

**MINISTRY OF FOREIGN
AFFAIRS**

January 9, 2023

Honorable Secretary:

In accordance with the provisions of Article **64§1** of the American Convention on Human Rights, the Republic of Chile and the Republic of Colombia agree to submit to the Honorable Inter-American Court of Human Rights the request for an advisory opinion regarding the Climate Emergency and Human Rights, the main text of which is attached to this communication.

I thank you for forwarding to Messrs. Tomas Ignacio Pascual Ricke and Luis Ernesto Vargas Silva any notices related to this matter. Mr. Pascual Ricke will act as Agent for the Republic of Chile and Mr. Vargas Silva will act as Agent for the Republic of Colombia for the purposes of this request for an advisory opinion. The contact information for both senders is as follows:

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Honorable Sir
PABLO SAAVEDRA ALESSANDRI
Secretary Inter-American Court of Human Rights San
Jose, Costa Rica

We take this opportunity to renew to the Secretary the assurances of our highest consideration.



ADOLFO URREJO LA NOGUERA
Minister of Foreign Affairs
Republic of Chile



ÁLVARO LEYVA DURÁN
Minister of Foreign Affairs Republic of
Colombia

Request for an Advisory Opinion on Climate Emergency and Human Rights to the Inter-American Court of Human Rights from the Republic of Colombia and the Republic of Chile.

I. Introduction

The Republic of Colombia and the Republic of Chile (hereinafter "Colombia" and "Chile" or "the petitioners") submit this request for an advisory opinion to the Inter-American Court of Human Rights (hereinafter, IACHR Court or the Court) with the **purpose of clarifying the scope of State obligations, in their individual and collective dimension, to respond to the climate emergency within the framework of international human rights law, taking into account the differentiated effects** that such emergency has on the people of different regions and population groups, nature and human survival on our planet.

Both countries face the daily challenge of dealing with the consequences of climate emergencies, including the proliferation of droughts, floods, landslides and fires, among others. These phenomena **highlight the need to respond urgently and based on the principles of equity, justice, cooperation and sustainability, with a human rights approach.**

These environmental impacts extend throughout the Americas and the world, generating significant impacts on people's rights and putting future generations at risk. However, the effects of climate change are not being experienced uniformly throughout the international community. In fact, they are already being felt in the most vulnerable communities given their geography, climatic and socioeconomic conditions and infrastructure, including several countries in the Americas region. Severely, these effects are not being experienced in proportion to the contribution of these countries and communities to climate change.

The Republics of Colombia and Chile are aware of the relevance of the human right to a healthy environment and its close link to a series of substantive and procedural rights that affect the life, survival and development of present and future generations protected under the American Convention on Human Rights (hereinafter "American Convention" or ACHR) and numerous inter-American and universal human rights and environmental treaties¹. In this sense, human rights not only provide a necessary perspective to evaluate

¹ For example, I/A Court H.R. [Environment and Human Rights](#) (State obligations in relation to the environment in the framework of the protection and guarantee of the rights to life and personal integrity - interpretation and scope of Articles 4(1) and 5(1), in relation to Articles 1(1) and 2 of the American Convention on Human Rights). Advisory Opinion OC-23/17 of November 15, 2017. Series A No. 23., (hereinafter "OC- 23/17. Environment and human rights").

The project also provides fundamental tools for seeking timely, fair, equitable and sustainable solutions to the emergency.

For this reason, the States of Colombia and Chile consider it necessary to advance in determining the scope of the obligations set forth in the American Convention and inter-American treaties, in what is relevant to address the situations generated by the climate emergency², its causes and consequences. This, in order to promote measures to guarantee rights and public policies necessary to respond to this phenomenon in an urgent, equitable, fair and sustainable manner.

Consequently, with the purpose of advancing and accelerating the responses to the climate emergency from each of the States, in a collective manner -regionally and globally-, a series of questions are formulated to this Tribunal, which allow guiding towards solutions based on human rights, with an intersectional perspective.

II. The climate emergency and its consequences from a human rights perspective

We are facing a climate emergency with devastating potential for life on earth³. The scientific and political consensus, evidenced in the *Intergovernmental Panel on Climate Change (IPCC) Special Report on Global Warming of 1.5°C*, indicates that global warming, if it continues to increase at the current rate, could reach 1.5°C between 2030 and 2052⁴. For some experts, this would pose a serious threat to human survival⁵.

