary to adopt a systemic and integrated perspective that will be significantly strengthened when Nature is recognized as a subject of rights. The Court observes that the promotion by States – at the domestic and international level – of legal concepts and protection mechanisms (*supra* paras. 284-286) which transcend trascend the traditional anthropocentric approach and recognize Nature and its components – including the climate system – as entities entitled to autonomous legal protection, strengthens the State response to the challenges posed by the climate emergency.

*B.1.6. Obligations Arising from the Right to a Healthy Environment in the Context of Climate Emergency*

317. In its judgment in the *U'wa Indigenous People and its members v. Colombia,* this Court stressed that States must take into account the complex and multifaceted challenge arising from the interconnection and combined effects of environmental

pollution, biodiversity loss, and the climate crisis when complying with their obligations to respect and to ensure the right to a healthy environment.[572] In the context of the climate emergency, the general obligations established by the American Convention and the Protocol of San Salvador (*supra* paras. 218-265) entail specific duties linked to a healthy environment.

318. Some of these duties are aimed at protecting the global climate system and, consequently, the right to a healthy climate – while others seek to preserve different components of the environment. The Court notes that, in this regard, compliance with all the duties derived from the American Convention and the Protocol of San Salvador requires consideration to the interrelationship of all the components of the environment and their combined impact in light of the triple planetary crisis.

319. In addition, given the close relationship between the right to a healthy environment and other substantive rights established in the American Convention and the Protocol of San Salvador, compliance with the specific duties derived from that right is also essential to ensure the effective protection of other substantive rights established in these instruments.

320. This Court finds that, in the context of the climate emergency, specific obligations arise from the right to a healthy climate related to: (i) actions to address the causes of climate change and, in particular, mitigation of GHG emissions. Moreover, specific obligations also arise from the right to a healthy environment in relation to: (ii) the protection of Nature and its components, and (iii) gradual progress towards sustainable development.

*i. Mitigation of GHG Emissions*

321. To protect the global climate system and prevent human rights violations resulting from its alteration, States are obliged to mitigate their GHG emissions. This requires them not only to limit emissions from human activities within their jurisdiction, but also to protect the carbon sinks within it.[573] Therefore, in order to guarantee the right to a healthy climate, States are obliged to (a) regulate, (b) supervise and monitor, and (c) require and adopt environmental impact assessments.

a) Regulation of Climate Mitigation

322. States must take diverse actions to comply with the obligation to regulate mitigation, in particular: (1) define a mitigation target; (2) define a human rights-based strategy to achieve it and keep it updated, and (3) regulate corporate conduct.

**1. The Obligation of States to Define an Appropriate Mitigation Target**

323. According to the legal framework established by the UNFCCC and the Paris Agreement, State Parties are obliged to establish and report on their mitigation target or NDC, and periodically update it. The purpose of these targets is to hold "the increase in the global average temperature to well below 2°C above pre-industrial levels and

572 *Cf. Case of the U'wa Indigenous People and its members v. Colombia*, *supra,* para. 304.

573 These ecosystems play an essential role in combating climate change because they absorb more GHG – particularly $CO_2$ – than they emit. Forests and land vegetation, oceans, moors, wetlands, general soil types, and permafrost are examples of natural sinks.

pursu[e] efforts to limit the temperature increase to 1.5°C above pre-industrial levels."[574] This instrument also establishes that the NDCs must be progressive and reflect [the States'] highest possible ambition, in accordance with […] common but differentiated responsibilities and respective capabilities in the light of different national circumstances.[575] Consequently, developed countries should take the lead by undertaking economy-wide absolute emission reduction targets; while developing countries are encouraged to do the same, in light of their different national circumstances.[576]

324. As established in the Paris Agreement, this Court considers that, in the context of its regulation duty, States should establish a target for reducing greenhouse gas (GHG) emissions, and its definition should be guided, above all, by the principles of progressivity and common but differentiated responsibilities. Nevertheless, the Court finds it necessary to clarify the implications of these principles, as well as how they should be coordinated with the principles of equity, prevention and precaution in the establishment of this mitigation target in light of the obligations derived from the American Convention, the Protocol of San Salvador and other relevant instruments within the framework of the inter-American system.

325. First, the target should be established with the objective of preventing climate damage as a condition for respecting and guaranteeing the right to a healthy environment (*supra* paras. 219-237). This obligation applies to all OAS Member States without exception, and non-compliance with this and other international obligations by other States cannot be argued as exempting responsibility.

326. Similarly, the Court emphasizes that, even taking into account the significant international consensus on an increase in temperature that does not exceed pre-industrial levels by more than 1.5ºC, this temperature increase does not eliminate the risk hovering over millions of people in the region. Therefore, despite the major effort required, the Court underscores that it is an obligation of States to protect, without any discrimination, the rights of all those subject to their jurisdiction.[577] Consequently, in keeping with global mitigation requirements calculated by the best available science based on a temperature increase of no more than 1.5ºC, using tools such as the carbon budget, the annual mitigation gap, and the mitigation scenarios established by the IPCC, this should be considered a minimum starting point, rather than the finishing line, when determining the mitigation target of each State.

327. Second, the Court considers that, in addition to taking into account the best

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574 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, article 2.1.a), available at: https://unfccc.int/sites/default/files/english_paris_agreement.pdf

575 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, article 4.3., available at: https://unfccc.int/sites/default/files/english_paris_agreement.pdf

576 *Cf. Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, article 4.4., available at: https://unfccc.int/sites/default/files/english_paris_agreement.pdf

577 Similarly, in its General Comment No. 36, the Committee on the Rights of the Child established that "[m]itigation measures should reflect each State party's fair share of the global effort to mitigate climate change, in the light of the total reductions necessary to protect against continuing and worsening violations of children's rights." *Cf.* Committee on the Rights of the Child. General Comment No. 36 (2023) on children's rights and the environment, with a special focus on climate change, CRC/C/GC/26, of August 22, 2023, para. 98 (b).

available science, the mitigation target should be established based on considerations of justice, such as those emanating from the principles of common but differentiated responsibilities and intra- and intergenerational equity (*supra* paras. 305-313). Consequently, the scale of each State's mitigation should be determined based on: (i) its current and historical cumulative contribution to climate change; (ii) its capacity to contribute to mitigation measures and, finally, (iii) its actual circumstances.

328. Accordingly, the mitigation target should reflect: (i) the current and historical cumulative contribution to climate change of each State; that is, its GHG emissions (*supra* paras. 56-57). Taking into account the cumulative impact of the GHG present in the atmosphere, the nations that have emitted the most GHG throughout history should assume greater responsibility in relation to mitigation because they have had the most harmful impact on the global climate system. The largest current emitters of GHG should also make a commitment that matches their emissions. Other States should weigh their historical emissions and their current emissions to determine their corresponding commitment to mitigation based on their contribution to the alteration of the global climate system. In this context, the Court also stresses the possible relevance of factors such as *per capita* emissions, the externalization of environmental costs, GHG emissions from consumption and not only production, the timeline of industrialization in each State, and the energy intensity of its economy. In any case, the target should lead to the State's carbon neutrality.

329. The mitigation target should also be based on: (ii) the capabilities of each State. This condition indicates that, in addition to the current and historical contribution to climate change, each State should establish its mitigation target based on the resources it possesses. Thus, the largest current and historical emitters, which are countries that have achieved development or are on the brink of achieving it, should establish mitigation targets that are in keeping with their contribution to the effects on the climate system and their level of development. To calculate the impact of the capabilities of each State on its mitigation target, the following, among other factors, should be taken into account: cumulative and current GNP of each country, costs assumed historically to preserve the global climate system, the government's budget, public debt, tax collection capacity, and access to international financing and low-emission technologies.

330. It is also necessary to take into consideration: (iii) the circumstances of each State. From the perspective of the respect and guarantee of human rights, relevant circumstances include those related to the size of the State's population, income distribution inequality, and unsatisfied basic necessities. Also, indicators such as the human development index, the multidimensional poverty index, the Gini coefficient,[578] and the climate vulnerability index may be relevant.

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[578] The Gini index is a statistical measurement that reflects the level of inequality in income distribution in a country or region. Its values range from 0 to 1, where 0 represents total equality and 1 indicates maximum inequality. *Cf.* ECLAC, "Social Panorama of Latin America and the Caribbean 2023: labour inclusion as a key axis of inclusive social development," available at: https://repositorio.cepal.org/server/api/core/bitstreams/7ddf434a-6073-4f1e-8b71a6639e4586d5/content

331. Lastly, the mitigation target should be as ambitious as possible, be established in a binding legal instrument, determine specific compliance time frames, and increase progressively, This increase should take into account variations in any of the aforementioned criteria (*supra* paras. 327-330) and other factors such as technological progress or the best available science and knowledge (*infra* para. 387). Moreover, according to the principle of progressivity, retrogressive measures in relation to the target must be carefully justified because, in principle, they are contrary to the treaty-based obligations of State Parties.

332. The Court stresses that it does not have to determine the way in which the aforementioned aspects (*supra* paras. 327-330) exert a quantitative impact on the mitigation target of each State. However, under the inter-American system for the protection of human rights, the qualitative assessment of each of them and the adoption and progressive updating of the most ambitious possible mitigation target based on this assessment constitute positive obligations of State Parties derived from the right to a healthy climate in the context of the climate emergency. The reasoning behind the decisions adopted by each State in this context is essential in order to guarantee procedural rights, as will be described below (*infra* para. 339).

### 2. The Obligation to Define a Human Rights-Based Strategy to Achieve the Mitigation Target and Keep it Updated

333. The Paris Agreement indicates that the State Parties "shall pursue domestic mitigation measures, with the aim of achieving the objectives" of the NDCs.[579] On this matter, the ITLOS recently indicated that, although the standard of due diligence to prevent, control and reduce marine pollution from anthropogenic GHG emissions should be stringent, its implementation may vary according to States' capabilities and available resources.[580]

334. In this regard, in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* the ECtHR stated that each individual State is called upon to define its own adequate pathway for reaching carbon neutrality, depending on the sources and levels of emissions and all other relevant factors within its jurisdiction.[581] It also underscored that, to avoid a disproportionate burden on future generations, immediate action needs to be taken and adequate intermediate reduction goals must be set for the period leading to net neutrality. Such measures should, first and foremost, be incorporated into a binding regulatory framework at the national level, followed by adequate implementation.[582]

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[579] *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, article 4.2., available at: https://unfccc.int/sites/default/files/english_paris_agreement.pdf

[580] *Cf.* ITLOS, Obligations of States to prevent, reduce and control pollution of the marine environment and to protect and preserve the marine environment in relation to climate change impacts. Advisory Opinion of May 21, 2024, para. 243.

[581] *Cf.* ECtHR [GS], *Case of Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* no. 53600/20, of April 9, 2024, para. 547 and 548.

[582] According to the ECtHR, when assessing whether a State has remained within its margin of appreciation, the Court will examine whether the competent domestic authorities, be it at the legislative, executive or judicial level, have had due regard to the need to: (a) adopt general measures specifying a target timeline for achieving carbon neutrality and the overall remaining carbon budget for the same time frame, or another equivalent method of quantification of future GHG emissions, in line with the overarching

335. The Court agrees with these positions. Indeed, each State should define its own strategy to achieve the mitigation target it has established (*supra* para. 327) and adopt binding measures to comply with it (*supra* paras. 328-332). However, bearing in mind, the foregoing (*supra* paras. 333-334), both the definition and the implementation of this strategy should be carried out in keeping with the standard of enhanced due diligence. According to this standard, the strategy should meet certain procedural and substantive requirements. The former arise from the content of procedural rights; the latter focus on the coherence and effectiveness of the necessary conditions, measures, time frames and resources to implement the relevant strategy, as well as the respect and guarantee of the human rights that could be threatened or violated as a result of implementation.

336. The Court emphasizes the need to establish appropriate measures that are realistically implementable taking into account the sectors that produce the State's main GHG emissions, the costs associated with their reduction, and the benefits that such reductions may bring to the preservation of the global climate system. Likewise, States should give priority to measures that deliver prompt results that are sustainable over time and remain compatible with the steps taken towards sustainable development (*infra* paras. 368-376). The measures should reflect maximum use of available resources, establish measurable goals and specific time frames for compliance, and also regulate, in detail, the way in which the reduction process should be implemented by public and private stakeholders (*infra* paras. 345-351). Additionally, the State is obliged to take into account the best available science (*infra* paras. 486-487). In this regard, the Court draws attention to the difficulty of measures associated with technologies whose effects have not been fully verified comply with the standard of enhanced due diligence.

337. Bearing in mind the gravity and urgency that characterizes the climate emergency, mitigation strategies should necessarily include measures to advance in progressive reduction of GHG emissions from fossil fuels, agriculture, livestock, deforestation, and other land use,[583] as well as to eliminate SLCP emissions as quickly as possible.[584] In their regulations, States should also consider GHG-emitting activities and sectors both within and outside their territory.

338. In this regard, the Court stresses the importance of commitments and agreements on the elimination of certain GHG emissions such as those included in the

goal for national and/or global climate-change mitigation commitments; (b) set out intermediate GHG emissions reduction targets and pathways (by sector or other relevant methodologies) that are deemed capable, in principle, of meeting the overall national GHG reduction goals within the relevant time frames undertaken in national policies; (c) provide evidence showing whether they have duly complied, or are in the process of complying, with the relevant GHG reduction targets; (d) keep the relevant GHG reduction targets updated with due diligence, and based on the best available evidence; and (e) act in good time and in an appropriate and consistent manner when devising and implementing the relevant legislation and measures. *Cf.* ECtHR [GS], *Case of Verein KlimaSeniorinnen Schweiz and Others v. Switzerland,* no. 53600/20, of April 9, 2024, paras. 550 to 554.

583 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, " Technical dialogue of the first global stocktake," FCCC/SB/2023/9, November 30 to December 12, 2023, paras. 5, 6 and 8.

584 In addition to GHG, it is recalled that that are other atmospheric agents that contribute to climate change known as "short-lived climate pollutants" (SLCP). The main SLCP are methane ($CH_4$), tropospheric ozone, hydrofluorocarbons (HFC) and black carbon (see *supra* para. 50).

Montreal Protocol (*supra* para. 122) and the Global Methane Pledge.[585] The Court underlines the importance of the road map traced by the first of these instruments as a benchmark for international cooperation. Indeed, the Montreal Protocol reveals that it is possible to successfully address one of the anthropogenic causes of atmospheric change – such as the emission of substances that destroy the ozone layer – by the adoption of coordinated, verifiable and progressive measures.

339. Similarly, the mitigation strategy should include measures to protect biodiversity and ecosystems, particularly those that have a crucial function in regulating the climate system and the planet's natural cycles, including the oceans and the maritime and coastal environment, soils, forests, and mangroves. In this context, the Court recalls that Indigenous Peoples play an essential role in the preservation and sustainable management of these ecosystems because their ancestral knowledge and their close relationship with Nature proven essential for the conservation of biodiversity and the mitigation of climate change. Therefore, States should listen to them and facilitate their continuing participation in decision-making. The results, consensuses and proposals arising from such participative processes should occupy a central place in the reasoning behind the decisions adopted by domestic authorities. Consequently, such authorities have the duty to explicitly justify how they have taken such contributions into consideration in their final decision or if, conversely, they diverge from them, they should offer objective and sufficient reasons (*infra* para. 538).

340. In addition to relevant scientific criteria, States should integrate the knowledge of Indigenous Peoples into their plans and strategies for conservation and protection of Nature and its components, ensuring a fair sharing of the benefits of their utilization and the effective exercise of procedural rights.[586]

341. The Court underscores that States should take into account the effects that mitigation measures may have on individuals and ecosystems in order to ensure a just transition. Thus, the strategy defined by the State should take into consideration the role of poverty and inequality in the production of GHG emissions, and should be addressed through their gradual reduction. Moreover, the State should be guided by the equitable distribution of the economic and environmental burdens resulting from the mitigation measures to ensure that those who cause most pollution pay the most.

342. In this context, the Court draws attention to the need: (a) to protect human rights from violations that may occur due to the extraction of the crucial rare-earth minerals needed for the energy transition; (b) for policies on decent employment that include training possibilities, and hiring incentives or job placement services; (c) for policies on social protection, compensation and/or relocation for sectors affected by

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[585] More than 100 States, *inter alia*, Argentina, Barbados, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Jamaica, Mexico, Panama, Peru, Suriname, Trinidad and Tobago and Uruguay, have signed the Global Methane Pledge. Under the pledge, the States have agreed to reduce global methane emissions by at least 30% compared to 2020 levels by 2030. *Cf.* Global Methane Pledge, "Fast action on methane to keep a 1.5° C future within reach", 2022, available at: https://www.globalmethanepledge.org/

[586] See, similarly United Nations Framework Convention on Climate Change, 1992, article 4.1(d) https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf; Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, articles 5.1. and 7.1, available at: https://unfccc.int/sites/default/files/english_paris_agreement.pdf

mitigation measures;[587] (d) for measures to stimulate and attract investment in innovation in low-emission activities, as well as to develop new tools and standards for strengthening the green finance, and (e) for policies that favor green investments and that facilitate the transition of polluting sectors.

343. Lastly, this Court emphasizes that States should avoid their acts or omissions becoming direct or indirect obstacles to effective compliance with mitigation targets or to the implementation and progressive updating of their strategies in this regard. This updating should respond to the State's capabilities, the relevant changes in its circumstances, and advances in the best available science.

344. Taking into account the standard of enhanced due diligence to which they are subject, States have the obligation to ensure coherence between their domestic and international commitments and their obligations concerning the mitigation of climate change. Consequently, they should adopt measures that permit coherent international action across all sectors contributing to the achievement of their mitigation strategy, in particular with regard to foreign investment, finance, and international trade. To the same end, at the domestic level, States should guarantee normative coherence and avoid domestic legal provisions contradicting the mitigation objectives that the State has proposed to achieve. Therefore, among other measures, States should ensure that public finance and incentives aimed at activities that generate GHG emissions are conditioned on strict compliance with national mitigation norms and policies.

### 3. Regulation of Corporate Conduct

345. The Court is convinced that business enterprises are called on to play an essential role in addressing the climate emergency. The Court recalls that States should adopt legislative and other measures to prevent human rights violations committed by public and private enterprises and, when these occur, investigate them, punish them, and guarantee redress for their consequences. Ultimately, this is an obligation that should be complied by the business sector and must be regulated by States,[588] which are the subjects of international law over which the Court exercises jurisdiction. Accordingly, States are obliged to regulate the conduct of the business sector to ensure compliance with the human rights recognized in various instrument of the inter-American system for the protection of human rights – including the American Convention and the Protocol of San Salvador. Based on this regulation, business enterprises should prevent their activities from causing or contributing to human rights violations, and must take measures to remedy any such violations.[589]

346. This Court considers that, as the United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises (hereinafter "the Working Group") has recognized, not only States, but also business

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[587] *Cf.* International Labour Organization (ILO), "Guidelines for a just transition towards environmentally sustainable economies and societies for all," 2015, available at: file:///C:/Users/phoug/Downloads/wcms_432859.pdf, and "Supporting the conditions for a just transition internationally", 2023, available at: https://webarchive.nationalarchives.gov.uk/ ukgwa/20230313132211/ https://ukcop26.org/supporting-the-conditions-for-a-just-transition-internationally/.

[588] *Cf. Case of the Miskito Divers (Lemoth Morris et al.) v. Honduras, supra,* para. 48, and *Case of the Rama and Kriol Peoples, and the Black Creole Indigenous Community of Bluefields et al. v. Nicaragua*, *supra*, para. 419.

[589] *Cf. Case of the Miskito Divers (Lemoth Morris et al.) v. Honduras, supra*, para. 48, and *Case of the Inhabitants of La Oroya v. Peru, supra*, para. 111.

enterprises "have obligations and responsibilities with respect to climate change, and [their] impacts […] on human rights."[590] Therefore, States must establish such obligations within their domestic legal framework and ensure full compliance.

347. Thus, States must: (i) urge all business enterprises domiciled or operating in their territory and jurisdiction to take effective measure to combat change and its related impacts on human rights; (ii) Enact legislation that requires business enterprises to conduct human rights and environmental due diligence to identify and address human rights and environmental impacts, including climate change-related impacts, across the entire value chain; (iii) require public and private businesses to disclose in an accessible way the greenhouse gas emissions along their value chain; (iv) require business enterprises to take measures to reduce such emissions, and to address their contribution to the climate and to climate mitigation targets, throughout their operations,[591] and (v) adopt a range of regulations to discourage greenwashing and undue corporate influence in the political and regulatory domains in this regard, and to support the actions of human rights defenders.[592]

348. In accordance with their obligation to guarantee the effective exercise of the human rights recognized in the American Convention, States must adopt the necessary administrative, regulatory and legislative measures to ensure that business enterprises establish and implement effective due diligence processes with regard to environmental and human rights matters. Such processes must be appropriate to the size, sector and operating context of each enterprise and encompass all its operations, products and services, including domestic and international supply chains. The purpose is to identify, prevent, mitigate and, when applicable, remedy the possible adverse impacts of business activities on the environment or on human rights, pursuant to the United Nations Guiding Principles on Business and Human Rights and the most recent developments in international and comparative law.[593]

349. Accordingly, States must ensure, through effective regulation, that these processes include mechanisms for continuous monitoring, independent assessment, public access to pertinent information, and satisfactory channels for participation and

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590 *Cf.* Working Group on the issue of human rights and transnational corporations and other business enterprises, "Information Note on Climate Change and the Guiding Principles on Business and Human Rights, 2023", p. 5, available at: https://www.ohchr.org/sites/default/files/documents/issues/business/workinggroupbusiness/Information-Note-Climate-Change-and-UNGPs.pdf

591 Similarly, the United Nations Independent Expert on human rights and international solidarity has emphasized the urgency of adopting "legal measures to regulate corporate emissions." He has also noted that "the profit incentive of corporate boards does not typically require them to take decisions that benefit the broader societies in which they are headquartered, let alone the peoples of other countries." *Cf.* Report of the *Independent* Expert on human rights and international solidarity, "International solidarity and climate change," A/HRC/44/44, April 1, 2020, paras. 35, 36 and 38.

592 See, similarly, Working Group on the issue of human rights and transnational corporations and other business enterprises, "Information Note on Climate Change and the Guiding Principles on Business and Human Rights, 2023", paras 4 to 8, available at: https://www.ohchr.org/sites/default/files/documents/issues/business/workinggroupbusiness/Information-Note-Climate-Change-and-UNGPs.pdf.

593 *Cf. Advisory Opinion OC-23/17, supra*, para. 124. See, Human Rights Council. Human rights and transnational corporations and other business enterprises. A/HRC/RES/17/4, of July 6, 2011; Directive (UE) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859; OECD, Due Diligence Guidance for Responsible Business Conduct," 2018, available at: https://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm

accountability.[594] The Court considers that the establishment of compliance monitoring mechanisms within business enterprises constitutes a best practice to ensure the effective implementation of environmental and human rights laws and regulations.

350. The Court has indicated that, even though corporate responsibility in the area of human rights is applicable irrespective of size or sector, this may be differentiated in the legislation based on the activity and the risk it entails for human rights.[595] In the context of the climate emergency, the Court notes that, although all business enterprises may contribute to compliance with mitigation targets, some of them bear greater responsibility for their impacts on climate change due to the risk created by their activities. Consequently, the Court considers that States should establish differentiated obligations with regard to climate action based on the actual and historical contribution of business enterprises to climate change, and impose stricter obligations on those whose activities are major sources of GHG emissions. Such obligations could relate, for example, to their operating conditions, tax burden, contributions to just transition plans and strategies, investment in education, and measures of adaptation or to measures to address loss and damage. The distinctions that are established should be aimed at putting into practice the polluter pays principle and ensuring the effectiveness of domestic mitigation measures.[596] The Court also stresses the importance of ensuring that the relevant regulations take into consideration the role played by the different components of financial conglomerates and transnational corporations, so that States can attribute legal responsibilities to the parent companies, or those that exercise control over others, based on the greenhouse gas emissions generated by their subsidiaries or the companies they control.[597]

351. Furthermore, States should review their existing trade and investment agreements, and also settlement mechanisms for litigation between investors and States to ensure they do not limit or restrict efforts relating to climate change and human rights.[598]

b) Mitigation Supervision and Monitoring

352. The obligation to prevent environmental damage involves monitoring the

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[594] See, similarly, Working Group on the issue of human rights and transnational corporations and other business enterprises, "Information Note on Climate Change and the Guiding Principles on Business and Human Rights", 2023, paras. 7 and 8, available at: https://www.ohchr.org/sites/default/files/documents/issues/business/workinggroupbusiness/Information-Note-Climate-Change-and-UNGPs.pdf.

[595] *Cf. Case of the Miskito Divers (Lemoth Morris et al.) v. Honduras, supra*, para. 48, and *Case of the Inhabitants of La Oroya v. Peru, supra*, para. 111.

[596] The United Nations Secretary-General has asked the Group of 20 (G20) to establish a "Climate Solidarity Pact" under which "major polluters make additional efforts to reduce their emissions." He also recognized that oil and gas companies should be part of the climate solution by adopting "detailed transitions plans" detailing emission cuts for 2025 and 2030 and "phase out fossil fuels and scale up renewable energy." See, "Secretary-General Calls on States to Tackle Climate Change 'Time Bomb' through New Solidarity Pact, Acceleration Agenda, at Launch of Intergovernmental Panel Report," 2023, Available at: https://press.un.org/en/2023/sgsm21730.doc.htm.

[597] *Cf.* Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, "Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework," A/HRC/17/31, of March 21, 2011, Principle 13(b).

[598] *Cf.* Working Group on the issue of human rights and transnational corporations and other business enterprises, "Information Note on Climate Change and the Guiding Principles on Business and Human Rights", 2023, paras. 9 to 15, available at: https://www.ohchr.org/sites/default/files/documents/issues//workinggroupbusiness/Information-Note-Climate-Change-and-UNGPs.pdf.

effective implementation and compliance with environmental protection regulations,[599] and ensuring active transparency and accountability of both the public and the private sector.[600] Indeed, as the Court has indicated, "activities susceptible to causing significant environmental risks must be specifically regulated, based on their level of risk."[601] Consequently, supervision and monitoring should be conducted "more strictly when the nature of the activity represents a high risk for human rights."[602]

353. Bearing in mind the standard of enhanced due diligence in relation to the prevention of damage to the climate system, States are obliged to strictly supervise and monitor public and private activities that generate GHG emissions, as established in their mitigation strategy. Although the activities that are supervised and monitored vary from one State to another, it is the State's duty to supervise and monitor, at the very least: exploration, extraction, transportation and processing of fossil fuels, cement manufacture, agro-industrial activities, and other inputs used in those activities. Also, taking into account the differentiated responsibility of some enterprises in light of their current and cumulative GHG emissions, States must ensure a more demanding supervision and monitoring of their activities and, in particular, their compliance with the obligations imposed as a result of those responsibilities (*supra* para. 350).

354. To comply with the foregoing, States must have strong and independent mechanisms, whether administrative, quasi-judicial or judicial, equipped with sufficient personnel, resources and technical capabilities to ensure satisfactory monitoring of the activities subject to oversight. These mechanisms must also respect and guarantee the procedural rights of those involved in them (*infra* paras. 540-551).

355. The mechanisms established by States should periodically monitor progress towards the mitigation target and make the necessary recommendations to ensure that this target is met. They should also have the required capabilities to take special monitoring actions when this is justified, or when any interested third party justifies them. To encourage compliance with the mitigation strategy and the actions to monitor and update the strategy and the mitigation target, States must utilize indicators whose definition and evaluation ensure adequate guarantee of procedural rights (*infra* paras. 460-587).

356. Furthermore, monitoring should include the possibility of investigating, prosecuting and sanctioning those who fail to comply with the laws and regulations in this regard, including business enterprises. Taking into account that any conduct of private individuals that is not aligned with the national mitigation strategy will result in harm to the global climate system, States should establish the corresponding legal consequences. These consequences should include the possibility of ordering a halt to

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599 *Cf. Advisory Opinion OC-23/17*, *supra*, para. 154, and *Case of the Inhabitants of La Oroya vs. Peru*, *supra*, para. 167.

600 *Cf. Case of the Rama and Kriol Peoples, and the Black Creole Indigenous Community of Bluefields et al. v. Nicaragua, supra*, para. 420, and *Case of the U'wa Indigenous People and its members v. Colombia, supra*, para. 296.

601 *Cf. Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus and their family members v. Brazil, supra,* para. 119 and *Case of the U'wa Indigenous People and its members v. Colombia, supra*, para. 296.

602 *Cf. Case of the Rama and Kriol Peoples, and the Black Creole Indigenous Community of Bluefields et al. v. Nicaragua, supra*, para. 421, and *Case of the U'wa Indigenous People and its members v. Colombia, supra, para.* 297.

the activities carried out in violation of the law, and providing real compensation for the harm caused to the global climate system, notwithstanding the consequences of the potential violation of other human rights, in addition to the right to enjoy a "healthy environment."[603]

357. On this last point, the Court observes that "corruption can have devastating and long-lasting impacts on human rights" by undermining "the availability, quality and accessibility of goods and services that States need to provide to meet their international human rights obligations."[604] Therefore, the Court underscores that, in the context of the climate emergency, the obligation of prevention in relation to business-related activities necessarily signifies the duty to prevent and to punish acts of corruption that seek to weaken the effective execution of measures of mitigation and adaptation measures to climate change. To reinforce the fight against corruption, the Court considers that best practice involves comprehensive compliance with the relevant recommendations made by the Working Group on the issue of human rights and transnational corporations and other business enterprises.[605]

c) Determination of Climate Impact

358. The Court has established that the obligation to conduct environmental impact assessments constitutes a safeguard against the potential socio-environmental impacts of a project or activity that are potentially harmful for the environment. Therefore, it is mandatory to conduct this type of assessment whenever it is determined that a project or activity involves significant risk of environmental harm.[606]

359. In view of the fact that harm to the climate system constitutes environmental damage that States are obliged to prevent, environmental impact assessments should explicitly include an evaluation of the potential effects on this system. In particular, those projects or activities that pose a risk of generating significant GHG emissions should be subject to a climate impact assessment. The Court recognizes that almost all activities generate some level of GHG emission and, therefore, contribute, in varying degrees, to degrading the global climate system. However, not all activities involve the same level of risk. Consequently, the first duty of States in this regard is to identify, in keeping with its mitigation strategy, which projects and activities require the adoption of an environmental impact assessment that adequately examines their climate impact. This identification may be made through an initial study, or by domestic regulations establishing the activities subject to this assessment. In the case of such activities, the environmental impact assessment must compulsorily include a section that evaluates climate impact in a way that clearly differentiates this impact

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603 The Court notes that the International Coordinating Committee of National Institutions for the promotion and protection of human rights (actually "Global Alliance of National Human Rights Institutions) has reaffirmed the importance that States develop or, if applicable, reinforce, effective, independent, pluralistic national institutions for the promotion and protection of human rights. *Cf.* Human Rights Council "National institutions for the promotion and protection of human rights**,**" Resolution 2005/74, 2005, operative paragraphs 1 and 4.

604 *Cf.* Human Rights Council, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, "Connecting the business and human rights and the anticorruption agendas," A/HRC/44/43, June 17, 2020, para. 8.

605 *Cf.* Human Rights Council, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, "Connecting the business and human rights and the anticorruption agendas," A/HRC/44/43, June 17, 2020, paras. 77-79.

606 *Cf. Advisory Opinion OC-23/17, supra*, para. 157, and *Case of the U'Wa Indigenous People and its members v. Colombia, supra*, para. 298.

from other forms of environment impact.

360. The Court highlights the existence of best practices adopted under self-regulatory framework in certain sectors, regions and countries.[607] Moreover, it considers that such best practices should be taken into account and incorporated, when appropriate, within the regulatory framework developed by States. This regulation must, in any case, establish binding conditions to avoid practices such as greenwashing.

361. In accordance with this Court's jurisprudence, the regulation of environmental impact assessments, which should also encompass the assessment of climate impact, must be clear, at a minimum, as regards: (i) the proposed activities and the impact that must be assessed (areas and aspects to be covered); (ii) the process for conducting an environmental impact assessment (requirements and procedures steps); (iii) the responsibilities and duties of project promotors, competent authorities and decision-making bodies (responsibilities and duties); (iv) how the environmental impact assessment process to determine the climate impact and the results will be used to obtain approval of the proposed actions (relationship to decision-making), and (v) the steps and measures to be taken in the event that due process is not followed when conducting the environmental impact assessment or implementing the approval terms and conditions (compliance and implementation).[608]

362. The Court has indicated that environmental impact assessments should be carried out regardless of whether a project is implemented directly by the State or by private natural or legal persons,[609] and this obligations also applies to environmental impact assessments that should include the impact on the climate system. Additionally, the Court has considered that such assessments must be conducted before the activity is carried out and this includes the renewal or updating of assessments in the case of new stages, or the extension or modification of projects and activities. The assessments must be carried out by independent entities with the relevant technical capacity, under the State's supervision; they must cover the cumulative impact, include the participation of interested parties, respect the traditions and culture of

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607 For illustrative purposes, the Court underscores practices of this type in Argentina, Mexico, Colombia, Peru, and also through certifications, such as: "ISO 14001," "GlobalG.A.P.," "Marine Stewardship Council," "Aquaculture Stewardship Council and Carbon Trust." *Cf.* Wines of Argentina, "*Sustenta-Vitis,*" available at: https://www.winesofargentina.org/es/programs/sustainability; FAO, "Resilience and sustainability in tropical fruit value chains – Report from the global meeting of the Responsible Fruits Project," 2024, p. 8, available at: https://openknowledge.fao.org/items/531bc2b8-f2f5-4d9f-af4b-b7114febc9cb; Asociación de Productores y Empacadores Exportadores de Aguacate de México, "*Sostenibilidad,*" available at: https://apeamac.com/sostenibilidad/; Federación Nacional de Cafeteros de Colombia, "*Eje Ambiental,*" available at: https://federaciondecafeteros.org/sostenibilidad/eje-ambiental/; Peru Mahi Alliance, "*Solo unidos lograremos la certificación MSC del Perico*," available at: https://pma.org.pe/certificacion-msc/; TUNACONS, "*TUNACONS logra la Certificación de la* Marine Stewardship Council (MSC)," available at: https://www.tunacons.org/2022/07/tunacons-logra-la-certificacion-de-la-marine-stewardship-council-msc/; and Mexican Government, "*Recibe industria atunera mexicana certificación internacional por pesca responsable y sustentable*" [Mexican tuna-fishing industry receives international certification for responsible and sustainable fishing], available at: https://www.gob.mx/agricultura/prensa/recibe-industria-atunera-mexicana-certificacion-internacional-por-pesca-responsable-y-sustentable#:~:text=La%20industria%20atunera%20mexicana%20de,su%20tipo%20a%20nivel%20mundial.

608 *Cf. Mutatis mutandis, Advisory Opinion OC-23/17, supra*, para. 150.

609 *Cf. Advisory Opinion OC-23/17, supra*, para. 160 and *Case of the U'Wa Indigenous People and its members v. Colombia, supra*, paras. 296, 300 and 301.

Indigenous Peoples, and be based on the best available science. The assessments should include specific content on the nature and size of the project, as well as its possible impact on the climate system. This content should include a contingency plan and measures to mitigate any possible harm to the climate system.[610]

363. The Court also considers that, in compliance with the standard of enhanced due diligence, States must conduct a meticulous assessment of activities that could result in significant harm to the climate system before granting approval. In this regard, they should consider the best available science and knowledge, the mitigation strategy and target which they should have defined previously, and the irreversible nature of climate impacts. All of this to adopt the best prevention measures in relation to potential harm to the global climate system.[611]

*ii. Protection of Nature and its Components*

364. The Court has established that, in the event that environmental harm occurs, the State must mitigate this, even if the incident occurs despite the adoption of all necessary preventive measures and, to this end, it must "rely upon the best available scientific data and technology."[612] This duty related to the measures for preventing climate harm indicated above (*supra* paras. 358-363). According to this Court's case law, these measures should be taken immediately, even if the origin of the pollution is unknown.[613]

365. The Court notes that, even though harm to the climate system constitutes environmental damage, measures to contain or control such harm such as clean-up operations or those aimed at limiting the geographical effects – which are applicable to other forms of pollution – are not effective in this context.

366. Additionally, this Court has recognized that events associated with climate change, such as rising sea-levels, storms, hurricanes, droughts and heatwaves, affect ecosystems, water sources, and biodiversity (*supra* paras. 66-68). Therefore, in compliance with their general obligations concerning the right to a healthy environment, States must: (i) design and implement mechanisms to identify and record the main challenges to ecosystemic resilience at the local and national levels; (ii) establish and implement strategies and policies for the protection of ecosystems harmed by the effects of the climate emergency, and to expand protected areas and terrestrial, maritime and coastal biological corridors; (iii) design and implement strategies and policies that accord priority to the protection of ecosystems that the IPCC has identified as particularly susceptible experiencing impacts of climate change in the region of Latin America and the Caribbean and that include: the Amazon, wetlands and coastal systems (such as mangroves and coral reefs), the Andean highlands and their tropical glaciers, and the Choco biogeographical region (Tumbes-

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610 *Cf. Mutatis mutandis, Advisory Opinion OC-23/17, supra*, paras. 162 to 171, and *Case of the U'Wa Indigenous People and its members v. Colombia, supra*, para. 300, 301 and 310.

611 *Cf. Mutatis mutandis, Case of the Rama and Kriol Peoples, and the Black Creole Indigenous Community of Bluefields et al. v. Nicaragua, supra*, para. 422.

612 *Cf.* United Nations General Assembly, "Allocation of loss in the case of transboundary harm arising out of hazardous activities," Resolution 61/36, of December 18, 2006, Principle 5(b). See also, *mutatis mutandis,* Advisory Opinion OC-23/17, *supra*, para. 172.

613 *Cf. Mutatis mutandis, Advisory Opinion* OC-23-17, *supra*, para. 172.

Chocó-Magdalena);[614] (iv) cooperate with other States to establish and implement mechanisms for the protection of transboundary ecosystems such as the Amazon basin, the Mesoamerican Barrier Reef System, and the La Plata basin; (v) establish regional platforms for climate information sharing, impact and risk assessments, planning of appropriate adaptation measures based on science and traditional, local and indigenous knowledge, and (vi) establish and implement monitoring and assessment mechanisms for the strategies and policies that have been developed.

367. The Court considers it important to emphasize that the protection of ecosystems should take into account all their components, including human beings, and the relationships that exist between them. Consequently, strategies and plans must respect procedural rights and, the principles of environmental democracy; also, how to ensure adequate protection for the rights of Indigenous and tribal peoples and communities that have a close relationship with those ecosystems. Similarly, such decisions should be based on the best available science (*infra* paras. 486-487).

*iii. The Step-by-step Progress towards Sustainable Development*

368. As already indicated (*supra* para. 238), the duty to adopt measures to ensure the progressive development of economic, social, cultural and environmental rights (ESCER) is established in Article 1 of the Protocol of San Salvador and Articles 2 and 26 of the American Convention. This duty entails both an obligation to adopt immediate measures and measures of progressive nature. The Court has also clarified that retrogression in environmental matters may constitute a violation of the obligation of progressive development if it is not duly justified satisfactorily, in relation to all the applicable technical criteria and rights.[615]

369. The climate emergency is characterized by its complexity. To confront it effectively, measures must be promoted to address the structural circumstances that led to it (*supra* paras. 204-216). Thus, the main obligation imposed on States to ensure the progressive realization of the human rights that are threatened or violated by climate change consists in promoting a transition towards on sustainable development.

370. "Every human person and all peoples are entitled to participate in, contribute to, and enjoy development,"[616] understood as "comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals."[617] Therefore, development must be sustainable, as an essential element for the realization of human rights within the framework of the limits imposed by environmental protection. The Court reiterates that the sustainable development goals (SDGs) represent the international consensus in this matter (*supra* para. 212).

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[614] *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et. al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1695-1724.

[615] *Cf. Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office") v. Peru*, *supra*, para. 103, and *Case of the Inhabitants of La Oroya vs. Peru*, *supra*, paras. 183 and 185.

[616] *Cf.* United Nations General Assembly, "Declaration on the right to development," Resolution 41/128, of December 4, 1986.

