

## The IACtHR's Advisory Opinion on the Climate Emergency: An Important Step for the Protection of Climate-Displaced Individuals

July 7, 2025

### Overview

On July 3, 2025, the Inter-American Court of Human Rights (IACtHR or the Court) issued a landmark advisory opinion on the *Climate Emergency and Human Rights* (AO-32/25 or the Opinion).<sup>1</sup> The Court affirmed that the scale and impacts of climate change indeed constitute a “climate emergency” and provided a comprehensive interpretation of States’ obligations in response, emphasizing an elevated standard of due diligence in addressing its causes and protecting people from its impacts.<sup>2</sup>

Significantly, the Court recognized the existence of a peremptory norm of international law prohibiting human actions that could irreversibly damage the interdependence and vital balance of the shared ecosystem that sustains life. Building on this foundation, the Court found that Nature and its components are rights-holders and articulated a new human right to a healthy climate, understood as part of the broader right to a healthy environment. This right protects the collective interests of present and future generations, as well as of Nature itself.

The Court addressed a wide array of issues, including the human rights impacts of climate-related human mobility and the corresponding responsibilities of States. In this respect, it offers critical grounding for a rapidly evolving legal and policy landscape. The Opinion affirmed that States have a duty to develop laws, policies, and programs to manage human mobility in the context of the climate emergency.

The Court acknowledged that individuals displaced across borders in the context of climate impacts may be entitled to international protection, while stopping short of elaborating how existing refugee and human rights frameworks apply. However, by framing displacement as a response to structural and compounding risks, rather than isolated

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<sup>1</sup> Inter-Am. Ct. H.R., Advisory Opinion 32/23, [Climate Emergency and Human Rights](#) (May 29, 2025). The Opinion was first made available on July 3, 2025, in Spanish only. Official English and Portuguese translations are expected beginning July 11, 2025. The Court has also created a dedicated [microsite](#) for the Opinion with access to all written interventions, hearing videos, and related materials.

<sup>2</sup> The Court defines the reinforced due diligence standard as a State's obligation to act with heightened care and promptness to address the human causes of climate change and protect individuals, especially vulnerable populations, from its impacts. This standard is variable and proportional to the risk of environmental damage, mandated by the extreme gravity and urgency of climate impacts that threaten irreparable harm. It generally entails, among other requirements, exhaustive risk identification and evaluation; integration of a human rights perspective; strengthening of State capacities to ensure access to information, participation, and justice; and fostering strengthened international cooperation. This obligation applies to all States, regardless of their level of development (AO-32/25, paras. 231–237).

climate events, the Court emphasized that States must address both immediate triggers and the broader social, political, and environmental conditions that drive people to move in search of safety and dignity.

This analysis focuses on the Court's interpretation of State obligations in the face of climate-related human mobility, particularly when it occurs across borders. It is structured as follows:

- [Part I](#) sets out the background and context of the Opinion.
- [Part II](#) reflects on the Opinion's implications and opportunities for advocacy.
- [Part III](#) outlines recommendations for States, civil society, and academia to strengthen the response to climate and disaster-related cross-border displacement.
- The [Appendix](#) examines the Court's conclusions on State obligations to address climate-related displacement.
  - [Section A](#) examines the Court's overarching findings.
  - [Section B](#) focuses on cross-border displacement.
  - [Section C](#) summarizes the Court's analysis of other dimensions of climate-related human (im)mobility.

## **I. BACKGROUND AND CONTEXT**

In January 2023, the governments of Chile and Colombia submitted a [request for an advisory opinion](#) to the IACtHR, raising a broad set of questions about States' obligations in addressing the climate emergency under the American Convention on Human Rights and other human rights instruments. The resulting process was the most participatory proceeding in the Court's history. In total, 263 amicus curiae briefs were [submitted](#), including nine by States and 10 by State institutions, four by entities within the Organization of American States, 14 by international organizations, 62 by communities, and 178 by non-governmental organizations.<sup>3</sup>

The Court reformulated the 18 questions it received and organized them into three key areas: substantive rights, procedural rights, and vulnerable groups.<sup>4</sup> However, one of the original questions focused specifically on climate-related displacement:

"What obligations and principles should guide the individual and coordinated measures that the States of the region should adopt to deal with involuntary human mobility exacerbated by the climate emergency?"