Furthermore, according to the IPCC, climate change has already begun to generate adverse impacts around the world, including loss of ecosystems, reduced food security, increased migration and displacement, human rights impacts and increased inequality⁶. If we do not limit global warming to a maximum increase of 1.5°C as established in the Paris Agreement⁷, these adverse effects will worsen and humanity will approach a point of no return that will result in irreversible damage,

² United Nations (UN). [Framework Convention on Climate Change](#); UN. [Paris Agreement](#), part of the United Nations Framework Convention on Climate Change; UN - Economic Commission for Latin America and the Caribbean (ECLAC). Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean ([Escazú Agreement](#)); Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ([Aarhus Convention](#)), among others.

³ More than 11,200 scientists from 153 countries declared in 2019 that humanity faces a climate emergency. See Ripple et al, [World's Scientists' Warning of a Climate Emergency](#), BioScience, Volume 70, Issue 1, January 2020, pp. 8-12.

⁴ IPCC, [Summary for Policymakers of the IPCC Special Report on the Impacts of 1.5°C Global Warming Relative to Levels](#), 2018, p. 6.

⁵ Allen M., et al. (2018) [SUMMARY FOR POLICY MAKERS](#), in IPCC (2018) [Global Warming of 1.5 °C](#),

⁶ ("Human activities are estimated to have caused global warming of about 1.0°C relative to pre-industrial levels, with a likely range of 0.8°C to 1.2°C. Global warming is likely to reach 1.5 °C between 2030 and 2052 if it continues to increase at the current rate (high confidence level).")

⁶ IPCC, [Impact Adaptation, and Vulnerability, Working Group II contribution to the Sixth Assessment Report of the IPCC](#), February 2022, p. 123.

⁷ UN. [Paris Agreement](#), December 12, 2015.

including loss and damage, especially in scenarios of insufficient climate action. The course of our common history as humanity depends on taking immediate action to address this challenge at the global level.

As Michelle Bachelet emphasized in her last speech as United Nations High Commissioner for Human Rights: *"As we speak here, the world continues to face an increasingly serious crisis - worsening conflicts, deepening inequalities and climate change that threatens our very existence"*⁸. For its part, in its February 2022 report, the IPCC has estimated that the increase in temperature and extreme weather generated by human action is causing irreversible impacts much faster than our capacity to adapt to these changes⁹.

The adverse impacts of global warming have effects around the world¹⁰. However, as already mentioned, certain countries and communities face particularly severe consequences. Thus, the climate emergency has a devastating and differentiated impact on certain geographical regions and groups in vulnerable situations, such as children, indigenous peoples, peasant communities, among others, which may worsen if there is no significant reduction in emissions accompanied by urgent adaptation measures¹¹. This will be exacerbated if we exceed the thresholds established by the scientific community¹².

For the Americas region, the IPCC Fifth Assessment Report indicates that limited water resources as a result of glacial retreat in the Andes and altered regional precipitation cycles could greatly affect the population¹³. Likewise, a rise in sea level and increase in surface water temperature will have an impact on coastal communities, the

⁸ UN, [Speech by Michelle Bachelet, United Nations High Commissioner for Human Rights at the Level Event on the occasion of the 50th session of the Human Rights Council](#), June 15, 2022.

⁹ IPCC, "Summary for Policy Makers," in [Impact Adaptation, and Vulnerability, Working Group II contribution to the Sixth Assessment Report of the IPCC](#), February 2022.

¹⁰ Xu Y., Ramanathan V., & Victor D. G. (2018) [Global warming will happen faster than we think](#), Comment, Nature. 564(7734): 30-32, 30-31. See also: Arias P. A., et al. (2021) [Technical Summary](#), in [Climate Change 2021: The Physical Science Basis](#).

¹¹ Inter-American Development Bank (IDB). [Climate change poses significant threats to all Caribbean states, despite the minimal contribution of these countries to global greenhouse gas \(GHG\) emissions](#).

¹² Intergovernmental Panel on Climate Change, [Summary for Policymakers of the IPCC Special Report on the Impacts of 1.5°C Global Warming Relative to Levels](#), 2018, p. 6.