[617] *Cf.* Thematic study by the Expert Mechanism on the Right to Development, "Operationalizing the right to development in achieving the Sustainable Development Goals," A/HRC/48/63, of July 6, 2021, para. 11.

371. Determination of the steps required to move in this direction is incumbent upon each State and evidently depends on their specific circumstances. However, the Court emphasizes that it is only by advancing towards this goal that human rights can be protected effectively. Consequently, in the context of the climate emergency, the existence of a sustainable development strategy in the domestic legislation of States and in their public policies is an obligation that is immediately enforceable, without prejudice to its step-by-step adaptation and improvement.

372. Conversely, the adoption of measures to comply with this strategy is an obligation of progressive realization of the right to a healthy environment. Therefore, compliance requires provisions that reflect the realities of each country's context and the difficulties involved for each country.[618] In the context of this flexibility of time frames and methods, States have essentially, although not exclusively, an obligation to act; that is, to adopt measures and to provide the necessary means and elements to respond to the requirements for realizing the right to a healthy environment, always to the extent of available economic and financial resources.[619] The progressive implementation of such measures may be subject to accountability and, if applicable, a determination as to whether the State has fulfilled its commitments could be required before the instances called on to decide possible human rights violations.[620]

373. Bearing in mind the indications of the Committee on Economic, Social and Cultural Rights in its General Comment No. 3 on the nature of State Parties' obligation "to take steps," the Court considers that the measures which States adopt in order to advance towards sustainable development should be "deliberate, concrete and targeted as clearly as possible" towards this goal. The State should also use the appropriate means, which include administrative and legislative measures and access to justice.[621]

374. The Court has considered that, from the obligation to adopt measures derived a conditional obligation – although conditional of non-retrogression, which should not always be understood as a prohibition of measures that restrict the exercise of a right. In this regard, the Court has reiterated the opinion of the CESCR that "any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant [the International Covenant on Economic, Social and Cultural Rights] and in the context of the full use of the maximum resources available [to the State]."[622] Similarly, the Inter-American Commission has considered that to evaluate

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618 *Cf. Mutatis mutandis, Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office") v. Peru, supra***,** para. 102. See also*,* Committee on Economic, Social and Cultural Rights. General Comment No. 3 (2023) on "the nature of States parties' obligations (art. 2, para. 1, of the Covenant)," E/1991/23, 1990, para. 9.

619 *Cf. Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office") v. Peru, supra*, para. 102, and *Case of the Inhabitants of La Oroya v. Peru*, *supra*, para. 184. See also*,* Committee on Economic, Social and Cultural Rights. General Comment No. 3 (2023) on "the nature of States parties' obligations (art. 2, para. 1, of the Covenant)," E/1991/23,1990, paras. 8 and 9.

620 *Cf. Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office") v. Peru, supra*, para. 102, and *Case of the Inhabitants of La Oroya v. Peru*, *supra*, para. 184.

621 *Cf.* Committee on Economic, Social and Cultural Rights. General Comment No. 3 (2023) on "the nature of States parties' obligations (art. 2, para. 1, of the Covenant)," E/1991/23, 1990, para. 2.

622 *Cf. Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office")*

whether a retrogressive measure is compatible with the American Convention, it is necessary "to determine whether it is justified by reasons of sufficient importance."[623]

375. Notwithstanding the decisions of States Partes in this area, the Court draws attention to the urgent need to combat poverty and inequality, as obstacles to sustainable development and the effective protection of human rights.

376. In summary, the Court notes that, based on the circumstances of the specific case, measures that are unjustified or blatantly contrary to the aim of advancing towards sustainable development are contrary to the obligation of respect (Article 1(1) of the American Convention) for the right to a healthy environment (Articles 26 of the American Convention, 11 of the Protocol of San Salvador, and 30, 31, 33 and 34 of the OAS Charter). Likewise, the absence of enhanced due diligence in the steps taken towards that goal constitutes a violation of the obligation to ensure rights (Article 1(1) of the American Convention) or to adopt measures (Article 1 of the Protocol of San Salvador) in relation to the same right. In all these cases, there is also a violation of the obligation to adapt domestic legislation (Article 2 of the American Convention and of the Protocol of San Salvador) when this is the cause of the State's failure to comply with its obligations.

*B.2. Other Rights Affected by Climate Impacts*

377. The Court recalls that the guarantee of the right to a healthy environment constitutes a precondition for ensuring the enjoyment of other substantive rights. This relationship becomes particularly evident in the context of the climate emergency, as the historical disruption of the global climate system generates, and will increasingly continue to generate, an ever-greater threat to the full and effective enjoyment of various human rights enshrined in the American Convention and the Protocol of San Salvador. For this reason, in order to protect these rights, the State is, first and foremost, obliged to guarantee the right to a healthy climate through measures aimed at addressing the causes of climate change (supra paras. 321–363).

378. That said, even if such measures prove successful, the best available science leaves no doubt as to the inevitable production of multiple climate impacts on natural and human systems (supra paras. 65–104). These impacts possess extraordinary potential to affect human rights. In fulfilment of its obligation to guarantee rights, the State is required to prevent such impacts through measures designed to avoid or reduce them to the greatest extent possible, in accordance with a heightened standard of due diligence.

379. Within the framework of the UNFCCC and the Paris Agreement, measures aimed at preventing and responding to the adverse effects of climate change are designated as climate adaptation actions. The Court will now analyse: (1) the nature and common characteristics of such measures; and, subsequently, (2) the specific measures that must be adopted in order to protect each of the principal substantive rights violated as a consequence of climate impacts.

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*v. Peru, supra*, para. 103, and *Case of the Inhabitants of La Oroya v. Peru*, *supra*, para. 185. See also, Committee on Economic, Social and Cultural Rights. General Comment No. 3 (2023) on "the nature of States parties' obligations (art. 2, para. 1, of the Covenant)," E/1991/23, 1990, para. 9.

623 *Cf. Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller's Office") v. Peru, supra*, para. 103, and *Case of the Inhabitants of La Oroya v. Peru*, *supra*, para. 185.

*B.2.1. Common Obligations Relating to all Substantive Rights in the Context of Climate Adaptation*

380. In accordance with the UNFCCC, States must establish adaptation plans that include, inter alia, measures for the management of coastal zones, water resources, and agriculture, as well as for the protection and rehabilitation of areas affected by drought, desertification, and flooding.[624] The Paris Agreement, in turn, urges the Parties to "increase adaptive capacity to the adverse effects of climate change and foster climate resilience." To this end, the Parties are required to develop national adaptation plans, update them periodically, and submit them to the UNFCCC Secretariat.[625]

381. The COP of the Paris Agreement has set forth various considerations and elements to be taken into account in order to achieve adaptation goals. Specifically, it has defined an iterative cycle, understood as a sequence of steps aimed at progressively enhancing adaptive capacity. This cycle entails: (1) conducting a risk assessment; (2) designing adaptation strategies and policies based on that assessment; (3) implementing adaptation measures; (4) monitoring and evaluating their outcomes; and (5) adjusting and improving the implementation of adaptation measures on the basis of lessons learned and new scientific knowledge. In addition, the COP has identified cross-cutting issues to be addressed in adaptation efforts: water; food and agriculture; cities, settlements, and critical infrastructure; health; poverty and livelihoods; and terrestrial and coastal ecosystems. In this context, particular emphasis has been placed on aspects such as gender, participation and transparency, intergenerational equity and social justice, the needs of vulnerable communities and ecosystems, disaster risk reduction, and intersectional approaches.[626] More recently, in the United Arab Emirates (UAE) Framework for Global Climate Resilience,[627] the Parties to the Paris Agreement established commitments and compliance dates, between 2027 and 2030, for the implementation of each stage of the iterative cycle.

382. Likewise, the Court observes that the Sendai Framework for Disaster Risk Reduction also addresses the need to strengthen the adaptive capacity of communities and populations in the face of disasters that may occur or be exacerbated as a result of climate change. This framework sets out guidelines, objectives, and obligations for preventing new disaster risks, reducing existing risks, and enhancing the preparedness and response capacities of States and communities to such disasters.[628]

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624 *Cf.* United Nations Framework Convention on Climate Change, 1992, Article 4.1. (e), https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

625 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, Articles 2.1.(b) and 7.(1), 7.(9), 7.(10) and 7.(12), available at: https://unfccc.int/sites/default/files/spanish_paris_agreement.pdf.

626 *Cf.* Report of the Conference of Parties serving as the meeting of the Parties to the Paris Agreement in its fourth session, held in Sharm el-Sheikh, from November 6-20, 2022, "Sharm el-Sheikh Mitigation Ambition and Implementation Work Programme," FCCC/PA/CMA/2022/10/Add.1, Decision 3/CMA.4, paras. 8-10.

627 *Cf.* Report of the Conference of Parties serving as the meeting of Parties to the Paris Agreement in its fifth session, held in the United Arab Emirates from November 30-December 13, 2023, "Global Goal on Adaptation," FCCC/PA/CMA/2023/16/Add.1, Decision 2/CMA.5, March 15, 2024, Global Goal on Adaptation, para. 10.

628 The Sendai Framework seeks to contribute to climate resilience through the definition of the following lines of action: (i) improving the collection and dissemination of data on risks to facilitate informed

383. Furthermore, the Court notes that, in the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, the ECtHR affirmed that the effective protection of individuals' rights against serious adverse effects on life, health, property, and quality of life requires adaptation measures to be complemented by mitigation measures aimed at addressing the most severe or imminent consequences of climate change, taking into account any particular protection needs[629]. Similarly, the Human Rights Committee has observed that the failure of States to respond or to respond adequately in strengthening the adaptive capacity of populations affected by climate change entails a risk of persistent human rights violations.[630] The IPCC has likewise recognized that the absence of climate adaptation measures, and "[t]he interactions between climate impacts and existing inequalities, can threaten the human rights of already marginalized communities by disrupting livelihoods and food security, thereby further eroding people's social, economic and cultural rights".[631]

384. The Court underscores the essential nature of climate adaptation measures for the protection of human rights in the context of the climate emergency, in line with the views expressed by its European counterpart, the IPCC, and the Human Rights Committee. Accordingly, the Court emphasizes that, as part of their duty to guarantee human rights affected by the climate emergency, States are required to define and regularly update their national adaptation plans. This obligation to define and update such plans is of immediate enforceability. However, the implementation of the measures contained therein is, by its nature, progressive and must be adapted to national capacities, scientific advances, and evolving circumstances. The obligation to define an adaptation goal and establish a strategy, as set forth herein, derives from the duties of respect, guarantee, and progressive realisation concerning each of the human rights potentially affected by the climate emergency.

385. The plan must be designed to achieve the stated adaptation goal and must encompass all measures necessary to prevent and mitigate the impacts on human rights caused by climate-related effects to the greatest extent possible, and in accordance with an enhanced due diligence standard. The Court considers that such measures must be suitable for reducing vulnerability and enhancing the resilience of individuals, communities, and ecosystems in the face of climate change effects. In other words, they must foster their capacity to anticipate, reduce, accommodate, or recover from climate change effects in a timely and efficient manner.[632] Consequently,

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management of climate disasters; (ii) establishing policies, legal frameworks, and national and local plans for risk prevention and response; (iii) promoting infrastructure resilience and risk reduction in urbanization; and (iv) ensuring improved reconstruction and strengthening the response capacity of relevant social actors in the face of disasters. *Cf.* Sendai Framework for Disaster Risk Reduction 2015-2030, available at: https://www.unisdr.org/files/43291_spanishsendaiframeworkfordisasterri.pdf.

629 *Cfr*. TEDH, *Case Verein KlimaSeniorinnen Schweiz and Others vs. Switzerland,* no. 53600/20, 9th april 2024, par. 552.

630 *Cf.* Human Rights Committee, *Case of Billy and Others v. Australia*, Communication No. 3624/2019, Decision of September 24, 2022, para. 8.12, and *Case of Teitiota v. New Zealand*, Communication No. 2728/2016, Decision of January 7, 2020, para. 9.11.

631 *Cf.* Cooley, S., D. Schoeman, L. Bopp, *et al.*, 2022: Oceans and Coastal Ecosystems and their Services. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 485.

632 *Cf.* F., T.J. Wilbanks, A.C. Abeysinghe, I. Burton, *et al.*, 2014: Climate-resilient pathways:

these measures must be aligned with sustainable development as a component of the progressive development of the right to a healthy environment (supra paras. 368–376).

386. Given that adaptation measures must respond to the particular needs of each State, their definition and updating, as well as the prioritisation and phasing of their adoption, must be determined by the competent national authorities. Notwithstanding this, the Court considers that adaptation goals and plans must establish short-, medium-, and long-term measures that adequately address immediate needs while also responding to the structural causes of vulnerability. In this regard, it is essential that, as part of climate adaptation measures, disaster risk prevention and management actions be implemented in accordance with the guiding principles of the Sendai Framework, as well as actions aimed at significantly reducing the negative impacts of climate change on poverty eradication, primarily by promoting the implementation of social protection measures for the benefit of the entire population.[633] (*infra* paras. 619-629).

387. Adaptation plans must also take into account the fact that measures adopted to mitigate the risk of human rights impacts may prove insufficient. In such cases, it is incumbent upon the State to assist affected individuals or groups in a manner that ensures and restores the rights that have been infringed.

388. Similarly, these plans should be based on the best available science (*supra* paras. 386-387).[634] They should also be designed to minimise negative secondary effects arising from adaptation measures. It is essential that States avoid adopting measures which, owing to their inadequacy or poor execution, could result inhuman rights violations. An example of such measures could be the construction of infrastructure works intended to protect the population from climate impacts without taking into account their effects on ecosystems or on the activities upon which the community depends. In defining such measures, full respect for and guarantee of procedural rights must also be ensured (infra paras. 460–587)[635] In this regard, the Court notes the usefulness of considering the difficulties identified in the IPCC's First Assessment Report on climate adaptation.[636]

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adaptation, mitigation, and sustainable development. In: Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field, C.B., V.R. Barros, D.J. Dokken, *et. al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 1101-1124.

633 *Cf.* Report of the Conference of the Parties serving as the meeting of Parties to the Paris Agreement in its fifth session, held in the United Arab Emirates from November 30-December 13, 2023, "Global Goal on Adaptation", FCCC/PA/CMA/2023/16/Add.1, Decision 2/CMA.5, March 15, 2024, Global Goal on Adaptation, para. 9 (f). The UAE Framework for Climate Adaptation has established a sub-target to: "substantially reduce the adverse effects of climate change on poverty eradication and livelihoods, by promoting the use of adaptive social protection measures for all." *See also,* Birkmann, J., E. Liwenga, R. Pandey, E. Boyd, *et al.*, 2022: Poverty, Livelihoods and Sustainable Development. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (ed.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1174-1247.

634 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, of 2015, Article 7(5), available at: https://unfccc.int/sites/default/files/spanish_paris_agreement.pdf.

635 *Cf.* IACHR and REDESCA, Resolution No.3/2021 "Climate Emergency: Scope of Inter-American Human Rights Obligations," December 31, 2021, operative paragraphs 3, 7, 18, 19, 24, 29, 30, and 32-35.

636 *Cf.* Report of the Conference of the Parties serving as the meeting of the Parties to the Paris

389. That said, the Court considers that the stages of the iterative cycle established by the COP of the Paris Agreement, as well as the cross-cutting areas defined therein, provide a useful guide as to the form and content of the adaptation goals and plans that States must establish in compliance with their obligations under the inter-American human rights instruments. The Court emphasises that, in light of these instruments and the principles that inform their interpretation, these stages must include the following aspects, without prejudice to others that may be deemed appropriate:[637]

> **(i) Impact, vulnerability and risk assessment:** States must collect comprehensive and disaggregated data on the risks of climate change to people and ecosystems, assess those risks, and identify the rights and population groups that are particularly vulnerable to them. In particular, States should assess the nature and extent of climate risks that disproportionately affect women, children and adolescents, indigenous peoples, Afro-descendant communities, peasant and fishing communities, older persons, persons in situations of mobility, persons with disabilities, LGBTIQ+ persons, and human rights defenders. Furthermore, the information gathered should make it possible to establish the impact of inequality and multidimensional poverty with respect to climate risks. The results of these assessments should inform the design of national adaptation plans and the regulations to implement them.
>
> States must establish climate information services and early warning systems that enable them to anticipate and respond to multiple risks such as climate disasters, slow-onset phenomena, and transient phenomena such as heat waves.
>
> **(ii) Planning:** States must design national adaptation plans that are the result of planning processes at the local, regional, and national levels. These plans must also include the financial and technical provisions necessary for implementation at each of these levels and the progressive strengthening of the State's capacities in these areas. Planning must take into account the protection of vulnerable groups and ecosystems.
>
> Plans, strategies, and policies developed in the area of climate adaptation must include implementation schedules, objectives, indicators, and deadlines. In addition, States must publicly report on

Agreement in its fifth session, held in the United Arab Emirates from November 30 - December 13, 2023, FCCC/PA/CMA/2023/16/Add.1, Decision 1/CMA.5, "Outcome of the First Global Stocktake," March 15, 2024, paras. 43-65.

637 *Cf.* Report of the Conference of Parties serving as the meeting of Parties to the Paris Agreement in its fifth session, held in the United Arab Emirates from November 30-December 13, 2023, "Global goal on adaptation", FCCC/PA/CMA/2023/16/Add.1, Decision 2/CMA.5, March 15, 2024, para. 10. See also: The obligation to adopt adaptation measures: IACHR and REDESCA, Resolution No.3/2021 "Climate Emergency: Scope of Inter-American Human Rights Obligations," December 31, 2021, operative paragraphs 1-7; ESCR Committee, General Comment No. 26, on "Land and economic, social and cultural rights", E/C.12/GC/26, January 24, 2023, para. 58, and ECtHR [GS], *Case of Verein KlimaSeniorinnen Schweiz et al. v. Switzerland,* No. 53600/20, April 9, 2024, para. 552.

the progress made in their implementation and promote public scrutiny of them.

**(iii) Implementation:** States must allocate all possible resources to advance the implementation of their national adaptation plans and ensure full respect for and guarantee of substantive and procedural human rights in all implementation processes.

**(iv) Monitoring, evaluation and learning:** States must design and implement a system for regular monitoring, evaluation, and learning for their national adaptation efforts and develop the institutional and budgetary capacity to implement such a system.

390. Additionally, the Court emphasises that, in light of the precautionary principle, States must refrain from developing or authorising 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 considers that States must ensure that their climate adaptation goals and plans become progressively more ambitious.[638]

391. Regarding the principle of non-discrimination, the Court underscores the ongoing need for States to evaluate and implement adaptation measures with due consideration of the differentiated impact that such obligations may have on certain sectors of the population, in order to respect and guarantee the enjoyment and exercise of the rights set forth in the Convention without any discrimination whatsoever (infra paras. 589–594).[639]

*B.2.2. Specific Obligations Arising from the Substantive Rights in the Area of Climate Adaptation*

392. Each of the stages and considerations set forth above (supra paras. 384–391) applies to all rights threatened as a consequence of climate impacts. Nevertheless, the State's response in the field of climate adaptation must be defined in light of the specific risks that affect each individual right. Without prejudice to the potential impact on other rights as a result of climate-related effects, the Court will refer to the particular risks faced by the protection of certain rights and the specific obligations thereby incumbent upon States.

*i.Life, Personal Integrity and Health*

393. The Court notes that, although each of the rights contained in the Convention has its own sphere, meaning and scope,[640] there is a close relationship between the

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638 *On the progressive ambition of adaptation plans and the adverse effects of poorly executed adaptation measures, see:* IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, *et al.* (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp, 19, 27, 32.

639 *Cf. Advisory Opinion OC-23/17, supra*, para. 68.

640 *Cf. Case of Manuel Cepeda Vargas v. Colombia. Preliminary objections, merits, reparations and costs.* Judgment of May 26, 2010. Series C No. 213, para. 171, and *Case of the U'wa Indigenous People and its Members v. Colombia, supra,* para. 338.

right to life (Article 4 of the American Convention and Article I of the American Declaration) and the right to the personal integrity (Article 5 of the American Convention) which is particularly evident in cases related to human health (Articles 26 of the American Convention, 10[641] of the Protocol of San Salvador and XI[642] of the American Declaration).[643] Furthermore, the Court has recognized, as it did in the *Case of the Inhabitants of La Oroya v. Peru,* that certain projects or interventions that affect the environment may represent a risk to the life, personal integrity[644] and health[645] of individuals.[646]

394. The damage caused by environmental degradation and climate change constitutes one of the most serious threats to the capacity of present and future generations to enjoy the right to life.[647] In this regard, the then-Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, stated that climate change has "numerous direct and indirect effects on the full enjoyment of the right to life" and that "climate-related deaths are caused by extreme weather events, heatwaves, floods, droughts, wildfires, waterborne and vector-borne diseases, malnutrition, and air pollution." [648] The WHO estimates that, by the year 2030, impacts linked to climate change, such as heat stress, malaria, diarrhoea, and malnutrition, will cause approximately 250,000 deaths annually.[649]

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641 Article 10 of the Protocol of San Salvador establishes, *inter alia*, that: "Everyone shall have the right to health, understood to mean enjoyment of the highest level of physical, mental and social well-being." *Cf.* Additional Protocol to American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), 1988, available at: https://www.oas.org/es/sadye/inclusion-social/Protocol-ssv/docs/Protocol-san-salvador-es.pdf

642 Article XI of the American Declaration of the Rights and Duties of Man establishes that: "Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources." *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

643 *Cf. Case of Albán Cornejo et al. v. Ecuador. Merits, reparations and costs*. Judgment of November 22, 2007. Series C No. 171, para. 117, and *Case of the U'wa Indigenous People and its Members v. Colombia, supra,* para. 338.

644 *Cf. Case of the Kichwa Indigenous People of Sarayaku v. Ecuador.* Merits and reparations. Judgment of June 27, 2012. Series C No. 245, para. 249, and *Case of the U'wa Indigenous People and its Members v. Colombia, supra,* para. 338.

645 *Cf. Case of the Inhabitants of La Oroya v. Peru. Preliminary objections, merits, reparations and costs. Judgment of November 27, 2023*. Series C No. 511, para. 218 and 219.

646 Similarly, in petition (*complaint*) No. 30/2005, *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, the European Committee of Social Rights ruled that in the main areas where lignite is mined, the State had not adequately prevented the impact on the environment nor had it developed an adequate strategy to prevent and address the health risks to the population. *Cf.* European Committee of Social Rights, *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, June 7, 2007. For its part, the European Court of Human Rights has considered the links between air pollution and the violation of these rights in its rulings. See, *inter alia*: ECtHR, *Case of Fadeyeva v. Russi*a, No. 55724/00, June 9, 2005; *Case of Okyay et al. v. Turkey*, No.36220/97, July 12, 2005; *Case of Ledyayeva et al. v. Russia*, No. 53157/99, 53247/99, 53695/00 and 56850/00, October 6, 2006; *Case of Cordella et al. v. Italy*, No.54413/13, January 24, 2019; *Case of A.A. et al. v. Italy*, No.37277/16, May 5, 2022, and *Case of Pavlov et al. v. Russia*, No. 31612/09, October 11, 2022.

647 *Cf.* Human Rights Committee, General Comment No. 36, "Right to life", CCPR/C/GC/36, September 3, 2019, para. 62.

648 *Cf.* Report of the then Special Rapporteur on the human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment. United Nations, David R. Boyd, A/74/161, July 15, 2019, para. 29.

649 *Cf.* World Health Organization (WHO), "Quantitative Risk Assessment of the Effects of Climate Change on Selected Causes of Death, 2030s and 2050s", available at: https://www.who.int/publications/i/item/9789241507691

395. The Court further notes that the life-threatening effects of climate change worsen progressively as global warming increases.[650] In this regard, it observes that temperature increases beyond optimal levels may result in higher mortality rates. According to the WHO, the number of people exposed to "extreme heat" is rising "exponentially" due to climate change in all regions of the world. Between 2017 and 2021, heat-related mortality among persons over 65 years of age increased by approximately 85% compared to that recorded between 2000 and 2004.[651]

396. The Court also notes that the increasing frequency and severity of storms, permafrost thawing, and glacial retreat (supra paras. 82–85) could generate floods and landslides,[652] which heighten risks to human life.

397. With regard to the effects of climate change on personal integrity and health, as indicated by the then-Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd,[653] the harmful effects of climate change are not only limited to premature deaths; they also lead to an increase in the incidence of respiratory and cardiovascular diseases,[654] malnutrition, stunted growth, emaciation, allergies, heatstroke,[655] injuries, waterborne[656] and vector-borne diseases,[657] as well as mental health problems.

398. In this regard, the WHO has stated that climate change may give rise to new mental health conditions and worsen the situation of individuals already suffering from such conditions.[658]In particular, the Court warns that climate change has a severe

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650 In this regard, the Office of the United Nations High Commissioner for Human Rights has stated that "in the most extreme cases" climate change can cause death. *Cf.* Human Rights Council, "Analytical study on the relationship between climate change and the human right to the enjoyment of the highest attainable standard of physical and mental health," A/HRC/32/23, May 6, 2016, para. 8.

651 *Cf.* World Health Organization (WHO), "Heat and Health," available at: https://www.who.int/es/news-room/fact-sheets/detail/climate-change-heat-and-health.

652 *Cf.* Hock, R., G. Rasul, C. Adler, *et al.*, 2019: High Mountain Areas. In: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate [H.-O. Pörtner, D.C. Roberts, v. Masson-Delmotte, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 134.

653 *Cf.* Report of the then Special Rapporteur on the human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment, United Nations, David R. Boyd, A/74/161, July 15, 2019, paras. 31 and 32.

654 *Cf.* World Health Organization (WHO) and Pan American Health Organization (PAHO), "Climate Change and Health," available at: https://www.paho.org/es/temas/cambio-climatico-health

655 *Cf.* World Health Organization (WHO) and Pan American Health Organization (PAHO), "Climate Change and Health," available at: https://www.paho.org/es/temas/cambio-climatico-health

656 One of the indirect effects of climate change is related to the increased risk of waterborne diseases, such as diarrhea, as well as changes in the seasonal distribution of diseases such as cholera, schistosomiasis, and harmful algal blooms. *Cf.* World Health Organization (WHO) and Pan American Health Organization (PAHO),"Climate Change and Health," available at: https://www.paho.org/es/temas/cambio-climatico-health

657 *Cf.* World Health Organization (WHO) and Pan American Health Organization (PAHO), "Climate Change and Health," available at: https://www.paho.org/es/temas/cambio-climatico-health

658 According to the WHO, climate change can have the following impacts on people's mental health: (i) stress reactions such as intense emotional distress; (ii) stress-related physical health problems, such as the development of cardiovascular and autoimmune diseases; (iii) the development of depressive, anxiety, and stress-related disorders, particularly after extreme weather events; (iv) feelings of helplessness, fear, and grief, particularly with regard to the slow impacts of climate change; and (v) increased risk of suicidal behavior and substance abuse, especially among those who have experienced repetitive or severe climate-related hazards. See: World Health Organization (WHO), "Mental Health and Climate Change: Policy Brief," 2022, https://www.who.int/publications/i/item/9789240045125.

impact on the mental health of children and adolescents (hereinafter "CA").[659] Such impact was highlighted in the written observations submitted during the advisory proceedings, inter alia, by the Office of the Special Representative of the United Nations Secretary-General on Violence against Children.[660]

399. The Court further emphasises that weather events induced by climate change, including cyclones, floods, and droughts, may compromise health care infrastructure. Lack of access to, or limited access to, health services as a result of climate change impacts on health infrastructure may lead to violations of the right to health.[661]

400. The Court considers that, in view of the aforementioned risks to the protection of the rights to life, personal integrity, and health of the individuals under their jurisdiction, States have specific duties to protect these rights in the context of the climate emergency.

401. Among the risks that threaten these rights, the Court highlights those arising from phenomena such as heat waves,[662] droughts, and floods. In relation to these, the Court considers that States must: (i) ensure an adequate water supply for drinking, sanitation and crop irrigation during heat waves, particularly in areas affected by droughts; (ii) identify and periodically update information on population groups and ecosystems particularly affected by heat waves, droughts, and floods; (iii) design and implement strategies to address these phenomena and enable people and ecosystems to recover from them; (iv) ensure effective mechanisms for the protection of wetlands, mangroves, rivers, or watersheds that are essential for drought mitigation and flood protection, and (v) develop infrastructure works required to prevent flooding as a result of sea level rise or increased precipitation.[663]

402. The Court also considers that, in order to prevent and mitigate the impacts of climate change on the effective enjoyment of the rights to personal integrity and health, States must, among other measures: (i) increase the resilience of national health systems by integrating disaster risk management into primary, secondary, and tertiary health care, especially at the local level; (ii) establish strategies to improve the resilience of medical and health care infrastructure to climate disasters; (iii) ensure

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659 *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on "the rights of the child and the environment, with a focus on climate change," CRC/C/GC/26, August 22, 2023, para. 41.

660 *Cf.* Brief with observations submitted by the Special Representative of the Secretary-General on Violence against Children, Annex 2: Annual Report of the Special Representative of the Secretary-General on Violence against Children, A/77/221, July 25, 2022, para. 64.

661 *Cf.* Report of the then Special Rapporteur on human rights obligations for the enjoyment of a safe, clean, healthy and sustainable environment, United Nations, David R. Boyd, A/74/161, July 15, 2019, para. 31.

662 *Cf.* Pan American Health Organization (PAHO), "Heatwaves: A Guide for Health-based Actions," 2021, pp.10-17, available at: https://www.paho.org/es/documentos/olas-calor-guia-para-actions-basadas-health. *See also,* World Health Organization (WHO), "Heatwaves: risks and responses", 2004, pp. 58-60, available at: https://iris.who.int/bitstream/handle/10665/107552/9789289010948-eng.pdf?sequence=1 and "Public Health Advice: on preventing health effects of heat", 2011, pp. 1-29, available at: https://www.who.int/publications/i/item/public-health-advice-on-preventing-health-effects-of-heat.

663 *See,* World Meteorological Organization (WMO), "Flood Management in a Changing Climate", 2009, p. 11-27 available at: https://library.wmo.int/viewer/37076/download?file=ifmts_9.pdf&type=pdf&navigator=1; "Flood Proofing", 2012, pp. 3-26; https://library.wmo.int/records/item/50636-flood-proofing?offset=5, and "National Drought Management Policy Guidelines: a template for action", 2014, pp. 4-38, available at: https://www.gwp.org/globalassets/global/gwp-sam_files/programs/directrices_de_politica_national_para_la_gestion_de_sequias.pdf

the presence of the medical and health care units required in order to provide free, accessible, acceptable, and quality care in populations and communities affected by climate disasters; (iv) design and implement ongoing training programs for medical and health care personnel in the management of emergencies and diseases linked to climate change, such as dengue, malaria, and heat stress, and (v) strengthen health prevention programs through vaccination campaigns and public health education focused on preventing diseases aggravated by or associated with climate change.[664]

*ii. Private and Family Life*

403. In *Advisory Opinion OC-23 of 2017*, the Court noted that the right to privacy is particularly vulnerable to environmental impacts.[665] The ECtHR[666] and the UN Human Rights Committee have made similar statements. In the *Case of Billy and Others v. Australia,* the latter recognized that "climate change impacts may adversely affect the well-being of individuals and constitute foreseeable and serious violations of private and family life."[667] The Court has also recognized the importance of the home as a space in which private life can be freely developed.[668] In this regard, the Court notes that the effects of climate change on housing and property can lead, in turn, to a violation of the right to private and family life (Articles 11(2) and 17(1) of the American Convention, Article 15 of the Protocol of San Salvador[669] and Articles V and VI of the American Declaration[670]). Furthermore, violations of the right to freedom of residence and movement, due to migration or involuntary displacement, can affect the unity of the family group.

404. In order to prevent and mitigate the effects of the climate emergency on the right to private and family life, States have an obligation to: (i) ensure that climate policies related to human mobility caused by climate disasters or progressive

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664 The WHO has developed various initiatives that contain guidelines for achieving the obligations outlined. See "WHO Global Strategy on Health, Environment, and Climate Change: The Transformation Needed to Sustainably Improve Lives and Well-Being Through Healthy Environments," 2020, pp. 7-18, available at: https://www.who.int/publications/i/item/9789240000377; "Climate change and health", WHA77.14, June 1 2024, pp. 4-6, available at: https://apps.who.int/gb/ebwha/pdf_files/WHA77/A77_R14-sp.pdf and "Climate change and health: Draft global action plan on climate change and health", Report of the Director-General, January 9, 2025, available at: https://apps.who.int/gb/ebwha/pdf_files/EB156/B156_25-sp.pdf. *Also, see* United Nations, Sendai Framework for Disaster Risk Reduction (2015-2030), of 2015, para. 30(c), available at: https://www.unisdr.org/files/43291_spanishsendaiframeworkfordisasterri.pdf

665 *Cf. Advisory Opinion OC-23/17, supra*, para. 66.

666 *Cf.* ECtHR [GS], *Case of Cordella et al. v. Italy,* No. 54414/13 & 54264/15, January 24, 2019, para. 157.

667 *Cf.* Human Rights Committee, *Case of Billy and Others v. Australia*, Communication No. 3624/2019, Decision of September 24, 2022, para. 8.12

668 *Cf. Case of the Ituango v. Colombia. Preliminary objections, merits, reparations and costs.* Judgment of July 1, 2006. Series C No. 148, paras. 193 and 194, and *Case of Valencia Campos et al. v. Bolivia. Preliminary objection, merits, reparations and costs*. Judgment of October 18, 2022. Series C No. 469, para. 147.

669 Article 15 of the Protocol of San Salvador states that: "The States Parties hereby undertake to accord adequate protection to the family unit." *Cf.* Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), 1988, available at: https://www.oas.org/es/sadye/inclusion-social/Protocol-ssv/docs/Protocol-san-salvador-es.pdf

670 Article V of the American Declaration of the Rights and Duties of Man establishes that: "Every person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life." For its part, Article VI of the same instrument states: "Every person has the right to establish a family, the basic element of society, and to receive protection therefor." *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

environmental degradation include effective mechanisms to guarantee family unity or, where appropriate, family reunification; (ii) create records and databases to track families separated by climate displacement, facilitating reunification and access to the required social support services; (iii) design and implement emergency protocols to register and protect unaccompanied children during climate-related disasters and subsequent displacement processes, ensuring prompt reunification with their families; (iv) design and implement community programs in resettlement sites that offer physical and mental health support services, legal guidance, and social assistance for families affected by climate disasters; v) establish and implement protocols to protect access to and use of personal data provided by families to national authorities or international agencies during the displacement process, and (vi) collaborate with other States to establish bilateral and regional agreements that protect the right to family unity of persons displaced by climate disasters or progressive environmental degradation.[671]

405. Furthermore, the Court considers that, in view of the essential value of housing and property for the development of private life, States have an obligation to: (i) ensure that housing allocated to families relocated due to climate change has sufficient space and adequate access to basic services required to preserve the well-being and privacy of the family group, and (ii) ensure that such housing is located near educational and medical centers and other services necessary for the subsistence and cohesion of the family group.[672]

*iii. Private Property and Housing*

406. The right to property is enshrined in Article XXIII of the American Declaration[673] and Article 21 of the American Convention, which provides that "[e]very person has the right to the use and enjoyment of his property" and that "[n]o person may be deprived of his property except upon payment of fair compensation, for reasons of public utility or social interest, and in the cases and according to the procedures established by law."[674] The Court recalls that this right also protects the close ties that

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671 *Good practices, guidelines and recommendations to protect private and family life in contexts of mobilization and disasters.* See: IACHR, "Inter-American Principles on the Human Rights of all Migrants, Refugees, Stateless Persons and Victims of Trafficking," Resolution No. 4/19, December 7, 2019, principle 33; "Practical Guide: How to make family unit protection and family reunification more effective in situations of human mobility and mixed movements, and in the context of a pandemic?" 2021, pp. 13-19; UNICEF, "Children displaced by climate change. Preparing for a future that is already here," 2023, pp. 52-55, and United Nations General Assembly, Resolution 73/195, January 11, 2019, "Global Compact for Safe, Orderly and Regular Migration," objectives 12 (d) and 16.

672 *Cf.* Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Balakrishnan Rajagopal, "Towards a just transformation: the climate crisis and the right to housing", A/HRC/52/28, December 23, 2022, paras. 24 and 64, and Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Raquel Rolnik, A/64/255, "The right to adequate housing", August 6, 2009, paras. 55-59, and Human Rights Council, "Guidelines for the Implementation of the Right to Adequate Housing", A/HRC/43/43, December 26, 2019, para. 58 (a), available at https://www.acnur.org/fileadmin/Documentos/BDL/2001/1449.pdf.

673 Article XXIII of the American Declaration of the Rights and Duties of Man establishes that: "Every person has the right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home." *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

674 *Cf. Case of Cesti Hurtado v. Peru. Merits*. Judgment of September 29, 1999. Series C No. 56, para. 182, and *Case of Boleso v. Argentina. Preliminary objections, merits, reparations and costs*. Judgment of May 22, 2023. Series C No. 490, para. 53.

indigenous and tribal peoples have with their lands, their natural resources and the intangible elements that derive from them.[675] The Court has also recognized the right to housing protected under Article 26 of the American Convention[676] and paragraph 34.k of the OAS Charter.[677] The Court has specified that, although all housing is subject to protection under property rights, not all property is necessarily housing.[678]

407. Some effects of climate change, such as sea level rise and extreme weather events, can temporarily or permanently disrupt the right to use and enjoy property and housing rights.[679] In this regard, it should be noted that slow-onset effects, such as sea level rise (*supra* para. 111) and climate-related disasters, such as fires, floods, and tropical cyclones, may violate the right to property as a result of damage to or destruction of infrastructure, settlements, housing, and other property. These impacts can, in turn, cause significant economic losses and increase the costs of maintaining and rebuilding urban infrastructure. Furthermore, it has been observed that the increased risk of extreme weather events has also led to a reduction in property values and an increase in insurance premiums, or, in certain cases, a refusal to insure property.[680] The Court also notes that the impacts on property and housing can be particularly pronounced in relation to communal ownership of ancestral lands linked to the cultural identity of Indigenous Peoples, which cannot be restored after climate-related disasters.[681] These impacts may vary depending on whether the home is located in a rural or urban area.[682]

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675 *Cf. Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua, supra*, paras. 148 and 149, and *Case of the Quilombola Communities of Alcântara v. Brazil, supra*, para. 140.

676 *Cf. Case of Indigenous Peoples Tagaeri and Taromenane v. Ecuador. Preliminary objection, merits, reparations and costs*. Judgment of 4 September 2024. Series C No. 537, para. 262, and *Case of the Quilombola Communities of Alcântara v. Brazil, supra*, para. 210. The ESCR Committee has identified as central elements of the right to housing: (i) security of tenure; (ii) availability of services, materials, facilities and infrastructure essential for health, security, comfort and nutrition; (iii) affordability, such that household financial costs do not impede or compromise the attainment and satisfaction of other basic needs; (iv) habitability of the housing; (v) accessibility; (vi) location, housing must be in a location that allows access to employment options, health care services, and other social facilities, and (vii) cultural adequacy, housing that respects identity and diversity. See: ESCR Committee, General Comment No. 4, related to the "Right to adequate housing," E/1992/23, December 13, 1991, para. 8.

677 Article 34 of the OAS Charter establishes that: "The Member States agree that equality of opportunity, the elimination of extreme poverty, the equitable distribution of wealth and income, and the full plena participation of their peoples in decisions relating to their own development, are, among others, objectives basic objectives of integral development. To achieve them, they likewise agree to devote their utmost efforts to accomplishing the following basic goals: […] k) Adequate housing for all sectors of the population."

678 *Cf. Case of the Ituango Massacres v. Colombia, supra*, paras. 182 and 183, and *Case of Vereda La Esperanza v. Colombia. Preliminary objections, merits, reparations and costs*. Judgment of August 31, 2017. Series C No. 341, para. 241.

679 According to the United Nations Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination, "the right to adequate housing is undermined by slow-onset phenomena such as desertification or sea level rise, which threaten the habitability of dwellings and human settlements." See: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Balakrishnan Rajagopal, "Towards a just transformation: the climate crisis and the right to housing," A/HRC/52/28, December 23, 2022, para. 11.

680 *Cf.* Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Balakrishnan Rajagopal, "Towards a just transformation: the climate crisis and the right to housing," A/HRC/52/28, December 23, 2022, para. 20.