Around 30 of the briefs received by the Court directly responded to this question, but [at least 50](#) recognized the need to protect individuals displaced across borders due to climate

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<sup>3</sup> AO-32/25, para. 8.

<sup>4</sup> *Id.*, para. 27.

change. Many of these submissions, [including one](#) filed by the Center for Gender & Refugee Studies (CGRS) and partners, urged the Court to affirm that existing refugee and human rights frameworks, including the 1951 Refugee Convention and the 1984 Cartagena Declaration, apply to individuals displaced across borders in the context of climate-related harms. The briefs emphasized the applicability of the principle of *non-refoulement*, access to asylum and complementary forms of protection.

## **II. IMPLICATIONS AND OPPORTUNITIES FOR ADVOCACY**

The Court reinforced the legal basis for protecting people displaced in the context of the impacts of the climate emergency, thus creating new opportunities for advocacy to hold States accountable. This section explores the key legal and political implications and suggests potential avenues for advancing protection.

### **A. A Benchmark for Climate Displacement Jurisprudence**

The Opinion is likely to remain the most comprehensive and influential international judicial pronouncement on climate-related human mobility for some time, serving as a critical benchmark for future judicial engagement on the issue. The forthcoming advisory opinion by the International Court of Justice [may address](#) displacement in the context of climate change, but the [request](#) did not specifically include this question.

Similarly, the African Court on Human and Peoples' Rights recently received a [petition](#) for an advisory opinion on the obligations of States with respect to climate change. The [wide-ranging request](#) mentions displacement only in passing, and while it lists the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) as applicable law, it does not include the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

### **B. An Incomplete but Important Step on Cross-Border Protection**

The Opinion acknowledged that individuals displaced across borders due to the impacts of climate change may be entitled to international protection.<sup>5</sup> In doing so, it reinforced the applicability of existing refugee and human rights frameworks in responding to climate-driven displacement.

Moreover, by situating displacement as a response to structural and compounding risks rather than isolated "natural" events, the Court underscored the need to consider the full spectrum of environmental, social, and political factors that constitute the broader *hazard-scape*. This framing highlights States' obligations to respond not only to immediate triggers

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<sup>5</sup> *Id.*, para. 433.

but also to the underlying conditions that compel individuals to move across borders in search of protection.

While these are meaningful steps toward addressing protection gaps, the Court did not provide the detailed guidance that CGRS and many others had called for. For example, it did not elaborate on how frameworks such as the Refugee Convention and Protocol, the Cartagena Declaration, and the principle of *non-refoulement* apply in the context of climate-related harms.

The lack of attention to the Cartagena Declaration is a particularly significant missed opportunity, given its relevance in the region. With its expanded refugee definition, it has clear potential to support protection in this context, as outlined by UNHCR in its 2020 [\*Legal Considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters\*](#) and detailed in the 2025 [\*International Protection for People Displaced Across Borders in the Context of Climate Change and Disasters: A Practical Toolkit\*](#).

The Cartagena Declaration also carries deep regional significance, and its spirit has informed displacement policy through successive ten-year review processes, most recently in the [\*2024-2034 Chile Declaration and Plan of Action\*](#) (CDPA). In that context, the Court could have played an important role in reinforcing its applicability and encouraging its use in responding to climate and disaster-related displacement.

### **C. Operationalizing Regional and Political Frameworks**

By building on the Inter-American Commission's [\*Resolution on Climate-Induced Human Mobility\*](#), AO-32/25 provides a strong legal framework and judicial interpretation of States' human rights obligations concerning climate displacement. While the Resolution offered guidance, the Court's opinion lends those standards greater normative weight and interpretive authority within the regional legal system.