¹³ Marengo J.A. et al. (2014) [Central and South America](#), In: *Climate Change 2014 Impacts, Adaptation and Vulnerability. Part B: Regional Aspects*. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change at 1520 - 1521 ("In early stages of glacial retreat, the associated flow tends to increase due to accelerated glacier melting, but after the peak flow as the glacial water reservoir empties, runoff has to decrease. . . . Glacial retreat may exacerbate current water-related vulnerability by decreasing the water regulation capacity of mountains, making water supply for various purposes, as well as ecosystem integrity, more costly and less reliable."); see also *id.* at 1543 ("Current vulnerability in terms of water supply in semi-arid areas and in the tropical Andes is expected to increase further due to climate change. This would be exacerbated by glacial retreat, decreased precipitation, and increased evapotranspiration demand as expected in the semi-arid regions of Central and South America. These scenarios would affect water supply for large cities, small communities, food production and hydropower generation"). The translation βελονισ το us

water supply and economies throughout the region¹⁴ . This may disproportionately affect coastal and island nations in the Caribbean Basin .¹⁵

The Andes region is among the most sensitive areas in the world to migration and displacement associated with climate change¹⁶ . In Colombia, an increase of more than 1.5°C will result in an increase in the intensity and frequency of extreme temperatures, storms, floods, landslides and heat waves¹⁷ . The Amazon rainforest, one of the world's largest reservoirs of biodiversity, is threatened¹⁸ . Indeed, the Amazon is home to 40% of the world's remaining tropical rainforest and 25% of the world's terrestrial biodiversity¹⁹ . Moreover, if the trend of Amazon deforestation continues and surpasses the tipping point that allows deforestation of the biome, there will be devastating impacts on rainfall regulation²⁰ . In addition, this change would not only have devastating effects for

¹⁴ Marengo J.A. *et al.* (2014) [Central and South America](#), In: *Climate Change 2014 Impacts, Adaptation and Vulnerability. Part B: Regional Aspects*. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change at 1524 - 1525 ("The coastal states of [Latin America] and the Caribbean have a human population of more than 610 million, three-quarters of whom live within 200 km of the coast (Guarderas *et al.*, 2008). For example, a study of seven countries in the region (El Salvador, Nicaragua, Costa Rica, Panama, Colombia, Venezuela, Ecuador), Lacambra and Zahedi (2011) concluded that more than 30% of the population lives in coastal areas directly exposed to climatic events. Since the probability of flooding increases with an increase in sea level, a higher probability of flooding could be expected in sites showing >40% change, over the past 60 years, in the 100-year total sea level (excluding hurricanes) . . . If extreme ocean surface temperatures continue, projections using SRES scenarios (A1FI, 3°C sensation, and A1B with 2°C and 4.5°C sensation) indicate that Mesoamerican coral reefs are likely to collapse by mid-century (between 2050 and 2070), causing significant economic losses (Vergara, 2009)."). The translation βελονγσ το us.

¹⁵ Marengo J.A. *et al.* (2014) [Central and South America](#), In: *Climate Change 2014 Impacts, Adaptation and Vulnerability. Part B: Regional Aspects*. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change at 1524 - 1525; *See also United Nations Office of the High Representative for the Least Developed Countries and Small Island Developing States at 6* ("As recognized in the Programme of Action for the Sustainable Development of Small Island Developing States, adopted in 1994, [Small Island Developing States (SIDS)] are particularly vulnerable to global climate change. Their climate is influenced by ocean-atmospheric interactions, such as trade winds, El Niño, monsoons and tropical cyclones. With populations, arable land and infrastructure tending to be concentrated in the coastal zone, any rise in sea level will have significant and profound effects on settlements, living conditions and island economies. These climatic characteristics, combined with their particular socio-economic situation, make SIDS, of which 9 are LDCs, some of the most vulnerable countries in the world to climate change. Moreover, the fact that SIDS combined have a population of about 65 million people contributing less than 1 percent of GHG emissions indicates that they will suffer disproportionately from the damaging impacts of climate change and some will become uninhabitable"). The translation βελονγσ το us

¹⁶ IPCC, "Chapter 12. Central and South America", in [Impact Adaptation, and Vulnerability, Working Group II contribution to the Sixth Assessment Report of the IPCC](#), February 2022, p. 1691.

¹⁷ *Ibid.*, p. 1701.

¹⁸ *Ibid.*, p. 1691.

¹⁹ ECLAC. Bogotá Office-Natural Heritage, Biodiversity and Protected Areas Fund (Colombia), [Amazonía posible y sostenible](#), 2013.

²⁰ Lenton T. M., Rockstrom J., Gaffney O., Rahmstorf S., Richardson K., Steffen W., & Schellnhuber H. J. (2019) [Climate tipping points-too risky to bet against](#), Comment, *Nature* 575(7784): 592-595, 594. See also: Wunderling N., Donges J. F., Kurths J., & Winkelmann R. (2021) [Interacting tipping elements increase risk of climate domino effects under global warming](#), *Earth Syst. Dyn.* 12(2): 601-619, 614; Klose A. K., Wunderling N., Winkelmann R., & Donges J.