681 *Cf.* Report of the Special Rapporteur on adequate housing, "On the right to adequate housing of Indigenous Peoples", A/74/183, July 17, 2019, paras. 41-44.

682 *Cf.* UN Habitat, "Report on Cities and Pandemics: Towards a more just, green and healthy future,"

408. The Court recognizes that the States which are most vulnerable to the effects of climate change face considerable difficulties in financing the significant investments required to undertake large-scale reconstruction of cities or towns affected by major climate disasters. In this context, the Court emphasizes the importance of **international solidarity** in the face of the devastating effects of climate disasters and the significant resources required to care of those affected. On this matter, the Court recalls that, according to Article 31 of the OAS Charter, "[i]nter-American cooperation for integral development is the common and joint responsibility of the Member States, within the framework of the democratic principles and the institutions of the inter-American system. It should include the economic, social, educational, cultural, scientific, and technological fields, support the achievement of the national objectives of the Member States, and respect the priorities established by each country in its development plans, without political ties or conditions."[683]

409. The Court emphasizes that the UNFCCC recognizes the duty of the international community to "cooperate in preparing for adaptation to the impacts of climate change," including the "protection and rehabilitation of areas […] affected by drought and desertification, as well as floods," which have a direct impact on the protection of property and housing.[684]

410. At the regional level, the Inter-American Convention to Facilitate Disaster Assistance recognizes that "disasters, catastrophes, and other calamities" destroy "the safety and property of the inhabitants of the American hemisphere." Furthermore, its preamble stresses the importance of "the selfless spirit of cooperation" that inspires the states of the region in the face of the effects of disasters.[685]

411. Accordingly, the Court considers that, as part of their obligations to respect and guarantee the right to property and housing in the context of the climate emergency, States must actively cooperate, in accordance with their capabilities, in the design and implementation of joint strategies to prevent, mitigate, and repair the damage caused by climate change to housing, material goods, and public infrastructure. This obligation to cooperate requires States to work together to: (i) develop and disseminate regional standards, guidelines, and other instruments that support disaster preparedness and response, facilitating the exchange of technological support and information on lessons learned and best practices in reconstruction policies and programs; (ii) mobilize, in accordance with available resources, financial support to other States both for disaster prevention and to contribute to reconstruction efforts, and (iii) improve coordination of effective international responses to provide solidarity assistance to States in their management of climate disasters and slow-onset phenomena, ensuring a faster and more efficient intervention in the reconstruction of housing, material assets, and the recovery of essential public infrastructure.

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2021, available at: https://unhabitat.org/sites/default/files/2021/03/cities_and_pandemics-towards_a_more_just_green_and_healthy_future_un-habitat_2021.pdf, and "COP29: Cities lead the charge against climate change" 2024, available at: https://onu-habitat.org/index.php/cop29-las-ciudades-clave-en-la-lucha-global-contra-el-cambio-climatico.

683 *Cf.* Charter of the Organization of American States, 1948, Article 31, available at: https://www.oas.org/xxxivga/spanish/basic_docs/carta_oea.pdf.

684 *Cf.* United Nations Framework Convention on Climate Change, 1992, Article 4.1(e) https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf.

685 *Cf.* Inter-American Convention to Facilitate Disaster Assistance, 1991, available at: https://www.oas.org/juridico/spanish/firmas/a-54.html.

412. States must refrain from adopting policies or measures that destroy or dispossess people of their homes or property affected by climate disasters without adequate compensation or resettlement. Furthermore, States have an obligation to design and implement strategies at the national and local levels to strengthen the resilience of urban and rural infrastructure and housing, especially those belonging to vulnerable communities and groups, against the effects of climate change, including natural disasters. In particular, States must: (i) provide assistance, according to available resources, to repair affected infrastructure and housing; (ii) develop incentives to include the use of sustainable and adaptive technologies in the construction and repair of housing; (iii) establish strategies to strengthen social housing programs for communities and populations particularly affected by climate change, and (iv) incorporate present and future climate risks into land use, urban and rural planning processes as well as into regulatory provisions that establish construction standards.[686]

413. Finally, this Court considers that States must promote mechanisms designed to prevent and avoid real estate speculation and barriers to insurance coverage in areas that are most exposed and vulnerable to climate impacts. To this end, they must, among other measures, strengthen the supervision and control of activities related to the marketing of such real estate and its insurance, and (ii) design and promote the implementation of strategies to protect vulnerable individuals and groups from risks arising from the possible loss of their homes and property due to climate impacts.

*iv. Freedom of Residence and Movement*

414. The Court recalls that freedom of movement is an indispensable requirement for the free development of the individual. In this regard, the right to freedom of movement and residence (Article 22 of the American Convention) consists of: a) the right of those who are legally within a State to move freely within that State and to choose their place of residence,[687] and b) the right of a person to enter and remain in their country. It also protects the right not to be forcibly displaced within a State Party and not be forcibly removed from the territory of the State in which they are legally present.[688] The Court has indicated that this right may be violated formally or through *de facto* restrictions when the State has not established the conditions, or provided

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686 *Good practices, guidelines and recommendations to protect the right to housing and property in the context of the climate emergency.* See: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Balakrishnan Rajagopal, "Towards a just transformation: the climate crisis and the right to housing", A/HRC/52/28, December 23, 2022, paras. 63-75; Human Rights Council, "Guidelines for the Implementation of the Right to Adequate Housing", A/HRC/43/43, December 26, 2019, Guideline No. 13.; Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Raquel Rolnik, A/64/255, "The right to adequate housing", August 6, 2009, paras. 51-54, and Dodman, D., B. Hayward, M. Pelling, *et al.*, 2022: Cities, Settlements and Key Infrastructure. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 640-958.

687 *Cf. Case of Ricardo Canese v. Paraguay*. *Merits, reparations and costs*. Judgment of August 31, 2004. Series C No. 111, para. 115, and *Case of Carrión González et al. v. Nicaragua. Merits, reparations and costs.* Judgment of November 25, 2024. Series C No. 550, para. 146.

688 *Cf. Case of the Moiwana Community v. Suriname. Preliminary objections, merits, reparations and costs.* Judgment of June 15, 2005. Series C No. 124, para. 119, and *Case of Carrión González et al. v. Nicaragua, supra,* para. 160.

the means, to exercise it.[689] For their part, Articles VIII[690] and XXVII[691] of the American Declaration protect the right to freedom of movement, the right to residence and the right to asylum, respectively.

415. The United Nations High Commissioner for Human Rights (OHCHR) has pointed out that climate change drives human mobility in four particular scenarios: (i) disasters related to weather events such as hurricanes and floods; (ii) gradual environmental degradation and slow-onset disasters, such as desertification, coastal subsidence, and the potential total submersion of low-lying island states; (iii) increased disaster risks, which entail the resettlement of people away from high-risk areas, and (iv) violence and social unrest attributable to factors related to climate change.[692]

416. Likewise, the Court notes that climate change affects freedom of movement in different ways. In the first place, disasters may cause migration and involuntary displacement[693] directly, or indirectly, when they compound preexisting situations of vulnerability and factors of displacement, such as conflict, violence, poverty, food insecurity, or inequalities. This situation affects millions of people around the world. According to the United Nations High Commissioner for Refugees (UNHCR), at the end of 2023, there were 75.9 million internally displaced persons, 68.3 million of whom remained displaced due to conflict and violence, and 7.7 million due to disasters.[694] In 2022, nearly 80% of the internal displacement in the Americas region was caused by disasters.[695]

417. Secondly, migration and forced displacement can be the result of other impacts of climate change such as the loss of fertile land, droughts, instability in water cycles, crop failure, sea level rise, or drastic increases in temperature, which lead to food insecurity,[696] water scarcity, or physical insecurity in one's usual place of residence,

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689 *Cf. Case of the Moiwana Community v. Suriname, supra*, paras. 119 and 120, and *Case of Carrión González et al. v. Nicaragua, supra,* para. 160.

690 Article VIII of the American Declaration of the Rights and Duties of Man establishes that: "Every person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory, and not to leave it except by his own will."

691 Article XXVII of the American Declaration of the Rights and Duties of Man establishes that: "Every person has the right, in case of pursuit not resulting from ordinary crimes, to seek and receive asylum in foreign territory, in accordance with the laws of each country and with international agreements" *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

692 *Cf.* Report of Office of the United Nations High Commissioner for Human Rights on "the relationship between climate change and human rights," A/HRC/10/61, January 15, 2009, para. 56.

693 The International Organization for Migration (IOM) has stated that "the difference between migration and displacement lies in the more forced (displacement) or more voluntary (migration) nature of the movements, with the boundary between the two concepts often being ambiguous." *Cf.* Observations submitted by the IOM, p. 7, para. 16.

694 *Cf.* United Nations High Commissioner for Refugees (UNHCR), "Global Trends: Forced Displacement in 2023," 2023, p. 25, available at: https://www.acnur.org/sites/default/files/2024-08/ACNUR-Tendencias-Globales-2023.pdf.

695 *Cf.* Internal Displacement Monitoring Center (IDMC), "2023 Global Report on Internal Displacement," 2023, p.74, available at: https://www.internal-displacement.org/global-report/grid2023/.

696 *Cf.* United Nations Food and Agriculture Organization (FAO), "Climate Change and Food Security: A Framework Document," 2007, p. 5, available at: https://openknowledge.fao.org/items/5c0b0297-ba8d-42a7-bda0-39c38dc7500b

lack of employment and income, and disruption of livelihoods.[697] Displacement caused by the interaction between certain impacts of climate change and traditional causes of displacement is a palpable reality.[698] For example, in 2023, the then Special Rapporteur on the promotion and protection of human rights in the context of climate change highlighted the case of the community of Lajas Blancas, in Nacaome, Honduras, where a prolonged drought reduced agricultural production and prevented people from accessing water. As a result, 80% of the population emigrated outside of the country.[699] Similarly, during the present consultative process, the Court received testimony from the community of El Bosque in Tabasco, Mexico, which was displaced due to sea level rise.[700] The Court notes that these situations tend to spread. For example, according to the IPCC, at least 900,000 people will migrate inter-regionally in Brazil due to future climate conditions.[701]

418. Thirdly, the impacts of climate change can also affect populations already in situations of forced displacement, exacerbating the risks they face and driving additional displacement, as well as prolonged and continuous displacement.[702] According to the UNHCR, by the end of 2023, nearly three-quarters of forcibly displaced people were living in countries with high or extreme exposure to climate-related risks,[703] thereby increasing their vulnerability.

419. Finally, the Court also notes that, in some cases, the impacts of climate change have led to the 'immobility' of "individuals or communities living in areas affected or exposed to the risk of climate events, including socio-environmental disasters, who are unable to move, either because they cannot adapt or migrate (involuntary

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697 *Cf.* Report of the then Special Rapporteur on the Human Rights of Internally Displaced Persons, Chaloka Beyani, "Protection and assistance for internally displaced persons," A/66/285, August 9, 2011, para. 19; Report of the then Special Rapporteur on the Human Rights of Migrants, François Crépeau, "Human Rights of Migrants," A/67/299, August 13, 2012, para. 20, and Castellanos, E., M.F. Lemos, L. Astigarraga, *et al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1767-1768.

698 *Cf.* Address by Uzra Zeya, then Under Secretary for Civilian Security, Democracy and Human Rights of the State Department of the United States of America, before the IOM Council, on November 29, 2022. Available at: https://2021-2025.state.gov/the-intersection-between-climate-change-food-security-migration-and-displacement/.

699 *Cf.* Statement at the conclusion of the country visit to Honduras by the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Mr. Ian Fry, September 27, 2023, p.3. https://www.ohchr.org/sites/default/files/documents/issues/climatechange/statements/eom-statement-honduras-sr-climate-2023-09-27-sp.pdf. (2023).

700 *Cf.* Observations submitted by Guadalupe Cobos Pacheco, Áurea Sánchez Hernández, Yesenia del Socorro Albino Sánchez on behalf of the Community of El Bosque (Tabasco, Mexico); Our Rights to the Future and a Healthy Environment A.C. ("Our Future"); *Conexiones Climáticas* campaign and Greenpeace Mexico, pp. 9-10.

701 *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution by Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1767-1768.

702 *Cf.* United Nations High Commissioner for Refugees (UNHCR), "Global Trends Report on Forced Displacement in 2023," p. 23, available at: https://www.acnur.org/sites/default/files/2024-08/ACNUR-Tendencias-Globales-2023.pdf.

703 *Cf.* United Nations High Commissioner for Refugees (UNHCR), "Global Trends Report on Forced Displacement in 2023," 2023, p. 23, available at: https://www.acnur.org/sites/default/files/2024-08/ACNUR-Tendencias-Globales-2023.pdf.

immobility) or because they do not wish to migrate or move for cultural, traditional, economic, or social reasons, among others (voluntary immobility)."[704]

420. According to the UNHCR, most people displaced by climate change are internally displaced persons. However, there are also cases of cross-border migration for climate reasons. According to the Special Rapporteur on the human rights of internally displaced persons, almost two-thirds of all new displaced persons, asylum seekers, and refugees in 2022 came from 15 countries that are highly vulnerable to the impacts of climate change.[705] The Court has observed that when people are forced to move internationally, they face numerous human rights violations. In this context, groups such as women and children face even greater risks due to a combination of different vulnerability factors.[706] The Court has also recognized that, given the complexity of the phenomenon of internal displacement and the wide range of human rights that are affected or put at risk, along with the circumstances of particular vulnerability and defenselessness in which displaced persons generally find themselves, their situation can be understood as a *de facto* condition of lack of protection.[707] This heightened vulnerability is reinforced by their rural origins and particularly affects female heads of household.

421. In both cross-border and internal mobilizations, many of the people who have had to abandon their homes remain displaced for months or even years.[708] In this regard, the Court has established that environmental impacts can threaten the right to peace, since displacements caused by environmental degradation often unleash violent conflicts between the displaced population and the population already settled in the territory to which the former is displaced.[709]

422. In view of the situation described above, the Court emphasizes, as a starting point, that States are obligated to adopt measures to prevent, in line with the standard of enhanced due diligence, migration and forced displacement resulting directly and indirectly from disasters and other impacts of climate change. Therefore, the Court highlights the importance of designing and implementing appropriate measures to ensure the protection of sectors and population groups exposed to disasters and other impacts of climate change. Such measures, related to the protection of income sources, food and water security, and adequate housing etc., must be part of public policies related to progress toward sustainable development, mitigation goals and strategies and adaptation goals and plans. (*supra* paras. 324, 335, 368-373, and 384).

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704 *Cf.* IACHR, Resolution No. 2/24, "Human mobility induced by climate change", p. 6, available at: https://www.oas.org/es/IACHR/decisiones/pdf/2024/resolucion_cambio_climatico.pdf.

705 *Cf.* Brief containing observations presented by the United Nations High Commissioner for Refugees (UNHCR), paras. 17 and 32.

706 *Cf.* IACHR, "Human Mobility and the Obligation to Protect: Toward a Subregional Perspective," OEA/Ser.L/V/II, July 21, 2023, paras. 2, 51, 85 and 60, and Report of the then Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, "Providing legal options to protect the human rights of persons displaced across international borders due to climate change," A/HRC/53/34, April 18, 2023, para. 64.

707 *Cf. Case of Valle Jaramillo et al. v. Colombia. Merits, reparations and costs.* Judgment of November 27, 2008. Series C No. 192, para. 139, and *Case of the Massacre of Los Josefinos Village v. Guatemala. Preliminary objection, merits, reparations and costs.* Judgment of November 3, 2021. Series C No. 442, para. 77.

708 *Cf.* Written observations submitted by the United Nations High Commissioner for Refugees (UNHCR), December 2023, para. 91.

709 *Cf. Advisory Opinion OC-23/17, supra*, para. 66.

423. The protection of the rights to life, personal integrity, health, private and family life, a healthy environment, property, housing, work and social security, water, food, culture and education is essential in order to prevent forced mobility or displacement that may be caused directly or indirectly by the impacts of climate change.

424. However, the measures adopted by the State to protect these rights may be insufficient to prevent the conditions that drive migration or forced displacement in the context of the climate emergency. Therefore, States must develop regulatory, public policy, institutional, and budgetary instruments to address the needs of populations in situations of involuntary mobility. Such assistance must take into account the possible convergence of factors that may increase the vulnerability of the persons affected, whether before, during, or after displacement.

425. All instruments and mechanisms established to provide assistance to persons affected by involuntary mobility in the context of the climate emergency, including those related to disaster risk management, must be adopted in a manner that ensures the full enforcement of procedural rights, in accordance with the standards set out in this Advisory Opinion (paras. 460-469, 471-487, 501-518, 519-523, 524-527, 530-539, 542-560, 566-567 and 575-587). In this regard, measures aimed at protecting the rights of individuals and communities at risk or displaced due to climate change must include mechanisms for access to information and participation in defining the nature and level of risk they face, possible risk mitigation measures, safe evacuation routes, directions to local assistance facilities,[710] accompaniment by the authorities and the conditions under which this should occur,[711] together with refuge, return or resettlement plans, as appropriate. The information provided must also take into account the challenges of access associated with illiteracy, disability, language barriers, distance, and the lack of information and communication technologies. In order to proceed with relocation or return, it will be necessary to obtain the agreement of the populations concerned, so as to ensure their procedural rights.[712] In addition, the authorities must give reasonable advanced notice of the planned date for the relocation or return of the concerned groups.[713] The State must also provide awareness-raising mechanisms aimed at the relevant authorities, communities, and population groups at risk of experiencing climate-related displacement processes.[714]

426. The Court emphasizes that, in line with the United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement,[715] the right to resettlement includes "the right to alternative land of better or equal quality and housing that must satisfy the following criteria: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education." It also emphasizes that the procedures

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710 See: Sendai Framework for Disaster Risk Reduction 2015-2030, para. 19 (d and g), available at: https://www.unisdr.org/files/43291_spanishsendaiframeworkfordisasterri.pdf.

711 See: Sendai Framework for Disaster Risk Reduction 2015-2030, para. 24 (c), available at: https://www.unisdr.org/files/43291_spanishsendaiframeworkfordisasterri.pdf.

712 See also: Guiding Principles on Internal Displacement, Resolution 1997/39, 1998, principles 7-9.

713 See also: ESCR Committee, General Comment No. 7, "The right to adequate housing (Art. 11.1): forced evictions," para. 15, available at https://www.acnur.org/fileadmin/Documentos/BDL/2001/1449.pdf.

714 See also: Report of the Special Rapporteur on the Human Rights of Migrants, Felipe González, A/77/189, July 19, 2022, para. 91. Also, see: Brief with observations presented by the IOM, p. 11.

715 *Cf.* Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari, A/HRC/4/18, February 5, 2007, Annex I, para. 16. Available at: https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines_sp.pdf.

designed to safeguard this right apply to all groups, regardless of whether they hold titles to the home or property.[716]

427. In the specific case of Indigenous Peoples who must be relocated or are displaced without the possibility of returning due to climate disasters, environmental degradation, and/or slow-onset phenomena, the Court emphasizes that they must have access to land that is similar in quality and legal status to the land they previously occupied, and which allows them to meet their needs and ensure their future development. Where the populations concerned prefer to receive compensation in cash or in kind, such compensation must be granted to them, with appropriate guarantees.[717]

428. The State must refrain from any conduct that could expose people in the process of displacement to considerable risks that endanger their lives, physical integrity or dignity. To that end, it is essential to design and implement strategies to prevent possible risks in the transit routes; establish temporary shelters and safe resettlement zones; monitor and prevent human trafficking and train the personnel responsible for providing assistance and protection to displaced persons to prevent abuse of authority and other human rights violations.[718] In this context, States must also ensure that displaced persons receive, without discrimination, adequate humanitarian assistance and access to essential services, such as food, water, basic sanitation, medical and health care, and education. This assistance must be available, accessible, acceptable and of good quality, and should include mechanisms for priority assistance for people in situations of vulnerability. The State must also take the necessary steps to ensure respect for the family unit when human displacement or mobilization occurs; guarantee safe conditions for mobilization, as well as adequate standards of accommodation, and protect ownership rights over goods and property left behind in displacement processes.[719]

429. Relocations should only occur in exceptional circumstances, when they are unavoidable and necessary owing to the impossibility of maintaining human settlements in areas prone to danger and in order to preserve the life, integrity, and health of the populations concerned.[720] States have an obligation to establish an adequate legal framework governing planned relocation processes in accordance with international and regional human rights standards, defining the corresponding institutional responsibilities and establishing adequate mechanisms to provide comprehensive reparations to those affected. States also have an obligation to

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[716] *Cf.* Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari, A/HRC/4/18, February 4, 2007, Annex I, para. 41. Available at: https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines_sp.pdf.

[717] *Cf.* United Nations Declaration on the Rights of Indigenous Peoples, 2007, Article 10, and International Labour Organization (ILO), Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, 1989, Article 16.

[718] See also: United Nations General Assembly, Resolution 73/195, of January 11, 2019, "Global Compact for Safe, Orderly and Regular Migration," objectives 2, 7-9; Guiding Principles on Internal Displacement, Resolution 1997/39, Principles 3, 6, 7, 11, 12, 14, 24-27; Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Elisa Morgera, A/HRC/56/46, of July 24, 2024, para. 23, 47 and 52, and Report of the Special Rapporteur on human rights of internally displaced persons, Cecilia Jimenez-Damary, A/75/207, of July 21, 2020, para. 41.

[719] See, also: Written observations submitted by the International Organization for Migration (IOM), November 2023, pp. 12-13.

[720] *Cf.* Observations submitted by the United Nations Special Rapporteur for the human rights of internally displaced persons, p. 4.

guarantee the right of persons to return voluntarily to their place of origin,[721] provided that this is feasible and preserves the life, dignity and health of those concerned.[722] Furthermore, States must make available to displaced persons who are relocated or return to their place of origin mechanisms to enable them to recover the land, housing, property, and other possessions they had to leave behind.[723]

430. The Court emphasizes that effective protection of the human rights of populations on the move requires active cooperation between the various States. In this regard, it notes that the Cancun Adaptation Framework establishes the commitment to promote international cooperation in relation to processes of displacement, migration and planned resettlement caused by climate change.[724] Furthermore, the Sendai Framework for Disaster Risk Reduction calls on States to promote cross-border cooperation aimed at building resilience and reducing risks due to disasters.[725] Similarly, the Global Compact for Safe, Orderly and Regular Migration highlights the importance of promoting cooperation between neighboring countries, and with other interested countries, in order to prepare early warning mechanisms, contingency planning, storage, coordination, evacuation planning, agreements for reception and assistance of displaced persons, and public information.[726]

431. The Court emphasizes that the safe, orderly and regular management of migratory flows is a concern and shared responsibility of the international community.[727] Similarly, addressing cross-border human mobility in the context of the climate emergency requires the adoption of common strategies at the international and regional levels,[728] based on multilateralism and cooperation. The success of these strategies will depend on "mutual trust, determination and solidarity among States."[729] Accordingly, the Court points out that it is the international community´s responsibility

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721 See, also: Brief with observations presented by the United Nations Special Rapporteur on the human rights of internally displaced persons, pp. 8 and 9.

722 Regarding regulatory adaptation processes, the Constitutional Court of Colombia emphasized in Judgment T-123 the importance of developing a "comprehensive regulatory framework to address the phenomenon of internal forced displacement due to environmental factors". *Cf.* Report of the Special Rapporteur on the Human Rights of Migrants, Felipe González, A/77/189, July 19, 2022, para. 91; Constitutional Court of Colombia, Judgment No. T-123, April 16, 2024, para. 274; Nansen Initiative: "Agenda for the protection of persons displaced across borders in the context of disasters and climate change," 2015, pp. 42 and 43, and Guiding Principles on Internal Displacement, Resolution 1997/39, 1998, principles 7-9.

723 See, also: Brief with observations presented by the IOM, p. 13, and Sendai Framework for Disaster Risk Reduction 2015-2030, paras. 24 (d) and 33 (o), available at: https://www.unisdr.org/files/43291_spanishsendaiframeworkfordisasterri.pdf.

724 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, "The Cancun Agreements," Decision 1/CP.16, December 2010, paras. 13 and 14, available at: https://unfccc.int/resource/docs/2010/cop16/spa/07a01s.pdf.

725 *Cf.* Sendai Framework for Disaster Risk Reduction 2015-2030, para. 19 (a), available at: https://www.unisdr.org/files/43291_spanishsendaiframeworkfordisasterri.pdf. Also, see: Observations submitted by the UN Special Rapporteur on the human rights of internally displaced persons, p. 12.

726 *Cf.* United Nations General Assembly, Resolution 73/195, January 11, 2019, "Global Compact for Safe, Orderly and Regular Migration," objective 2 (j).

727 *Cf.* United Nations General Assembly, Resolution 73/195, January 11, 2019, "Global Compact for Safe, Orderly and Regular Migration," preamble, paras. 9, 11 and 12, and Nansen Initiative: "Agenda for the protection of persons displaced across borders in the context of disasters and climate change," 2015, p. 45.

728 During the public hearings on the Advisory Opinion and in their written observations, reference was made to the importance of the international community taking a collective approach to migration flows based on a "good neighbor" approach as part of the international obligation to cooperate at the international and regional levels. See written observations submitted by Professors Fornalé, Bilkova, Burgorhue-Larse, Cristiani, De Vido, Doebbler and Hertogen, pp. 41-50.

729 *Cf.* United Nations General Assembly, Resolution 73/195, January 11, 2019, "Global Compact for Safe, Orderly and Regular Migration," preamble and para. 14.

to establish and operationalize international funds which, consistent with the principles of equity, solidarity, and common but differentiated responsibilities, enable the most vulnerable countries to cope with human mobility generated by climate change.

432. In line with the aforementioned considerations, the Court emphasizes that, in order to protect, respect and guarantee the right to freedom of movement and residence, States must promote effective cooperation between local, national and regional stakeholders involved in the design and implementation of policies on climate-related mobility.[730] In particular, States must cooperate to: (i) strengthen bilateral and regional mechanisms and strategies to protect the human rights of people displaced by climate change; (ii) guarantee consular protection and humanitarian assistance to displaced persons caught up in crises in transit and destination countries; (iii) designate contact points for the families of missing migrants to access information, while protecting their privacy; (iv) recover, identify and repatriate the remains of deceased migrants, respecting the wishes of their families; (v) guarantee security and facilitate safe and regular cross-border mobility; (vi) establish technical assistance agreements to improve border management, including search, rescue and emergency response, and (vii) implement frameworks and agreements to ensure that the return and readmission of climate-displaced persons is carried out safely, with dignity and with respect for international human rights law.[731]

433. The Court considers that States must establish an appropriate regulatory framework that provides effective legal and/or administrative mechanisms at the domestic level to guarantee the legal and humanitarian protection of persons displaced across international borders due to the impacts of climate change. States must implement effective mechanisms to ensure humanitarian protection for these persons by establishing appropriate migration categories such as humanitarian visas, temporary residence permits,[732] and/or protection under refugee status or similar

730 *Cf.* Report of the Special Rapporteur on the Human Rights of Migrants, Felipe González, A/77/189, July 19, 2022, para. 91(c).

731 See, also: United Nations General Assembly, Resolution 73/195, January 11, 2019, "Global Compact for Safe, Orderly and Regular Migration," objective 2, para. 18(h), objective 7, para. 23(e), objective 8, para. 24 (f), objective 11, para. 26(a), objective 12, para. 27(c), and objective 21, para. 37(e), and Nansen Initiative: "Agenda for the Protection of Persons Displaced Across Borders in the Context of Disasters and Climate Change," 2015, pp. 22-45.

732 *Cf.* Written observations submitted by the United Nations Special Rapporteur on the human rights of internally displaced persons, pp. 10-11, and United Nations General Assembly, Resolution 73/195, of January 11,2019, "Global Compact for Safe, Orderly and Regular Migration", Objective 5 (h). According to the IOM, a good practice implemented by various countries in the region, such as Brazil, Ecuador, and Peru, has been to adopt measures to facilitate the regularization of migrants displaced by climate change by granting humanitarian visas or temporary residence permits. *Cf.* Written observations submitted by the International Organization for Migration (IOM), on November 2023, p. 23. on this point, the Court observes that Objective 5 of the Global Compact on Migration (GCM) stresses the importance of improving the options and pathways for a safe, orderly and regular migration, and also recommends temporarily admitting migrants who had to leave their country due to sudden disasters "as long as adaptation or return to their country of origin is not possible."

status,[733] which can provide them with protection against *refoulement*.[734] The Court points out that the measures indicated must be implemented without prejudice to the long-term solutions to be adopted within the framework of cooperation and the responsible and coordinated management of human mobility at the international level.

434. Finally, this Court recalls that migrant and displaced children are among the groups most vulnerable to the adverse effects of climate change, which can harm their physical and mental health and their access to education.[735] In view of this, the Court considers that in addition to the obligations regarding migrant children set forth in *Advisory Opinion OC-21/14*,[736] States have the duty to cooperate in designing and implementing national and regional policies and strategies to protect the rights of children in climate-related mobility processes. Such policies should take into account, where relevant, the *Guiding Principles for Children on the Move in the Context of Climate Change* developed by the IOM.[737]

*v. Water and Food*

435. The Court has recognized that the rights to water and food are protected under Article 26 of the American Convention.[738] Likewise, Article 12 of the Protocol of San Salvador enshrines the right to food.[739] In its case law, the Court has also referred to

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[733] *Cf.* Nansen Initiative: "Agenda for the protection of las personas displaced across borders in the context of disasters and climate change," of 2015, pp. 27-35. Chile Declaration and Plan of Action (2024-2034) adopted in the context of Cartagena +40, establishes as one of its recommendations "[e]stablish and strengthen legal frameworks for the protection of persons displaced in contexts of disasters or adverse effects of climate change, as well as comprehensive assistance policies and programs to address the specific needs of persons and groups in situations of vulnerability. See, Chile Declaration and Plan of Action (2024-2034), Cartagena +40, p.32, available at https://www.acnur.org/sites/default/files/2024-12/Declaracion-y-Plan-de-Accion-de-Chile-2024-2034.pdf.

[734] *Cf. Case of Teitiota v. New Zealand*, Communication No. 2728/2016, ruling of January 7, 2020, para. 9.3. The Human Rights Committee had recognized that "the obligation not to extradite, deport, expel or otherwise remove a person in in accordance with Article 6 of the Covenant is perhaps broader than the scope of the principle of *non-refoulement* under international refugee law, as it may also require the protection of foreigners who are not entitled to refugee status."

[735] *Cf.* Human Rights Council, "Human Rights and Climate Change", Resolution 35/20, A/HRC/RES/35/20, of July 7, 2017, preamble.

[736] *Cf. Advisory Opinion OC-21/14, supra,* para. 283.

[737] These principles require that States: (i) adopt a rights-based approach, which means guaranteeing that children who move in the context of climate change maintain all rights of children as enshrined in the Convention on the Rights of the Child; (ii) apply the principle of the best interest of the child in all decisions that directly or indirectly affect children on the move in the context of climate change; (iii) assume accountability for their decisions and actions that contribute to children's mobility in the context of climate change; (iv) guarantee the right of children to be informed, consulted and to participate in making decisions to move or stay in the context of climate change, in line with their age and maturity; (v) ensure that children who move in the context of climate change are cared for by their parents or caregivers and are not separated from them. If separation does occur, the State must ensure their temporary care and take all measures necessary to reunite children with their parents, relatives or caregivers; (vi) ensure children's access to health services and education at all stages of their journeys; (vii) ensure that children are treated based on the principle of non-discrimination, and (viii) adopt measures to ensure that children who are stateless obtain a nationality, which, in certain circumstances, may involve granting them the nationality of the receiving State. *See,* International Organization for Migration, "Guiding Principles for Children on the Move in the Context of Climate Change", available at: https://environmentalmigration.iom.int/sites/g/files/tmzbdl1411/files/documents/unicef-iom-global-insight-guiding-principles-for-children-on-the-move-in-the-context-of-climate-change-2022.pdf.

[738] *Cf. Case of Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v. Argentina, supra,* paras. 22 and 289.

[739] Article 12 of the Protocol of San Salvador establishes *inter alia that* "Everyone has the right to

the obligation to guarantee access to and the quality of water and food,[740] indicating that these factors have a significant impact on the right to a decent life and the basic conditions for the exercise of other human rights.[741] Access to water includes its use for personal and domestic purposes, such as "drinking, sanitation, laundry, food preparation and personal and household hygiene."[742] Regarding the right to food, the Court has stated that this essentially protects people's access to food that provides adequate nutrition and is suitable for maintaining health.[743] Access to water and food are obligations of progressive realization; however, States also have immediate obligations, such as ensuring these rights without discrimination and taking measures to achieve their full realization.[744]

436. The impact of changing rainfall patterns[745] and exceptionally high vulnerability to water stress in small island developing States and some regions of Latin America,[746] and the prediction that 52% of the world's population will experience severe water shortages by 2050,[747] pose a serious threat to the guarantee of this right. In written observations submitted to this Court, the Commission of Small Island States on Climate Change and International Law (hereinafter "COSIS") warns that the combined effects of increased intensity of tropical storms, severe droughts, rising sea levels, and decreased rainfall as a result of climate change are significantly impacting the water security of small island States.[748] According to the IPCC, the Caribbean region experienced a period of intense drought between 2013 and 2016. In this context, Puerto Rico experienced 80 consecutive weeks of moderate drought, 48 weeks of severe drought and 33 weeks of extreme drought.[749]

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adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development." *Cf.* Additional Protocol to American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"),1988, available at: https://www.oas.org/es/sadye/inclusion-social/Protocol-ssv/docs/Protocol-san-salvador-es.pdf

740 *Cf. Case of the Yakye Axa Indigenous Community v. Paraguay, supra*, para. 167, and *Case of the Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v. Argentina, supra,* paras. 210 a 230.

741 *Cf. Case of the Yakye Axa Indigenous Community v. Paraguay, supra*, para. 163 and *Advisory Opinion OC-23/17, supra*, para. 109.

742 *Cf. Case of the Xákmok Kásek Indigenous Community v. Paraguay, supra*, para. 195, and *Case of the Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v. Argentina, supra,* para. 226.

743 *Cf. Case of the Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v. Argentina, supra,* paras. 216.

744 *Cf. Advisory Opinion OC-23/17, supra*, para. 111.

745 *Cf.* Report of the then Special Rapporteur on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment, United Nations, David R. Boyd, A/74/161, July 15, 2019, para. 38.

746 For illustrative purposes, it should be noted that the organization *Mujeres Unidas en Defensa del Agua* (Women United in Defense of Water) reported in its observations to the Court that climate change has affected the water levels in Lake Titicaca (Peru-Bolivia). Also, in the observations submitted by the communities of La Gran Parada, El Rocío and the organization *Fuerza de Mujeres Wayuu* (Wayuu Women's Force) referred to the impacts of mining activities on access to water resources in La Guajira (Colombia). See: Brief with observations presented by *Mujeres Unidas en Defensa del Agua*: Lago Titicaca Peru-Bolivia, pp. 5-11 and Brief with observations presented by the communities of La Gran Parada, El Rocío and the *Fuerza de Mujeres Wayuu* organization, pp. 1-31.

747 *Cf.* UN-Habitat, "Understanding the scope of the water problem," March 22, 2021, available at: https://onuhabitat.org.mx/index.php/comprender-las-dimensiones-del-problema-del-agua.

748 *Cf.* Observations submitted by the Commission of Small Island States on Climate Change (COSIS) and International Law, paras. 45-50.

749 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 2045.

437. Similarly, the Court notes that the right to food is being impacted by changes in rainfall patterns, rising temperatures, extreme weather events, changes in sea ice, droughts, floods, algal blooms and freshwater salinization.[750] In particular, climate change is having a serious impact on the resilience of crops such as wheat, rice and corn.[751] Furthermore, in the oceans, acidification[752] and temperature changes affect fishing.[753] In the absence of adequate adaptation mechanisms, these negative effects are expected to continue to worsen with the increase of more extreme temperatures.

438. The United Nations Food and Agriculture Organization (FAO) has pointed out that "climate variability and extreme conditions are among the key factors behind the recent increase in hunger worldwide and are some of the main causes of serious food crises."[754] Around the world, 10% of current agricultural and livestock production areas are expected to become climatically unsuitable by 2050, and this figure could rise to 30% by 2100 if temperatures increase by between 3.3 and 5.7 °C. Even if warming is limited to 1.8 °C, 8% of the current food growing areas would become unsuitable for production.[755] Furthermore, the Court recalls that glacier retreat compromises the water sources generated by melting ice, which, in regions with low seasonal or annual rainfall, may account for a substantial part of the water flow available for agriculture, especially during dry years (*supra* para. 85).

439. The Court considers that, in order to prevent and mitigate the effects of the climate emergency on the rights to water and food, States must take into account the possible impacts on water and food security when evaluating environmental impact studies and any other decision concerning projects or activities that may cause the degradation of watersheds, aquifers and soils; or that otherwise threaten food and water sources that are essential to the subsistence of communities or population groups. In this context, the Court suggests consideration of aspects such as the "water

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750 *Cf.* Report of the then Special Rapporteur on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment, United Nations, David R. Boyd, A/74/161, July 15, 2019, para. 34.

751 *Cf.* Report of the then Special Rapporteur on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment, United Nations, David R. Boyd, A/74/161, July 15, 2019, para. 34.

752 According to the United Nations Office for Disaster Risk Reduction, "the direct consequences of disasters on marine life can have far-reaching effects, impacting the entire food chain and subsequently affecting human activities related to the ocean. These impacts include disruptions to food security through fisheries and aquaculture, damage to livelihoods, and threats to coastal protection, tourism and cultural heritage". *Cf.* United Nations Office for Disaster Risk Reduction, "Ocean Acidification," available at: https://www.undrr.org/understanding-disaster-risk/terminology/hips/mh0021.

753 *Cf.* United Nations Food and Agriculture Organization (FAO), "Climate Change and food security: risks and responses," 2015, pp. 8, 16 and 17.

754 *Cf.* FAO, IFAD, UNICEF, WFP and WHO, the "State of Food Security and Nutrition in the World 2018: Building climate resilience for food security and nutrition," 2018, p. xii, available at: https://openknowledge.fao.org/server/api/core/bitstreams/6e25cc6e-d527-4651-b781-11a6349ee80f/content.

755 Cf. Bezner Kerr, R., T. Hasegawa, R. Lasco, *et al.*, 2022: Food, Fibre, and Other Ecosystem Products. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 717.

footprint,"[756] ocean acidification,[757] integrated management of water resources, the resilience of water infrastructure and food systems[758] as well as food storage networks to ensure access to food in the context of climate disasters.[759]

440. The Court also stresses the importance of States in the region effective mechanisms for cooperation and exchange of sustainable technologies for water resource management and resilient agricultural production, as well as the management of shared watersheds.[760]

*vi. Work and Social Security*

441. The Court has held that the right to work is protected under Article 26 of the American Convention, as provided for in Articles 45(b) and (c), and 46 and 34(g) of the OAS Charter.[761] For its part, the Protocol of San Salvador also protects, in Articles

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[756] The "water footprint" is used to identify the total use of water required to produce products and services. *Cf.* UNESCO, "Water footprint and efficient management of water resources," available at: https://www.unesco.org/es/articles/huella-hidrica-y-gestion-eficiente-de-los-recursos-hidrico.

[757] *Cf.* IPCC, 2019: Summary for Policymakers. In: IPCC Special Report on the Ocean and Cryosphere in a Changing Climate [H.-O. Pörtner, D.C. Roberts, V. Masson-Delmotte, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 9, 12, 13, 18, 22, 24, and 27.

[758] *Good practices, guidelines and recommendations for integrated management of water resources, the resilience of water infrastructure and food systems.* See, UNESCO and UN-Water, "United Nations Global Report on the Development of Water Resources," 2020, pp. 34-77, available at: https://www.unesco.org/reports/wwdr/es/reports; UN-Water, "UN-Water Policy Report on climate change and water," 2019, pp. 16-18, available at: https://www.unwater.org/sites/default/files/app/uploads/2019/12/UN-Water_PolicyBrief_Water_Climate-Change_ES.pdf; UN-Water and UNDP, "Progress Report on Implementation of Integrated Water Resources Management Mid-term status of SDG Indicator 6.5.1 and acceleration needs, with a special focus on Climate Change", 2024, available at: https://unepdhi.org/wp-content/uploads/sites/2/2024/08/SDG_651_2024_Progress_Report_FINAL_20Aug_WEB.pdf, pp. 7-29, and Caretta, M.A., A. Mukherji, M. Arfanuzzaman, *et. al.*, 2022: Water. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 619-634.