Similarly, the Opinion reinforces the political commitments outlined in the CDPA by offering an expanded legal foundation for their implementation.<sup>6</sup> When read together with the Opinion, the CDPA should be interpreted and applied in line with the reinforced due diligence standard established by the Court. This alignment creates new opportunities to hold States accountable to their regional commitments.

Looking ahead, States must take concrete steps to implement the standards affirmed in AO-32/25 and address the protection needs it brings to light. This includes updating legal

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<sup>6</sup> Endorsed by 22 countries in Latin America and the Caribbean, the CDPA aims to enhance protection and provide inclusive solutions for people displaced in the context climate change and disasters. This includes actions such as improving data, facilitating access to international protection and socio-economic integration, and ensuring their inclusion in national disaster response systems. See CGRS, [\*The Chile Declaration and Plan of Action 2024-2034: A Blueprint for Addressing Climate and Disaster-Related Displacement in the Americas\*](#) (Feb. 2025).

and policy frameworks, strengthening national protection systems, and advancing regional cooperation. At the same time, affected communities, civil society, and academia will remain central to driving this work forward through advocacy, monitoring, research, and practical guidance.

### **III. RECOMMENDATIONS**

The recommendations that follow identify priority actions to help advance rights-based responses to cross-border climate displacement across the region.

#### **A. Recommendations for States in the Americas**

1. Recognize that existing refugee and human rights frameworks apply to cross-border displacement in the context of climate change and disaster-related events whose impacts are shaped by human vulnerability, inequality, and governance.
2. Accede, as appropriate, to the 1951 Refugee Convention and its 1967 Protocol, and incorporate the expanded refugee definition in the 1984 Cartagena Declaration into national law.
3. Interpret and apply refugee protection grounds under both instruments in a consistent, non-discriminatory, and rights-based manner.
4. Establish complementary protection pathways for individuals who do not meet refugee criteria but face climate-related threats to life, safety, or dignity.
5. Uphold the principle of *non-refoulement*, including its extraterritorial application, where return would expose individuals to serious climate-related risks.
6. Ensure fair, accessible, and rights-respecting procedures for refugee status determination and complementary protection.
7. Apply *prima facie* recognition in situations of collective displacement due to climate-related events or disasters.
8. Ensure that protection responses account for intersectional risks and the specific needs of vulnerable groups, including previously displaced persons, Indigenous peoples, Afro-descendants, women, and children, particularly those who are unaccompanied or separated from their families.
9. Develop regional agreements to facilitate access to territory, legal status, and essential services for cross-border climate-displaced persons.
10. Promote responsibility-sharing through regional cooperation and solidarity in responding to climate- and disaster-related displacement.

## **B. Recommendations for Civil Society and Academia**

1. Leverage AO-32/25 as a legal and advocacy tool to promote recognition and protection of individuals displaced across borders by climate change and disasters.
2. Apply the Opinion in strategic litigation and casework to expand access to protection and strengthen legal standards.
3. Monitor and document State implementation of the Opinion's standards in national laws, policies, and protection systems.
4. Conduct legal and policy research to clarify how existing refugee and human rights frameworks apply in the context of cross-border climate displacement.
5. Use the Opinion to inform engagement in regional and international processes, including advocacy on the implementation of the 2024–2034 Chile Declaration and Plan of Action.
6. Develop and disseminate domestic-level guidance to support adjudicators, policymakers, and practitioners in interpreting and applying the Opinion as it applies to cross-border displacement, building on resources such as the 2025 [\*International Protection for People Displaced Across Borders in the Context of Climate Change and Disasters: A Practical Toolkit\*](#).

## APPENDIX

This appendix outlines how the Court addressed different dimensions of climate-related human mobility, including key legal findings and obligations related to displacement across borders, internal displacement, planned relocation, and immobility.