F. (2021) [What do we mean, 'tipping cascade'](#), *Environ. Res. Lett.* 16(12): 125011, 1-12, 1; Rocha J. C., Peterson G., Bodin Ö., & Levin S. (2018) [Cascading regime shifts within and across scales](#), *Science* 362(6421): 1379-1383, 1383 (English only).

not only in our region but globally insofar as it could contribute to the extreme global warming effect (*hothouse earth*)²¹ .

Among other impacts, it is estimated that in the Andean region there will be an increase of between 100-200% of people affected by floods, a greater transmission of diseases such as malaria, dengue and chikungunya, the negative impact of up to 85% of the region's fauna and flora, the reduction of harvests due to increasingly frequent droughts, the reduction of agriculture due to the rise in temperature and the reduction of fishing due to the acidification of the ocean²² . This, according to the IPCC, is undoubtedly a cause that will increase global human mobility, as there is already evidence that this is happening. This displacement will have differentiated impacts on the most vulnerable populations, including coastal populations and island dwellers, indigenous peoples, Afro-descendant communities, peasants, among others²³ .

In addition, the adverse effects of climate change will be felt more strongly in those sectors of the population that are already in situations of vulnerability²⁴ , due to factors such as the impact of coastal or rural areas, poverty, gender, age, belonging to indigenous peoples, race or ethnicity, national origin, migrant status, among others²⁵ . For example, the United Nations Rapporteur on Migration, in a report of July of this year, has highlighted that 80% of the people displaced due to climate-related phenomena are women and girls²⁶ . Likewise, the adverse effects of climate change are exacerbating migration with differentiated impacts for indigenous peoples and Afro-descendant communities. This confirms the need to adopt an intersectional approach to this issue.

Thus, there is a close link between the climate emergency and the impact on human rights²⁷ . At the same time, human rights law can help to accelerate responses to the climate emergency by promoting policies to ensure that the obligations of various key actors to respect and guarantee human rights are fulfilled. Discussing this issue in front of a regional Court also allows to address not only national or regional obligations, but also

²¹ See: Steffen, Will, et al., [Trajectories of the Earth System in the Anthropocene](#), Harvard University, July 6, 2018.

²² *Ibid.*, p. 1693-1703.

²³ Inter-American Commission on Human Rights (IACHR). [Climate Emergency. Scope and Inter-American Human Rights Obligations](#), Resolution 3/2021, December 31, 2021, p. 26.

²⁴ R. Burnett et al, "Global estimates of mortality associated with long-term exposure to outdoor fine particulate matter," *Proc Natl Acad Sci U S A*, (2018) (English only).

²⁴ World Health Organization (WHO), "[Evolution of WHO Air Quality Guidelines: Past, Present and Future](#)," Copenhagen, Denmark: WHO Regional Office for Europe (2017), p. 2, available (in English).

²⁵ UN - General Assembly, Human Rights Council, *Human rights and climate change*, A/HRC/RES/41/21, Resolution adopted by the Human Rights Council on 12 July 2019, pp. 2-3.

²⁶ UN - General Assembly. *Report of the Special Rapporteur on the human rights of migrants*, Seventy-seventh session, 19 July 2022, para. 47.

²⁷ See, for example, [Stockholm Declaration on the Human Environment](#), adopted at the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972, UN Doc.

/CONF.48/14/Rev.1, proclamation 1 ("Both aspects of the human memo, the natural and the man-made, are essential to human well-being and to the enjoyment of fundamental human rights, including the right to life itself"); and UN General Assembly, [Res. 45/94 of December 14, 1990](#), UN Doc. A/RES/45/94, art. 1 ("everyone has the right to live in an environment adequate to his health and well-being").

those linked to international cooperation and shared but differentiated obligations from a human rights perspective.

III. The need for inter-American standards to accelerate climate emergency response

In the face of the climate emergency and its impacts, it is necessary to take urgent mitigation and adaptation measures to address the crisis. While the measures required may vary in nature, human rights obligations can provide fundamental guidance to accelerate responses in a fair, equitable and sustainable manner.

In 2017, the Inter-American Court issued an Advisory Opinion at the request of the Republic of Colombia, to address the link between the environment and human rights. In that Opinion, the Court recognizes the right to a healthy environment as an autonomous and individual right, refers to the adverse effects of climate change²⁸ and mentions the obligations of States to avoid transboundary environmental damage that could affect the human rights of persons outside their territory²⁹. This opinion was fundamental to broaden the understanding of the interrelationship between the environment and human rights and the regional and national policies linked to the guarantee of these rights.

However, it is necessary to further clarify the basis and scope of the human rights affected by the climate emergency, as well as the State's obligations to address them, individually and collectively, by urgently addressing their causes and consequences and taking into account considerations of equity, justice, precaution and sustainability.