[759] *Good practices, guidelines and recommendations to strengthen the resilience of water and food systems.* See: FAO, "Climate change and food security and nutrition. Latin America and the Caribbean (Policy guidelines)", 2016, pp. 22-27, available at: https://openknowledge.fao.org/server/api/core/bitstreams/2bb0c87c-bfcc-4d87-9ad7-e56a2530c622/content; Preliminary Report of the Special Rapporteur on the Right to Food, Hilal Elver, A/70/287, of August 5, 2015, para. 82-89; Report of the Special Rapporteur on the right to food, A/HRC/37/61, of 25 January 2018, para. 102-112, and F Mbow, C., C. Rosenzweig, L.G. Barioni, T.G. Benton, *et al.*, 2019: Food Security. In: Climate Change and Land: IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems [P.R. Shukla, J. Skea, E. Calvo Buendia, *et. al.*, (eds.)], pp. 492-507.

[760] *Cf.* UN Water, "Policy Report UN-Water on climate change and water", 2019, p. 19, available at: https://www.unwater.org/sites/default/files/app/uploads/2019/12/UN-Water_PolicyBrief_Water_Climate-Change_ES.pdf, and FAO, "Climate change and food security and nutrition. Latin America and the Caribbean (Policy guidelines)", 2016, p. 25, available at: https://openknowledge.fao.org/server/api/core/bitstreams/2bb0c87c-bfcc-4d87-9ad7-e56a2530c622/content

[761] *Cf. Case of Lagos del Campo v. Peru, supra*, paras. 142 and 145, and *Case of Aguinaga Aillón v. Ecuador, supra,* para. 97.

6,[762] 7,[763] and 9,[764] the rights to work, to fair, equitable and satisfactory working conditions, and to social security, respectively. In turn, Articles XIV[765] and XVI[766] of the American Declaration protect the rights to work and social security. Climate change may affect these rights in different ways. In the first place, although the measures adopted to mitigate climate change create job opportunities in emerging sectors,[767] this process may also lead to unemployment in sectors with high greenhouse gas (GHG) emissions, such as those based on fossil fuels.

442. On this point, the Court notes that in small island States, including some Caribbean States, economies and employment are particularly dependent on tourism, fishing and agriculture. These industries are threatened by biodiversity loss, coral bleaching, beach erosion and damage to coastal property and infrastructure, due to rising sea levels and extreme weather events such as tropical cyclones.[768] According to one estimate, in Dominica, Grenada, Guyana and Haiti, between 7 and 17 percent

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762 Article 6 of the Protocol of San Salvador establishes that: "Everyone has the right to work, which includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity […]." *Cf.* Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), 1988, available at: https://www.oas.org/es/sadye/inclusion-social/Protocol-ssv/docs/Protocol-san-salvador-es.pdf

763 Article 7 of the Protocol of San Salvador establishes that: "The right to work […] presupposes that everyone shall enjoy that right under just, equitable and satisfactory conditions, which the States Parties undertake to guarantee in their internal legislation national […]." *Cf.* Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), 1988, available at: https://www.oas.org/es/sadye/inclusion-social/Protocol-ssv/docs/Protocol-san-salvador-es.pdf

764 Article 9 of the Protocol of San Salvador establishes that: "Everyone shall have the right to social security protecting him from the consequences of old age and of disability which prevents him, physically or mentally, from securing the means for a dignified and decent existence. In the event of the death of a beneficiary, social security benefits shall be applied to his dependents […]." *Cf.* Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), 1988, available at: https://www.oas.org/es/sadye/inclusion-social/Protocol-ssv/docs/Protocol-san-salvador-es.pdf

765 Article XIV of the American Declaration of the Rights and Duties of Man establishes that: "Every person has the right to work, under proper conditions, and to follow his vocation freely, insofar as existing conditions of employment permit." It adds that "Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and for his family." *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

766 Article XVI of the American Declaration of the Rights and Duties of Man establishes that: "Every person has the right to social security which will protect him from the consequences of unemployment, old age, and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living." *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

767 Estimates by Oil Change International & Bank Climate indicate that "Decarbonization in Latin America does not need to come at the expense of employment and growth. By 2030, structural changes in production and consumption patterns could lead to 15 million net jobs in Latin America and the Caribbean." *Cf.* Observations presented by *Oil Change International & Bank Climate*, in the context of the public hearing held in Bridgetown, Barbados during the Court's 166th Regular Session.

768 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2067, 2095, 2096 and 2100, and Economic Commission for Latin America and the Caribbean (ECLAC), "The Economics of Climate Change in the Caribbean," LC/CR/L.299, 2011, pp. 28-38 and 92-93, available at: https://repositorio.cepal.org/server/api/core/bitstreams/69703e8c-fc31-40f9-96ff-168035f12eb9/content.

of annual GDP and 10 and 25 percent of jobs depend on the agricultural sector, which,[769] as already mentioned, will be profoundly affected by climate change.

443. Secondly, the impacts of climate change can also affect safety at work, especially for workers exposed to extreme weather events, such as heat waves. These conditions can also have a significant impact on labor productivity and lead to unemployment[770] in sectors such as fishing, agriculture and tourism, whose development will be restricted due to climate-related events.

444. The Court notes that the ILO has also confirmed the above consequences of climate change on the right to work. This organization has warned of significant negative consequences arising from climate change, especially in relation to extreme temperature increases. Such increases are associated with reduced labor productivity due to heat stress which,[771] according to the ILO, could result in the loss of 2.2% of total working time by 2030, equivalent to 80 million full-time jobs.[772]

445. Accordingly, the Court considers that States have an obligation to: (i) include provisions in their occupational safety and health regulations to prevent and avoid work and occupational risks related to climate change; (ii) design and implement strategies and policies to ensure decent working conditions, including, where appropriate, resources for sun protection and hydration, and (iii) establish effective mechanisms to protect workers who are particularly exposed to vector-borne tropical diseases that may be exacerbated in the context of the climate emergency.[773]

446. The ILO has emphasized that investment in adaptation measures can have a positive impact on job creation. In that regard, the Court considers that, as part of the strategies and policies to meet the challenges of the transition to sustainable economies and the impacts of climate change on employment, States should, among

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769 *Cf.* Food and Agriculture Organization of the United Nations (FAO) & Caribbean Development Bank. "Study on the State of Agriculture in the Caribbean," 2019, p. 5, available at: https://openknowledge.fao.org/server/api/core/bitstreams/9ce8da4a-c61f-4f4f-9a1a-14caee5d5471/content.

770 According to a statement at a public hearing by the Mexican Center for Environmental Law (CEMDA), *Healthy Reef for Healthy People* and the Inter-American Association for the Defense of the Environment (AIDA), in countries such as Mexico, Belize, Guatemala and Honduras, "fishing is the main source of employment, and this ecosystem service is valued at more than 183 million dollars annually. Moreover, these ecosystems generate millions of jobs in the region." For its part, the International Trade Union Confederation and the Trade Union Confederation of the Americas indicated that in the "transition to a low-carbon economy, jobs are changing," leading to the displacement of workers. Therefore, it emphasized the importance that the trade union movement provide "new tools and skills for these workers to prepare them for opportunities that will be available in the new green jobs." *Cf.* Observations presented by the Mexican Center for Environmental Law (CEMDA), *Healthy Reef for Healthy People* and the Inter-American Association for the Defense of the Environment (AIDA), as well as by the International Trade Union Confederation and the Trade Union Confederation of the Americas, in the context of a public hearing held in Bridgetown, Barbados during the Court's 166th Regular Session.

771 Heat stress occurs when the body is exposed to excessive heat above levels that can be tolerated without impairing physiological capabilities. *Cf.* Observations submitted by the International Lawyers Assisting Workers (ILAW) Network, p. 5.

772 *Cf.* International Labour Organization (ILO), "Climate action with jobs and a just transition for all, ILO message brief for COP27", p.1., available at: https://www.ilo.org/media/92706/download.

773 *See,* International Labour Organization (ILO), "Guidelines for a just transition towards environmentally sustainable economies and societies", 2015, para. 32 available at: https://www.ilo.org/es/media/435081/download, and "Report: Ensuring safety and health at work in a changing climate," 2024, pp. 17-54, 73-78 and 102-103, available at: https://www.ilo.org/sites/default/files/2024-07/ILO_SafeDay24_Report_r13_ES.pdf.

other measures:[774] (i) encourage the participation of employers' and workers' organizations, such as trade unions, in the definition and implementation of just transition policies; (ii) develop labor reintegration strategies and policies that include training and development of job skills and technical and professional knowledge compatible with the 'greening' of the economy; (iii) strengthen social security systems to ensure health services, income security, and social services capable of offsetting the effects of climate change and addressing the challenges inherent in the transition to environmentally sustainable economies;[775] (iv) establish adequate social security systems to address the challenges inherent in the transition to environmentally sustainable economies in terms of livelihoods, incomes and jobs, and (v) promote the creation and strengthening of cooperatives and associations in order to increase the economic security of farmers, fishermen, and small and medium-sized tourism businesses affected by climate change.

447. Finally, States should: (i) identify and record employment opportunities and challenges arising from the transition to increasingly sustainable economies and societies in line with their mitigation goals and strategies; (ii) design and implement strategies and programs focused on sectors in which a significant proportion of businesses and workers are informal, with the aim of promoting their incorporation into the formal economy through, for example, education, training and certification initiatives, so that they can enjoy better social coverage and to ensure a just transition;[776] (iii) design and implement job creation strategies compatible with efforts to advance toward sustainable development, particularly in key sectors for climate mitigation and adaptation such as agriculture, construction, recycling, tourism, technology and energy, among others; (iv) design and implement strategies and policies to achieve a just transition in the labor market and address the displacement of workers and potential job losses resulting from the transition to more sustainable economies or as a result of the effects of climate change on activities such as fishing, agriculture, and tourism, and (v) establish mechanisms to monitor and evaluate the implementation of such strategies, policies and incentives; and to facilitate access to justice for those who consider that their rights are threatened or have been violated in this context.[777]

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[774] See also, International Labour Organization (ILO), "Guidelines for a just transition towards environmentally sustainable economies and societies," 2015, paras. 21, 23, 25-30, and 32-35, available at: https://www.ilo.org/es/media/435081/download.

[775] Strengthening the social protection systems supposes, *inter alia,* preparing for new contingencies derived from or accentuated by climate change (such as the emergence of new diseases or greater deterioration in the physical integrity of certain workers due to increased exposure to extreme temperatures). It also means considering the decline in the living standards of retirees and pensioners, low-income families and the unemployed.

[776] In its written observations, the International Trade Union Confederation and the Trade Union Confederation of the Americas emphasized in its written observations that combating informal employment is a central pillar of efforts to achieve a just transition in the labor market. It warned that 47% of workers worldwide are not currently in formal employment and that 62% of the global workforce is employed in the informal economy. For its part, the International Lawyers Assisting Workers Network stressed the importance of strengthening freedom of association as a means of improving the defense of labor rights for agricultural workers, migrants, and workers in the informal economy. *Cf.* Brief with observations presented by the International Trade Union Confederation and the Trade Union Confederation of the Americas, pp. 4-5 and Brief with observations presented by International Lawyers Assisting Workers, p. 67. See, also: International Labour Organization (ILO), "Guidelines for a just transition towards environmentally sustainable economies and societies", 2015, paras. 33 (c) and 35 (b), available at: https://www.ilo.org/es/media/435081/download.

[777] See, also: Report of the Conference of the Parties serving as the meeting of Parties to the Paris

*vii. Culture*

448. The Court has recognized that the right to participate in cultural life is protected under Article 26 of the American Convention,[778] in accordance with Articles 30, 45(f), 47 and 48 of the OAS Charter. In turn, the right to the benefits of culture is enshrined in Articles 14 of the Protocol of San Salvador[779] and XIII of the American Declaration.[780] The right to culture protects the distinctive features that characterize a social group, without denying its historical, dynamic, and evolutionary nature.[781]

449. The Court points out that extreme weather events and rising sea levels threaten the right to participate in cultural life due to the destruction of places of cultural significance and involuntary displacement. According to UNESCO, of the 318 cities that are World Heritage Sites, almost one-third are coastal and are affected by climate change.[782] The Court notes that, in small island States, tangible cultural heritage, such as archaeological sites, buildings, historic sites, and ancestral tombs (as in Monkey River Village, Belize),[783] are often located in coastal areas and are therefore vulnerable to the effects of sea level rise and extreme weather events.[784]

450. The Court also observes that the damage and destruction of culture and cultural heritage caused by climate change can especially affect Indigenous Peoples and local

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Agreement in its fifth session, held in the United Arab Emirates from November 30-December 13 2023, "United Arab Emirates Just Transition Work Programme", FCCC/PA/CMA/2023/16/Add.1, Resolution 3/CMA.5, March 15, 2024, p. 34, and International Labour Organization (ILO), "Guidelines for a just transition towards environmentally sustainable economies and societies", 2015, paras. 18-20 and 26, available at: https://www.ilo.org/es/media/435081/download.

778 *Cf. Case of the Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v. Argentina, supra,* paras. 231 to 242, and *Case of the Quilombola Communities of Alcântara v. Brazil, supra*, para. 225.

779 Article 14 of the Protocol of San Salvador establishes that: "[t]he States Parties to this Protocol recognize the right of everyone: a) to take part in the cultural and artistic life of the community; b) to enjoy the benefits of scientific and technological progress; c) to benefit from the protection of moral and material interests […]." *Cf.* Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador") 1988, available at: https://www.oas.org/es/sadye/inclusion-social/Protocol-ssv/docs/Protocol-san-salvador-es.pdf

780 Article XIII of the American Declaration of the Rights and Duties of Man establishes that: "Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits that result from intellectual progress, especially scientific discoveries." *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

781 *Cf. Case of the Indigenous Communities Members of the Lhaka Honhat (Our Land) Association v. Argentina, supra,* para. 240, and *Case of the Quilombola Communities of Alcântara v. Brazil, supra,* para. 231.

782 *Cf.* UNESCO, "Culture and Climate Change," available at: https://www.unesco.org/en/climate-change/culture.

783 *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2068-2069.

784 According to the Commission of Small Island States on Climate Change and International Law, on the Grenadian island of Carriacou, for example, rising sea levels threaten archaeological sites of great cultural and historical importance. Other tangible cultural and patrimonial losses on these small islands include buildings and places declared World Heritage sites by UNESCO, which could also affect the tourism sectors of these islands and therefore have a significant impact on some small islands with relatively limited economies. Brief with observations presented by the Commission of Small Island States on Climate Change and International Law, paras. 61-62. See also: Report of the Special Rapporteur on cultural rights, A/75/298, of August 10, 2020, para. 3.

communities because of their close relationship with the land and water. In particular, it can impair the right of Indigenous Peoples to participate in cultural life, including, among other things, the ability to maintain and strengthen their cultural relationship with their land and territory when this has a spiritual or religious significance that is an integral part of their cultural identity.[785] The Court notes that these impacts were mentioned in numerous observations received by the Court.[786]

451. This Court considers that States have specific duties in the context of the climate emergency to protect the right to culture. In particular, the Court considers that States should take into account the following points in their climate adaptation plans: (i) measures for the protection, conservation, and enhancement of natural and cultural heritage; (ii) the effects of climate disasters on cultural, archaeological and natural sites; (iii) the importance of involving local communities, indigenous and tribal peoples, as well as heritage managers in the design and implementation of strategies designed for their protection, and (iv) the essential value of scientific and technical research to improve intervention methods to address the dangers posed by the climate emergency for cultural and natural heritage, including practices based on traditional knowledge.[787]

452. Likewise, States have an obligation to refrain from adopting and implementing climate mitigation or adaptation measures that may affect cultural and natural heritage. Furthermore, States must take all necessary measures to protect, conserve, and rehabilitate heritage affected in the context of the climate emergency.

*viii. Education*

453. The Court has recognized the right to education under Article 26 of the American Convention, pursuant to Article 49 of the OAS Charter and Article 13 of the

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785 *Cf. Case of the U'wa Indigenous Peoples and their Members v. Colombia, supra*, para. 271.

786 The observations submitted by the communities of La Gran Parada, El Rocío and the women's organization *Fuerza de Mujeres Wayuu* (La Guajira, Colombia) stated that "the cultural and spiritual impact on the people occurs when our plants, our water sources, our traditional medicine, our grazing lands, our places of production, or our seasonal food crops are affected." Similarly, the Wiwa and Kankuamo peoples of the Sierra Nevada de Santa Marta (Colombia) reported that mining concession applications, illegal mining, and illegal gold tourism, among other factors, "threaten the existence of our peoples and disrupt the ecosystem balance of the Sierra," which degrades "the traditions and identity of its inhabitants and destroys the ancestral order of the territory." *Cf.* Brief with observations presented by the communities of La Gran Parada, El Rocío and the organization *Fuerzas de Mujeres Wayuu*, p. 7. Also, observations of the Wiwa and Kankuamo Peoples of Sierra Nevada de Santa Marta, p. 11.

787 *Good practices, guidelines and recommendations for protecting cultural heritage from the impacts of the climate emergency.* See: UNESCO, Convention concerning the Protection of the World Cultural and Natural Heritage, 1972, Articles 4 and 5, available at: https://whc.unesco.org/archive/convention-es.pdf; "Strategy for Reducing Risks from Disasters at World Heritage Properties", WHC-07/31.COM/7.2, May 10, 2007, paras. 7-11; "Managing Disaster Risks for World Heritage," 2014, Annex 3, available at: https://unesdoc.unesco.org/ark:/48223/pf0000228134/PDF/228134spa.pdf.multi; "Climate Change Adaptation for Natural World Heritage Sites," 2015, pp. 23-65, available at: https://whc.unesco.org/fr/documents/138053, and "Updated Policy document on climate action focused on World Heritage," WHC/23/24.GA/INF.8, November 14, 2023, paras. 40-69, available at: https://whc.unesco.org/document/203725.

Protocol of San Salvador.[788] This right is also enshrined in Article XII[789] of the American Declaration. The Court has also emphasized that, as indicated by the ESCR Committee, education is an "an intrinsic human right and an indispensable means of realizing other human rights," the guarantee of which requires ensuring that four essential and interrelated criteria are met at all levels of education: i) availability, ii) accessibility, iii) acceptability and iv) adaptability.[790] The Court has indicated that among the special measures for the protection of children and the rights recognized for them in Article 19 of the American Convention, the right to education figures prominently, as it increases their possibilities of enjoying a dignified life and contributes to preventing situations that are unfavorable for children and society itself.[791]

454. The Court notes that climate change has a direct impact on the enjoyment of the right to education due to the repercussions caused by the increased frequency and intensity of extreme weather events such as cyclones, floods, droughts, heat waves and forest fires on school attendance, academic performance, and educational infrastructure.[792]

455. Furthermore, climate change also has an indirect impact on the enjoyment of the right to education due to its impact on food security, livelihoods, air pollution, water, health and energy.[793]

456. Therefore, in order to protect the right to education, States have specific obligations to: (i) strengthen the resilience of educational infrastructure at all levels - elementary, intermediate and university - regarding the impacts of climate change; (ii) ensure continuity of learning in the face of climate risks and disasters, and (iii)

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788 *Cf. Case of the Girls Yean and Bosico v. Dominican Republic*. Judgment of September 8, 2005. Series C No. 130, para. 185, and *Case of Adolescents held in Provisional Detention and Internment Centers of the National Service for Minors (SENAME) v. Chile. Merits, reparations and costs*. Judgment of November 20, 2024. Series C No. 547, para. 160.

789 Article XII of the American Declaration of the Rights and Duties of Man establishes that: "Every person has the right to an education, which should be based on the principles of liberty, morality and human solidarity. Likewise, every person has the right to an education that will prepare him to attain a decent life, to raise his standard of living and to be a useful member of society […]". *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

790 *Cf.* ESCR Committee, General Comment No. 13, "The right to education (Article 13 of the Covenant)", E/C.12/1999/10, December 8, 1999, of paras. 1 and 6, available at: https://docs.un.org/es/E/C.12/1999/10. *See, Case of Gonzales Lluy et al. v. Ecuador. Preliminary objections, merits, reparations and costs*. Judgment of September 1, 2015. Series C No. 298, para. 235, and *Case of Adolescents held in Provisional Detention and Internment Centers of the National Service for Minors (SENAME) v. Chile; v. Chile, supra,* para. 163.

791 *Cf. Advisory Opinion OC-17/02, supra*, para. 84, and *Case of Adolescents held in Provisional Detention and Internment Centers of the National Service for Minors (SENAME) v. Chile, supra*, para. 164.

792 *Cf.* UNICEF, "Education systems: a victim and a key to the climate crisis. The complexity of the climate crisis impacts on the education sector", available at: https://www.unicef.org/eap/stories/education-systems-victim-and-key-climate-crisis, and World Bank, "The impact of climate change on education and what can be done about it," 2024, pp. 5-16. Also, according to Argentina's Ombudsman for Children and Adolescents, children and adolescents living closest to areas exposed to fires have seen "their schooling, recreational activities, play, and leisure time affected." See: Observations of the Ombudsman for Children and Adolescents of Argentina, p. 11.

793 Among the indirect impacts of climate change on education are: the inability of parents to pay education costs, migration, psychological stress, effects on the health of teaching staff and students, absenteeism, and having to support the family in providing means of subsistence *inter alia. Cf.* UNICEF, "Education systems: a victim and a key to the climate crisis. The complexity of the climate crisis impacts on the education sector," available at: https://www.unicef.org/eap/stories/education-systems-victim-and-key-climate-crisis

include strategies and mechanisms for responding to and dealing with climate disasters in training plans for students and teachers.[794]

457. Similarly, the Court highlights the importance of: (i) integrating climate change education into school curricula at all levels to raise awareness about the causes and risks of climate change and the mitigation and adaptation measures needed to address it, and (ii) designing and implementing campaigns through social media networks and the media to raise awareness among the population regarding the measures that can be taken at the national, local, community, family and individual levels to mitigate the causes and effects of the climate emergency and promote sustainable development.[795]

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

458. Respect for and guarantee of procedural rights is an essential requirement to ensure the legitimacy and effectiveness of climate action in the face of significant challenges arising from the climate emergency and the complexity of the decisions that States must take to address it.

459. In this section, the Court will first refer, from a general perspective, to (C.1) democracy and procedural rights in the context of the climate emergency. It will then address the interpretation of each of the procedural rights. On this occasion, given the specific nature and context of the climate emergency, the Court will refer to procedural rights in addition to those traditionally addressed in its case law.[796] Thus, the Court will analyze the scope of state obligations in relation to: (C.2) the right to science and the recognition of local, traditional and indigenous knowledge; (C.3) access to information; (C.4) political participation; (C.5) access to justice, and (C.6) the right to defend human rights.

#### *C.1. Democracy and Procedural Rights in the Context of Climate Emergency*

460. The Court has established that the interdependence between democracy, the rule of law, and the protection of human rights is the basis of the entire system of

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[794] *Good practices, guidelines and recommendations to build climate resilience in education* See, Report of the Special Rapporteur on the Right to Education, Farida Shaheed, A/HRC/53/27, June 27, 2023, paras. 66, 91 and 102; UNESCO, "Education for Sustainable Development: Road Map", 2020, pp. 25-34, available at: https://unesdoc.unesco.org/ark:/48223/pf0000374896; Dodman, D., B. Hayward, M. Pelling, *et al.*, 2022: Cities, Settlements and Key Infrastructure. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 946-947, and World Bank, "The impact of climate change on education and what can be done about it," 2024, pp. 18-28

[795] *Good practices, guidelines and recommendations to build resilience in climate education* See, Dodman, D., B. Hayward, M. Pelling, *et al.*, 2022: Cities, Settlements and Key Infrastructure. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 946-947, and UNESCO, "Education for Sustainable Development: a Road Map," 2020, pp. 25-34, and 42-44, available at: https://unesdoc.unesco.org/ark:/48223/pf0000374896;

[796] In Advisory Opinion OC-23/17 the Court identified the following as procedural rights in environmental matters: access to information, participation, and access to justice. *Cf. Advisory Opinion OC-23/17*, *supra*, paras. 211 and 212.

which the Convention forms part.[797] The democratic principle that permeates the Convention and, in general, the Inter-American System, has been enshrined in the Inter-American Democratic Charter. This legal instrument is an authentic interpretation of the treaties to which it refers, since it reflects the interpretation that the OAS Member States themselves, including the State Parties to the Convention, make of the rules relating to democracy, both in the OAS Charter and the Convention.[798] Under the terms of the Democratic Charter, "the effective exercise of representative democracy is the basis of the rule of law and the constitutional systems of the Member States of the [OAS]."[799] Likewise, Article XX of the American Declaration establishes the right to vote and to participate in government.[800] The Court considers that, in line with the founding documents of the Inter-American System, it is within the framework of the democratic rule of law that these three elements are consolidated and articulated.

461. The connection between democracy, the rule of law and human rights is becoming increasingly relevant in the face of the climate emergency.[801] Indeed, as noted previously, climate impacts such as increasing food insecurity, economic decline, migration, water scarcity and extreme weather events also pose a major challenge for democracy. This challenge is exacerbated in a context whereby democracies are becoming weaker and citizens' trust in elected officials, institutions and experts is declining.[802] As a threat multiplier, climate change also aggravates the underlying factors of conflict, puts pressure on public budgets, widens resource inequalities and increases political and social tensions.[803]

462. The Court emphasizes that, according to the Inter-American Democratic Charter, "the exercise of democracy facilitates the preservation and proper management of the environment."[804] Precisely for this reason, the response to the

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797 *Cf. Mutatis mutandis, the expression "Laws" in Article 30 of the American Convention on Human Rights. Advisory Opinion OC-6/86 of May 9, 1986*. Series A No. 6, para. 34 and *Advisory Opinion OC-28/21*, *supra*, para. 46.

798 *Cf. Case of San Miguel Sosa et al. v. Venezuela. Merits, reparations and costs*, *supra*, para. 114, and *Case of Members and Militants of the Patriotic Union v. Colombia. Preliminary objections, merits, reparations and costs.* Judgment of July 27, 2022. Series C. No. 455, para. 306.

799 *Cf. Case of San Miguel Sosa et al. v. Venezuela*, *supra*, para. 114, and *Case of Members and Militants of the Patriotic Union v. Colombia*, *supra*, para. 307.

800 Article XX of the American Declaration of the Rights and Duties of Man states that: "Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free." *Cf.* American Declaration of the Rights and Duties of Man, of 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

801 For example, the European Court of Human Rights has noted that "to a large extent, measures to combat climate change and its adverse effects require legislative action, both in terms of the regulatory framework and in various sectoral areas. In a democracy […] such action necessarily depends on democratic decision-making." See also *Cf.* ECtHR [GS], *Case of Verein KlimaSeniorinnen Schweiz et al. v. Switzerland*, No. 53600/20, April 9, 2024, para. 411.

802 See also, the Committee on Political Affairs and Democracy, Council of Europe, Report No. 15048 "More participatory democracy to tackle climate change", 2021.

803 *Cf.* Secretary General of the Organization of American States. Report on "Climate change: Life, democracy, freedom, justice, equality," 2022, p. 32. Some specific impacts of climate change that are related to increased political instability, violent conflict resolution, and the generation of large-scale conflicts are: the scarcity of key resources (such as water, food, land, and other natural resources); the impact on livelihoods—due to losses in crop yields, the destruction of natural resources, homes, and property, among others—culture, and identity; increased displacement and migration, which can contribute to political instability and the violent outcome of conflicts. See: United Nations Environment Programme (UNEP). "Climate Change and Human Rights," 2015, pp. 7-8.

804 *Cf. Advisory Opinion OC-23/17*, supra, para. 53.

climate emergency requires efforts to strengthen the democratic rule of law and its constituent elements. Thus, the Court highlights the importance of citizen participation with regard to decisions made in this context. The Court recalls that, under Article 34 of the OAS Charter, Member States commit to "the full participation of their peoples in decisions affecting their own development." In turn, the Inter-American Democratic Charter states that "it is the right and responsibility of all citizens to participate in decisions relating to their own development" and "it is also a necessary condition for the full and effective exercise of democracy," which "is strengthened and deepened by permanent, ethical and responsible participation of the citizenry within a legal framework conforming to the respective constitutional order."[805]

463. Parallel to these notable developments within the Inter-American system, States have also made similar pronouncements in other international instruments. For example, principle 10 of the Rio Declaration indicates that the best way to solve environmental problems is through broad public participation, adequate access to environmental information, and effective access to judicial and administrative procedures.[806] This principle, known as Environmental Democracy, refers specifically to the need to ensure rights of access to information, participation and justice in any process leading to environmental decision-making. In this context, participation must be guaranteed under conditions of equity and proportionality. It must also be meaningful, so that it contributes to informed and reliable decisions that are compatible with the general interest.

464. In line with the principle of environmental democracy, on April 22, 2021, the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (also known as the "Escazú Agreement") entered into force.[807] This instrument, which is binding on the State Parties, states in its preamble that the commitments set forth therein are based on the conviction that "access rights contribute to the strengthening of*, inter alia*, democracy, sustainable development and human rights." From this perspective, the treaty seeks to contribute "to the protection of the right of every person of present and future generations to live in a healthy environment and to sustainable development."[808]

465. The importance of procedural or access rights has also been highlighted in relation to climate change. The UNFCCC considers these rights to be catalysts for effective climate action, capable of enhancing the fulfillment of States' substantive obligations.[809] Similarly, the Paris Agreement affirms "the importance of education, training, public awareness and participation, public access to information and cooperation at all levels on the issues covered by this Agreement," and establishes the

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805 *Cf.* Inter-American Democratic Charter, September 11, 2001, Articles 2 and 6.

806 *Cf. Case of Baraona Bray v. Chile*, supra, para. 98

807 The Escazú Agreement has been signed by 24 Latin American and Caribbean countries, as of the time of adoption of this Advisory Opinion, and has 16 States Parties, namely: Antigua and Barbuda, Argentina, Belize, Bolivia, Chile, Colombia, Ecuador, Granada, Guyana, Mexico, Nicaragua, Panama, St. Vincent and the Grenadines, St. Kitts and Nevis, St. Lucia and Uruguay.

808 *Cf.* Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), March 4, 2018, preamble, Article 1, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

809 Also, see: IACHR and REDESCA, Resolution No.3/2021 "Climate emergency: Scope of Inter-American Human Rights Obligations," December 31, 2021, para. 32.

obligation of State Parties to take measures "to improve education, training, public awareness and participation, as well as public access to information on climate change."[810]

466. Likewise, Goal 16 of the 2030 Agenda for Sustainable Development refers to the promotion of peaceful and inclusive societies for sustainable development.[811] In this regard, it emphasizes the need to ensure equal access to justice for all, create effective, transparent and accountable institutions at all levels, ensure inclusive, participatory, and representative decision-making at all levels that responds to needs, guarantee public access to information, and promote and enforce non-discriminatory laws and policies in favor of sustainable development.

467. Based on the foregoing, the Court considers it important to highlight the essential nature of measures aimed at strengthening the democratic rule of law as a framework for the protection of all human rights against threats arising from the climate emergency. In this context, moreover, the strengthening of democracy is vital to ensuring the legitimacy of state decisions and the effectiveness of public action.[812]

468. The Court also stresses the importance of ensuring that, in the context of the climate emergency, decisions are made in a participatory, open and inclusive manner. In this way, it seeks to ensure that such decisions result in the protection of the environment and human rights, through progress toward sustainable development.[813] For this reason, it is essential that States ensure the full enforcement of procedural rights, under a standard of enhanced due diligence. This standard implies not only the regulatory consolidation of these rights but also the strengthening of the State's technical and legal capacity to guarantee the broadest and most effective involvement of citizens in the response to the climate emergency.[814]

469. To this end, among other measures, States are called upon to (i) promote climate action for empowerment[815] 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

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[810] *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, preamble and Article 12, available at: https://unfccc.int/sites/default/files/spanish_paris_agreement.pdf.

[811] *Cf.* United Nations General Assembly, Resolution A/RES/70/1, "Transforming our world: Agenda 2030 for Sustainable Development," September 25, 2015, objective 16. Available at: https://docs.un.org/es/A/RES/70/1.

[812] *Cf. Case of Baraona Bray v. Chile*, *supra*, para. 100.

[813] *Cf.* Economic Commission for Latin America and the Caribbean (ECLAC), based on J. Harman, "The relationship between good governance and environmental compliance and enforcement." Document presented at the Seventh International Conference on Environmental Compliance and Enforcement, International Network for Environmental Compliance and Enforcement(INECE), Washington, D.C., April 9-15, 2005; in: ECLAC, *Access to information, participation and justice in environmental matters in Latin America and the Caribbean*: *towards the Achievement of Agenda 2030 for Sustainable Development*, 2018, p. 15.

[814] *Cf.* IACHR and REDESCA, Resolution No.3/2021 "Climate Emergency: Scope of Inter-American Human Rights Obligations," December 31, 2021, para. 38.

[815] *Cf.* United Nations Framework Convention on Climate Change, of 1992, Article 6, https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf, and Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, Article 12, available at: https://unfccc.int/sites/default/files/spanish_paris_agreement.pdf.

environmental governance systems;[816] (ii) facilitate dialogue, through open channels of participation at all stages of planning, implementation and monitoring of climate-related policies and programs;[817] (iii) ensure environmental auditing, reporting and other mechanisms of transparency, ethics and integrity to prevent and combat corruption in environmental management.[818] Finally, and in relation to the right to a healthy climate, (iv) promote mechanisms to integrate the interests of nature[819] and future generations[820] in their climate actions.

470. Without prejudice to these general considerations, the Court will now specify the content and scope of procedural rights in the context of the climate emergency, based on the instruments of the Inter-American system.

*C.2. The Right to science and to the Recognition of Local, Traditional and Indigenous Knowledge.*

471. The Court points out that the right to science is protected by various instruments of the Inter-American system:[821] Article XIII of the American Declaration of the Rights and Duties of Man recognizes the right to "enjoy the benefits resulting from intellectual progress and especially from scientific discoveries."[822] Likewise, Article 14(2) of the Protocol of San Salvador provides for the right to enjoy the benefits of scientific and technological progress.[823] Furthermore, Articles 38, 47 and 51 of the OAS Charter establish the commitment of the State Parties to: a) "disseminate among themselves the benefits of science and technology;" b) "stimulate […] education, science, technology and culture," and c) "promote science and technology through teaching, research and technological development activities, and dissemination and

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816 *Cf.* World Declaration on the Environmental Rule of Law, adopted by the International Union for the Conservation of Nature (IUCN) in 2016, p. 5.

817 *Cf.* Report of the then Special Rapporteur on the right to development, "Climate action at national level", A/HRC/48/56, July 2, 2021 para. 104, and Report of the then Special Rapporteur on the promotion and protection of human rights in the context climate change, Ian Fry, "Promotion and protection of human rights in the context climate change", A/77/226, July 26, 2022, paras. 76 and 81.

818 *Cf.* World Declaration on the Environmental Rule of Law, adopted by the International Union for the Conservation of Nature (IUCN) in 2016, p. 3

819 *Cf.* Also, see: Report of the Special Rapporteur on the Right to Development, Surya Deva, Climate Justice: Loss and Damage, A/79/168, July 17, 2024, para. 33(d).

820 *Cf.* Report of the Special Rapporteur on the Right to the Development, Surya Deva, on the "Right to development of children and future generations," A/HRC/57/43, of July 24, 2024, paras. 83 and 84, and Report of the Special Rapporteur on the Right to Development, Surya Deva, on Climate Justice: Loss and Damage, A/79/168, July 17, 2024, para. 33(b).

821 Regarding the importance of recognition of the right to science in the inter-American system see: Report of the Special Rapporteur on the human rights implications of environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana. "The right to science in the context of the hazardous substances," A/HRC/48/61, July 26, 2021, para. 32.

822 Article XIII of the American Declaration of the Rights and Duties of Man provides that: "Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits that result from intellectual progress and especially scientific discoveries." *Cf.* American Declaration of the Rights and Duties of Man, of 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

823 *Cf.* Article 14(2) of the Protocol of San Salvador establishes that: "The steps to be taken by the States Parties to this Protocol to ensure the full exercise of this right shall include those necessary for the conservation, development and dissemination of science, culture and art." *Cf.* Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), 1988, available at: https://www.oas.org/es/sadye/inclusion-social/protocolo-ssv/docs/protocolo-san-salvador-es.pdf. See also, Report of the Special Rapporteur on cultural rights, Farida Shaheed. "Right to enjoy the benefits of scientific progress and its applications", A/HRC/20/26, of May 14, 2012, para. 27.

outreach programs […] and substantially expand the exchange of knowledge." The Court considers that Articles 38, 47 and 51 of the OAS Charter contain a sufficiently specific reference to infer from them the existence of a right to science, which is therefore protected by the American Convention under Article 26.

472. The Court further notes that the ICESCR establishes the right of everyone to "enjoy the benefits of scientific progress."[824] According to General Comment No. 25 of the ESCR Committee, this right includes the prerogative to participate in scientific progress and to enjoy its benefits, without discrimination. These prerogatives entail not only negative obligations but also positive ones.[825] The same treaty body has emphasized that the effective enjoyment of this right implies satisfying substantial elements of availability, accessibility, quality and acceptability. Availability[826] refers to the State's obligation to produce scientific progress and to protect and widely disseminate scientific knowledge and its applications. Accessibility[827] requires that all persons, without discrimination, have access to scientific progress and its applications. For its part, quality[828] means that scientific knowledge must be the most advanced, up-to-date, generally accepted, and verifiable available at the time. Finally, acceptability[829] implies that States must strive to ensure that science is explained and its applications disseminated in such a way as to facilitate its acceptance in different cultural and social contexts, provided that this does not affect its integrity and quality.[830]

473. In line with the above, the Court emphasizes that the right to science includes

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[824] *Cf.* International Covenant on Economic, Social and Cultural Rights, Article 15.1.b., available at: https://www.un.org/es/about-us/universal-declaration-of-human-rights.

[825] *Cf.* ESCR Committee, General Comment No. 25 (2020), on "Science and economic, social and cultural rights (Article 15, paragraphs 1 b), 2, 3 and 4 of the International Covenant on Economic, Social and Cultural Rights, E/C.12/GC/25, April 30, 2020, para. 11, available at: https://docs.un.org/es/E/C.12/GC/25.

[826] The ESCR Committee has stated that availability implies that scientific progress really occurs and that its knowledge and applications are protected and widely disseminated. States should allocate resources and coordinate efforts to ensure that science and its benefits reach everyone, especially vulnerable groups. This requires dissemination tools (libraries, museums, Internet), research infrastructure with resources sufficient resources and adequate financing for scientific education. Moreover, States should promote open science and the publication in open code, ensuring public access to the results and data of investigations financed with State funds.

[827] The ESCR Committee has stated that accessibility has three key aspects: (i) guarantee equitable access to scientific applications, especially when they are essential to other rights; (ii) allow non-discriminatory access to information on the risks and benefits of science and technology; and (iii) ensure inclusive participation in scientific progress. To this end, States must remove discriminatory barriers, for example by facilitating access to scientific education for marginalized groups.

[828] The ESCR Committee has pointed out that quality encompasses both scientific creation and access to its applications and benefits. It also implies adequate regulation and certification to ensure the ethical and responsible development and use of science. States must rely on widely accepted scientific knowledge and engage in dialogue with the scientific community to regulate and certify new applications before they are made available to the public.

[829] The ESCR Committee has stated that scientific education and technological advances must be adapted to the needs of people with disabilities. At the same time, acceptability requires that scientific research respect ethical standards of integrity and human dignity, such as those established in the Universal Declaration on Bioethics and Human Rights. This involves maximizing benefits and minimizing risks with adequate safeguards, ensuring free and informed consent, respecting privacy, and protecting vulnerable groups from discrimination, while always taking into account cultural diversity and pluralism.

[830] *Cf.* See, ESCR Committee, General Comment No. 25 (2020), on "Science and economic, social and cultural rights (Article 15, paragraphs 1 b), 2, 3 and 4 of the International Covenant on Economic, Social and Cultural Rights" E/C.12/GC/25, April 30, 2020, paras. 16-20, available at: https://docs.un.org/es/E/C.12/GC/25.