### A. Overarching Findings Related to Climate-Related Displacement

The Court explicitly acknowledged particular climate vulnerabilities in the Americas, emphasizing the severe impacts on Latin America and the Caribbean due to their high exposure to climate phenomena and prevalent inequality.<sup>7</sup>

The Opinion underscored that the climate emergency is already a significant driver of human mobility, including forced migration and displacement, sometimes across international borders. It recognized that this phenomenon raises serious human rights concerns. While the distinction between “migration” (more voluntary) and “displacement” (more forced) may be blurred in practice, the intersection of climate change with traditional drivers of mobility is a “palpable reality.”<sup>8</sup>

Importantly, the Court noted that vulnerability to climate change is not static. It is shaped by the interaction of climate-related impacts with structural inequalities, poverty, and other forms of discrimination. State responses must therefore be sufficiently flexible to address the compounded risks climate change poses to marginalized individuals and communities.<sup>9</sup> In this sense, States are obligated to adopt normative, policy, institutional, and budgetary frameworks to address involuntary human mobility, particularly where preventive measures fall short.<sup>10</sup>

Finally, the Court affirmed that States must act with “reinforced due diligence” to protect individuals under their jurisdiction from the impacts of the climate emergency. This heightened standard flows from the general duty to protect human rights, particularly where individuals face heightened vulnerability, including in the context of displacement. It requires States to take preventive and protective action, even without waiting for full scientific certainty.<sup>11</sup>

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<sup>7</sup> AO-32/25, para. 196.

<sup>8</sup> *Id.*, paras. 416–420.

<sup>9</sup> *Id.*, paras. 195, 628.

<sup>10</sup> *Id.*, paras. 424–425.

<sup>11</sup> *See Id.*, paras 227, 229, 232.

## **B. Obligations to Address Cross-Border Displacement**

The Court found that, in fulfillment of their general obligations to respect and guarantee rights, States must adopt specific measures to address the need of individuals displaced across borders in the context of the climate emergency. These measures include:

### **1. Legal and Administrative Mechanisms and Pathways**

States must create laws, policies, and programs to regulate human mobility caused directly or indirectly, or exacerbated, by the climate emergency. This includes ensuring access to pathways for regular migration, humanitarian visas, residency, and temporary protection.<sup>12</sup> In this regard, the Court cited the [Global Compact for Safe, Orderly and Regular Migration](#) as a relevant framework for promoting cross-border cooperation and establishing appropriate migration pathways, as well as supporting measures like early warning systems and assistance for affected populations. The Court also referenced the Nansen Initiative's [Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change](#) as a source of guidance on humanitarian protection mechanisms for individuals displaced across borders due to climate impacts.

### **2. Refugee Status, Complementary Protection, and Non-Refoulement**

States must also establish mechanisms to grant protection under refugee status or other similar categories that can provide protection against *refoulement*. The Court cited the Human Rights Committee's opinion in [Teitiota v. New Zealand](#), which confirms that the obligation of *non-refoulement* under Article 6 of the International Covenant on Civil and Political Rights extends beyond refugee law to individuals facing serious climate-related harm.<sup>13</sup> The Court also referred to the recently adopted [2024–2034 Chile Declaration and Plan of Action](#), where States in the Americas committed to legal protections for individuals displaced by climate change and disasters, including [across borders](#).<sup>14</sup>

### **3. Special Considerations for Children**

Recognizing that children are among the most affected by the impacts of the climate emergency, the Court affirmed that States must work together to develop policies and strategies that guarantee children's rights throughout the different stages of displacement. This includes ensuring the best interests of the child, family unity, and access to information, and measures to address statelessness.<sup>15</sup>

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<sup>12</sup> *Id.*, para. 433.

<sup>13</sup> *Id.* para. 433, footnote 735.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*, para. 434.