In this sense, the determination of the scope of human rights obligations in the face of the climate emergency will serve to specify the meaning, opportunity and scope of the obligations of the national State, of subnational entities (cities, regions or departments), of the responsibility towards non-State actors and transnational, regional and global obligations in the matter.

Likewise, international human rights law takes into account, as an unavoidable yardstick, the life, survival and protection of the rights of individuals, peoples and communities³⁰. To this extent, it encourages the adoption of measures that take into account current generations in their diversity, the differentiated geographic impacts and the rights of future generations.

Moreover, international human rights and environmental treaties have an important collective dimension of guaranteeing rights. They also provide elements of human rights and the protection of nature in the

²⁸ IACHR Court. OC-23/17. Environment and Human Rights, paras. 47, 96, 126.

²⁹ *Ibid.*, para. 101.

³⁰ *Ibid.*, paras. 109 and 114.

interpretation of the scope of the shared but differentiated responsibilities of the States as a whole in the face of the climate emergency³¹. This requires differentiating the contribution to climate change derived from their emissions, the differentiated impacts of the latter on their subsistence, considering the protection of fundamental biomes to respond to the crisis (as is the case of the Amazon biome). Shared but differentiated responsibilities must also be examined in terms of the need to avoid, minimize and address the damages and losses generated by global warming and the climate emergency, and the need to generate mechanisms and practices that allow for reparation and adaptation at the national, regional, sub-regional and global levels in a fair, equitable and sustainable manner.

In this sense, the interpretations of the Inter-American Court of the various instruments of the Inter-American system can provide important guidelines that link the obligations arising from various international normative frameworks, including those on climate change. These can guide the measures to be adopted to guarantee human rights, including the right to a healthy environment, the right to survival of peoples, the right to life, etc.

In the international context, relevant litigation and strategies have been promoted to determine state obligations in the face of climate emergencies. For example, Vanuatu has consolidated a coalition of countries in the Pacific and Caribbean to request an advisory opinion from the International Court of Justice, which focuses mainly on the issue of damages and losses and state obligations in multilateral agreements relevant to the effects of climate change³². Likewise, the European Court of Human Rights has numerous cases pending related to climate change³³, three of which have been declared admissible and will soon be heard by the Grand Chamber³⁴, and in a similar vein, the United Nations Human Rights Committee recently adopted a decision in an individual petition in which it condemned Australia for failing to protect the human rights to enjoyment of one's culture, privacy and family of the indigenous Torres Islands community for failing to adopt adequate measures to protect them from the adverse impacts of climate change³⁵.

³¹ The preamble of the Paris Agreement states, in this regard: "Recognizing that climate change is a problem of all humanity and that, in taking action to address it, Parties should respect, promote and take into account their respective obligations relating to human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and persons in vulnerable situations and the right to development, as well as gender equality, the empowerment of women and intergenerational equity".

³² Climate change has led to extreme weather in Vanuatu, such as Cyclone Harold in 2020, which resulted in the loss of entire communities, lives and a third of the country's Gross Domestic Product in a single day. See [Vanuatu ICJ Initiative](#).

³³ Columbia University, Columbia Law School, Sabin Center for Climate Change, [Global Climate Change litigation database](#).

³⁴ European Court of Human Rights, [Cláudia Duarte Agostinho and others v. Portugal and 33 other States](#), Application No. 3937/20; [Carême v. France](#), Case No. 7189/21, and [Verein Klimasenioren Schweiz and others v Switzerland](#), Application No. 53600/20.

³⁵ UN - Human Rights Committee, [Daniel Billy et al. v. Australia](#), CCPR/C/135/D/3624/2019, 22 September 2022.

In our continent, the advisory opinions of the Inter-American Court have provided States with important parameters to ensure the guarantee of human rights throughout the nearly five decades of operation of the Inter-American Court³⁶. Among others, the Opinions have examined issues such as states of emergency, freedom of expression, equality, healthy environment³⁷, among others. These guidelines have been relevant to clarify the scope of international human rights obligations, in a context in which numerous constitutions and jurisprudential lines of the national high courts include with constitutional rank the human rights obligations derived from human rights treaties.

Therefore, a possible expert opinion of the Inter-American Court will allow both the requesting countries and the rest of the countries in the region to have a guide for the development of policies and programs at the local, national and international levels in accordance with the commitments acquired under the American Convention and other human rights and environmental treaties for a better approach to the climate crisis, taking into account the obligations of prevention, guarantee and protection.