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. To that extent, the Court stresses that, although the right to science has a substantive dimension, in the context of environmental protection and, specifically, of the climate emergency, it can also be considered a procedural right. Indeed, this right constitutes an essential means for effective access to fundamental rights, including the capacity to meet "the needs common to all humanity" and to address possible "adverse consequences for integrity, dignity and the human rights of the individual,"[831] as well as one of the objective bases for public decision-making.

474. In developing the right to science, States must: (i) provide science education and report on major scientific discoveries and their applications, regardless of borders;[832] (ii) ensure an environment conducive to the preservation, development and dissemination of science and technology;[833] (iii) promote participation in science,[834] including the right to acquire a scientific culture, access to scientific professions, opportunities to contribute to scientific progress and participate in science-related policy decisions; (iv) encourage the development of science in relation to key aspects of the climate emergency;[835] (v) ensure that the benefits of science are physically available and are economically affordable without discrimination,[836] and (vi) ensure that technological innovation measures are not applied in a way that affects the most vulnerable individuals and groups.[837]

475. The Court further notes that, in order to be effective, the right to science entails a significant commitment from States in terms of international cooperation, particularly with regard to technology transfer (*supra* para. 264). In this regard, the Court recalls that, in accordance with the OAS Charter, States must "disseminate among themselves the benefits of science and technology" and "substantially expand the exchange of knowledge."[838]

476. The Court also points out that scientific knowledge coexists with other forms of knowledge, such as local, traditional and indigenous knowledge. Traditional or

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831 *Cf.* Report of the Special Rapporteur on Cultural Rights, Farida Shaheed. "Right to enjoy the benefits of scientific progress and its applications". A/HRC/20/26, May 14, 2012, para. 2.

832 *Cf.* Report of the Special Rapporteur on Cultural Rights, Farida Shaheed. "Right to enjoy the benefits of scientific progress and its applications", A/HRC/20/26, May 14, 2012, para. 27.

833 *Cf.* Report of the Special Rapporteur on Cultural Rights, Alexandra Xanthaki, "Right to participate in science," A/HRC/55/44, February 21, 2024, para. 6.

834 ESCR Committee, General Comment No. 25 (2020), on "Science and economic, social and cultural rights (Article 15, paragraphs 1 b), 2, 3 and 4 of the International Covenant on Economic, Social and Cultural Rights," E/C.12/GC/25, April 30, 2020, paras. 53-55, available at: https://docs.un.org/es/E/C.12/GC/25. Similarly, see: Report of the Special Rapporteur on the implications of environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana. "The right to science in the context of hazardous substances," A/HRC/48/61, of July 26, 2021, para. 45.

835 *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights", A/79/176, of July 18, 2024, para. 52.

836 *Cf.* Report of the Special Rapporteur on Cultural Rights, Farida Shaheed. "Right to enjoy the benefits of scientific progress and its applications", A/HRC/20/26, May 14, 2012, para. 30.

837 *Cf.* Report of the Human Rights Council's Advisory Committee on the "Impact of new technologies intended for climate protection on the enjoyment of human rights", A/HRC/54/47, August 10, 2023, paras. 71 to 78, and Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights", A/79/176, July 18, 2024, para. 51.

838 *Cf.* Charter of the Organization of American States, 1948, Articles 38 and 51.

ancestral knowledge encompasses the concepts, skills, innovations, practices, and philosophies that indigenous, local or other communities have developed over generations as a result of their intellectual activity, experiences and spiritual beliefs, in - or from a traditional context, thanks to their interaction with their natural environment.[839] Local knowledge, in turn, refers to skills developed by individuals and populations that are specific to the places where they live.[840] Finally, indigenous knowledge encompasses all the knowledge that these peoples possess about their relationships and practices with their environment; this forms part of their collective intellectual heritage[841] and is an integral part of their cultural systems, constituting the basis for decision-making on fundamental aspects of life, from everyday activities to long-term actions.[842]

477. Bearing in mind the intrinsic value and characteristics of each type of knowledge, the Court considers that, according to an evolutionary interpretation, the "right to science" not only encompasses access to benefits obtained from science in the strict sense, but also, as indicated in the title of Article 14 of the Protocol of San Salvador, access to culture or, more precisely, to the benefits that may be obtained from forms of knowledge related to it, that is, from local, traditional and indigenous knowledge.

478. This knowledge 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 available knowledge. In other words, given the serious threat that the climate emergency poses to human rights, all people have the right to access the benefits of measures based on the best available science and on the recognition of local, traditional and indigenous knowledge.

479. The Court notes that Article 7.5 of the Paris Agreement states that climate change adaptation measures "should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of Indigenous Peoples, and local knowledge systems."[843] In this regard, the importance of documenting traditional knowledge, rainwater harvesting, traditional farming techniques,

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839 *Cf.* UNESCO, Local Knowledge, Global Objectives. UNESCO: Paris, 2017, p. 8. Available at: https://unesdoc.unesco.org/ark:/48223/pf0000259599_spa/PDF/259599spa.pdf.multi. P. 8, and World Intellectual Property Organization (WIPO), "The Protection of Traditional Knowledge: Draft Articles," WIPO/GRTKF/IC/40/18, June, 2019, Annex, p. 5.

840 *Cf.* Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, D. Roberts, *et al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 78.

841 According to the Working Group of Indigenous Experts on the Traditional Knowledge of the Andean Community of Nations (CAN), this knowledge is transmitted from generation to generation, usually orally. *Cf.* De la Cruz, R.; Muyuy Jacanamejoy, G.; Viteri Gualinga, *et al*, 2005. Elements for the sui generis protection of traditional collective knowledge from an indigenous perspective. Lima: Publications Unit of the *Corporación Andina de Fomento (CAF)*, p. 11.

842 *Cf.* Global warming of 1.5 °C: An IPCC special report on the impacts of global warming of 1.5 ºC above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development and efforts to eradicate poverty. [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, D. Roberts, *et al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 78.

843 *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, Article 7.5, available at: https://unfccc.int/sites/default/files/spanish_paris_agreement.pdf.

management of marine and coastal zones, the development of alternative energies and sustainable livelihoods has been recognized.[844] Furthermore, according to FAO, Indigenous Peoples and Afro-descendant communities are two of the rural groups with the greatest potential to contribute to climate change mitigation in Latin America, due to their ancestral knowledge and their collective land practices.[845]

480. The Court highlights the importance of fostering dialogue that "explores the connections between the various knowledge systems"[846] and ensuring that this dialogue facilitates the integration of the best available science with local, traditional and indigenous knowledge, and encourages the joint production of climate knowledge between scientists and the custodians of such knowledge.[847] This approach should ensure respect for different epistemological frameworks and equitable, symmetrical exchange aimed at promoting mutual learning.[848] In this regard, the Court acknowledges the existence of good practices such as the creation and financing of intercultural research centers.[849]

481. The results of this dialogue must be considered in order to ensure the sustainability and effectiveness of decisions on climate mitigation and adaptation, as well as to prevent any cultural impacts arising from the implementation of such

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[844] *Cf.* Report of the Special Rapporteur on the Rights of Indigenous Peoples, A/HRC/36/46, November 1, 2017, para. 24.

[845] *Cf.* United Nations Food and Agriculture Organization (FAO), "Indigenous and Afro-descendant peoples and Climate Change in Latin America," 2021, p. 1.

[846] *Cf.* UNESCO. "Science as a human right," 2020, p. 8. Also, see: ESCR Committee. General Comment No. 25 (2020), related to science and economic, social and cultural rights (Article 15, paragraphs 1 b), 2, 3 and 4, of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/25, April 30, 2020, para. 40. The Court notes the existence of good practices in this regard. In Guatemala, for example, an "Indigenous Roundtable on Climate Change" has been in place for more than ten years to enable indigenous knowledge to be taken into account in disaster management and adaptation development. See: Global warming of 1.5 °C: An IPCC special report on the impacts of global warming of 1.5 ºC above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, D. Roberts, *et al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, Table 4.3.

[847] *Cf.* UNESCO, "Weathering Uncertainty: Traditional knowledge for climate change assessment and adaptation," 2012, pp. 28-34, available at: https://unesdoc.unesco.org/ark:/48223/pf0000216613/PDF/216613eng.pdf.multi; "Resilience Through Knowledge Co-Production: Indigenous Knowledge, Science and Global Environmental Change", available at: https://unesdoc.unesco.org/ark:/48223/pf0000384272/PDF/384272eng.pdf.multi, and IPCC, 2019 Special Report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems [P.R. Shukla, J. Skea, E. Calvo Buendia, *et al*, (eds.)], p. 747.

[848] Also, see: UNESCO, "Policy of collaboration with indigenous peoples," available at: https://unesdoc.unesco.org/ark:/48223/pf0000262748_spa.

[849] IPCC, 2019 Special Report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems [P.R. Shukla, J. Skea, E. Calvo Buendia, *et al*, (eds.)], p. 747, and UNESCO, "Resilience Through Knowledge Co-Production: Indigenous Knowledge, Science and Global Environmental Change", available at: https://unesdoc.unesco.org/ark:/48223/pf0000384272/PDF/384272eng.pdf.multi. Notable examples of international best practices for promoting intercultural research and knowledge co-production include the UNFCCC's Local Communities and Indigenous Peoples Platform (LCIPP), which integrates indigenous and local knowledge into climate policies and actions, and UNESCO's Local and Indigenous Knowledge Systems (LINKS) program, which combines traditional knowledge with climate science to promote sustainable development. See, UNFCCC, "Local Communities and Indigenous Peoples Platform," at: https://lcipp.unfccc.int/about-lcipp/functions-lcipp, and UNESCO "Local and Indigenous Knowledge Systems (LINKS)," at: https://www.unesco.org/en/climate-change/links.

measures.[850]

482. It is also essential to recognize and value the role of indigenous women in preserving and transmitting traditional knowledge. The Special Rapporteur on the rights of Indigenous Peoples has emphasized that indigenous women´s knowledge is "crucial" for maintaining cultural identity, managing the risks and effects of climate change, protecting biodiversity, achieving sustainable development, and building resilience to extreme events.[851] The Court also notes that, in many indigenous communities in the region, the oral transmission of culture to new generations is mainly carried out by older people.[852]

483. Thus, the Court recognizes that the protection of the right to science extends also to the intellectual and practical developments that Indigenous Peoples, Afro-descendant communities and local communities, have maintained and safeguarded over the years. Traditional and local knowledge systems, "as dynamic expressions of perceiving and understanding the world, can make […] a valuable contribution to science and technology."[853] Such protection must be applied comprehensively to this knowledge, bearing in mind that the divisions characteristic of scientific knowledge do not normally apply to it.

484. Therefore, States must: (i) adopt measures to protect local, traditional and indigenous knowledge through appropriate mechanisms; (ii) take all measures to respect and protect the rights of Indigenous Peoples, particularly their land, their identity, and the moral and material interests resulting from the knowledge of which they are authors, individually or collectively,[854] and (iii) support the compilation of local, traditional and indigenous knowledge related to climate change, the environment and human rights.[855]

485. That said, the Court has already ruled that, as a corollary to their duty to disseminate the benefits of science,[856] States have an obligation to use the best available science in environmental matters. In this regard, the Court notes that the

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[850] UNESCO, "Weathering Uncertainty: Traditional knowledge for climate change assessment and adaptation", 2012, pp. 28-34, available at: https://unesdoc.unesco.org/ark:/48223/pf0000216613/PDF/216613eng.pdf.multi, and IPCC, 2019 Special Report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems [P.R. Shukla, J. Skea, E. Calvo Buendia, *et al.* (eds.)], p. 747.

[851] *Cf.* Report of the Special Rapporteur on the Rights of Indigenous Peoples, José Francisco Calí Tzay. "Indigenous women and the development, application, preservation, and transmission of scientific and technical knowledge," A/HRC/51/28, August 9, 2022, para. 28.

[852] *Cf.* IACHR, "Human Rights of the elderly and national protection systems in the Americas," OEA/Ser.L/V/II. Doc. 397/22, December 31, 2022, para. 91. See also, *inter alia*: *Case of the Yakye Axa Indigenous Community v. Paraguay*, *supra*, para. 175.

[853] *Cf.* Declaration on Science and Use of Scientific Knowledge, adopted by the World Science Conference, 1999, para. 26, available at: https://unesdoc.unesco.org/ark:/48223/pf0000116994_spa.

[854] *Cf.* ESCR Committee, General Comment No. 25 (2020), on "Science and the economic, social and cultural rights (Article 15, paragraphs 1 b), 2, 3 and 4 of the International Covenant on Economic, Social and Cultural Rights," E/C.12/GC/25, April 30, 2020, para. 40, available at: https://docs.un.org/es/E/C.12/GC/25.

[855] *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context of climate change, Elisa Morgera. "Access to information on climate change and human rights," A/79/176, July 18, 2024. para. 53.

[856] In this particular case, the ruling stated that "States must design their air quality standards, plans, and measures in accordance with the best science available." *Cf. Case of the Inhabitants of La Oroya v. Peru, supra*, para. 120 and footnote 188.

Paris Agreement refers to "the need for a progressive and effective response to the pressing threat of climate change, based on the best available scientific knowledge."[857] The Court understands that scientific knowledge is the result of the objective study - carried out individually or collectively - of observed phenomena, as well as its validation, through the exchange of conclusions and data and peer review, in order to discover and comprehend the chain of causalities, relationships or interactions.[858]

486. According to the Court, in order to determine what constitutes the best available science, 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;[859] (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.

487. In this regard, the Court reiterates, in line with the findings of other international courts,[860] that currently the best science available on climate change is compiled in the IPCC reports (*supra* para. 33).

### C.3. The Right to Access Information in the context of Climate Emergency

488. This Court has pointed out that Article 13 of the Convention, which expressly stipulates the rights to seek and receive information, protects the right of every person to request access to information under the control of the State, with the exceptions permitted under the Convention's restrictions system.[861] The State's actions must be governed by the principles of openness and transparency in public administration, which enable individuals under its jurisdiction to exercise democratic control over State actions, so that they can question, investigate, and consider whether public functions are being properly carried out.[862]

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[857] *Cf.* Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, Preamble and Article 4, available at: https://unfccc.int/sites/default/files/spanish_paris_agreement.pdf.

[858] Definition provided in the Recommendation on Science and Scientific Researchers, approved by UNESCO in 2017. *Cf.* Report of the Special Rapporteur on the human rights implications of environmentally sound management and disposal elimination of hazardous substances and wastes, Marcos Orellana. "The right to science in the context of hazardous substances," A/HRC/48/61, July 26, 2021, para. 17.

[859] *Cf.* Brief with observations submitted by *Our Children's Trust, University Network for Human Rights, and the Mexican Center for the Defense of the Environment A.C.*, p. 8.

[860] The International Tribunal for the Law of the Sea has stated that "the IPCC assessments on climate change risks and mitigation deserve special consideration." *Cf.* ITLOS, State Obligations related to preventing, reducing and controlling sea pollution and protecting and preserving the marine ecosystem against the impacts of climate change. Advisory Opinion of May 21, 2024, para. 208. See also: ECtHR [GS], *Case of Verein KlimaSeniorinnen Schweiz et al. v. Switzerland, No.* 53600/20, of April 9, 2024, para. 429.

[861] *Cf. Case of Claude Reyes et al. v. Chile, supra*, para. 77 and *Case of the Quilombola Communities of Alcântara v. Brazil, supra,* para. 175.

[862] *Cf. Case of Claude Reyes et al. v. Chile, supra*, para. 86, and *Case of the Memoria Activa Civil Association v. Argentina. Merits, reparations and costs.* Judgment of January 26, 2024. Series C No. 516, para. 222.

489. Thus, as this Court has acknowledged, the "obligation of active transparency" imposes the duty to provide the information necessary for individuals to exercise other rights. States must unofficially provide the public with the maximum amount of information, which must be complete, understandable, provided in accessible languages, up to date, and delivered in a manner that is effective for different sectors of the population.[863] Guaranteeing access to information implies both the provision of mechanisms and procedures for individuals to request information, and the active collection and dissemination of information by the State.[864] The Court highlights the importance of such obligations because, as it has indicated, "a society that is not well informed is not fully free."[865]

490. The Court reiterates that the right to access information under State control may be subject to restrictions, as long as these are previously established by law, pursue an objective permitted by the American Convention ("respect for the rights or reputation of others" or "the protection of national security, public order or public health or morals"), and are necessary and proportionate in a democratic society, depending on whether they are aimed at satisfying an overriding public interest.[866] Consequently, in this context, a principle of maximum disclosure applies, with a presumption that all information is accessible, subject to a limited system of exceptions. Therefore, the burden of proof to justify any refusal to grant access to information must fall on the body from which the information was requested.[867] In the event of failure to disclose information, the State must provide a reasoned response explaining the grounds and rules on which the refusal is based.[868] Failure by the State to provide a response constitutes an arbitrary decision.[869]

491. The Court has emphasized that, for the purposes of access to information, any activities and projects that could have an environmental impact, including the exploration and exploitation of natural resources in the territories of indigenous or

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863 *Cf. Case of Furlan and Family v. Argentina. Preliminary objections, merits, reparations and costs.* Judgment of August 31, 2012. Series C No. 246, para. 294, and *Case of the Quilombola Communities of Alcântara v. Brazil, supra,* para. 176.

864 *Cf. Advisory Opinion OC-23/17, supra,* para. 225.

865 *Cf. Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 and 29 of the American Convention on Human Rights).* Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5, para. 70, and *Case of Moya Chacón et al. v. Costa Rica. Preliminary objections, merits, reparations and costs.* Judgment of May 23, 2022. Series C No. 451, para. 65.

866 *Cf. Case of Claude Reyes et al. v. Chile, supra*, paras. 88 to 91, and *Case of the Inhabitants of La Oroya v. Peru*, *supra*, para. 147. In relation to international environmental law, the protection of the rights of others has often been understood to include the right to privacy and intellectual property rights, the protection of business confidentiality and criminal investigations, among others. *See, inter alia*, Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention), entry into force on January 17, 2000, Arts. 17 and 18; Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. (Aarhus Convention), entered into force on October 30, 2001, Art. 4, and International Law Commission, *comments on the Draft articles on Prevention of Transboundary Harm from Hazardous Activities*, Yearbook of the International Law Commission 2001, vol. II, part two (A/56/10), art. 14, paras. 1 to 3.

867 *Cf. Case of the Kaliña and Lokono Peoples v. Suriname, supra,* para. 262*, and Case of the Inhabitants of La Oroya v. Peru*, *supra*, para. 147.

868 *Cf. Case of Claude Reyes et al. v. Chile, supra*, para. 77, and *Case of the Inhabitants of La Oroya v. Peru*, *supra*, para. 147.

869 *Cf. Case of Claude Reyes et al. v. Chile, supra*, paras. 98 and 120, and *Case of the Inhabitants of La Oroya v. Peru*, *supra*, para. 147.

tribal communities,[870] are matters of clear public interest. Additionally, the Court has noted that access to information is intrinsically linked to public participation in sustainable development and environmental protection.[871] In *Advisory Opinion OC-23/17*, this Court emphasized that States have an obligation to respect and guarantee access to information related to possible environmental impacts.[872] Information must be guaranteed to every person under their jurisdiction, in an accessible, effective and timely manner, without the person who requests the information having to demonstrate a specific interest.[873]

492. This right is also protected by other international instruments. In the European context, the Aarhus Convention requires Parties to "adopt and maintain practical arrangements" to facilitate access to information, such as "publicly accessible lists, registers or files and designated contact points."[874] It also states that the authorities must "keep useful and up-to-date information on the environment" and, in emergency situations, must "disseminate all relevant information immediately and without delay."[875] In Latin America and the Caribbean, the Escazú Agreement requires that the competent authorities "generate, collect, publicize and disseminate environmental information relevant to their functions in a systematic, proactive, timely, regular, accessible and comprehensible manner,"[876] and emphasizes the need to periodically update the information and make it available in inclusive formats, considering the needs of vulnerable groups.[877] Likewise, it promotes the creation of environmental information systems that include data on the "use and conservation of natural resources," "scientific, technical or technological reports and studies" and "pollutant release and transfer registers."[878]

493. Similarly, the Bali Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (hereinafter the Bali Guidelines), recommend that States prepare and disseminate "periodically […] up-to-date information on the state of the environment, including information on its quality and the pressures being exerted on it."[879] In emergency situations, they must ensure the immediate dissemination of "all

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870 *Cf. Advisory Opinion OC-23/17, supra,* para. 214, and *Case of the U'wa Indigenous People and its Members v. Colombia*, *supra*, para. 173.

871 *Cf. Advisory Opinion OC-23/17, supra,* para. 217.

872 *Cf. Advisory Opinion OC-23/17, supra,* para. 225.

873 *Cf. Advisory Opinion OC-23/17, supra,* para. 225.

874 *Cf.* Convention on access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), June 25, 1998, Article 5.2.

875 *Cf.* Convention on access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), June 25, 1998, Article 5.1.

876 *Cf.* Regional Agreement on access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), March 4, 2018, preamble, Article 6.1, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

877 *Cf.* Regional Agreement on access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), March 4, 2018, preamble, Article 6.6, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

878 *Cf.* Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement),March 4, 2018, preamble, Articles 6.3 and 6.4, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

879 *Cf.* Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines), adopted in Bali on February 26, 2010 by the UNEP Governing Council, Decision SS.XI/5, Guideline 5.

information that enables the public to take the measures necessary" to prevent damage. The Bali Guidelines also underline the importance of capacity building among authorities and citizens to facilitate effective access to environmental information.[880]

494. More generally, the Inter-American Model Law on Access to Public Information, adopted by the OAS General Assembly in 2020, states that "all subject entities shall proactively disseminate key information […] without the need for any request for such information."[881] This instrument also prioritizes publication in "open data formats" to promote the reuse of information and calls for the design of clear "strategies for the identification, generation, organization, publication and dissemination" of data.[882] It also stresses the importance of implementing gradual, permanent, accessible, understandable and verifiable publication schemes. [883]

495. In turn, the Inter-American Commission has considered that, in the context of the climate emergency, "States have a positive obligation of active transparency to generate timely, complete, understandable, clear, accessible, culturally appropriate, truthful, and expedite information on adaptation and mitigation of climate change for all people, taking into account the particularities and specific needs of vulnerable individuals and groups."[884] The Commission has also pointed out that information related to "development projects that potentially increase the global temperature through greenhouse gas emissions must be governed by the principle of maximum disclosure."[885] According to the Commission, States "must ensure the progressive strengthening of their environmental information systems at national, subnational and local levels, greenhouse gas emission inventories, sustainable forest management and use, carbon footprint, reduction of emissions and climate finance, among others."[886]

496. Along the same lines, the Special Rapporteur on Climate Change and Human Rights has identified access to environmental information and the insufficiency of historical data on climate change as significant challenges, with a notable chronic scarcity of meteorological and climate information on highly vulnerable regions such as Latin America and the Caribbean.[887] In addition, she has pointed out that data is collected inconsistently, making it difficult to assess the long-term repercussions of climate change, as well as slow and rapid-onset phenomena that affect human rights.[888] She has also noted that information on environmental impact and vulnerability assessments often exclude local data and consultations with the affected

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880 *Cf.* Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines), adopted in Bali on February 26, 2010 by the UNEP Governing Council, Decision SS.XI/5, Guideline 7.

881 *Cf.* Inter-American Model Law 2.0 on Access to Public Information, 2020, Article 5.1.

882 *Cf.* Inter-American Model Law 2.0 on Access to Public Information, 2020, Article 5.2

883 *Cf.* Inter-American Model Law 2.0 on Access to Public Information, 2020, Article 8.

884 *Cf.* IACHR and REDESCA, Resolution No.3/2021 "Climate emergency: Scope of Inter-American Human Rights Obligations," December 31, 2021, para. 33.

885 *Cf.* IACHR and REDESCA, Resolution No.3/2021 "Climate emergency: Scope of Inter-American Human Rights Obligations," December 31, 2021, para. 34.

886 *Cf.* IACHR and REDESCA, Resolution No.3/2021 "Climate emergency: Scope of Inter-American Human Rights Obligations," December 31, 2021, para. 34.

887 *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights", A/79/176, July 18, 2024, paras. 23 and 24.

888 *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights", A/79/176, July 18, 2024, paras. 24 and 25.

communities.[889] In addition, she considers that States are obligated to compile disaggregated data on the effects of climate change on vulnerable individuals and groups, including aspects of gender, disability, age and ethnicity.[890]

497. The Court observes that the IPCC has also identified significant knowledge gaps that affect the regional response to climate change. These gaps are exacerbated by global disparities in research approaches, with many studies neglecting regional contexts and failing to address the unique vulnerabilities of small, isolated areas, with limited resources, while also overlooking the value of traditional knowledge. The IPCC has also identified the need to "incorporate knowledge from diverse sources, contexts and information channels" in order to promote the implementation of specific responses to limit warming to below 1.5°C.[891] Furthermore, the IPCC has admitted that there is limited scientific information on regions of the world that are most vulnerable to climate change, given the scarcity of scientific publications on this subject and the fact that it does not include "oral evidence" among its sources.[892]

498. The Court emphasizes that although many States have made progress in their climate and hydro-meteorological information services, in the Latin American and Caribbean region "weather and climate observation networks, especially in the least developed countries and small island developing States, present significant shortcomings."[893] Similarly, in Central and South America, the lack of high-quality, long-term and socioeconomic data limits the assessment of vulnerabilities and adaptation strategies. Most studies are based on outdated climate scenarios, with insufficient research on the multilevel interactions between climate change and socioeconomic processes beyond the agriculture, water and food sectors. [894] In

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[889] *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights", A/79/176, July 18, 2024, para. 25.

[890] *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights", A/79/176, July 18, 2024, paras. 29 to 31.

[891] *Cf.* Global warming of 1.5 °C: An IPCC special report on the impacts of global warming of 1.5 ºC above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, D. Roberts, *et al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 76. *See also,* Allen, M.R., O.P. Dube, W. Solecki, *et al.*, 2018: Framing and Context. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 75-77.

[892] *Cf.* Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, D. Roberts, *et al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 76. See also: Allen, M.R., O.P. Dube, W. Solecki, *et al.*, 2018: Framing and Context. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 75-77.

[893] *Cf.* World Meteorological Organization (WMO), "State of the climate in Latin America and the Caribbean," 2023, pp. iii and 26.

[894] *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth

addition, subregions such as Central America and the Andes face serious data gaps on ecosystem services and urban adaptation planning, while Indigenous Peoples and their vulnerability to climate change remain understudied in northern South America.[895] In the small island nations, including the Caribbean States, the data gaps are even more pronounced due to the complexity of biophysical and social interactions. The absence of adequately scaled climate data, including oceanographic, topographic and meteorological data sets, hinders projections on coastal flooding, the impacts of rising sea levels and saline intrusion into aquifers.[896]

499. Research on the vulnerability of ecosystem services, especially marine and coastal systems, is insufficient, along with the economic assessment of losses in fishing, tourism and livelihoods. Adaptation efforts on small islands are hampered by limited monitoring of climate finance, low integration of indigenous and local knowledge, and a lack of studies on adaptation limits, transformative responses and migration dynamics.[897] The Court also highlights, in general, the lack of data and research in the region on climate change´s projected impacts on the cryosphere, water resources, hazards, and risks and disasters in natural and human systems.[898]

500. The Court underscores that the effective guarantee of access to climate-related information constitutes an essential condition for the protection, inter alia, of the rights to life, personal integrity, health, a healthy environment, and a healthy climate. Such information enables participation in public management through social oversight made possible by such access,[899] while simultaneously fostering transparency in State activities and promoting accountability of public officials regarding their public duties.[900] In the context of the climate emergency, access to information also enables the activation of disaster protection mechanisms, enhances citizen control and participation, and is indispensable for defining targets, plans, and strategies for mitigation and adaptation, as well as for adopting reparation measures. The Court will now address the content and scope of the obligations to: (1) produce information; (2)

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Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1760-1763.

[895] *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1760-1763.

[896] *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2093-2094.

[897] *Cf.* Mycoo, M., M. Wairiu, D. Campbell, *et al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2093-2094.

[898] *Cf.* Castellanos, E., M.F. Lemos, L. Astigarraga, *et al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1760-1763. See, also: WMO, "State of the Climate in Latin America and the Caribbean," 2023, p. 19.

[899] *Cf. Case of Claude Reyes et al. v. Chile, supra*, para. 86, and *Case of the Inhabitants of La Oroya v. Peru*, *supra,* para. 144.

[900] *Cf. Case of Palamara Iribarne v. Chile. Merits, reparations and costs.* Judgment of November 22, 2005. Series C No. 135, para. 83, and *Case of the U'wa Indigenous People and its Members v. Colombia, supra,* para. 173.

disseminate and facilitate access to information; and (3) adopt measures against disinformation.

*C.3.1. Production of Climate Information*

501. This Court has highlighted the relevance of collecting and producing data to guide the protection of human rights, particularly in contexts where historical discrimination exacerbates the risk and vulnerability of certain groups to human rights violations. For example, it has held that due diligence in preventing violations of the rights to life and personal integrity "requires that States have statistical and disaggregated information regarding the existence of a risk, in order to act preemptively."[901]

502. In cases involving human rights violations related to environmental degradation, the Court has ordered, as a guarantee of non-repetition, the design and implementation of information systems containing up-to-date data on air and water quality, together with information on health risks derived from pollution, the right to a healthy environment and the means to guarantee its protection, as well as the mechanisms available for citizen participation in environmental management.[902]

503. The Court emphasises that guaranteeing access to information requires an active role by the State in the ex officio production of information relevant to the respect and guarantee of human rights and to the prevention of environmental harm in the context of the climate emergency. This duty arises not only from the right to a healthy climate but also from the need to ensure the right to science and the recognition of local, traditional, and indigenous knowledge (supra paras. 473–485), as well as from the obligation of States to justify their climate-related decisions by reference to the best available science (supra paras. 485–487).

504. Above all, the Court observes that preventing human rights violations in the context of the climate emergency, under the general duty of guarantee provided for in Article 1.1 of the Convention, depends on the foreseeability of the risk of such violations. It is incumbent upon the State, therefore, to generate complete, accurate, truthful, useful, and timely information to identify and mitigate threats to human rights arising both from the adverse impacts of climate change and from the measures adopted to address them.

505. Consequently, the Court considers that the right of access to information imposes upon States the obligation to establish appropriate systems and mechanisms for the production, collection, analysis, and dissemination of information relevant to the protection of human rights within the framework of the climate emergency. This includes comprehensive, general, and specific information disaggregated by population and sector; early warning systems providing timely information on disaster risks; as well as data necessary to establish, implement, and update mitigation and adaptation targets, plans, and strategies (supra paras. 314, 335, and 384). Such information must be used to promote the broadest possible public participation in climate action.

506. With regard to the *origin, quality, and methodology for producing such*

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901 *Cf. Mutatis mutandis*, *Advisory Opinion OC-29/22*, *supra*, para. 251.

902 *Cf. Case of the Inhabitants of La Oroya v. Peru, supra,* para. 354.

*information*, the Court underscores the need to integrate diverse forms of knowledge (supra paras. 476–483) to inform solutions tailored to the specific context of each State and community. In addition, States must promote and support participatory research and data collection undertaken by, inter alia, communities, academic institutions, and local organisations, particularly those employing an intersectional approach.[903] The State bodies responsible for producing, collecting, analysing, and disseminating climate information must be endowed with sufficient resources to ensure the quality and veracity of the information, as well as with means to guarantee their independence and impartiality.[904] Furthermore, States must ensure that businesses publicly, accurately, and accessibly disclose information on the climate impacts of their activities, including sufficient information to assess the adequacy of measures adopted to prevent human rights violations in the context of the climate emergency, the climate footprint of their products and services, the characteristics and effects of high-emission projects and available technologies, as well as details of their sustainability initiatives, compliance with environmental regulations, and investments in renewable energy and environmentally sound technologies (supra paras. 345–351).[905]

507. As regards the content of the information, the Court highlights that States must produce information concerning the causes and effects of climate change, the measures implemented by the State to mitigate its emissions and adapt to its impacts, environmental impact studies including climate impact assessments, as well as the mechanisms in place for accessing information, public participation, and climate-related justice.

508. First, States must establish a system of indicators measuring progress in the implementation of State strategies towards sustainable development. This must include statistics on the population living in situations of multidimensional poverty, disaggregated by location, gender, and ethnicity, as well as on the factors causing and exacerbating inequality in the context of the climate emergency, such as impacts on agricultural production, ecosystems, and food security, climate-related disasters, and health care provision (supra paras. 65–88, 393–402, and 435–440). In this regard, States must collect and produce information on the socioeconomic impacts of the climate emergency, disaggregating its effects by sector, particularly in agriculture, fisheries, and tourism. Likewise, States must produce a diagnosis of the principal obstacles to achieving sustainable development within the framework of the climate emergency and identify possible conflicts or synergies between climate measures and development objectives.[906]

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903 *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights," A/79/176, July 18, 2024, para. 53.

904 The Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera, has stated that: "The quality of information is essential to understanding the possibility of anticipating and preventing the full spectrum of harm that climate change and measures to respond to it can cause to human rights." *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change. Elisa Morgera. "Access to Information on Climate Change and Human Rights," A/79/176, July 18, 2024, para. 4.

905 *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights", A/79/176, July 18, 2024, para. 64.

906 *Cf.* R. Séférian, and M.V. Vilariño, 2018: Mitigation Pathways Compatible with 1.5°C in the Context of Sustainable Development. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the

509. Second, States must produce the information necessary to establish their mitigation target (supra para. 324), as well as to define and update the strategy aimed at the effective fulfilment of said target. This information must specify how the State's mitigation target contributes to the objective of limiting global temperature rise to below 1.5°C, in accordance with IPCC[907] emission reduction pathways and the best available science (supra para. 326).

510. To this end, States should, at a minimum, (i) establish and update detailed inventories of GHG emissions,[908] broken down by sector: energy, transport, agriculture, industry, waste, and land use/land-use change and forestry (LULUCF) (*supra* para. 58); (ii) model prospective scenarios of future emissions considering different economic, demographic, technological, consumption and population behavior trajectories;[909] (iii) assess the technical and economic feasibility of different mitigation strategies, as well as the costs, benefits, and projected effects of current and planned policies on emissions reduction;[910] (iv) assess the impacts of mitigation strategies on other areas such as energy, water and food security, public health, biodiversity and sustainable development;[911] (v) map the location, extension, type and conservation

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context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 156-157, and de Coninck, H., A. Revi, M. Babiker, *et al.*, 2018: Strengthening and Implementing the Global Response. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 315.

907 *Cf.* R. Séférian, and M.V. Vilariño, 2018: Mitigation Pathways Compatible with 1.5°C in the Context of Sustainable Development. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 96, and de Coninck, H., A. Revi, M. Babiker, *et al.*, 2018: Strengthening and Implementing the Global Response. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 320.

908 *Cf.* United Nations Framework Convention on Climate Change, of 1992, Articles 4.1(a), 7.2(d), and 12.1(a) at: https://treaties.un.org/doc/Treaties/1994/03/19940321%2004-56%20AM/Ch_XXVII_07p.pdf, and Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris Agreement, 2015, Article 13.7(a), available at: https://unfccc.int/sites/default/files/spanish_paris_agreement.pdf.

909 See, also: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte V., P. Zhai, H.-O. Pörtner, D. Roberts, *et al.* (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, p. 98.

910 See, also: de Coninck, H., A. Revi, M. Babiker, *et al.*, 2018: Strengthening and Implementing the Global Response. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 320.

911 *See also:* R. Séférian, and M.V. Vilariño, 2018: Mitigation Pathways Compatible with 1.5°C in the Context of Sustainable Development. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways,

status of forests, wetlands, mangroves and other ecosystems that act as natural carbon sinks,[912] and identify agricultural, reforestation, ecosystem restoration, and conservation practices that optimize carbon capture and reduce emissions,[913] and vi) identify the financial, institutional and technological resources needed to implement mitigation measures, as well as training needs.[914]

511. Thirdly, States must produce information underpinning their adaptation plans and strategies (supra para. 384). In particular, States must collect information regarding the vulnerability, risk, exposure, and current and projected impacts of climate change on natural and human systems, as well as its effects on human rights, identifying the communities, population groups, ecosystems, and infrastructure at risk. States must conduct periodic risk assessments concerning communities and groups that are disproportionately vulnerable to human rights violations as a result of climate change,[915] including the threats and violence faced by human rights defenders within the context of the climate emergency (infra paras. 568–586).

512. Similarly, within the framework of adaptation and disaster risk management, States must collect, systematise, produce, and analyse information concerning the current and projected impacts of climate change on life, personal integrity, and health, taking into account socioeconomic factors, age, sex, gender, disability, and ethnicity. This includes evaluating food and water security, the increase in vector-borne diseases, the rise in deaths related to heatwaves, floods, droughts, and other extreme and slow-onset weather events (supra paras. 393–402 and 435–440). Moreover, States must analyse the risk of human mobility associated with climate change and the loss of habitable homes and territories, the impacts of climate change on access to the territories and means of subsistence of indigenous and tribal peoples, as well as the

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in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 156-157, and de Coninck, H., A. Revi, M. Babiker, *et al.*, 2018: Strengthening and Implementing the Global Response. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 315.

912 See also: R. Séférian, and M.V. Vilariño, 2018: Mitigation Pathways Compatible with 1.5°C in the Context of Sustainable Development. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 96-97.

913 See also: de Coninck, H., A. Revi, M. Babiker, *et al.*, 2018: Strengthening and Implementing the Global Response. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 316.

914 See also: de Coninck, H., A. Revi, M. Babiker, *et al.*, 2018: Strengthening and Implementing the Global Response. In: Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 359.

915 See also: Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights", A/79/176, July 18, 2024, para. 9.

associated deterioration of family and community ties and cultural practices (supra paras. 403–434 and infra paras. 605–613). Likewise, States must produce information concerning current and future impacts on cultural heritage and develop intervention methods to address such impacts (supra paras. 448–452).

513. Furthermore, States must assess disaster risk based on geographical location and collect information on the resilience, vulnerability, and current and future adverse impacts on critical ecosystems at the local, national, and regional levels, as well as on health, food, water, and education systems, and urban and rural housing. In this regard, they must analyse the availability and viability of ecosystem-based adaptation (EbA) measures, as well as measures related to urban agriculture, forestry, and river restoration in urban areas.

514. Fifthly, within the framework of environmental impact assessments (supra paras. 359–363), States must produce information that enables public participation (infra para. 536) and, where applicable, the prior, free, and informed consultation of indigenous and tribal peoples, in the assessment of the environmental and climate impact of projects or activities that may contribute to affecting the climate system (infra para. 610).

515. Sixthly, States must report on public funds allocated to climate action, including the number and priorities of climate finance projects, and ensure transparency regarding the use of funds received under international cooperation.[916] Information in this regard must allow verification of the progressive increase in resources allocated to progressively reducing inequality as a precondition for addressing many of the vulnerability situations that expose specific individuals and groups to the most severe impacts of climate change (infra paras. 619–629).

516. Seventhly, States must adopt the necessary legislative measures and implement all mechanisms required to ensure that businesses and all private actors engaging in activities relevant to the causes and impacts of climate change produce and disclose, in a clear, comprehensive, timely, and free manner, all information related to such activities. This information includes that relating to the ownership of companies, their environmental and climate impact; their internal plans and policies concerning mitigation and just transition; contracts, concessions, agreements, or other documents involving public resources.[917]

517. In this context, bearing in mind the serious effects of disinformation (infra paras. 524–529), the aforementioned legislation and mechanisms must provide for their application to media outlets and online platforms to ensure that their content governance policies are transparent and disclose any conflicts of interest with public

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916 *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights", A/79/176, July 18, 2024, para. 17.

917 *Cf.* The United Nations Special Rapporteur for the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Representative for Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), the Special Rapporteur for Freedom of Expression of the Organization of American States, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights, "Joint Declaration on the Climate Crisis and Freedom of Expression," May 3, 2024, Point 1. Available at: https://www.oas.org/es/IACHR/jsForm/?File=/es/IACHR/expresion/documents_basicos/declarations/20241.asp

or private actors that may influence content-related decisions on environmental and climate issues.[918]

518. Lastly, States must assess the obstacles and progress in the implementation and enforcement of their climate policies, identifying the measures necessary to ensure their maximum ambition, within the framework of the utilisation of their available resources.