#### **4. International Cooperation**

The Court emphasized that managing cross-border migration and displacement is a shared responsibility of the international community. States must coordinate across all levels to respond to climate-related mobility. This comprises strengthening bilateral and regional mechanisms to protect the rights of affected individuals; providing consular protection and humanitarian assistance in transit and destination countries; ensuring safe and regular cross-border movement; and mobilizing international funding, consistent with principles of equity, solidarity, and common but differentiated responsibilities, to support vulnerable countries in responding to climate-related displacement.<sup>16</sup>

#### **C. Other Obligations Related to Climate-Driven Human (Im)mobility**

Beyond cross-border displacement, the Court addressed a range of climate-related mobility dynamics, including internal displacement, planned relocation, and involuntary immobility. It found that States must adopt comprehensive, rights-based approaches to protect individuals and communities across this full spectrum.

##### **1. Obligation to Prevent Displacement and Protect Environmental Defenders**

The Court affirmed that States have a duty to adopt measures to prevent forced migration and displacement, whether caused directly or indirectly by disasters and other climate-related impacts. States are therefore required to design and implement effective policies and protective measures for populations exposed to climate risks, with the goal of mitigating the drivers of involuntary movement before displacement occurs.

In this context, the Court highlighted the relevance of the [Sendai Framework for Disaster Risk Reduction](#), particularly its focus on strengthening adaptive capacity, preventing the creation of new risks, and improving preparedness for climate-related events that may lead to displacement. The Court also emphasized that such preventive measures and policies must ensure meaningful public participation and prior consultation with affected communities, especially vulnerable groups and Indigenous peoples, integrating their local and traditional knowledge into the design and implementation of any measures.<sup>17</sup>

In line with this, the Court emphasized the heightened risks faced by environmental human rights defenders. These individuals encounter increased dangers, including violence, intimidation, and criminalization. Consequently, the Court underscored States' obligations to guarantee their safety and to adopt protective measures that enable them to carry out their work without fear. This *special duty of protection* entails States recognizing and promoting their role, abstaining from stigmatizing or harassing them, ensuring a safe

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<sup>16</sup> *Id.*, para. 431–432.

<sup>17</sup> *See Id.*, paras. 236, 422, 535–536, 539.

environment, adopting effective protective measures, investigating and sanctioning attacks, and counteracting the criminalization of environmental defense.<sup>18</sup>

## **2. Internal Displacement**

The Court referred broadly to involuntary displacement resulting from climate change, including both direct and indirect drivers. It acknowledged that most of this displacement occurs within national borders. States must adopt legal, policy, institutional, and budgetary measures to protect the rights of internally displaced persons. This includes ensuring access to assistance and support, implementing durable solutions, and guaranteeing the meaningful participation of individuals and communities displaced or at risk of displacement in decision-making processes that affect them.<sup>19</sup>

## **3. Community Relocation**

The Court addressed the processes of relocation and resettlement of communities, emphasizing that such measures should be treated as a last resort, undertaken only in exceptional and unavoidable circumstances to safeguard life, health, and physical integrity. When relocation is necessary, States must ensure it is governed by a robust legal framework that aligns with international and regional human rights standards, including the Guiding Principles on Internal Displacement. In the case of Indigenous peoples, any relocation must ensure access to land of equivalent quality and legal status, in a manner that respects their cultural continuity and enables long-term development.<sup>20</sup>

## **4. Immobility**

The Court also recognized *involuntary immobility*, which occurs when individuals or communities are unable to leave areas exposed to climate risks due to legal, economic, or social constraints. Immobility can deepen existing vulnerabilities and expose affected populations to heightened harm.<sup>21</sup> While the Court did not articulate a distinct legal obligation specific to this phenomenon, it made clear that general obligations to prevent displacement, and to protect those facing climate-related risks, extend to individuals who are effectively trapped or unable to move.

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**Read the amicus brief by CGRS and partners [here](#).**

**See the Advisory Opinion's microsite (in Spanish) [here](#).**

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<sup>18</sup> See *Id.*, paras. 569–588

<sup>19</sup> See *Id.*, paras. 416, 420, 424–425.

<sup>20</sup> *Id.*, paras. 427, 429.

<sup>21</sup> *Id.*, para. 419.