IV. Questions for the IACHR Court

A. On the state obligations derived from the duties of prevention and guarantee of human rights related to the climate emergency

Taking into account the State's obligations to prevent and guarantee the right to a healthy environment³⁸ and the scientific consensus expressed in the reports of the Intergovernmental Panel on Climate Change (IPCC)³⁹ on the seriousness of the climate emergency and the urgency and duty to respond adequately to its consequences, as well as to mitigate its pace and scale:

³⁶ IACHR Court. [Rules of Procedure](#). On Advisory Opinions. Article 70. Interpretation of the Convention 1. Requests for advisory opinions provided for in Article 64(1) of the Convention shall state precisely the specific questions on which the opinion of the Court is sought. Requests for an advisory opinion formulated by a member state or by the Commission shall also indicate the provisions the interpretation of which is sought, the considerations giving rise to the request, and the name and address of the Agent or Delegates. 3. If the initiative for the advisory opinion comes from an OAS organ other than the Commission, the request shall specify, in addition to what is mentioned in the previous paragraph, the manner in which the consultation refers to its sphere of competence. ³⁷ IACHR Court. [Judicial Guarantees in States of Emergency](#) (Arts. 27.2, 25 and 8 American Convention on Human Rights). Advisory Opinion OC-9/87 of October 6, 1987. Series A No. 9; I/A Court H.R.. [Compulsory Membership in an Association of Journalists](#) (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5; I/A Court H.R.. [Gender identity, and equality and non-discrimination of same-sex couples. State obligations in relation to the change of name, gender identity, and the rights derived from a bond between same-sex couples](#) (interpretation and scope of Articles 1(1), 3, 7, 11(2), 13, 17, 18 and 24, in relation to Article 1 of the American Convention on Human Rights). Advisory Opinion OC-24/17 of November 24, 2017. Series A No. 24.

³⁸ Protected by the American Convention according to the jurisprudence and doctrine of this court, Article 11 of the Protocol of San Salvador and Article 1 of the Regional Agreement on Access to Information, Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

³⁹ See, among others: Intergovernmental Panel on Climate Change (IPCC), [Impact Adaptation, and Vulnerability. Working Group II contribution to the Sixth Assessment Report of the IPCC](#), February 2022; Intergovernmental Panel on Climate Change, [Summary for Policymakers of the IPCC Special Report on the Impacts of 1.5°C Global Warming Relative to Levels](#), 2018.

1. What is the scope of the duty of States to prevent climate phenomena generated by global warming, including extreme events and slow onset events, in accordance with inter-American treaty obligations in light of the Paris Agreement and the scientific consensus that encourages not to increase global temperature beyond 1.5°C⁴⁰ ?

2. In particular, what measures should States take to minimize the impact of the damages caused by the climate emergency, in light of the obligations established in the American Convention? In this regard, what differentiated measures should be taken with respect to populations in situations of vulnerability or intersectional considerations?
 - 2.A. What considerations should a State take to implement its obligation to (i) regulate; (ii) monitor and oversee; (iii) require and approve social and environmental impact studies; (iv) establish a contingency plan; and (v) mitigate activities within its jurisdiction that aggravate or may aggravate the climate emergency?

 - 2.B. What principles should inspire mitigation, adaptation and response actions to the losses and damages generated by the climate emergency in the affected communities?

B. On state obligations to preserve the right to life and survival in the face of climate emergency in the light of science and human rights

Taking into account the right to access to information and the obligations on active production of information and transparency, as set forth in Article 13⁴¹ and derived from the obligations under Articles 4.1 and 5.1 of the American Convention⁴² , in light of Articles 5 and 6 of the Regional Agreement on Access to Information, Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)⁴³ :

1. What is the scope that States should give to their conventional obligations in the face of the climate emergency, in terms of:
 - i) environmental information for all people and communities, including those linked to the climate emergency;

⁴⁰ United Nations (UN). [Paris Agreement](#), December 12, 2015; Intergovernmental Panel on Climate Change, [Summary for Policymakers of the IPCC Special Report on the Impacts of 1.5°C Global Warming Relative to Levels](#), 2018, p. 6.

⁴¹ IACHR Court. OC-23/17. Environment and human rights, para. 221 et seq.

⁴² See, among others: Inter-American Court. OC-23/17. Environment and Human Rights, paras. 54 and 55.

⁴³ ECLAC, [Regional Agreement on Access to Information, Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean](#) (Escazú Agreement), 2018.