### *C.3.2. Disclosure of Information*

519. The Court has established that the right of access to information is complemented by a corresponding positive obligation on the part of the State to supply such information.[919] Owing to its importance, information relating to the causes and impacts of climate change and the measures taken to address them constitutes a matter of public interest and must be governed by the principle of maximum disclosure. Therefore, access to such information must not be conditioned upon demonstrating a direct interest or a personal affectation, except in those cases where a legitimate restriction is aplicable.[920] The State must guarantee that access to this information is affordable, effective, and timely.[921] This includes information produced by, or in the possession of, the State.

520. The Court reiterates that such information must enable the population to exercise their rights and to adequately oversee the State's response to the climate emergency. For the general public, climate-related information fosters participation and facilitates access to justice. For individuals and communities affected by climate change, it enables the effective protection of their rights and guides consultation processes and climate impact assessments. In the face of an imminent threat to the environment or to human rights resulting from climate change, such as heatwaves, floods, or disasters, States must immediately inform the population at risk through the most effective means, providing the information necessary to activate early warning systems, prevent harm and human rights violations, and ensure the requisite care.[922]

521. States must establish clear strategies for the regular publication and dissemination of information concerning the state of the environment; the basis, progress, and updates of their strategies for advancing sustainable development; their mitigation targets and strategies for the short, medium, and long term; and their

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[918] *Cf.* The United Nations Special Rapporteur for the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Representative for Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), the Special Rapporteur for Freedom of Expression of the Organization of American States, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights, "Joint Declaration on the Climate Crisis and Freedom of Expression", May 3, 2024, Point 1. Available at: https://www.oas.org/es/IACHR/jsForm/?File=/es/IACHR/expresion/documents_basicos/declarations/20241.asp.

[919] *Cf. Case of Claude Reyes et al. v. Chile, supra*, para. 77, and *Case of the Quilombola Communities of Alcântara v. Brazil, supra*, para. 176.

[920] *Cf. Case of Claude Reyes et al. v. Chile, supra*, para. 77, and *Case of the Inhabitants of La Oroya v. Peru*, *supra*, para. 145.

[921] *Cf. Advisory Opinion OC-23/17*, *supra*, para. 220, and *Case of the Inhabitants of La Oroya v. Peru, supra,* para. 145.

[922] *Cf.* Report of the Special Rapporteur on the promotion and the protection of human rights in the context climate change, Elisa Morgera. "Access to Information on Climate Change and Human Rights", A/79/176, July 18, 2024, para. 5.

adaptation and disaster risk management strategies.[923] Likewise, they must inform the public regarding the causes, effects, and actual and potential sources of climate-related harm; the State's response; relevant environmental and climate legislation; the findings of climate impact assessments; and the mechanisms available to access information, participate in decision-making, and seek justice.[924] To this end, States must implement and promote comprehensive mechanisms for disseminating climate information, including early warning systems, public databases, digital tools, audiovisual materials, online portals, social media, and communication campaigns. Information must enable the public to exercise effective oversight over the actions, omissions, and decisions adopted by the State, thereby preventing all forms of greenwashing, understood as the practice of presenting a misleading appearance of environmental commitment without genuinely implementing significant actions.

522. Information must be provided in a clear and comprehensible format and language, including through audiovisual and electronic media, taking into account the specific needs of children and adolescents, older persons, and persons with disabilities. Furthermore, when information is relevant to the exercise and protection of the rights of indigenous and tribal peoples, States must ensure its cultural and linguistic appropriateness, particularly to guarantee their free, prior, and informed consent where required.

523. States must also establish mechanisms and procedures that allow individuals to request climate-related information and receive it in an expedited manner, including through record-keeping and document management systems. Furthermore, they must provide means by which individuals can receive real-time alerts, through appropriate channels, whether electronic or otherwise, whenever there is a latent threat to their rights due to heatwaves, floods, hydrometeorological events, or disasters in general.[925]

*C.3.3. Adoption of Measures Against Disinformation*

524. The Court recalls that disinformation and environmental risks, such as those associated with the climate emergency, constitute some of the gravest challenges currently facing the international community[926]. It likewise notes that disinformation concerning climate change contributes to generating erroneous perceptions regarding scientific consensus[927], which evidences the need to adopt informational strategies that

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[923] See also: IACHR and REDESCA, Resolution No.3/2021 "Climate emergency: Scope of Inter-American Human Rights Obligations," December 31, 2021, para. 33; Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), adopted on March 4, 2018, Articles 6.1 and 6.7, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.; Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), June 25, 1998, Article 5; The Maastricht Principles on the Human Rights of Future Generations, adopted in 2023, principle 23.

[924] See also: ESCR Committee, General Comment No. 26, on "Land and Economic, Social and Cultural Rights, E/C.12/GC/26, January 24, 2023, para. 33.

[925] *Cf. Case of the Inhabitants of La Oroya v. Peru, supra,* para. 354.

[926] *Cf.* World Economic Forum: "Global Risks Report 2025: Conflict, Environment and Disinformation Top Threats" available at: https://reports.weforum.org/docs/WEF_Global_Risks_Report_Press_Release_2025_ESP.pdf, and Note of the Secretary General, "Promotion and protection of human rights in the context climate change", A/77/226, July 26, 2022, paras. 85-90.

[927] *Cf.* M. Pathak, R. Slade, P.R. Shukla, J., *et al.* 2022: Technical Summary. In: Climate Change 2022:

do not compromise pluralism and freedom of expression within public debate.

525. Accordingly, the Court considers that States must ensure that information related to the climate emergency issued by public authorities is clear, accurate, reliable, accessible, and timely, thereby enabling the public to exercise democratic and critical scrutiny over its content. The Court underscores that States must serve as conduits of science-backed information. In this regard, they must refrain from disseminating information that is not supported by the best available science or by pertinent local, traditional, or indigenous knowledge.

526. The Court notes that Article 13 of the American Convention protects not only the expression of ideas but also the fundamental right of society to receive truthful information from diverse sources, essential for informed and democratic decision-making. Disinformation concerning climate change directly undermines this right by distorting the dissemination of scientific consensus, fostering public confusion, and hindering effective climate action.[928] When false or misleading information impairs public understanding of the climate emergency and its impacts on rights such as life, health, and a healthy environment, States are obliged to adopt appropriate measures to safeguard the integrity of public information, while simultaneously upholding freedom of expression and avoiding censorship. States must exercise due diligence in fulfilling this obligation, given the importance of disseminating truthful information in light of the impacts of climate change and their responsibilities regarding prevention and protection for individuals under their jurisdiction.

527. In this regard, States are required to adopt progressive measures to counter climate-related disinformation, in order to guarantee access to information and protect substantive rights threatened in the context of the climate emergency. The Court recalls that, in adopting measures aimed at combating disinformation, States must respect freedom of expression as established in Article 13 of the American Convention, Article IV of the American Declaration,[929] and the jurisprudence of this Court. Consequently, they must refrain from imposing restrictions that, under the pretext of combating disinformation, amount to prior censorship or arbitrarily or disproportionately limit freedom of expression. The Court highlights that protecting this right requires preserving a pluralistic, open, and robust public debate, particularly

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Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, *et al.*, (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 127, and Hicke, J.A., S. Lucatello, L.D., Mortsch, *et al.*, 2022: North America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 1931.

928 *Cf.* M. Pathak, R. Slade, P.R. Shukla, J., *et al.*, 2022: Technical Summary. In: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, *et al.*, (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 127, and Hicke, J.A., S. Lucatello, L.D., Mortsch, *et al.*, 2022: North America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et al.* (Eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 1931.

929 Article IV of the American Declaration of the Rights and Duties of Man establishes that: "Every person has a right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever." *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/es/cidh/mandato/basicos/declaracion.asp.

in contexts of high democratic relevance such as climate action.[930]

528. Without prejudice to the foregoing, and in light of the risks arising from disinformation and other forms of informational manipulation concerning climate matters, the Court calls upon civil society, the media, and other actors within the informational sphere to play an active role in generating and disseminating reliable content concerning climate change, based on the best available science and the recognition of indigenous, traditional, and local knowledge.[931] In this context, the Court highlights the usefulness of mechanisms for monitoring the quality and accuracy of climate information, as well as fact-checking tools that reinforce informational transparency and public trust. This is particularly important for vulnerable groups, who often face structural barriers in accessing reliable and culturally appropriate information.

529. Finally, considering the decisive role played in this area by businesses, digital technology developers, technology platforms, social media networks, and the media, the Court emphasises the necessity for States to collaborate with such actors, in line with the Pact for the Future, in order to strengthen media and information literacy. Such collaboration must aim to ensure that users acquire the skills and knowledge necessary to interact critically, safely, and consciously with digital content.[932] In sum, the Court underscores that access to truthful and reliable information in the context of the climate emergency requires the joint commitment of both States and private actors to prevent and counter disinformation.

### C.4. *The Right to Public Participation*

530. Public participation constitutes one of the fundamental pillars of procedural rights. Through it, individuals exercise democratic oversight of State actions and are able to challenge, inquire into, and assess the fulfilment of public functions. In this regard, participation enables individuals to be part of the decision-making process. Specifically, public participation allows communities to hold public authorities accountable for their decisions, while also enhancing the efficiency and credibility of governmental processes. As noted previously, public participation requires the

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930 The United Nations Secretary-General has recommended that States "ensure the existence of a free, viable, and pluralistic media landscape, providing robust protection for journalists, human rights defenders, and whistleblowers, and consider supporting transparent media self-regulatory mechanisms that promote and protect the highest standards of professionalism." *Cf.* Report of the Secretary-General of the United Nations on "Countering disinformation for the promotion and protection of human rights and fundamental freedoms," A/77/287, August 12, 2022, para. 60 (h).

931 *Cf.* Report of the Secretary-General of the United Nations on "Countering disinformation for the promotion and protection of human rights and fundamental freedoms," August 12, 2022, paras. 56-61; the United Nations Special Rapporteur for the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Representative for Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), the Special Rapporteur for Freedom of Expression of the Organization of American States, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights, "Joint Declaration on the Climate Crisis and Freedom of Expression," May 3, 2024, Point 1. Available at: https://www.oas.org/es/IACHR/jsForm/?File=/es/IACHR/expresion/documents_basicos/declarations/20241.aspand G20, Digital Economy Working Group, "Mapping the Information Integrity Debate and Informing the Agenda of the G20," pp. 31-34.

932 *Cf.* United Nations General Assembly, "Pact for the Future", A/RES/79/1, Sept. 22, 2024, para. 35 (a)

application of the principles of publicity and transparency.[933]

531. The right of citizens to participate in the conduct of public affairs is enshrined in Article 23.1(a) of the American Convention. In environmental matters, participation serves as a mechanism for integrating public concerns and knowledge into policymaking that affects the environment.[934] Furthermore, participation in decision-making processes increases governments' capacity to respond to public concerns and demands in a timely manner, to build consensus, and to improve acceptance and compliance with environmental decisions.[935]

532. The Court has held that from the right to participate in public affairs arises the State's obligation to guarantee the participation of persons under its jurisdiction in decisions and policies that may affect the environment, without discrimination, in an equitable, meaningful, and transparent manner. To this end, States must first have ensured access to the relevant information. .[936] Regarding the timing of public participation, the Court has indicated that the State must guarantee opportunities for effective participation from the earliest stages of the decision-making process and must inform the public of these participation opportunities.[937]

533. The Escazú Agreement, the Aarhus Convention and the Bali Guidelines all agree on this point. All these instruments require that public participation commence at the earliest stages of decision-making, ensuring the possibility of effectively influencing the design of environmental projects and policies.[938] Their provisions further include the provision of clear and timely information, together with adequate timeframes that

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933 *Cf. Case of Claude Reyes et al. v. Chile, supra*, para. 86. Similarly, see: Inter-American Council for Integral Development (CIDI), "Inter-American Strategy para the Promotion of Public Participation in Decision-making on Sustainable Development", CIDI/RES. 98 (V-O/00), 2000, p. 6.

934 *Cf.* Economic Commission for Latin America and the Caribbean (ECLAC), "Access to information, participation and justice in environmental matters in Latin America and the Caribbean: situation, outlook and examples of good practice", 2013, p. 7. Available at: http://repositorio.ECLAC.org/bitstream/handle/11362/21751/6/LCL3549REV2_es.pdf.

935 *Cf.* Economic Commission for Latin America and the Caribbean (ECLAC), "Access to information, participation and justice in environmental matters in Latin America and the Caribbean: situation, outlook and examples of good practice", 2013, p.7. Available at: http://repositorio.ECLAC.org/bitstream/handle/11362/21751/6/LCL3549REV2_es.pdf.

936 *Cf. Advisory Opinion OC-23/17, supra*, paras. 231-232, and *Case of the Inhabitants of La Oroya v. Peru, supra*, para. 152. See also, Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), adopted in 1998, arts. 1 and 7.

937 *Cf*. *Advisory Opinion OC-23/17, supra*, para. 232, and *Case of the Inhabitants of La Oroya v. Peru, supra*, para. 152. See, for example, Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), adopted in 1998, art. 6; Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines), adopted in 2010, guideline 8; and Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), adopted on March 4, 2018, Article 5, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

938 *Cf.* Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.(Aarhus Convention), adopted in 1998, Article 6; Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines), adopted in 2010, Guideline 12, and Regional Agreement on access to Information, Public Participation and access to justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), adopted on March 4, 2018, Article 7, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

allow the public to prepare and participate actively.[939] These instruments also call for involving the public in the development of plans, programmes, and regulations of environmental relevance, taking into account the needs of vulnerable groups and linguistic diversity.[940] Moreover, both the Aarhus Convention and the Escazú Agreement require the dissemination of outcomes and an explanation as to how public comments were considered in the decision.[941]

534. The Inter-American Commission[942] and the Special Rapporteur on the rights to freedom of peaceful assembly and association[943] have expressed similar views in relation to the climate emergency. The latter has also emphasized that participation is equally important in climate action, even when projects arise from international climate finance institutions, from the negotiation of credits for the reduction of GHG emissions under Article 6 of the Paris Agreement, and from multilateral forums such as the Conferences of the Parties.[944]

535. Within the framework of the climate emergency, the Court reaffirms that, in light of Article 23.1(a) of the Convention, States must guarantee meaningful participation processes for persons under their jurisdiction in decision-making and policymaking that may affect the climate system. Public participation in climate matters extends to the formulation of policies and direct involvement in decision-making processes concerning the mitigation target and strategy, the adaptation and risk management plans and strategies, climate financing, international cooperation, and the reparation of damage in the context of the climate emergency.[945]

536. Accordingly, it is incumbent upon the State to establish or adapt appropriate participation mechanisms to ensure the broadest involvement of the public in decisions

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939 *Cf.* Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.(Aarhus Convention), adopted in 1998, Article 6; Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines), adopted in 2010, Guideline 8 and 10, and Regional Agreement on access to Information, Public Participation and access to justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), adopted on March 4, 2018, Article 7, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

940 *Cf.* Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.(Aarhus Convention), adopted in 1998, Articles 7 and 8; Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines), adopted in 2010, Guideline 9, Regional Agreement on access to Information, Public Participation and access to justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), adopted on March 4, 2018, Article 7, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

941 *Cf.* Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.(Aarhus Convention), adopted in 1998, Article 5 and Regional Agreement on access to Information, Public Participation and access to justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), adopted on March 4, 2018, Article 7, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

942 *Cf.* IACHR and REDESCA, Resolution No.3/2021, "Climate emergency: Scope of Inter-American Human Rights Obligations," December 31, 2021, para. 35.

943 *Cf.* Report of the then Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Clément Nyaletsossi Voulé, "Exercise of the rights to freedom of peaceful assembly and of association is essential to advancing climate justice," A/76/222, July 23, 2021 para. 75.

944 *Cf.* Report of the then Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Clément Nyaletsossi Voulé, "Exercise of the rights to freedom of peaceful assembly and of association is essential to advancing climate justice," A/76/222, July 23, 2021 paras. 76 and 77.

945 See also: Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines), adopted in 2010, guideline 13.

relating to the State's response to climate change. Furthermore, States must cooperate to guarantee public participation in climate-related decision-making at the regional and international levels. In all these instances, States must ensure public participation without discrimination, giving priority to persons, communities, and indigenous peoples who are particularly affected by climate harm, as well as by the measures taken by the State to prevent and respond to such harm.

537. As established in the *Case of the Inhabitants of La Oroya v. Peru*, the Court reiterates that when a specific individual, group of individuals or community is at particular risk of suffering human rights violations as a result of environmental damage, they must have "a real opportunity to be heard and to participate in decision-making."[946] In this case, the Court determined that "the participation of the citizens of La Oroya was of special importance, given the possible effects that the pollution could have had on the exercise of other rights." Therefore it ruled that "the State should have adopted positive measures to ensure the active participation of the population."[947]

538. In this regard, when the adverse effects of the climate emergency or the measures adopted by the State or private individuals in response thereto may affect the rights of a specific group, it is imperative that such group be afforded an effective opportunity to be heard and to participate in decision-making. Accordingly, the design of participation mechanisms must take into account the characteristics and needs of vulnerable population groups in order to ensure that their participation occurs under equal conditions (infra paras. 596–629). In this sense, the State shall ensure that public participation mechanisms in climate matters are varied and adapted in terms of duration, forms of intervention, and management by the authorities, according to the magnitude and importance of the decisions subject to participation.[948] Regardless of the modality, the State must ensure that the public has the opportunity to effectively influence the design of environmental projects and policies.[949] Consequently, the results, consensus and decisions reached through participatory processes should be central factors in guiding the decisions taken by the authorities, who should explain how they have taken such inputs into account. Likewise, States are obliged to explain how the inputs "were taken into account […] when deciding on their environmental policy."[950]

539. Additionally, the Court reiterates what it has established regarding the validity and characteristics of consultation as an essential mechanism to guarantee the protection of the rights of indigenous and tribal peoples, especially in contexts where development projects or public policies may affect their territories, culture, and livelihoods (infra paras. 608–612). Furthermore, the Court adds that, in the context of the climate emergency, beyond prior consultation, the State must promote the

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946 *Cf. Mutatis mutandis*, *Case of the Inhabitants of La Oroya v. Peru, supra,* para. 260.

947 *Cf. Case of the Inhabitants of La Oroya v. Peru, supra,* para. 260.

948 These mechanisms may include public hearings, virtual spaces, meetings, national, regional and local interventions, interviews, forms, etc.

949 *Cf.* Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), adopted in 1998, Article 6, and Regional Agreement on Access to Information, Public Participation and access to justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), adopted on March 4, 2018, Article 7, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

950 *Cf. Case of the Inhabitants of La Oroya v. Peru, supra,* para. 260.

participation of indigenous and tribal peoples, as well as of Afro-descendant, peasant, and fishing communities, considering their particular vulnerability to the climate emergency and the importance of incorporating traditional, local, and indigenous knowledge into the decision-making processes necessary to address that emergency. Moreover, given the need to base decisions on the best available science, the State must promote the participation of independent scientists, organisations, and institutions.

### *C.5. The Right of Access to Justice*

540. This Court has held that the State Parties must provide effective judicial remedies to victims of human rights violations (Article 25) and that these remedies must be substantiated in accordance with the rules of due process of law (Article 8(1)); all this, in compliance with the general obligation to guarantee the free and full exercise of the rights recognized by the American Convention to all persons under their jurisdiction (Article 1(1)).[951] Similarly, Article XVIII of the American Declaration establishes that every person has the right to "resort to the courts to ensure respect for his legal rights" and that States must provide "a simple and brief procedure whereby the courts will protect them from acts of authority that, to their prejudice, violate any fundamental constitutional rights."[952]

541. Compliance with these obligations is essential in the context of the climate emergency. To accomplish this objective, States must ensure the essential aspects of access to justice, such as (1) the provision of sufficient resources for the administration of justice in this context; (2) the application of the *pro actione* principle; (3) the guarantee of reasonable time limits; (4) adequate provisions regarding standing, as well as (5) evidence and (6) redress. The Court will now address each of these aspects and, finally, will rule on (7) the application of standards in this area in the countries that comprise the inter-American system.

#### *C.5.1 The Provision of Adequate Resources*

542. First, considering the characteristics of disputes that may arise in the context of the climate emergency, the Court considers that States must establish the necessary procedural and substantive regulations to: (i) provide ongoing training to justice administrators and operators on climate change, its causes and impacts on human rights, the measures adopted by other public authorities in the context of the climate emergency, and the legal tools and standards applicable to ensure the protection of human rights; (ii) incorporate an intercultural and interdisciplinary approach, allowing decisions to be made based on the best available science; (iii) provide sufficient resources to competent bodies and authorities to promptly resolve requests submitted to them; (iv) consider the creation of administrative and jurisdictional bodies specializing in environmental and climate matters; (v) provide administrators of justice with timely and sufficient access to the best scientific knowledge available, and (vi) guarantee equal access to justice for people in vulnerable situations, including free legal assistance for people affected by the climate emergency, upon demonstration of

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951 *Cf. Case of Velásquez Rodríguez v. Honduras. Preliminary objections.* Judgment of June 26, 1987. Series C No. 1, para. 91, and *Case of Da Silva et al. v. Brazil. Preliminary objection, merits, reparations and costs.* Judgment of November 27, 2024. Series C No. 552, para. 63.

952 *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/es/IACHR/mandato/basicos/declaracion.asp.

their inability to afford the costs of litigation.[953]

### *C.5.2. The Application of the Pro Actione Principle*

543. Secondly, given the serious nature of the risks arising from climate impacts and the way in which they affect particularly vulnerable individuals and groups to a greater extent, the Court believes that the conduct of judicial proceedings relating to such risks and impacts should be guided by the application of the *pro actione* principle. According to this principle, the interpretation or application of procedural rules must not unjustifiably prevent or hinder a court from hearing and ruling on the claims submitted to it in accordance with the law, and the interpretation most favorable to access to justice must always prevail. Consequently, judicial bodies must interpret and apply the relevant rules in such a way as to effectively guarantee access to substantive justice for those who require it in the context of the climate emergency.

### *C.5.3. Promptness and Reasonable Time*

544. Access to a simple and expeditious remedy, as referred to in Article 25, is also related to the corresponding obligation to ensure that cases are processed and resolved and judgments are executed within a reasonable time, as established in Article 8(1) of the American Convention. According to this Court's jurisprudence, reasonable time must be determined based on factors such as (i) the complexity of the matter;[954] (ii) the procedural activity of the interested party;[955] (iii) the conduct of the judicial authorities,[956] and (iv) the impact on the legal situation of the person involved in the proceedings.[957] In the context of the climate emergency, these considerations must be fairly applied in accordance with the subject matter, type and phases of the litigation, including the processing of complaints, resolution of judgments and precautionary measures, and the enforcement of judicial decisions.

545. In order to ensure promptness and compliance with the guarantee of reasonable time, in addition to the factors mentioned above, the courts must consider the imminence of the risks that motivate the legal action, the urgency of the measures required in accordance with litigation claims, the impact of inaction on the human rights of the petitioners, and the situation of particular vulnerability in which they may find themselves *vis-à-vis* the impacts of climate change.

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953 *Cf. Mutatis mutandis*, *Advisory Opinion OC-29/22*, *supra*, para. 54. Also, see: Rio Declaration on the Environment and Development (Rio Declaration), adopted in 1992, Agreement 10, and Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), adopted on March 4, 2018, Article 8, available at: https://treaties.un.org/doc/Treaties/2018/03/20180312%2003-04%20PM/CTC-XXVII-18.pdf.

954 *Cf. Case of Genie Lacayo v. Nicaragua. Preliminary objections*. Judgment of January 27, 1995. Series C No. 21, para. 78, and *Case of the U'wa Indigenous People and its Members v. Colombia, supra,* para. 356.

955 *Cf. Case of Cantos v. Argentina. Merits, reparations and costs.* Judgment of November 28, 2002. Series C No. 97, para. 57, and *Case of the U'wa Indigenous People and its Members v. Colombia, supra,* para. 356.

956 *Cf. Case of Mejía Idrovo v. Ecuador. Preliminary objections, merits, reparations and costs.* Judgment of July 5, 2011. Series C No. 228, para. 106, and *Case of the U'wa Indigenous People and its Members v. Colombia, supra,* para. 356.

957 *Cf. Case of the National Association of Dismissed and Retired Employees of the National Tax Administration Superintendence (ANCEJUB-SUNAT) v. Peru. Preliminary objections, merits, reparations and costs.* Judgment of November 21, 2019. Series C No. 394, para. 148, and *Case of the U'wa Indigenous People and its Members v. Colombia, supra,* para. 356.

### *C.5.4. Active Legal Standing*

546. The Court considers that, in light of the urgency, gravity, and complexity of the climate emergency, judicial authorities must apply the *pro actione* principle with respect to the admissibility of actions, appeals filed, and requirements regarding standing that could undermine the guarantee of the right of access to justice in collective and individual claims.

#### *i. Claims of a Collective Nature*

547. The Court observes that numerous legal systems in the Americas contemplate broad forms of standing for the collective, popular, or public defense of the environment, which may be equally applicable to the defense of the right to a healthy climate.[958] For its part, the Escazú Agreement establishes that in order to guarantee the right of access to justice in environmental matters, the State Parties to this treaty must have mechanisms for "broad active legal standing in defense of the environment, in accordance with domestic legislation."[959]

548. The Court emphasizes that guaranteeing access to justice in collective claims implies ensuring that civil society and State institutions empowered to seek justice have real possibilities for action. In addition to enforcing the other procedural rights set forth in the present Advisory Opinion, this means that States must provide the technical, budgetary, and personnel resources necessary to enable the public entities designated to exercise this function to do so adequately.

549. The Court also notes that, given the collective nature of climate issues, States should move forward with the creation of procedural mechanisms within their domestic regulations that allow for broad forms of standing, such as procedural institutions of collective, public, or popular standing, which may be used to request measures to protect the environment and the climate system, without the need to demonstrate an individual interest or impact.

#### *ii. Individual Claims*

550. In the case of individual actions, the guarantee of access to justice involves the provision of remedies that permit the victims' rights to be duly restored. To this end, States can retain the general requirement of direct or personal legal standing, or establish judicial mechanism that admit forms of collective, public or the peoples' legal standing. Regardless of the form of legal standing applied, States must facilitate access to justice for individuals and groups affected by climate change and insufficient state action. In this regard, the Court underscores that, even when legal systems establish forms of direct or personal legal standing, the evaluation of the interests to be examined must be flexible and take into account factors such as the exposure and

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[958] See, *inter alia*, Constitution of the Plurinational State of Bolivia, Articles 33 and 34; Colombia, Law 472 of 1998, Article 4.a; Constitution of Costa Rica, Article 50; Organic Environmental Code of Ecuador, Article 304, and Panama, Law N° 287 of 2022, which recognizes the rights of Nature and the States' obligations related to those rights, Articles 1,4, 5.

[959] The Escazú Agreement has been signed by 24 countries in Latin America and the Caribbean and, as of the adoption of this Advisory Opinion, has 16 States Parties, namely: Antigua and Barbuda, Argentina, Belize, Bolivia, Chile, Colombia, Ecuador, Granada, Guyana, Mexico, Nicaragua, Panama, St. Vincent and the Grenadines, St. Kitts and Nevis, St. Lucia and Uruguay.

vulnerability of the individuals, communities and ecosystems affected or threatened by climate change, based on their geographical location, adaptation capabilities, and the structural inequalities that may exacerbate vulnerability to climate impacts.

551. The Court recalls that climate damage is, by its nature, transboundary (*supra* para. 295) and that States must provide prompt, adequate and effective redress to individuals and States that are victims of transboundary harm resulting from activities carried out in their territories or under their jurisdiction, when there is causal link between the damage caused and the act or omission of the State of origin in relation to activities in its territory or under its jurisdiction or control.[960] Consequently, the Court stresses that the guarantee of access to justice involves the legal standing of people and entities that do not reside in the State's territory.

*C.5.5. The Evidence*

552. The Court notes that, given the complexity inherent in climate litigation, the strict application of certain general provisions on evidentiary matters could represent an unjustified obstacle to effective access to justice. In this context, it corresponds to the judicial authorities to adopt an approach that takes into account the characteristics of this type of litigation, such as the difficulties to prove the causal link between the damage and its origin, the asymmetry in the control of and access to probative elements – including satellite images – as well as the concentration of technical information in stakeholders with greater institutional or economic capacities. These factors require an interpretation of the evidentiary rules based on the principles of availability of evidence, and procedural cooperation, *pro persona*, *pro natura* and *pro actione*.

553. Regarding the first of these factors, the Court notes that access to justice calls for the adoption of alternative probative standards that permit establishing the causal relationship based on the best available science, considering the generation or tolerance of significant risks owing to the omission of measures of prevention, and the real exposure of individuals or groups to such risks, without necessarily requiring proof of a direct causal link.[961] In this regard, the Court draws attention to the possibility of presuming the causal link between GHG emissions and the degradation of the climate system, as well as the one that exists between this degradation and the resulting risks for natural systems and people.

554. In line with the foregoing, the Court considers that provisions concerning the admissibility, reliability and assessment of evidence should be interpreted flexibly to avoid them becoming unjustified procedural barriers for victims; particularly for those in a special situation of vulnerability in the context of the climate emergency. This calls for a detailed assessment of the possible asymmetries between the parties and the adoption of appropriate measures – such as the reversal of the burden of proof – that allow effective access to justice to be guaranteed.

555. Lastly, the Court stresses the importance of guaranteeing access to appropriate

960 *Cf.* Advisory Opinion OC-23-17, *supra*, para. 103. See also, United Nations General Assembly, Resolution 62/68, "Consideration of prevention of transboundary harm from hazardous activities and allocation of loss in the case of such harm," of December 6, 2007, and its annex..

961 *Cf. Mutatis mutandi*, *Case of the Inhabitants of La Oroya v. Peru supra*, para. 204.

proof and, in particular, satellite evidence in view of its probative pertinence in the context of the climate emergency. Here, it considers that cooperation mechanisms should be implemented in relation to technology transfer to permit the use of such evidence.

### *C.5.6. Measures of Reparation*

556. The Court recalls that the right to an effective remedy established in Articles 25(1) of the Convention and XVIII of the American Declaration calls for the existence of domestic remedies that ensure access to justice to obtain effective reparation for harm due to human rights violations.[962] The reparation should provide full restitution (*restitutio in integrum*), which consists in the restoration of the previous situation and, if this is not feasible, measures must be adopted to guarantee the rights that have been violated and to redress the consequences of those violations.[963] The Court has developed diverse measures of reparation to redress the damage fully so that, in addition to pecuniary compensation, measures of restitution, rehabilitation and satisfaction and guarantees of non-repetition have special relevance.[964]

557. In the context of the climate emergency, States are obliged to establish effective administrative and judicial mechanisms that allow victims access to comprehensive redress. These mechanisms and the measures of reparation they establish should be adapted to the nature of the harm and consider the particular circumstances of its effects on individuals and on Nature. Such measures should also be aimed at enhancing the adaptation and resilience capabilities of the individuals affected and the ecosystems impacted, so that they contribute to a sustainable recovery from the adverse effects of climate change.

558. Consequently, the Court notes the need to establish, as appropriate: (i) measures of restitution aimed at restoring the climate system and the ecosystems by increasing mitigation commitments, as well as funding and implementing conservation or restoration plans and actions; (ii) measures of rehabilitation which include opportune, accessible, acceptable, quality, and culturally adapted medical care, which respects the autonomy of the individual, for diseases linked to or exacerbated by climate change; (iii) compensation measures based on appropriate methodologies to assess the losses suffered in this context, and (iv) guarantees of non-repetition addressed at reducing vulnerability, monitoring compliance with existing obligations, and enhancing the resilience of natural and human systems within the framework of sustainable development.

559. All these measures must be: (i) based on the best available science and knowledge, and (ii) designed and implemented fully guaranteeing the procedural and substantive rights of the individuals and communities concerned (*infra* paras. 604 and 613). Lastly, the Court also draws the attention of States and domestic and international authorities and jurisdictions that determine measures of reparation in the

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962 *Cf. Case of Goiburú et al. v. Paraguay. Merits, reparations and costs*. Judgment of September 26, 2006. Series C No. 153, para. 120, and *Case of Baraona Bray v. Chile, supra*, para. 148.

963 *Cf. Case of Velásquez Rodríguez v. Honduras, supra*, paras. 25 and 26, and *Case of Capriles v. Venezuela, supra,* para. 191.

964 *Cf. Case of the Las Dos Erres Massacre v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of November 24, 2009. Series C No. 211, para. 226, and *Case of Capriles v. Venezuela, supra*, para. 191.

context of the climate emergency to the need to consider the necessity and pertinence of not limiting reparation to pecuniary measures of compensation, and evaluating the opportunity to establish mechanisms to monitor or follow-up on the implementation of any measures of reparation that require this owing to the circumstances of the case.

#### *C.5.7. Application of Inter-American Standards*

560. Finally, the Court recalls that, when deciding litigations and legal issues that may arise in the context of the climate emergency, the competent authorities should conduct 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. These standards also result from the American Declaration, the OAS Charter, and the Inter-American Democratic Charter and are, therefore, applicable in all member countries of the inter-American system.

### C.6. *Right to Defend Human Rights and Protection of Environmental Defenders*

561. The Court has indicated that, as an autonomous right, the right to defend human rights protects the real possibility of exercising freely, without limitations or risks of any kind, different activities and tasks aimed at the advancement, monitoring, promotion, dissemination, education, defense, claim for or protection of the universally recognized human rights and fundamental freedoms. Consequently, imposing unlawful restrictions or obstacles to the free and safe implementation of such activities by defenders due precisely to their condition as such and to the work they carry out, can lead to the violation of this right.

562. Furthermore, the Court has indicated that the condition of humana rights defender results from the work carried out, regardless of whether the person involved is a private individual or a public official, and irrespective of whether the defense involves civil and political rights, or economic, social, cultural and environmental rights.[965] The Court has also clarified that the activities of promotion and protection of rights can be carried out intermittently or occasionally, so that the condition of human rights defender is not necessarily a permanent condition.[966] This category evidently includes environmental defenders, also known as defenders of environmental human rights or human rights defenders in environmental matters.[967]

563. The Court has also recognized that respect for and guarantee of the rights of environmental human rights defenders is particularly important because they perform a task that is "fundamental for strengthening democracy and the rule of law."[968] This importance is increased in the context of the climate emergency owing to the urgency,

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965 *Cf. Case of Kawas Fernández v. Honduras, supra*, paras. 147 and 148, and *Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia. Preliminary objections, merits, reparations and costs*. Judgment of October 18, 2023. Series C No. 506, para. 468.

966 *Cf. Case of the Human Rights Defender et al. v. Guatemala. Preliminary objections, merits, reparations and costs*. Judgment of August 28, 2014. Series C No. 283, para. 129, and *Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia, supra*, para. 468.

967 *Cf. Case of Kawas Fernández v. Honduras, supra,* paras. 147 to 149 and *Case of Baraona Bray v. Chile, supra*, para. 71.

968 *Cf. Valle Jaramillo et al. v. Colombia, supra*, para. 87, and *Case of Baraona Bray v. Chile, supra,* para. 78.

gravity and complexity of the measures required to address it, and the essential nature of the participation and involvement of the general population.

564. The Escazu Agreement is the first international instrument to refer expressly to environmental defenders.[969] According to this instrument, this category is composed of "persons, groups and organizations that promote and defend human rights in environmental matters."[970] Similarly, the report of the former United Nations Special Rapporteur on this issue indicates that the term environmental human rights defenders refers to "individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna."[971] According to the report, regardless of what they do, defenders are "characterized as such through their actions to protect environmental and land rights."[972]

565. In their joint Declaration on the climate crisis and freedom of expression, the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information in Africa acknowledged the critical role played by defenders in achieving the SDGs, and in promoting the UNFCC and the Paris Agreement. They also emphasized the importance of empowering these actors to disseminate information, share diverse perspectives and participate actively in discussions and decision-making processes to promote transparency, accountability and public participation in efforts to address the climate crisis.[973]

566. The Court also stresses the essential work of environmental defenders in the context of the climate emergency and, consequently, recognizes that States have a

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969 Article 9 of the Escazú Agreement establishes the obligation of the States Parties to guarantee: "a safe and enabling environment" so that human rights defenders in environmental matters "are able to act free from threat, restriction and insecurity." It also establishes that States must take "adequate and effective measures to recognize, protect and promote" all their rights, including the rights to life, personal integrity, freedom of opinion and expression. Among the general principles, it also establishes that each Party will ensure that the rights recognized in the Agreement are freely exercised (Article 4.2) and "guarantee an enabling environment for the work of persons, associations, organizations or groups that promote environmental protection, by recognizing and protecting them" (Article 4.6). *Cf.* Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazu Agreement) adopted on March 4, 2018, available at: https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xxvii-18&chapter=27&clang=_en

970 *Cf.* Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazu Agreement) adopted on March 4, 2018, available at: https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xxvii-18&chapter=27&clang=_en

971 *Cf.* Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, "Situation of human rights defenders," A/71/281, August 3, 2016, para. 7.

972 *Cf.* Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, "Situation of human rights defenders," A/71/281, August 3, 2016, para. 8.

973 *Cf.* The United Nations (UN) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information in Africa ("mandate holders"), "Joint Declaration on the Climate Crisis and Freedom of Expression," May 3, 2024, Available at: https://www.osce.org/files/f/documents/6/b/567968.pdf

"special duty of protection" towards them.[974] This "special duty of protection," resulting from the obligations to respect and to guarantee the right to defend human rights, imposes on the States the duties to:

> (i) recognize, promote and guarantee the rights of defenders, affirming the relevance of their role in a democratic society and endeavoring to provide them with the means they require to carry out their function satisfactorily. This entails the need to refrain from imposing obstacles that hinder the activities of defenders, stigmatizing them or questioning the legitimacy of their work, harassing them or, in any way, encouraging, tolerating or consenting to their stigmatization, persecution or harassment;
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> (ii) guarantee a safe and favorable environment in which defenders are able to conduct their activities freely, without threats, restrictions or risks to their life, their safety, or their work. This entails the enhanced obligation to prevent attacks, harassment or intimidation, to mitigate existing risks, and to adopt and ensure appropriate and effective measures of protection to address such risks,[975] and
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> (iii) investigate and, as appropriate, punish any attacks, threats or intimidation that defenders may endure while carrying out their task and, eventually, redress the harm that may have been caused. This results in a duty of enhanced due diligence in the investigation and elucidation of any acts that harm them which, in the case of women defenders, have implications for the doubly enhanced obligation to conduct investigations with due diligence owing to their dual condition as women and defenders.

567. Ultimately, in addition to refraining from imposing unlawful limits or restrictions on the work of defenders, this special duty of protection imposes on the authorities an enhanced obligation to devise and implement appropriate public policy instruments, and to adopt the pertinent domestic legal provisions and practices to ensure the free and safe exercise of the activities of human rights defenders.

568. The Court notes that environmental defenders run a heightened risk of suffering violations of their rights due to their activities in the context of the climate emergency. This risk is revealed by censorship of discussions on the environment and the climate,

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974 *Cf. Case of Nogueira de Carvalho et al. v. Brazil, Preliminary objections and merits.* Judgment of November 28, 2006. Series C No. 161, para. 77, and *Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia, supra*, para. 471.

975 The Court has indicated that the measures of protection established in favor of defenders should be appropriate, in the sense of addressing the specific situation of risk, and effective in the sense that they must be capable of producing the results for which they were conceived. The Court has also indicated that, in the case of defenders, in order to comply with the requirement of appropriateness, the special measures of protection must meet the following conditions: (a) that they are in keeping with the role played by the defenders; (b) that the level of risk is assessed in order to adopt measures, and the measures that are in force must be monitored, and (c) it should be possible to modify the measures based on any change in the gravity of the risk. Consequently, the type of protection measures should be decided in consultation with the defenders, to ensure an intervention that is opportune, specialized and proportionate to the possible risk. Furthermore, a gender-based approach should play an important role in the risk assessment procedure, and also in the implementation of the measures of protection. To ensure that the measures are effective, it is also essential that: (a) there is an immediate state response as soon as the existence of a risk is known, so that the measures are opportune; (b) those who intervene in the protection of defenders have the necessary training to perform their task, and are aware of the importance of their actions, and (c) the measures must be in force for as long as the victims of violence and threats require them. *Cf. Inter alia, Case of Nogueira de Carvalho et al. v. Brazil, supra*, para. 77, and *Case of the Human Rights Defender et al. v. Guatemala, supra*, para. 157.

violence online and in other spaces, the suppression of protests and public meetings, arbitrary detentions, and strategic lawsuits against public participation brought by private individuals and public entities (known as "SLAPP").[976]

569. In this regard, it has been noted that the failure to implement adaptation and mitigation actions has led organizations working in the area of climate action to increase their activities. In response, a context of criminalization and violence against environmental defenders aimed at inhibiting their work has been verified.[977] It has been documented that environmental defenders face violent attacks and threats to their families, forced disappearance, unlawful surveillance, travel prohibitions, bribery, sexual harassment, legal harassment, and the use of force to break up peaceful protests. In some countries, violations of the rights of defenders "are intertwined with the overall climate of criminalization of their work."[978]

570. In turn, "the overall climate of criminalization" that characterizes defense of the environment acts as a means of delegitimizing the work of defenders by using the law for restrictive purposes and other forms of judicial harassment, such as arbitrary detention, and sentences[979] that violate the rights to judicial guarantees and protection. In addition to criminalization, the Court notes that environmental defenders suffer from other forms of harassment such as the use of force and other types of reprisals to dispel peaceful protests.[980] Consequently, the Court notes that the context of violence, criminalization, and disproportionate use of force to suppress protects, may have a chilling effect on defenders and directly violate their freedom of expression,[981] and assembly[982] and, in general, their right to defend human rights.[983]

571. Furthermore, environmental defenders include groups that, for intersectional reasons, are particularly vulnerable to heightened forms of violence. This is the case of Indigenous Peoples, the Afro-descendant population, rural communities and women.[984] The Special Rapporteur on the promotion and protection of human rights in

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976 *Cf.* The United Nations (UN) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information in Africa ("mandate holders"), "Joint Declaration on the Climate Crisis and Freedom of Expression," May 3, 2024, Available at: https://www.osce.org/files/f/documents/6/b/567968.pdf

977 *Cf.* Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, "Promotion and protection of human rights in the context of climate change", A/77/226, of July 26, 2022, para. 84. See also, Brief with observations submitted by the Inter-American Commission on Human Rights (IACHR) and the Special Rapporteurship for Economic, Social, Cultural and Environmental Rights (REDESCA), para. 397.

978 *Cf.* Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, "Situation of human rights defenders," A/71/281, August 3, 2016, para. 30.

979 *Cf.* See similarly: Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, "Situation of human rights defenders," A/71/281, August 3, 2016, para. 30, 38, 39 y 40.

980 *Cf.* See similarly: Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, "Situation of human rights defenders," A/71/281, August 3, 2016, para. 30.

981 Article 13 of the American Convention on Human Rights.

982 Article 15 of the American Convention on Human Rights.

983 On the content of the autonomous right to defend human rights, see: *Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia*, *supra*, paras. 971 to 983.

984 See, *Case of the Human Rights Defender et al. v. Guatemala*, *supra*, para. 157; *Case of Digna Ochoa and family members v. Mexico. Preliminary objections, merits, reparations and costs.* Judgment of November 25, 2021. Series C No. 447, para. 125, and *Case of the Tagaeri and Taromenane Indigenous Peoples v. Ecuador, supra*, para. 362.

the context of climate change documented "227 lethal attacks against land and environmental defenders" in 2020, and pointed out that "five out of seven mass killings of defenders recorded in 2020 were of Indigenous Peoples."[985] According to UN Women, between 2012 and 2022, nearly 2,000 women environmental defenders were killed and many of them had been subjected to sexual violence, death threats and criminalization.[986]

572. In addition, the Court has verified that women environmental defenders are subject to stereotyping, aimed at delegitimizing their work. Moreover, certain women – due to factors other than their gender, such as ethnic origin – are exposed to greater risks to their life and safety.[987] In this regard, the Special Rapporteur on the promotion and protection of human rights in the context of climate change has indicated that "indigenous women acting as environmental defenders face additional obstacles to their well-being, such as sexual violence, sexual discrimination, harassment of their children and families and increased vulnerability to mistreatment from State forces and armed groups."[988] Similarly, CEDAW has stated that indigenous women and girls are "at particular risk"[989] in the course of advancing their land and territorial rights, and opposing the implementation of development projects without the free, prior and informed consent of the Indigenous Peoples concerned. According to CEDAW, "[i]ndigenous women and girl human rights defenders face killings; threats and harassment; arbitrary detentions; forms of torture; and the criminalization, stigmatization and discrediting of their work."[990]

573. The Court also underscores that journalists covering environmental issues face a context of hostility and can be subject to diverse reprisals. According to UNESCO data, between 2009 and 2023, at least 749 journalists, groups of journalists and news media outlets in 89 countries were "attacked" while covering environmental issues.[991]

574. Starting with *Kawas Fernández v. Honduras* in 2009, this Court has pointed out the risk faced by environmental defenders while carrying out their work.[992] Even today, the region continues to experience significant challenges to protect the human rights of this group. In 2024, the Inter-American Commission expressed its "concern over

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985 *Cf.* Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, "Promotion and protection of human rights in the context of climate change", A/77/226, of July 26, 2022, para. 86. See also: Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, "Situation of human rights defenders," A/71/281, August 3, 2016, para. 55.

986 *Cf.* UN Women, "Facts and figures: Women, peace and security." Available at: https://www.unwomen.org/en/articles/facts-and-figures/facts-and-figures-women-peace-and-security

987 *Cf.* IACHR, "Violence and discrimination against women and girls: Best practices and challenges in Latin America and the Caribbean," November 14, 2019, para. 126.

988 *Cf.* Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, "Promotion and protection of human rights in the context of climate change", A/77/226, of July 26, 2022, para. 86.

989 *Cf.* Committee on the Elimination of Discrimination Against Women, "General recommendation No.39 (2022) on the rights of Indigenous women and Girls," CEDAW/C/GC/39, 2022, para. 45.

990 *Cf.* Committee on the Elimination of Discrimination Against Women, "General recommendation No.39 (2022) on the rights of Indigenous women and Girls," CEDAW/C/GC/39, 2022, para. 45.

991 *Cf.* UNESCO, "Press and Planet in danger: Safety of environmental journalists – trends, challenges and recommendations", CI-2024/WTR/2, 2024, p.4.

992 *Cf. Case of Kawas Fernández v. Honduras, supra*, para. 98.

the high rates of violence against human rights defenders in the Americas in 2023."[993] It also noted that, in that year alone, this had included the murder of at least 126 defenders, indicating that "as in previous years, this violence was particularly directed against those defending land and the environment."[994]

575. Based on the foregoing, the Court considers that States have the obligation: (i) to compile and keep up-to-date disaggregated data on the number of verified cases of murders, kidnappings, forced disappearances, arbitrary detentions, tortures and other harmful acts against environmental defenders, taking into consideration socio-economic factors, such as gender, age, sex and ethnicity; (ii) design and implement policies and strategies to respond to the structural causes of the violence against environmental defenders and to prevent future incidents of violence and intimidation. These policies and strategies must involve the participation of environmental defenders and take into account the differentiated impacts of the violence based on intersectional and structural factors of discrimination, and (iii) adopt adequate measures to promote the recognition and protection of the right to defend environmental human rights in all spheres of the State, and among the general population.

576. States also have the obligation to adopt the necessary measures to establish or, if applicable, reinforce national protection programs that include an intersectional approach. Such programs must promote social dialogue and be designed and adopted with the effective participation of all relevant social actors including, at least, business enterprises, labor unions, NGOs, and defenders. In addition, they must include specific strategies to guarantee the life, safety and reputation of environmental defenders, considering the situation of additional risk experienced by women defenders, journalists, members of rural communities, Afro-descendants, and Indigenous Peoples.

577. The national protection programs must include specific institutional mechanisms to receive requests for protection in the case of situations of harassment and criminalization; conduct risk assessments; adopt appropriate protection measures, and conduct effective monitoring to ensure proper implementation. These institutional mechanisms must have specific protocols for responding to requests and adopting measures of protection involving groups that are particularly vulnerable, such as women defenders,[995] peasant farmers, Afro-descendants, and indigenous women.

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[993] *Cf.* IACHR, "2023 Ends with High Rates of Violence Against Human Rights Defenders in the Americas," March 5, 2024. Available at: https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2024/045.asp#:~:text=Washington%2C%20D.C.%20%2D%20The%20Inter%2D,of%20at%20least%20126%20defenders.

[994] *Cf.* IACHR, "2023 Ends with High Rates of Violence Against Human Rights Defenders in the Americas," March 5, 2024. Available at: https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2024/045.asp#:~:text=Washington%2C%20D.C.%20%2D%20The%20Inter%2D,of%20at%20least%20126%20defenders The Commission has also issued several thematic reports on the situation of defenders. In February this year, it launched an Interdisciplinary Group of Independent Experts for the case of Berta Cáceres, an environmental activist who died in 2016. See, IACHR, "IACHR launches Interdisciplinary Group of Independent Experts for the case of Berta Cáceres," of February 14, 2025.

[995] Some measures of protection related to the situation of risk of women defenders may include: "(i) protection material adapted to the needs of women, for example bullet-proof vests that are tailored for women's different body shape and size in comparison to men; (ii) the granting of protection to the nuclear family group, when requested; (iii) access to comprehensive psychosocial services for women human rights defenders who experience violence by virtue of the work they undertake; (iv) attention to women victims of sexual violence by personnel adequately trained in gender sensitivity and trauma relief; (v) alternatives

578. States must guarantee the participation of the beneficiaries in assessment of the risk and implementation of the measures of protection. Also, those involved in the security arrangements should be appointed in consultation with the beneficiaries and with their consent. In addition, there should be adequate coordination between the entity responsible for the protection mechanism and other competent state authorities, although it should enjoy the necessary independence and autonomy to fulfill its mandate objectively. Thus, the Court underscores the relevance that the measures of protection be provided by security personnel who are independent of the State's intelligence and counter-intelligence services. The mechanism should also have the budgetary and logistical resources necessary to ensure that the measures of protection can remain active while the risk subsists.[996]

579. States must also implement education and dissemination activities for state agents, the general public and the media to promote awareness of the functions of the institutional protection mechanism for defenders.

580. The Court recalls that, pursuant to its case law, threats and attacks on the integrity and life of defenders, and the impunity of those responsible for such actions, are particularly serious because they have an impact that is not merely individual, but also collective, insofar as society is prevented from learning the truth of the situation of respect for, or violation of, the rights of those subject to the jurisdiction of a particular State.[997]

581. Therefore, the Court finds that States have an obligation, subject to the standard of enhanced diligence, to investigate, prosecute and punish the crimes committed against environmental defenders. The State should assume this obligation as its own legal duty in a serious manner and not as a mere formality preordained to be ineffective, or as a step taken by private interests that depends upon the initiative of the victim or his family or upon their offer of proof.[998] This obligation extends to acts committed by private parties because, if these are not investigated diligently, those parties are aided in a sense by the government.[999]

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to the presence of armed men in their households in certain cases, which can include the use of female police officers or the use of accompaniment that does not include an armed presence; (vi) the independence of the protection unit and its human resources so as to guarantee that the armed protection personnel tasked with the protection of the woman defender is not from the same State entity that is being accused of violating their rights; (vii) training of security and law enforcement officials on human rights and on the specific risks and challenges faced by women human rights defenders, and their specific needs for protection […]". *Cf.* IACHR, "Integral Protection Policies for Human Rights Defenders", OEA/Ser.L/V/II, December 29, 2017, para. 305.

996 Similarly, see: IACHR, "Criminalization of Human Rights Defenders," OEA/Ser.L/V/II., December 31, 2015, paras. 288 and ff, and IACHR, "Integral Protection Policies for Human Rights Defenders," OEA/Ser.L/V/II, December 29, 2017, paras. 344 and ff. See also: Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, "Situation of human rights defenders," A/71/281, August 3, 2016, paras. 96 and ff.

997 *Cf. Case of Nogueira de Carvalho et al. v. Brazil, supra*, para. 76, and *Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia, supra*, para. 478.

998 *Cf. Case of Velásquez Rodríguez v. Honduras. Merits, supra*, para. 177*, and Case of Cuéllar Sandoval et al. v. El Salvador. Merits, reparations and costs*. Judgment of March 18, 2024. Series C No. 521, para. 88.

999 *Cf. Case of Velásquez Rodríguez v. Honduras. Merits, supra*, para. 177, and *Case of Dos Santos Nascimento and Ferreira Gomes v. Brazil. Preliminary objections, merits, reparations and costs.* Judgment of October 7, 2024. Series C No. 539, para. 115.

582. The duty of enhanced due diligence in the investigation and elucidation of acts that harm environmental defenders must be complied with not only in cases of attempts on their life,[1000] but also in situation of threats, vilification, harassment, and other types of attacks and persecution against them.[1001] States must combat impunity,[1002] and ensure impartial, timely and effective justice, which signifies a thorough search for all relevant information and due analysis of all theories regarding the perpetrators, by act or omission, at different levels, exploring all pertinent lines of investigation to clarify what has occurred.[1003]

583. Once the authorities have been informed of a threat, attack, harassment or any other act that may be of a criminal nature, they must conduct, *ex officio*, a serious, independent, transparent and opportune investigation to identify the perpetrators and masterminds, prosecute them, and ensure adequate reparation to victims.[1004] The authorities in charge of the investigation should conduct the necessary procedures expeditiously, avoiding unjustified delays, obstructions or hindrances that may result in a lack of justice or make it difficult to obtain and preserve evidence.[1005]

584. The duty to investigate, *ex officio*, signifies that when reports of acts of harassment against human rights defenders are filed before state instances that are not competent *prima facie* to investigate them, the latter must take action with regard to those reports, informing the competent organs and advising the alleged victims on how they should proceed. As this Court has recognized, victims should not be required to "to know which authority is best able to address their situation, since it is the State's responsibility to establish the necessary measures of coordination between its institutions and officials."[1006]

585. When there are indications or allegations that a specific act against a defender may be due precisely to their work of defending and promoting human rights, the authorities competent to conduct the investigation should take into account the context of the facts and the defender's activities to identify the interest that could have been affected and, on this basis, establish and exhaust lines of investigation that take into account the defender's work, determine the reason for the crime, and identify the perpetrators.[1007] In addition, the investigations should involve an intersectional

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1000 *Cf. Case of Digna Ochoa and family members v. Mexico, supra*, para. 104, and *Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia*, *supra*, para. 742.

1001 *Cf. Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia*, *supra*, para. 742. Similarly, see: Article 9 of the United Nations Declaration. *Cf.* United Nations General Assembly, "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms," A/RES/53/144, of March 8, 1999.

1002 *Cf. Case of Nogueira de Carvalho et al. v. Brazil, supra,* para. 77, and *Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia, supra*, para. 743.

1003 *Cf. Case of Nogueira de Carvalho et al. v. Brazil, supra*, para. 77, and *Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia, supra*, para. 743.

1004 *Cf.* IACHR, "Criminalization of Human Rights Defenders," OEA/Ser.L/V/II. Doc. 49/15, of December 31, 2015, para. 287 (25).

1005 *Cf.* IACHR "Practical Guidelines and Recommendations for the Development of Risk Mitigation Plans for Human Rights Defenders," 2021, p. 38. Similarly, see: IACHR, "Criminalization of Human Rights Defenders," OEA/Ser.L/V/II. Doc. 49/15, of December 31, 2015, para. 287(23).

1006 *Cf. Case of Vélez Restrepo and family members v. Colombia*, *supra*, para. 201, and *Case of the Inhabitants of La Oroya v. Peru supra*, para. 317.

1007 *Cf. Case of the Human Rights Defender et al. v. Guatemala, supra*, paras. 131, 216 and 219, and *Case of Members of the "José Alvear Restrepo" Lawyers' Collective v. Colombia, supra*, para. 743.

perspective and assess the circumstances of special risk faced by defenders who are women, indigenous, Afro-descendants, or peasant farmers.[1008]

586. Added to the above, the Court finds that States should adopt, progressively, the necessary measures to reinforce institutional capabilities in order to combat patterns of impunity in cases of violence and harassment against environmental defenders. To this end, they can adopt best practices, such as: (i) developing protocols for the investigation of crimes against defenders, and (ii) establishing special investigative and prosecutorial units for this type of crime.

587. Violations of the human rights of environmental defenders may also stem from the criminalization of their activities by the undue use of the law to restrict these activities, other forms of judicial harassment, arbitrary detention, and convictions with disproportionate sentences.[1009] The Court considers that, to combat this phenomenon, States have the obligation to: (i) identify laws that are applied selectively and repeatedly to prosecute and punish environmental defenders based only on their legitimate exercise of the work of defending human rights, as well as those that, due to their ambiguity, could have an intimidating or dissuasive effect; (ii) revise the conventionality of such laws and adopt administrative or legislative measures to derogate or amend them, as necessary; (iii) establish procedures that allow administrative or judicial actions that are merely aimed at intimidating or silencing defenders to be dismissed promptly, rather than imposing measures that restrict their rights, and (iv) undertake special education and training efforts for relevant police and judicial authorities on the inter-American standards of protection for environmental defenders to prevent and avoid forms of judicial harassment or the adoption of judicial decisions that violate the right to defend human rights.[1010] These obligations do not prevent States from investigating – in accordance with due process – environmental defenders when they have legitimate reasons to do so if an offense may have been committed.

### *D. The Obligations Arising from the Principle of Equality and Non-Discrimination*

588. To respond to the final question that is the purpose of this advisory Opinion, in this section the Court will address determination of the differentiated obligations to guarantee the principle of equality and non-discrimination in relation to individuals and groups who are particularly vulnerable in the context of the climate emergency. To this end, it will refer to: (D.1) the scope of the principle of equality and non-discrimination; (D.2) some forms of differentiated protection in the context of the

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[1008] *Cf.* IACHR, "Practical Guidelines and Recommendations for the Development of Risk Mitigation Plans for Human Rights Defenders," of April 26, 2021, pp. 38 and 39; IACHR, "Second Report on the situation of human rights defenders in the Americas," OEA/Ser.L./V.II. Doc. 66, of December 31, 2011, para. 236. See, *mutatis mutandis*, *Case of Digna Ochoa and family members v. Mexico*, *supra*, para. 101; *Case of the Human Rights Defender et al. v. Guatemala*, *supra*, paras. 141 and 142. See also, Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, "Situation of human rights defenders," A/70/217, July 30, 2015, paras. 43 and 44.

[1009] *Cf.* Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, "Situation of human rights defenders," A/71/281, August 3, 2016, paras. 39 and 40.

[1010] Similarly, see: IACHR, "Criminalization of Human Rights Defenders," OEA/Ser.L/V/II, of December 31, 2015, paras. 284 to 291; IACHR, "Integral Protection Policies for Human Rights Defenders," OEA/Ser.L/V/II, of December 29, 2017, para. 344 and 345, and IACHR, REDESCA, "Northern Central America: Situation of Environmental Defenders", OEA/Ser.L/V/II of December 16, 2022, paras. 299 to 305.

climate emergency, and (D.3) the fight against poverty and inequality as intersectional factors that determine vulnerability to climate impacts.

### D.1. *The Principle of Equality and Non-Discrimination*

589. The concept of equality referred to in Articles 1(1) and 24 of the American Convention, 3 of the Protocol of San Salvador,[1011] and II of the American Declaration[1012] springs directly from the oneness of the human species and is inseparable from the essential dignity of the individual so that it is incompatible with any notion that a given group has the right to privileged treatment because of its perceived superiority or, inversely, that considering it inferior, a group is treated with hostility or otherwise subjected to discrimination in the enjoyment of rights which are accorded to others not so categorized.[1013] States should refrain from undertaking actions that are aimed, in any way, either directly or indirectly, at creating situation of discrimination *de jure* or *de facto.*[1014]

590. The Court has indicated that there is an inseparable link between the obligation to respect and to guarantee human rights and the principle of equality and non-discrimination.[1015] In addition, the Court's case law has indicated that, at the present stage of evolution of international law, the fundamental principle of equality and non-discrimination has entered the realm of *jus cogens*. The legal structure of national and international public order rests on it and it permeates the whole legal system.[1016]

591. The right to equality and non-discrimination encompasses two concepts: one related to the prohibition of arbitrary differences in treatment, and the other to the State obligation to adopt positive measures to reverse or modify any discriminatory situations in their societies that affect a specific group of individuals. This calls for the special duty of protection that States should exercise in relation to acts and practices of third parties who, with its tolerance or acquiescence, create, maintain or support discriminatory situations.[1017]

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[1011] Article 3 of the Protocol of San Salvador establishes that: "[t]he State Parties to this Protocol undertake to guarantee the exercise of the rights set forth herein without discrimination of any kind for reasons related to race, color, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition." *Cf.* Protocol Additional to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), 1988, available at: https://www.oas.org/juridico/english/treaties/a-52.html .

[1012] Article II of the American Declaration of the Rights and Duties of Man establishes that: "[a]ll persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor. " *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/en/iachr/mandate/Basics/american-declaration-rights-duties-of-man.pdf .

[1013] *Cf. Advisory Opinion OC-4/84*, *supra*, para. 55, and *Case of Dos Santos Nascimento and Ferreira Gomes v. Brazil, supra,* para. 91.

[1014] *Cf. Advisory Opinion OC-18/03, supra*, para. 101, 103 and 104, and *Case of Dos Santos Nascimento and Ferreira Gomes v. Brazil, supra,* para. 91.

[1015] *Cf. Advisory Opinion OC-18/03*, *supra*, para. 85, and *Case of Dos Santos Nascimento and Ferreira Gomes v. Brazil, supra,* para. 93.

[1016] *Cf. Advisory Opinion OC-18/03*, *supra*, para. 101, and *Case of Dos Santos Nascimento and Ferreira Gomes v. Brazil, supra,* para. 92.

[1017] *Cf. Advisory Opinion OC-18/03*, *supra*, para. 104, and *Case of the Quilombolas Communities of Alcântara v. Brazil, supra*, para. 291.

592. The Court has noted that the convergence in the same individual of numerous structural and intersectional factors of vulnerability increases the risk that he or she will be subject to discrimination.[1018] In this and other cases, the Court has indicated that anyone who is in a vulnerable situation is entitled to special protection. Therefore, it is not sufficient that States refrain from violating rights; rather it is imperative that they adopt positive measures determined based on the specific needs for protection of the subject of law, due to either their personal condition or their specific situation.[1019] In the same context, this Court has clarified that States incur international responsibility when structural discrimination exists and they fail to adopt specific measure with regard to the particular situation of victimization that results from the vulnerability of a group of individuals.[1020]

593. During the written and oral proceedings for this Advisory Opinion, the Court received numerous comments concerning the differentiated impacts of climate change on vulnerable individuals. Those comments confirm what the requesting States pointed out regarding the "differentiated and devastating impact [of climate change] on certain geographical regions and certain vulnerable groups, such as children, Indigenous Peoples and peasant farmer communities […]."[1021]

594. The Court notes 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,[1022] precisely because they have the fewest resources and the least capacity to address those consequences,[1023] face greater governance

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[1018] This has happened, for example, in cases in which the victims were children living in poverty and with HIV (*Cf. Case of Gonzales Lluy et al. v. Ecuador*, supra, para. 290); impoverished and illiterate women living in rural areas (*Cf. Case of Manuela et al. v. El Salvador*. *Preliminary objections, merits, reparations and costs*. Judgment of November 2, 2021. Series C No. 441, para. 253); individuals from the poorest regions, with least human development and possibilities of work and employment, with little or no schooling, and subject to historical factors of discrimination (*Cf. Case of the Hacienda Brasil Verde Workers v. Brazil. Preliminary objections, merits, reparations and costs*. Judgment of October 20, 2016. Series C No. 318, paras. 338 and 339); single mothers living in poverty (*Cf. Case of Ramírez Escobar et al. v. Guatemala. Merits, reparations and costs*. Judgment of March 9, 2018. Series C No. 351, para. 276); women with HIV living in poverty, of reproductive age or pregnant (*Cf. Case of Cuscul Pivaral et al. v. Guatemala*, *supra*, paras. 131 and 132); older persons with physical limitations who may be in an unfavorable economic situation (*Cf. Case of Poblete Vilches et al. v. Chile. Merits, reparations and costs*. Judgment of March 8, 2018. Series C No. 349, para. 131 and 132); migrants in an irregular situation subjected to detention measures (*Cf. Case of Vélez Loor v. Panamá*. *Preliminary objections, merits, reparations and costs.* Judgment of November 23, 2010. Series C No. 218, para. 254).

[1019] *Cf. Case of Ximenes Lopes v. Brazil*. Judgment of July 4, 2006. Series C No. 149, para. 103, and *Case of Dos Santos Nascimento and Ferreira Gomes v. Brazil, supra,* para. 98.

[1020] *Cf. Case of the Hacienda Brasil Verde Workers v. Brazil, supra*, para. 338, and *Case of the Quilombolas Communities of Alcântara v. Brazil, supra*, para. 300.

[1021] *Cf.* Request for an advisory opinion presented by Chile and Colombia before the Inter-American Court of Human Rights, January 9, 2023, p. 3. Available at: https://www.corteidh.or.cr/solicitud_opiniones_consultivas.cfm?lang=en

[1022] *Cf.* IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, K. Mintenbeck, M. Tignor, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem (eds.)]. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem, B. Rama (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 26, 67 and 93.

[1023] *Cf.* Report of the Special Rapporteur on extreme poverty and human rights, "Climate change and poverty," A/HRC/41/39, July 17, 2019, paras. 8 to 15.

challenges, have only limited access to basic goods and services, are experiencing violent conflicts, and their means of subsistence are more susceptible to the climate.[1024]

### D.2. *Climate Emergency and Differentiated Protection*

595. The way in which the 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. Therefore, in compliance with the general obligations established in the Inter-American Convention and the Protocol of San Salvador and to apply the principle of equality, States are obliged to 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 (*supra* para. 512). This information should be taken into account in all public policies to address the climate emergency, including those aimed at advancing towards sustainable development (*supra* paras. 368-376), mitigation strategies and targets (*supra* paras. 324-335), and adaptation strategies and plans (*supra* para. 384).

596. The inclusion of differentiated measures in all state actions is necessary to guarantee real equality in the enjoyment of rights in the context of the climate emergency. Although these measures should be defined in response to the particular risks detected by each State, the Court notes the existence of certain common situations of vulnerability in which the principle of equality and the prohibition of discrimination involve specific obligations. Indeed, climate change has a particular impact on the following groups, *inter alia*: (i) children and (ii) indigenous and tribal peoples, Afro-descendant communities and peasant farmers. Also, (iii) climate events may have disproportionate effects on women, persons with disabilities, and older persons, among others.

#### *i. Differentiated Protection of Children*

597. With regard to the impact on children, the United Nations Children's Fund (hereinafter "UNICEF") has indicated that "[a]lmost every child on earth is exposed to at least one climate and environmental hazard, […] creating incredibly challenging environments for children to live, play and thrive."[1025] It has been established that the effects of climate change, such as "water scarcity, food insecurity, vector-borne and waterborne diseases, the intensification of air pollution and physical trauma linked to both sudden- and slow-onset events, are disproportionately borne by children."[1026] Moreover, "rising temperatures caused by climate change increase the risk of vector-borne and zoonotic diseases and concentrations of air pollutants that stunt brain and lung development and exacerbate respiratory conditions."[1027] Additionally,

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[1024] *Cf.* Similarly, see: Birkmann, J., E. Liwenga, R. Pandey, *et. al.*, 2022: Poverty, Livelihoods and Sustainable Development. En: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1193-1213.

[1025] *Cf.* UNICEF, "The climate crisis is a Child Rights Crisis: Introducing the Children's Climate Risk Index, 2021, p. 6.

[1026] *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on "children's rights and the environment with a special focus on climate change," CRC/C/GC/26, of August 22, 2023, para. 40.

[1027] *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on "children's rights and the environment with a special focus on climate change," CRC/C/GC/26, of August 22, 2023, para. 39.

environmental degradation and pollution may result in "reductions in microbial diversity, which is critical to the development of children's immune systems, and the increasing prevalence of autoimmune diseases, with long-term effects."[1028] Moreover, the increase of $CO_2$ concentrations "reduce[s] the density of important nutrients in some crops, with projected increases in undernutrition and micronutrient deficiency."[1029] "This is leading to "malnutrition in children and stunting their growth, with devastating effects on their physical, cognitive and emotional development."[1030] In short, children are physically and physiologically more vulnerable, they differ biologically from adults (for example, the different maturity of their organs and tissues) and they have less ability to support and survive extreme weather events. Another important concern is the psychosocial and mental health conditions that children suffer or may suffer as a result of climate change,[1031] including depression and "eco-anxiety."[1032]

598. Added to this is the intersection of vulnerabilities such as those present in children who are migrants, indigenous, living in extreme poverty, or on the street, or in precarious housing. Gender is also a relevant factor in perception of the impact, and girls are more vulnerable to climate impacts, which usually intensify existing inequalities (*infra* para. 614).

599. Based on the foregoing, the Court finds that, pursuant to the obligation to protect children established in Articles 19 of the Inter-American Convention, 16 of the

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1028 *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on "children's rights and the environment with a special focus on climate change," CRC/C/GC/26, of August 22, 2023, para. 39. See also: UNICEF, "Analisis de Situación de la Niñez y Adolescencia en Argentina 2020," 2021, p. 219.

1029 *Cf.* Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, "Promotion and protection of human rights in the context of climate change", A/77/226, of July 26, 2022, para. 40.

1030 *Cf.* UNICEF, "The climate crisis is a child rights crisis Introducing the Children's Climate Risk Index", 2021, p. 10. Available at: https://www.unicef.org/media/105376/file/UNICEF-climate-crisis-child-rights-crisis.pdf

1030 *Cf.* UNICEF, "The climate crisis is a child rights crisis Introducing the Children's Climate Risk Index", 2021, p. 48. Available at: https://www.unicef.org/media/105376/file/UNICEF-climate-crisis-child-rights-crisis.pdf

1031 *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on "children's rights and the environment with a special focus on climate change," CRC/C/GC/26, of August 22, 2023, para. 41.

1032 During the public hearings before the Court, several children indicated that they suffer from anxiety and depression owing to climate change. For example, the students of the Berta Cáceres Environmental Legal Clinic and the Alaide Foppa Legal Clinic for refugees at the Universidad Iberoamericana stated that their physical and mental health had been affected owing to "anxiety and depression" caused by climate change and the lack of access to advocacy spaces for today's youth. According to estimates by the Avaaz Foundation, climate change is already "seriously affecting the mental health of children. In 2021, a study of 10,000 young people from 16 to 25 years of age in 10 countries found high levels of climate anxiety; more than 60% felt anxious, fearful or sad; more than 50% angry, helpless, defenseless and guilty, with effects on their ability to sleep, concentrate, play and relate to others, [and] 75% were afraid of the future […]." *See,* Observations made by the Berta Cáceres Environmental Legal Clinic and the Alaide Foppa Legal Clinic for refugees at the Universidad Iberoamericana, and the Avaaz Foundation, at the public hearing held in Manaus, Brazil, during the Court's 167th regular session.

Protocol of San Salvador[1033] and VII of the American Declaration,[1034] States should progressively adopt all necessary measures to: (i) guarantee that children have access to integral health services and systems that are available, accessible, and of quality, and this means that they have the necessary infrastructure and equipment to attend to the different health problems linked to climate change, including mental illnesses associated with "eco-anxiety"; (ii) ensure that environmental health plans, policies, laws, and programs are aligned with the best available scientific information on the impacts of climate change on children's health, and (iii) establish the necessary policies and strategies so that attention reaches groups that are socioeconomically excluded, such as indigenous children, children with disabilities, and children living in poverty.

600. Furthermore, taking into account the significant effects of climate change on children, States should adopt the necessary measures to guarantee their procedural rights. Consequently, they should ensure their effective access to accurate and reliable information based on the best available science about the causes and effects of the climate emergency on children, and the steps taken to address these.[1035] States should adopt the necessary measures to disclose and guarantee access to this information to parents, caregivers, and those who are responsible for children's education, based on their best interests.[1036] To ensure the accessibility of this information, States should consider the barriers to access to information associated with child illiteracy, disabilities, linguistic barriers, distances, and the unavailability of information and communication technologies.

601. The Court notes the existence of best practices concerning the participation of children in environmental and climate-related matters at the international[1037] and

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[1033] Article 16 of the Protocol of San Salvador establishes that: "[e]very child, whatever his parentage, has the right to the protection that his status as a minor requires from his family, society and the State. Every child has the right to grow under the protection and responsibility of his parents; save in exceptional, judicially-recognized circumstances, a child of young age ought not to be separated from his mother. Every child has the right to free and compulsory education, at least in the elementary phase, and to continue his training at higher levels of the educational system." *Cf.* Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), 1988, available at: https://digitallibrary.un.org/record/520843?ln=en

[1034] Article VII of the American Declaration of the Rights and Duties of Man stipulates that: "[a]ll women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid." *Cf.* American Declaration of the Rights and Duties of Man, 1948, available at: https://www.oas.org/en/iachr/mandate/Basics/american-declaration-rights-duties-of-man.pdf

[1035] *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on "children's rights and the environment with a special focus on climate change," CRC/C/GC/26, of August 22, 2023, para. 33.

[1036] *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on "children's rights and the environment with a special focus on climate change," CRC/C/GC/26, of August 22, 2023, para. 32, and Committee on the Rights of the Child, "Day of General Discussion (DGD) 2018: Protecting and Empowering Children as Human Rights Defenders," pp. 17 and 40 available at: www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/Discussions/2018/crc_dgd_2018_outcomereport_en.pdf. In addition, the ECtHR has developed standards for children's access to information. See, *inter alia,* ECtHR [GS], *Case of Kjeldsen, Busk Madsen, and Pedersen v. Denmark,* no. 5095/71, of December 7, 1976, para. 53, and *Case of Folgerø and Others v. Norway,* no. 5095/71, no. 15472/02, of June 29, 2007, paras. 97 and 98.

[1037] General Comment No. 26 (2023) of the Committee on the Rights of the Child on children's rights and the environment with a special focus on climate change, was prepared with contributions from thousands of children through global consultations. *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on "children's rights and the environment with a special focus on climate change," CRC/C/GC/26, of August 22, 2023, para. 2. Under the United Nations system, the Youth Forum of the Economic and Social Council allowed young people to dialogue with Member States, express concerns and propose environmental and climate-related actions. Meanwhile, UNICEF encouraged the inclusion of children in climate debates such

regional level.[1038] In this regard, the Court considers that States must ensure age-appropriate, safe and accessible mechanisms for children's views to be heard regularly and guarantee their direct and effective participation in the pertinent stages of the process of the design, adoption and implementation of decisions on climate change; this is particularly important in relation to legislation, policies, regulations, projects, public initiatives and administrative measures that could directly affect them.[1039]

602. States also have the obligation to promote and facilitate children's climate action, as well as to refrain from taking any substantive or formal decision that hinders the activities of child environmental human rights defenders. In particular, States must progressively adopt measures to facilitate a safe environment for child defenders of environmental rights, highlight the positive impacts of their work, and guarantee their protection against intimidation, harassment and violence.[1040]

603. The Court also recognizes that national human rights institutions and special mechanisms, such as children's ombudspersons, with a legal mandate and autonomy, play an essential role in the promotion, monitoring and protection of children's rights in the context of the climate emergency. The Court notes the existence of best practices implemented by these entities to facilitate accessible channels for processing complaints, overseeing public policies, and encouraging the informed participation of children in climate issues that involve them.[1041]

604. Based on the foregoing, the Court finds that States have the obligation to: (i) facilitate pathways to justice for children by developing child-friendly and effective judicial, quasi-judicial and/or non-judicial complaint mechanisms; (ii) identify and

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as in the COP. *Cf.* "ECOSOC Youth Forum", available at: https://ecosoc.un.org/en/what-we-do/ecosoc-youth-forum/about-youth-forum/ecosoc-youth-forum-2025., and "UNICEF at COP", available at: https://knowledge.unicef.org/CEED/unicef-cop

[1038] For example, it is underscored that, in Wales, the "Well-being of Future Generations Act" encourages the inclusion of young people in the design of public polices such as climate strategies. In France, the "*Conseil d'orientation des politiques de jeunesse*" addresses environmental issues and contributes to the National Plan for Adaptation to Climate Change. *Cf.* "Well-being of Future Generations Act." available at: https://www.legislation.gov.uk/anaw/2015/2/contents/enacted, and "*Le Conseil d'orientation des politiques de jeunesse*", available at: https://www.jeunes.gouv.fr/COJ. In addition, in Costa Rica, the National Youth Council includes the social and environmental role of youth as one of the strategic elements of its Action Plan for Youth Public Policies (2020-2024). In Chile, the National Youth Institute organized the "National Survey: Youth and Climate Crisis" to learn about children's perception of climate change. *See,* "*Plan de Acción de la Política Pública de la Persona Joven* (2020-2024)", 2020, available at: https://faolex.fao.org/docs/pdf/cos220081.pdf, and "*Sondeo Juventudes y Crisis Climática",* available at: https://www.injuv.gob.cl/personas/noticias/sondeo-juventudes-y-crisis-climatica-2-de-cada-3-jovenes-que-declaran-no-querer-tener-hijos-indican-que-en-su-decision-influye-el-cambio-climatico

[1039] *Cf.* Committee on the Rights of the Child. General Comment No. 26 (2023) on "children's rights and the environment with a special focus on climate change," CRC/C/GC/26, of August 22, 2023, para. 27.

[1040] *Cf.* Committee on the Rights of the Child, "Day of General Discussion (DGD) 2018: Protecting and Empowering Children as Human Rights Defenders," p. 36, available at: www.ohchr.org/ sites/default/files/Documents/HRBodies/CRC/Discussions/2018/crc_dgd_2018_outcomereport_en.pdf.

[1041] In her written comments, the Argentine Children's Ombudsperson reported that she has promoted the participation of children through the institutional department of "Children's Protagonism." In 2022, she co-organized, in Buenos Aires, the Regional Consultation for General Comment No. 26 (2023) on children's rights and climate change, incorporating the contributions of 700 children that were included in the "Buenos Aires Declaration." In Europe, the European Network of Ombudspersons for Children has established the initiative "European Network of Young Advisors," through which children from different member countries of the Council of Europe take part in yearly consultation activities where they discuss issues such as climate change, and present recommendations to domestic and European authorities. *Cf.* Written comments submitted by the Argentine Children's Ombudsperson, pp. 7 and 17, and "European Network of Ombudspersons for Children," available at: https://enoc.eu/what-we-do/enya/.

eliminate legislative or operational barriers that prevent children from filing complaints or initiating proceedings before public authorities by themselves; (iii) adopt the necessary measures to guarantee that children can have recourse to effective judicial remedies for the protection of their human rights; (iv) reinforce special mechanisms to protect the rights of the child, such as ombudspersons, and ensure that they are independent and have the necessary competence and human, technical and financial resources to exercise their mandate effectively, including the authority to initiate proceedings in defense of children's rights;[1042] (v) establish mechanisms for children to have access to free and effective legal aid, in keeping with the State's possibilities, to file actions aimed at safeguarding their human rights in the face of environmental or climate-related harm, and (vi) eliminate adverse cost orders in actions filed by children.[1043]

### *ii. Differentiated Impact on Indigenous and Tribal Peoples, Afro-descendant Communities, Peasant Farmers, and Fishermen*

605. The Court notes that climate change has a disproportionate impact on indigenous and tribal peoples, Afro-descendant communities, peasant farmers, and fishermen because many of them depend on ecosystems that are particularly prone to the effects of climate change and extreme weather events such as floods, drought, heatwaves, wildfires and cyclones.[1044] Global warming increases the risk of disease, changes animal migration routes, reduces biodiversity, causes saltwater inundation of fresh water, destroys crops, and leads to food insecurity (*supra* paras. 89-104). In the same way, rural communities that depend on means of subsistence based on agriculture or obtained from coastal areas also run a disproportionately high risk of suffering adverse consequences due to global warming,[1045] particularly if they also lack

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[1042] In her written comments, the Argentine Children's Ombudsperson also reported that, in 2022, she had submitted an *amicus curiae* brief before the Supreme Court of Justice of the Nation based on the request for an intervention by a children's group in relation to "mining activities in the city of Andalgalá, province of Catamarca," asserting their right to take part in decision-making on public issues involving the environment. *Cf.* Written comments submitted by the Argentine Children's Ombudsperson, p.5.