- ii) climate mitigation and adaptation measures to be adopted to address the climate emergency and the impacts of such measures, including specific just transition policies for groups and individuals particularly vulnerable to global warming;
 - iii) responses to prevent, minimize and address economic and non-economic losses and damages associated with the adverse effects of climate change.
 - iv) the production of information and access to information on greenhouse gas emission levels, air pollution, deforestation and short-lived climate forcers, analysis of sectors or activities contributing to emissions or others; and
 - v) the determination of impacts on people, such as human mobility - migration and forced displacement-, effects on health and life, loss of non-economic assets, etc.?
2. To what extent does access to environmental information constitute a right whose protection is necessary to guarantee the rights to life, property, health, participation and access to justice, among other rights negatively affected by climate change, in accordance with the state obligations protected under the American Convention?

C. On the differential obligations of States with respect to the rights of children and new generations in the face of climate emergencies

In consideration of Article 19 of the American Convention⁴⁴, *in light of the corpus iuris* of international human rights law, including Article 12 of the Convention on the Rights of the Child⁴⁵ and recognizing the consensus of the scientific community that identifies children as the group most vulnerable in the long term to the imminent and anticipated risks to life and well-being from the climate emergency⁴⁶:

⁴⁴ ACHR. Article 19. Rights of the Child. Every child has the right to the measures of protection that his or her condition as a minor requires from his or her family, society and the State.

⁴⁵ Convention on the Rights of the Child (CRC). States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial or administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

⁴⁶ Smith K. and Woodward A. (2018) [Human Health: Impacts, Adaptation, and Cobenefits](#), Intergovernmental Panel on Climate Change at 717 ("Children, youth, and the elderly are at increased risk of climate-related injury and disease. . . For example, the adverse effects of malaria, diarrhea, and malnutrition are currently concentrated in children, for reasons of physiological susceptibility. Maternal antibodies acquired in utero provide some protection against dengue fever during early life, but if infection occurs in infants it is more likely to lead to severe forms of hemorrhagic disease.

1. What is the nature and scope of a State Party's obligation to adopt timely and effective measures in the face of a climate emergency to ensure the protection of children's rights derived from its obligations under Articles 1, 4, 5, 11 and 19 of the American Convention?
2. What is the nature and extent of a State Party's obligation to provide children with meaningful and effective means to freely and fully express their views, including the opportunity to initiate, or otherwise participate in, any judicial or administrative proceedings concerning the prevention of climate change that constitutes a threat to their lives?

D. On the state's obligations arising from consultation and judicial procedures in the event of a climate emergency

In consideration of Articles 8 and 25 of the American Convention⁴⁷, and taking into account that scientific observation has indicated that there is a limit to the amount of greenhouse gases that can continue to be emitted before reaching dangerous climate change with no return, and that this limit could be reached in this decade⁴⁸:

1. What is the nature and extent of a State Party's obligation with respect to the provision of judicial remedies?

Children are generally at greater risk when food supplies are restricted: households with children tend to have lower incomes on average, and food insecurity is associated with adverse health outcomes for younger children") (citations omitted). See also Health Canada (2008) [Human Health in A Changing Climate](#) at 20 ("Children and infants are especially vulnerable because they are unable to protect themselves and rely on the assistance of a guardian to protect them from harm. Their physical characteristics and behaviour - relatively high intakes of water, air and certain foods, hand-to-mouth behaviour, rapid growth and development, immature physiology and metabolism - also increase their vulnerability to climate-related hazards.").

The translation belongs to us.

⁴⁷ IACHR Court. OC-23/17. Environment and Human Rights, paras. 233-241.

⁴⁸ Xu Y., Ramanathan V., & Victor D. G. (2018) [Global warming will happen faster than we think](#), Comment, Nature 564(7734): 30-32, 30-31 ("But the latest IPCC special report understates another alarming fact: global warming is accelerating. Three trends-increasing emissions, decreasing air pollution, and natural climate cycles-will combine over the next 20 years to make climate change faster and more furious than predicted. In our view, there is a good chance that we will exceed the 1.5

°C in 2030, not 2040 as projected in the special report (see "Accelerated warming"). The climate modeling community has not sufficiently addressed the rapid changes that most concern policy makers, preferring to focus on longer-term trends and tradeoffs.") The translation belongs to us. Since the commentary by Xu, Ramanathan and Victor was published, the IPCC has updated its estimate of when 1.5 °C will be exceeded: see Arias P. A., 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., et al. (eds.), TS-9 ("Timing of global warming of 1.5°C: The approaches used in SR.15 and this report are slightly different. In S.R1.5, a likely interval from 2030 to 2052 was assessed for reaching a global warming level of 1.5°C (for a 30-year period), assuming a continuous and steady rate of warming. In AR6, combining the largest estimate of global warming to date and the climate response assessed for all scenarios considered, the central estimate of reaching 1.5°C of global warming (for a 20-year period) occurs in the early 2030s, ten years before the midpoint of the likely range assessed in S.R1.5, assuming no major volcanic eruption. (TS.1.3, Cross-Section Table TS.1)∇ The translation belongs to us.

effective to provide adequate and timely protection and redress for the impact on their rights due to the climate emergency?

2. To what extent should the consultation obligation take into account the consequences on the climate emergency of an activity or projections of the emergency?

E. On the conventional obligations of protection and prevention for environmental and territorial defenders, as well as women, indigenous peoples and Afro-descendant communities in the context of the climate emergency.

In accordance with the obligations arising from Articles 1.1 and 2 of the American Convention⁴⁹ and in light of Article 9 of the Escazú Agreement⁵⁰ :

1. What measures and policies should States adopt in order to facilitate the work of environmental defenders?
2. What specific considerations should be taken into account to guarantee the right to defend the healthy environment and territory of women human rights defenders in the context of the climate emergency?
3. What specific considerations should be taken into account to guarantee the right to defend the healthy environment and territory in view of intersectional factors and differentiated impacts, among others, on indigenous peoples, peasant communities and Afro-descendants in the face of the climate emergency?

⁴⁹ ACHR. Article 1. Obligation to Respect Rights. The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition. If the exercise of the rights and freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake 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 and freedoms.

⁵⁰ Escazú Agreement. Article 9. Human Rights Defenders in Environmental Matters 1. Each Party shall ensure a safe and enabling environment in which individuals, groups and organizations promoting and defending human rights in environmental matters may operate free from threats, restrictions and insecurity. Each Party shall take appropriate and effective measures to recognize, protect and promote all the rights of defenders of human rights in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, right to peaceful assembly and association and right to freedom of movement, as well as their ability to exercise access rights, taking into account that Party's international human rights obligations, its constitutional principles and the basic elements of its legal system.

3. Each Party shall take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidation that environmental human rights defenders may suffer in the exercise of their rights under this Agreement.

4. In the face of the climate emergency, what information should the State produce and publish in order to determine the capacity to investigate various crimes committed against human rights defenders, including reports of threats, kidnappings, homicides, forced displacement, gender-based violence, discrimination, etc.?
5. What due diligence measures should States consider to ensure that attacks and threats against environmental defenders in the context of the climate emergency do not go unpunished?

F. On the shared and differentiated obligations and responsibilities in terms of the rights of States in the face of the climate emergency.

Bearing in mind that the climate emergency affects the entire world, and that there are obligations to cooperate and also to make reparations arising from the American Convention as well as from other international treaties⁵¹ :

1. What considerations and principles should States and international organizations take into account, collectively and regionally, to analyze shared but differentiated responsibilities in the face of climate change from a human rights and intersectionality perspective?
2. How should States act both individually and collectively to guarantee the right to reparation for damages generated by their actions or omissions in the face of the climate emergency, taking into account considerations of equity, justice and sustainability?

Taking into account that the climate crisis is having a greater impact on some regions and populations, including the Caribbean, island and coastal countries and territories of our region and their inhabitants⁵² :

1. How should the obligations of cooperation between States be interpreted?

⁵¹ ACHR. Article 26. Progressive development. The States Parties undertake to take steps, both internally and through international cooperation, especially economic and technical, with a view to achieving progressively the full realization of economic, social and cultural rights"; Protocol of San Salvador, articles 1, 12 and 14; Stockholm Declaration and Plan of Action for the Human Environment, principle 24; Rio Declaration on Environment and Development, adopted at the United Nations Conference on Environment and Development, Rio de Janeiro, 14 June 1992, UN Doc. NCONP.151/26/Rev.1 (Vol. 1), principles 7 and 19.

⁵² See, for example: Inter-American Development Bank (IDB). [Climate change poses significant threats to all Caribbean states, despite the minimal contribution of these countries to global greenhouse gas \(GHG\) emissions](#); UN News. [Caribbean is "ground zero" of global climate emergency, says Secretary General](#), July 3, 2022.

2. What obligations and principles should guide the actions of States in order to ensure the right to life and survival of the most affected regions and populations in the various countries and in the region?

Considering that one of the impacts of the climate emergency is to aggravate the factors that lead to human mobility - migration and forced displacement of people⁵³ :

3. What obligations and principles should guide the individual and coordinated actions to be taken by States in the region to address non-voluntary human mobility exacerbated by the climate emergency?

⁵³ IACHR Court. OC-23/17. Environment and Human Rights, para. 182.