[1043] See, similarly, Committee on the Rights of the Child. General Comment No. 26 (2023) on "children's rights and the environment with a special focus on climate change," CRC/C/GC/26, of August 22, 2023, paras. 82 to 90.

[1044] *Cf.* United Nations Environment Programme (UNEP), "Climate Change and Human Rights", 2015, pp. 2 to 8; Report of the Special Rapporteur on the rights of indigenous peoples, A/HRC/36/46, of November 1, 2017, para. 6; United Nations Organization for Food and Agriculture (FAO), "Indigenous peoples and Afro-descendants and climate change in Latin America: ten scalable experiences of intercultural collaboration," 2021, pp. 1 to 7 and United Nations, Report of the Secretary-General, "The impacts of climate change on the human rights of people in vulnerable situations," A/HRC/50/57 of May 6, 2022, para. 10.

[1045] *Cf.* Birkmann, J., E. Liwenga, R. Pandey, *et. al.*, 2022: Poverty, Livelihoods and Sustainable Development. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1181 and 1221; Castellanos, E., M.F. Lemos, L. Astigarraga, *et. al.*, 2022: Central and South America. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 1692, 1703-1704, and 1747, and Mycoo, M., M. Wairiu, D. Campbell, *et. al.*, 2022: Small Islands. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, pp. 2045.

legal certainty with regard to land ownership.[1046] This situation is exacerbated by the negative consequences of the activities of extractive industries,[1047] forestry, and land-grabbing in indigenous territories.[1048] To this is added the fact that Indigenous Peoples and Afro-descendant communities often live in "marginal lands and fragile ecosystems which are particularly sensitive to alterations in the physical environment."[1049]

606. Taking the foregoing into account, the Court finds that States should adopt progressive measures to: (i) reinforce the recognition and functioning of institutions that represent indigenous and tribal peoples in aspects related to their self-government, autonomy, administration and management of their territory and natural resources, as well as to guarantee that they have the necessary financial resources to allow their participation in decision-making in the context of the climate emergency; (ii) design and implement, with the participation of the corresponding peoples and communities, studies, and statistical records and reports that provide disaggregated data on the impact of climate change on access to their territories and to the means necessary for their survival. States must endeavor to include intersectional factors related to ethnic and cultural self-identification, gender, age, and disabilities in this information; (iii) design and implement public policies and strategies, with the participation of these peoples and communities, to respond to the impacts of climate change on their territories, way of life, cultural heritage, subsistence, and food and water security, and (iv) adopt the necessary administrative, legislative and public policy measures to guarantee the protection of the territory, and strategies to reinforce the short- and long-term climate resilience and adaptability of the territories and dwellings of these communities and peoples.[1050]

607. To permit their effective participation, States are obligated to guarantee that all information available to the State on the effects of climate change, together with the relevant state strategies are disseminated in the different indigenous languages,

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1046 *Cf.* United Nations, Report of the Secretary-General, "The impacts of climate change on the human rights of people in vulnerable situations," A/HRC/50/57 of May 6, 2022, para. 10.

1047 On this point, the Working Group of the Protocol of San Salvador has stated that the "pressure that exists on [the] natural resources [of the indigenous peoples], the legal insecurity regarding their lands and the territory, and the consequences of climate change result in a loss of control of the land and their traditional territory […]." *Cf.* Working Group of the Protocol of San Salvador, "Practical Guide for the operationalization of the indicators of the Protocol of San Salvador from a cross-cutting approach to indigenous peoples," 2022, p. 41, available at: https://www.oas.org/ext/DesktopModules/MVC/OASDnnModules/Views/Item/Download.aspx?type=1&id=872&lang=2. See Also, Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, A/HRC/22/43, of December 24, 2012, para. 45, and Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, A/HRC/25/53, of December 30, 2013, paras. 76-78.

1048 *Cf.* United Nations, Report of the Secretary-General, "The impacts of climate change on the human rights of people in vulnerable situations," A/HRC/50/57 of May 6, 2022, para. 9.

1049 *Cf.* Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights," A/HRC/10/61, of January 15, 2009, para. 51.

1050 See, similarly, Inter-American Commission on Human Rights and the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights, "The Economic, Social, Cultural and Environmental Rights of indigenous peoples and tribal people of African descent in El Salvado, Guatemala, Honduras and Nicaragua," of March 21, 2023, pp. 42, and 141 to 148, available in Spanish at: https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/r/desca/_informestematicos.asp and Inter-American Commission on Human Rights, "Right to Self-Determination of Indigenous and Tribal Peoples," of December 28, 2021, pp. 105 to 110, and 163 to 170.

tongues and dialects, as well as in a way that is adapted to traditional, local and indigenous knowledge.[1051]

608. The Court has established that, in the case of large-scale development or investment plans that would have a major impact in the territories of indigenous or tribal peoples, States not only have the obligation to consult, but also the duty to obtain the free, prior and informed consent of the communities concerned, in keeping with their customs and traditions.[1052]

609. The consent obtained in this way is necessary, at least, in relation to actions that will have a crucial impact on the communities concerned in relation to aspects such as their well-being, their cultural heritage, and their traditional way of life, and even including the exercise of their rights over their lands and natural resources.[1053]

610. The Court finds that, to guarantee the right of the indigenous, original, and tribal peoples to prior consent, States must take the necessary steps to provide – based on the standard of maximum disclosure – information that is clear and accessible,[1054] sufficient[1055] and opportune[1056] on the possible environmental, climate, social and cultural impacts of any law, policy, regulation, project, public initiative and measure that could affect their territorial rights or other rights essential for their survival as a people,[1057] including those related to implementation of natural resource exploration and exploitation projects, which constitute matters of general interest.[1058]

611. The Court also recalls that States should design and implement mechanisms to guarantee prior consultation that are aligned with the representative institutions and

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1051 In its case law, the Court has emphasized that information of public interest provided by the State must be complete, comprehensible, use accessible language, be up-to-date, and provided in a way that is effective for the different sectors of the population. This obligation is of the utmost importance in relation to activities that may have a substantial impact on indigenous or tribal peoples, and this is evident in the case of large-scale projects that impact their territories and natural resources. *Cf. Case of the Rama and Kriol Peoples, and the Black Creole Indigenous Community of Bluefields et al. v. Nicaragua, supra,* para. 238.

1052 *Cf. Case of the Saramaka People v. Suriname. Merits, reparations and costs*, Judgment of November 28, Series C No. 172, para. 133 to 135, and *Case of the Rama and Kriol Peoples, and the Black Creole Indigenous Community of Bluefields et al. v. Nicaragua,, supra*, para. 240.

1053 *Cf. Case of the Rama and Kriol Peoples, and the Black Creole Indigenous Community of Bluefields et al. v. Nicaragua, supra*, para. 240. See also, United Nations, Study of the Expert Mechanism on the Rights of Indigenous Peoples, "Free, prior and informed consent: a human rights-based approach," A/HRC/39/62, August 10, 2018, paras. 33, 36 and 37.

1054 The obligation to provide "clear and accessible" information means that information should be provided using clear, comprehensible wording and in a language or dialect of the indigenous or Afro-descendant tribal peoples who are potentially affected

1055 The obligation to provide "sufficient" information means that this must be appropriate and complete for forming an opinion on the proposed project.

1056 The obligation to provide "opportune" information means that the information must be presented effectively and with sufficient advance notice to any authorization or initiation of the negotiating process, and taking into account the consultation procedure and the time frames required for the adoption of decisions by the respective indigenous or Afro-descendant tribal peoples

1057 See, similarly, Inter-American Commission on Human Rights, "Indigenous Peoples, Afro-Descendant Communities and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation and Development Activities," OEA/Ser.L/V/II., Doc. 47/15, December 31, 2015, pp. 59 to 64 and 188.

1058 *Cf. Mutatis mutandis, Advisory Opinion OC-23/17*, *supra*, para. 214 and *Case of the U'wa Indigenous Peoples and its members v. Colombia. supra*, para. 173.

procedures of the Indigenous Peoples,[1059] starting with the first stages of the planning or drafting of any project or measure that could affect their territorial rights or other rights that are essential for their survival as a people, such as natural resource exploration and extraction activities.[1060]

612. On this point, States should ensure that the rights of indigenous and tribal peoples are not overlooked in any activity or agreement with third parties, between third parties, or in the context of decisions made by public authorities that have an impact on their rights and interests, including decisions made in order to protect them and empower them, particularly when these have any kind of impact on the collective territory. Therefore, as appropriate, States should also conduct opportune and effective monitoring and control actions.[1061] Regarding the characteristics of the consultation, the Court reiterates that this should be conducted on a prior basis, in good faith, with the goal of reaching a satisfactory, accessible and informed agreement.[1062]

613. In the case of the right of access to justice, States have the obligation to guarantee that indigenous[1063] and tribal peoples, and also Afro-descendant communities, peasant farmers, and fishermen have effective access to justice in the context of the climate emergency. Therefore, States should progressively implement the necessary measures to: (i) identify and eliminate regulatory or operational barriers that prevent these peoples and communities from having direct access to justice; (ii) facilitate paths for access to justice adapted to ancestral, indigenous and local knowledge and ways of life; (iii) establish real access of these peoples and communities to free and adequate legal representation, as well as the necessary services of interpretation and translation to file the administrative and judicial proceedings required to defend their human rights against any harm caused by climate change; (iv) enhance the special protection mechanisms for the rights of indigenous and tribal peoples, such as ombudspersons, and ensure that they have the necessary independence, competence, and human, technical and financial resources to exercise their mandate. This includes the authority to litigate in defense of the human rights of these peoples, particularly when those rights are threatened by the effects of the climate emergency,[1064] and (v) eliminate adverse cost orders in proceedings filed by

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1059 *Cf. Case of the Kaliña and Lokono Peoples v. Suriname*, *supra*, paras. 202, 203 and 230, and *Case of the U'wa Indigenous Peoples and its members v. Colombia*, *supra,* para. 171.

1060 *Cf. Case of the U'wa Indigenous Peoples and its members v. Colombia*, *supra,* para. 177.

1061 *Cf. Case of the Kichwa Indigenous People of Sarayaku v. Ecuador, supra,* para. 167, and *Case of the U'wa Indigenous Peoples and its members v. Colombia*, *supra,* para. 177.

1062 *Cf. Case of the Kichwa Indigenous People of Sarayaku v. Ecuador, supra,* paras. 177 and 178, and *Case of the U'wa Indigenous Peoples and its members v. Colombia*, *supra,* para. 177.

1063 See, Report of the Special Rapporteur on the rights of Indigenous Peoples, A/HRC/42/37, of August 2, 2019, paras. 105 to 121.

1064 Best practices exist at the regional level related to the establishment of national measures of protection for Indigenous Peoples, including: (i) the Directorate for Indigenous, Original, Peasant Farmer, Afro-Bolivian, and Indigenous Nations and Peoples of the Bolivian Ombudsperson's Office; (ii) the Indigenous Peoples Program of the Peruvian Ombudsperson's Office; (iii) the role of the Delegate for the Rights of Ethnic Peoples of the Colombian Ombudsperson's Office; (iv) the Indigenous Peoples' Ombudsperson's Office of the Guatemalan Human Rights Attorney, and (v) the Indigenous Peoples' Directorate of the Panamanian Ombudsperson's Office. See: Ombudsperson's Office of the Plurinational State of Bolivia, available at: https://www.defensoria.gob.bo/; Ombudsperson's Office of the Republic of Peru, available at: https://www.defensoria.gob.pe/grupos_de_proteccion/poblacion-indigena/; Ombudsperson's Office of the Republic of Colombia, available at: https://www.defensoria.gov.co/web/guest/etnicos; Ombudsperson's Office of Ecuador, available at: https://www.dpe.gob.ec/; Human Rights Attorney of the Republic of

these peoples and communities to safeguard their human rights in the face of environmental and climate harm.

### *iii. Differentiated Impacts in the Context of Climate-related Disasters*

614. Finally, in the context of the climate emergency, natural disasters, both sudden and slow-onset events, environmental degradation, and forced displacement may have differentiated impacts on women, older persons, and persons with disabilities. Women and girls run a greater risk of gender-based violence following disasters.[1065] Moreover, since they are the main providers of food and care for the family, the impacts on food security and family health[1066] affect them disproportionately.[1067] For example, in households without direct access to water, it is usually the women and girls who have to collect this. Climate change exacerbates this situation, obliging them to go further to obtain drinking water, and this increases their risk of suffering violence.[1068] Food scarcity may also result in women eating less owing to the custom of being the last in the family to eat.[1069] Based on the previously described risks for women, the Court recalls that States have the obligation to prevent, investigate and punish any act or practice of violence against women, including those that may occur in the context of climate disasters. Furthermore, a gender-based perspective should be included in all actions undertaken in the context of the climate emergency[1070].

615. Meanwhile, older persons are more likely "to die from climate-related disasters, such as heatwaves, typhoons, hurricanes and floods."[1071] Also, climate events such

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Guatemala, available at: https://www.pdh.org.gt/, and Ombudsperson's Office of the Republic of Panama, available at: https://www.defensoria.gob.pa/.

1065 *Cf.* Committee for the Elimination of Discrimination against Women. General Recommendation No37 (2018) on gender-related dimensions of disaster risk reduction in a changing climate, of March 13, 2018, CEDAW/C/GC/37, para. 5. See also, similarly, International Organization for Migration (IOM), "Human mobility from disasters and climate change in Central America," 2021, p. xii.

1066 The Court has recognized that maternity may impose disproportionate burdens on women when they have to care for their sick children. *Cf. Case of the Inhabitants of La Oroya v. Peru supra,* para. 232.

1067 *Cf.* Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights," A/HRC/10/61, of January 15, 2009, paras. 45 and 94, and IOM, "Human mobility from disasters and climate change in Central America," 2021, p. 17.

1068 *Cf.* UN Women and the Department of Economic and Social Affairs, Progress on the Sustainable Development Goals, pp. 7 and 20; ONU, Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry, "Promotion and protection of human rights in the context of climate change", A/77/226, of July 26, 2022, para. 44; Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, A/HRC/52/33, of January 5, 2023, para. 17, and IOM, "Human mobility from disasters and climate change in Central America," 2021, p. 17.

1069 *Cf.* IOM, "Human mobility from disasters and climate change in Central America," 2021, p. 17.

1070 CEDAW has developed the scope of state obligations in relation to gender-based violence (General Recommendation No. 35), and has also elaborate special considerations on the nature of such obligations in the context of reduction of disaster risk in the context of climate change (General Recommendation No. 37). *Cf.* Committee for the Elimination of Discrimination against Women. General Recommendation No. 35 (2017) on gender-based violence against women, CEDAW/C/GC/35 of July 26, 2017, paras. 21 to 26, and Committee for the Elimination of Discrimination against Women. General Recommendation No. 37 (2018) on gender-related dimensions of disaster risk reduction in a changing climate, of March 13, 2018, CEDAW/C/GC/37,, para. 57.

1071 *Cf.* Report of the Independent Expert on the enjoyment of all human rights by older persons, Claudia Mahler, "Human rights of older persons," A/78/226, of July 25, 2023, para. 4. See also, *Cf.* Report of the Office of the United Nations High Commissioner for Human Rights, Summary of the panel discussion on the human rights of older persons in the context of climate change, A/HRC/49/61, of November 29, 2021, para. 23.

as heatwaves, floods and hurricanes (*supra* paras. 312 and 395) exacerbate the impacts. This population group tends to be excluded and abandoned in cases of natural disasters; they are impacted by evacuations owing to their reduced mobility, lack of access to information and specific needs. In addition, climate change can have an impact on older persons' mental health and lead them to experience increased loneliness and isolation as a result of climate effects, augmenting their vulnerability.[1072]

616. The Court finds that, to respond to these impacts on older persons, States should adopt, in the context of disaster response, the necessary measures to guarantee that older persons: (i) are evacuated safely and that long-term residences for older persons have suitable evacuation plans; (ii) have access to affordable, appropriate and safe housing, and receive food, housing and supplies that are adapted to their specific needs and conditions during and after catastrophes, including those that are climate-related, and (iii) are provided with health care that is available, accessible, acceptable and of quality.[1073]

617. The Court notes that climate change factors may have a direct impact on injuries and exacerbate the health problems of persons with disabilities. These persons also face additional difficulties in the case of natural disasters because they are least able to access emergency support, and slow-onset events can seriously affect their access to food and nutrition, safe drinking water and sanitation, health-care services and medicines, education and training, adequate housing, and access to decent work. These difficulties increase when, intersectionally, these persons are living in poverty.[1074] Consequently, the Court finds that, in order to provide adequate protection for the rights of persons with disabilities,[1075] States have the obligation, in the context of climate-related disasters, to: (i) design and implement strategies for the safe evacuation of persons with disabilities during climate-related disasters; (ii) guarantee that the support and assistance provided to persons with disabilities is adequate, and (iii) adopt, progressively, the necessary measures to ensure that emergency shelters are suitable, and have accessible infrastructure; also ensure the accessibility of the content of all information, and insurance for persons with disabilities.[1076]

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[1072] *Cf.* Report of the Office of the United Nations High Commissioner for Human Rights, Analytical study on the promotion and protection of the rights of older persons in the context of climate change," A/HRC/47/46, of April 30, 2021, para. 12.

[1073] *Cf.* Report of the Independent Expert on the enjoyment of all human rights by older persons, Claudia Mahle, "Human rights of older persons in the context of climate change-induced disasters and how to build forward more equally," A/78/226, of July 25, 2023, paras. 72 to 95. See, similarly, Report of the Office of the United Nations High Commissioner for Human Rights, Analytical study on the promotion and protection of the rights of older persons in the context of climate change," A/HRC/47/46, of April 30, 2021, paras. 67 to 69.

[1074] *Cf.* Report of the Office of the United Nations High Commissioner for Human Rights, Analytical study on the promotion and protection of the rights of persons with disabilities in the context of climate change, A/HRC/44/30, of April 22, 2020, paras. 5, 6 and 9.

[1075] Article 18 of the Protocol of San Salvador stipulates, *inter alia*, that: "[e]veryone affected by a diminution of his physical or mental capacities is entitled to receive special attention designed to help him achieve the greatest possible development of his personality." *Cf.* Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"), 1988, available at: https://www.oas.org/en/sare/social-inclusion/protocol-ssv/docs/protocol-san-salvador-en.pdf

[1076] See, similarly, Report of the Office of the United Nations High Commissioner for Human Rights, "Analytical study on the promotion and protection of the rights of persons with disabilities in the context of climate change," A/HRC/44/30, OF April 22, 2020, paras. 61 to 68, and United Nations, Sendai Framework for Disaster Risk Reduction (2015-2030), 2015, paras. 7, 19(d) and (g), 28(b), 30(c), 32, and 36(a)iii, available at: https://www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030

618. Lastly, the Court observes that, owing to stigmatization and discrimination, gender diverse persons face a greater risk of gender-based violence during and after climate-related disasters.[1077] Therefore, States have the obligation to (i) guarantee that the LGBTIQ+ community has access to health care free of discrimination and, to this end, it should be ensured that health care personnel have the necessary training on diversity and inclusion, and (ii) encourage the creation of safe spaces to prevent and address any act of discrimination or harassment against the LGBTIQ+ community in emergency shelters.[1078] States also have the obligation to guarantee that the health care provided to the LGBTIQ+ community during and after climate-related catastrophes is available, accessible, acceptable and of quality.

*D.3. Combatting Poverty in the Context of Climate Emergency*

619. The Court has recognized that poverty constitutes a structural factor of vulnerability that increases the exposure to human rights violations and significantly limits access to effective mechanisms of justice and adequate measures of reparation. This Court has considered that, within the framework of Article 1(1) of the Inter-American Convention, poverty may be understood as a protected category insofar as it forms part of the "economic status" expressly mentioned in this article, or connected to other categories such as "social origin" or "any other social condition,"[1079] given its structural and intersectional characteristics and multidimensional nature.[1080]

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[1077] *Cf.* IOM, Yemi Knight, Nastassia Rambarran, Ranako Bailey, and Makesi Francis, "The Caribbean environmental migration legislative landscape with regards to LGBTQ+ inclusion in evacuation processes: gaps and recommendations", p. 3, available at: https://environmentalmigration.iom.int/sites/g/files/tmzbdl1411/files/2024-04-11-policy-papers_lgbtqinclusion-in-evacuation-processes_web-single-pages.pdf. The IPCC has recognized that individuals in a situation of structural disadvantage, who suffer from social, economic and political inequalities derived from historical discrimination, marginalization, or deprivation of rights based on gender, age, ethnicity, social class, language, capabilities and/or sexual orientation, are disproportionately vulnerable to the negative effects of the risks related to climate change. See also: Birkmann, J., E. Liwenga, R. Pandey, *et. al.*, 2022: Poverty, Livelihoods and Sustainable Development. In: Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, *et. al.* (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA, p. 1191.

[1078] *Cf.* OIM, Knight, Y., Rambarran, N., Bailey, R., and Francis, M., "The Caribbean environmental migration legislative landscape with regards to LGBTQ+ inclusion in evacuation processes: gaps and recommendations", pp. 79, available at: https://environmentalmigration.iom.int/sites/g/files/tmzbdl1411/files/2024-04-11-policy-papers_lgbtqinclusion-in-evacuation-processes_web-single-pages.pdf.

[1079] With regard to the International Covenant on Economic, Social and Cultural Rights, tin its General Comment No 20, he CESCR indicates that the inclusion of "other status" indicates that this list is not exhaustive and other grounds may be incorporated in this category. It has also indicated that the nature of discrimination varies according to context and evolves over time. Therefore, discrimination based on "other status" calls for a flexible approach that includes other forms of differentiated treatment that: (i) cannot be reasonably and objectively justified; (ii) are comparable in nature to forms that are expressly recognized. These additional forms are generally recognized when they reflect the experience of vulnerable social groups that have been or continue to be marginalized. In this regard, the CESCR has stated that other possible prohibited grounds could be due to the intersection of two prohibited, express or implicit, grounds of discrimination. *Cf.* CESCR, General Comment No. 20, "Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)," E/C.12/GC/20, of July 2, 2009, paras. 15 and 27.

[1080] *Cf. Case of the Workers of the Fireworks Factory of Santo Antônio de Jesus and their family members v. Brazil*, *supra*, para. 185.

620. The Court recalls that, among its essential purposes, the OAS Charter establishes that of " eradicate[ing] extreme poverty."[1081] Meanwhile, the Social Charter of the Americas considers that poverty constitutes "an obstacle to development" and, in particular, for "the full democratic development of the peoples of the Hemisphere," therefore, "its elimination is essential and constitutes a common and shared responsibility of the American States." Consequently, it establishes that States "have a responsibility to develop and implement comprehensive social protection policies and programs, based on the principles of universality, solidarity, equality, non-discrimination, and equity that give priority to persons living in conditions of poverty and vulnerability, taking into account their national circumstances."[1082]

621. From a multidimensional perspective, the Court notes that poverty transcends a mere lack of income and also reflects the lack of access to goods and services that are essential for a decent life.[1083] According to UNDP, the Multidimensional Poverty Index measures these deprivations in three key areas: health, education and standard of living, by indicators such as nutrition, child mortality, years of schooling, school attendance, and access to basic services such as drinking water, sanitation, electricity, and adequate housing.[1084] The fight against multidimensional poverty aligns with the first goal of Agenda 2030 for Sustainable Development which seeks to end extreme poverty in all its forms and to significantly reduce the number of people living in multidimensional poverty.[1085]

622. The Court notes that the region of Latin America and the Caribbean is significantly affected by inequality and poverty. According to World Bank estimates, it was projected that the percentage of people living in poverty would be 24.7% in 2024.[1086] It was also projected that around 5.8 million people in this region would be pushed into extreme poverty by 2030, due to the impact of climate change.[1087] Meanwhile, ECLAC has indicated that the region has one of the highest rates of inequality in the world, with an average Gini value of 0.45.[1088] These conditions result in persistent gaps in access to basic services, education and decent work, which represent a structural obstacle to sustainable development and the effective guarantee of human rights.

623. Additionally, the Court notes that climate change is a determining factor that exacerbates multidimensional poverty and inequality because it directly affects the

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1081 *Cf.* Charter of the Organization of American States, 1948, Article 2(g).

1082 *Cf.* Social Charter of the Americas, of September 20, 2012, Preamble and Article 14.

1083 *Cf.* Report of the Special Rapporteur on extreme poverty and human rights, "Climate change and poverty," A/HRC/41/39, July 17, 2019, para. 6

1084 *Cf.* UNDP, "Global Multidimensional Poverty Index 2024: Poverty and Conflict," 2024, p. 2-4.

1085 *Cf.* United Nations General Assembly, Resolution A/RES/70/1, "Transforming our world : the 2030 Agenda for Sustainable Development," of September 25, 2015, Preamble and Goal 1, available at: https://docs.un.org/es/A/RES/70/1

1086 *Cf.* World Bank, "Regional Poverty and Inequality Update Latin America and the Caribbean, October 2024," p.7, available at: https://documents1.worldbank.org/curated/en/099101724185031291/pdf/P506095-4d5e2538-e603-49b9-9807-09289007e31d.pdf.

1087 *Cf.* World Bank "Latin America and the Caribbean: Overview", available at: https://www.worldbank.org/en/region/lac/overview

1088 The Gini index is a statistical measurement that reflects the level of inequality in income distribution in a country or region. Its values range from 0 to 1, where 0 represents total equality and 1 indicates maximum inequality. *Cf.* ECLAC, "Social Panorama of Latin America and the Caribbean 2023: labour inclusion as a key axis of inclusive social development," available at: https://repositorio.cepal.org/server/api/core/bitstreams/7ddf434a-6073-4f1e-8b71-a6639e4586d5/content

goods and services that are essential for a decent life. It will have a negative impact on all dimensions of poverty by increasing hunger, reducing access to drinking water and basic sanitation, diminishing crop yields, increasing malnutrition and the incidence of diseases such as malaria, dengue and heat stress, in addition to destroying homes and limiting access to education (*supra* paras. 89-104). According to the World Bank, these effects could result in an additional 120 million people living in poverty by 2030, with increasing impacts in subsequent years.[1089]

624. Furthermore, the effects of climate change will have a differentiated impact on people living in multidimensional poverty. People living in poverty face a series of disadvantages in relation to climate change because: they live in areas that are more vulnerable to climate impacts and in less resistant housing; they experience relatively greater losses when they are affected; they endure degradation of their possessions and means of subsistence; they have fewer resources to attend to losses resulting from climate change; they receive less support from social security networks and the financial system to prevent or recover from their losses, and they are more vulnerable to natural disasters that involve diseases, poor harvests, food price increases, and death or disability.[1090]

625. This Court also underscores that the intersection of diverse vulnerability factors increases the disadvantages faced, significantly limiting the capacity to adapt to the effects of climate change. In this way, the climate-related vulnerability that affects certain groups, such as women, children, and persons with disabilities, is exacerbated when these people are living in multidimensional poverty, and this heightens their exposure to risks and even further their possibilities of overcoming the adverse consequences of climate change.[1091]

626. Based on the foregoing, the Court finds that compliance with the general obligations arising from the aforementioned Inter-American instruments and taking into consideration the principles of progressivity together with equality and non-discrimination, States should compile all necessary information (*supra* paras. 501-518) and design and implement policies and strategies to: (i) guarantee the access of people living in poverty to the goods and services they need to achieve a decent life in the context of the climate emergency, and (ii) progressively eradicate the causes that perpetuate and increase climate-related vulnerability. These policies and strategies should be defined within the larger context of the advance towards sustainable

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1089 *Cf.* World Bank, "Shock Waves: Managing the Impacts of Climate Change on Poverty." 2016, p. 12, available at https://documents1.worldbank.org/curated/en/260011486755946625/pdf/Shock-waves-managing-the-impacts-of-climate-change-on-poverty.pdf.

1090 *Cf.* Report of the Special Rapporteur on extreme poverty and human rights, "Climate change and poverty," A/HRC/41/39, July 17, 2019, paras. 11-13. See also, World Bank, "Shock Waves: Managing the Impacts of Climate Change on Poverty," 2016, pp. 1, 2 and 4, available at https://documents1.worldbank.org/curated/en/260011486755946625/pdf/Shock-waves-managing-the-impacts-of-climate-change-on-poverty.pdf.

1091 *Cf.* IACHR, "Report on poverty and human rights in the Americas," OEA/Ser.L/V/II.164, of September 7, 2017, para. 167, and OEA/Ser.L/V/II, of July 28, 2023, para. 240. See also, similarly,: Report of the Special Rapporteur on extreme poverty and human rights, "Climate change and poverty," A/HRC/41/39, July 17, 2019, para. 12. The Inter-American Commission has recognized that individuals and groups that have historically been discriminated against, such as women; children and adolescents; older persons; persons with disabilities; migrants, refugees, and those requesting asylum, and the internally displaced; and indigenous peoples, among others who live in poverty or extreme poverty in the Americas have been and are frequently victims of intersectional discrimination and structural discrimination.

development (*supra* paras. 368-376) and, as pertinent, be included in climate mitigation and adaptation plans and strategies (*supra* paras. 324, 335 and 384).

627. When implementing these policies and strategies, States should comply with the obligations described for measures of adaptation (*supra* paras. 384-391 and 400-457). In particular, the Court emphasizes the importance of States ensuring that the measures implemented within the framework of a just climate-related transition do not intensify the situation of multidimensional poverty; to the contrary, they should be used as an opportunity to integrate those concerned and to allow them to enjoy their rights fully by access to new sustainable work options, to enhanced local capabilities, and to the promotion of community projects that protect their livelihoods and means of subsistence, and promote their well-being and resilience in the face of the climate emergency (*supra* paras. 445-447).

628. Without prejudice to the foregoing, the Court considers that, in the context of the climate emergency, vulnerability should be understood as a dynamic and contextual condition, determined by the diversity and complexity of the impacts associated with climate change. Indeed, the Court notes that not all groups particularly affected by climate change correspond to categories that are traditionally protected by Inter-American case law. There are groups that, although they have not historically considered vulnerable to the degradation of the environment by the Court, face serious, differentiated and increasing risks in the context of the climate emergency. These include, for example, people who inhabit coastal areas threatened by rising sea levels *supra* para. 76), people deprived of liberty,[1092] young people who are unemployed or work in the informal sector, and also those who work in vulnerable sectors that may be affected by the energy transition.

629. The Court emphasizes that recognition of new forms of vulnerability is essential to guaranteeing the effectiveness of human rights in the context of the climate emergency and to ensuring a just and inclusive transition in light of the national context, the risks, and the particular needs of those groups that, even though they do not form part of the traditionally protected categories, are nonetheless in a situation that is subject to significant exposure or disadvantage. This obligation entails the adoption of specific, reasonable and differentiated measures aimed at preventing and reducing climate risks, mitigating their effects, and facilitating sustainable adaptation processes. Those actions should crosscut the design and implementation of the state targets, policies, and strategies required to respect and to guarantee, with enhanced due diligence, the human rights potentially affected by the climate emergency, including the right to a healthy environment, life, personal integrity and health, private

[1092] The Special Rapporteur on adequate housing has indicated that: "[p]ersons in detention, including immigration detention, are extremely vulnerable to climate change and climate-related events." Also, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has indicated that "[w]hen climate or other natural disasters strike, prisoners are completely dependent on authorities for evacuation" and where "preparedness is low, there have been cases where detainees have been stranded without food and water." The Special Rapporteur has noted that, in the context of climate change, States have the obligation to protect prisoners, which includes "helping them to avoid temperature-related illnesses during heatwaves," which make detention conditions more extreme. *Cf.* Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to nondiscrimination in this context, Balakrishnan Rajagopal, "Towards a just transformation: climate crisis and the right to housing," A/HRC/52/28, of December 23, 2022, para. 29, and Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Alice Jill Edwards, "Current issues and good practices in prison management," A/HRC/55/52, of February 20, 2024, paras. 38 to 44.

and family life, property and housing, freedom of residence and movement, water and food, work and social security, culture and education.

## VII.
## OPINION

For the reasons outlined above, in interpretation of Articles 1(1), 2, 4(1), 5(1), 8, 11(2), 13, 17(1), 19, 21, 22, 23, 25 and 26 of the Inter-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 Inter-American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador," and Articles 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:

**THE COURT DECIDES**

unanimously, that,

1. It has jurisdiction to issue this Advisory Opinion pursuant to paragraphs 14 to 23.

**AND IS OF THE OPINION,**

unanimously, that,

1. Pursuant to the best available science, the present situation constitutes a **climate emergency** due to the accelerated increase of global temperature, as a result of diverse activities of anthropogenic origin, produced in an unequal manner by the States of the international community, which are having incremental effects and represent a severe threat to humanity and, in particular, the most vulnerable. This climate emergency can only be addressed adequately by urgent and effective mitigation and adaptation actions, and by making progress towards sustainable development with a human rights perspective, coordinated around resilience, in accordance with paragraphs 183 and 205 to 216.

unanimously, that,

2. Pursuant to the **general obligation to respect rights,** States have the obligations indicated in paragraphs 219 to 223.

unanimously, that,

3. Pursuant to the **general obligation to guarantee rights**, States have the obligation to act in accordance with the standard of enhanced due diligence to counteract the human causes of climate change and to protect the persons subject to their jurisdiction from climate-related impacts, in particular those who are most vulnerable, in accordance with paragraphs 225 to 237.

By six votes to one, that,

4. Pursuant to the **general obligation to ensure the progressive development** of the economic, social, cultural and environmental rights, States must allocate the maximum of available resources to protect individuals and groups that, because of their vulnerable situation, are exposed to the most severe impacts of climate change, in accordance with paragraphs 238 to 243.

Dissenting Judge Patricia Pérez Goldberg.

unanimously, that,

5. Pursuant to the **general obligation to adopt domestic legal provisions**, States should incorporate into their domestic legal framework the necessary regulations to ensure the respect, guarantee and progressive development of human rights in the context of the climate emergency, in accordance with paragraphs 244 to 246.

unanimously, that,

6. Pursuant to the **obligation of cooperation,** States are obligated to cooperate in good faith to make progress in the respect, guarantee and progressive development of the human rights threatened or affected by the climate emergency, in accordance with paragraphs 247 to 265.

By four votes to three, that,

7. **Recognition of Nature and its components as subjects of rights** constitutes a normative development that permits reinforcing the protection of the long-term integrity and functionality of the ecosystems, providing effective legal tools to confront 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 reflects a growing tendency at the international level aimed at strengthening the protection of ecological systems in the face of present and future threats, in accordance with paragraphs 279 to 286.

Dissenting Judge Nancy Hernández López, Judge Humberto Sierra Porto and Judge Patricia Pérez Goldberg.

By four votes to three, that,

8. Pursuant to the principle of effectiveness, the peremptory prohibition of anthropogenic conducts that could irreversibly harm the interdependence and vital equilibrium of the common ecosystem that makes the life of the species possible constitutes a **norm of jus cogens**, in accordance with paragraphs 287 to 294.

Dissenting Judge Nancy Hernández López, Judge Humberto Sierra Porto and Judge Patricia Pérez Goldberg.

By five votes to two partially dissenting votes, that,

9. The **right to a healthy climate,** understood as a component of the right

to a healthy environment protects present and future humanity in its collective dimension, as well as Nature, in accordance with paragraphs 298 to 316.

Partially dissenting Judge Nancy Hernández López and Judge Patricia Pérez Goldberg.

By six votes to one partially dissenting vote, that,

10. Pursuant to the right to a healthy climate, States should protect the global climate system and prevent violations of human rights resulting from its alteration. Therefore, they should mitigate GHG emissions, which entails: (i) adopting the relevant regulations that define a mitigation target and a mitigation strategy based on human rights, as well as regulating the conduct of business enterprises, in accordance with paragraphs 323 to 351; (ii) adopting mitigation supervision and monitoring measures in accordance with paragraphs 352 to 357, and (iii) determining the climate-related impact on projects and activities when appropriate, in accordance with paragraphs 358 to 363.

Partially dissenting Judge Patricia Pérez Goldberg.

unanimously, that,

11. Pursuant to the **right to a healthy environment,** States should: (i) protect Nature and its components from the impacts of climate change, and (ii) establish a strategy for progress towards sustainable development, in accordance with paragraphs 364 to 376.

By six votes to one partially dissenting vote, that,

12. Pursuant to the **rights to life, personal integrity, health, private and family life, property and housing, freedom of residence and movement, water and food, work and social security, culture and education,** as well as the other substantive rights threatened by climate impacts, States have the immediately enforceable obligation to define and update, based on the highest possible goals, their national adaptation plan and their target, in accordance with paragraphs 384 to 391, as well as the duty to act with enhanced due diligence in complying with the specific duties established in paragraphs 400 to 457.

Partially dissenting Judge Patricia Pérez Goldberg.

unanimously, that,

13. Pursuant to the democratic principle, States should reinforce the democratic rule of law as an essential framework to protect human rights, the effectiveness of public action, and open and inclusive public participation, also ensuring the full exercise of procedural rights, in accordance with paragraphs 460 to 469.

By six votes to one partially dissenting vote, that,

14. Pursuant to the **human right to science and to the recognition of local, traditional and indigenous knowledge,** protected by Articles 26 of the

Convention and 14(2) of the Protocol of San Salvador, everyone has the right to have access to the benefits of measures based on the best available science and on the recognition of local, traditional and indigenous knowledge, in accordance with paragraphs 471 to 487.

Partially dissenting Judge Patricia Pérez Goldberg.

unanimously, that,

15. Pursuant to the **right of access to information**, States have obligations relating to: (i) production of climate information, in accordance with paragraphs 501 to 518; (ii) disclosure of relevant information for the protection of human rights in the face of climate change, in accordance with paragraphs 519 to 523, and (iii) adoption of measure to counter disinformation, in accordance with paragraphs 524 to 527.

unanimously, that,

16. Pursuant to the **right to political participation,** States should guarantee processes that ensure the significant participation of the persons subject to their jurisdiction in decision-making and policies on climate change, as well as guarantee prior consultation of indigenous and tribal peoples when applicable, in accordance with paragraphs 530 to 539.

By four votes to three partially dissenting votes, that,

17. Pursuant to the **right of access to justice,** States should ensure crucial aspects concerning: (i) provision of sufficient resources for the administration of justice in this context; (ii) application of the *pro actione* principle; (iii) promptness and a reasonable time in judicial proceedings; (iv) adequate provisions with regard to legal standing; (v) evidence and (vi) reparation, and (vii) application of Inter-American standards, in accordance with paragraphs 542 to 560.

Partially dissenting Judge Nancy Hernández López, Judge Humberto Sierra Porto and Judge Patricia Pérez Goldberg.

unanimously, that,

18. Pursuant to the **right to defend human rights,** States have a special duty to protect environmental defenders and this results in specific obligations, including protecting them and investigating and, as appropriate, punishing any attacks, threats or intimidation they suffer, and to counteract the "criminalization" of environmental defense, in accordance with paragraphs 566, 567 and 575 to 587.

unanimously, that,

19. States should adopt measures to address the way in which the climate emergency exacerbates inequality and has a differentiated impact on those living in multidimensional poverty, in accordance with paragraphs 626 and 627.

By four votes to three partially dissenting votes, that,

20. States have specific obligations in relation to situations of special vulnerability such as those faced by: (i) children; (ii) indigenous and tribal peoples, Afro-descendants, peasant farmer communities, and fishermen, and (iii) people who suffer differentiated impacts in the context of climate-related disasters, in accordance with paragraphs 599 to 602, 604, 606 to 613, and 614 to 618. In addition, States should adopt measures to protect individuals who do not belong to the traditionally protected categories, but who are vulnerable due to dynamic or contextual reasons, in accordance with paragraphs 628 and 629.

Partially dissenting Judge Nancy Hernández López, Judge Humberto Sierra Porto and Judge Patricia Pérez Goldberg.

DONE, at San José, Costa Rica, on May 29, 2025, in the Spanish language.

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.

Nancy Hernández López
President

Rodrigo Mudrovitsch

Humberto A. Sierra Porto

Eduardo Ferrer Mac-Gregor Poisot

Ricardo C. Pérez Manrique

Verónica Gómez

Patricia Pérez Goldberg

Pablo Saavedra Alessandri
Registrar

So ordered,

Nancy Hernández López
President

Pablo Saavedra Alessandri
Registrar