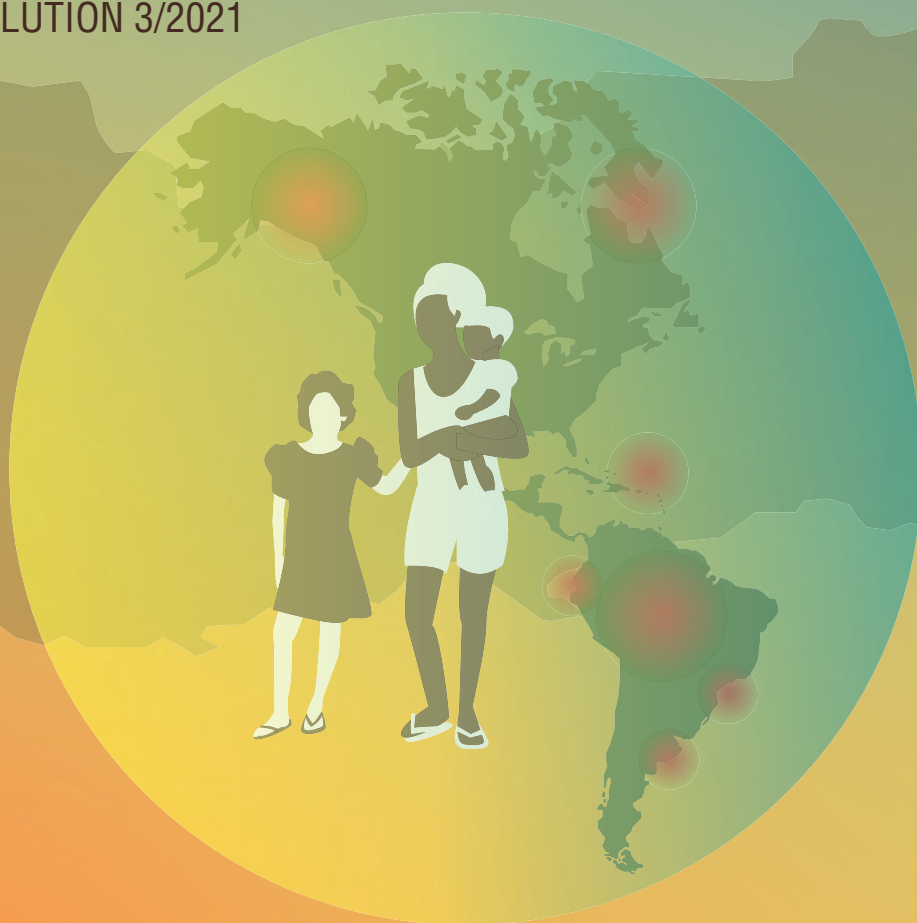


# Climate Emergency

## Scope of Inter-American Human Rights Obligations

RESOLUTION 3/2021



**OAS**

More rights for more people





**REDESCA**  
Special Rapporteur for Economic,  
Social, Cultural and Environmental Rights

**IACHR** Inter-American  
Commission on  
Human Rights

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RESOLUTION No. 3/2021

**CLIMATE EMERGENCY: SCOPE OF  
INTER-AMERICAN HUMAN RIGHTS  
OBLIGATIONS**

(Adopted by the IACHR on December 31st, 2021)

# A

## Introduction

The excessive exploitation of nature to satisfy the growing pattern of consumption at the global level has caused the transgression of certain planetary limits, which set a threshold below which the biophysical processes of the Earth system operate safely for humanity. Climate, biosphere integrity, biogeochemical flows and land-use change are the essential processes that lie outside the boundary of safe operation. As such, biosphere integrity and climate stability are intimately linked, as changes in weather patterns can have devastating effects on ecosystem health. Noticeably, the destabilization of the biophysical processes of the Earth system puts at serious risk the full exercise of the rights of people, especially those with structural disadvantages.

The nexus between climate change and human rights is increasingly evident and its recognition at the international level has reached significant levels of consensus, not only in the legal regime pertaining to climate change, but also in the international human rights regime. The basis of this development lies in the existence of a directly proportional relationship between the increase in greenhouse gas emissions into the atmosphere and the frequency and intensity of meteorological changes, which implies the amplification of risks to societies, people and natural systems.

According to the Intergovernmental Panel on Climate Change (IPCC), the commitments reflected by States in their obligations under the Paris Agreement would be far from limiting the average global temperature to 1.5°C; on the contrary, a trajectory towards a temperature above 2°C is expected, if these commitments are not implemented. This would have

devastating consequences, especially for millions of people living in poverty, who even in the best of scenarios, would face food insecurity, forced migration, disease and death. This threatens the very future of human rights and would undo the last fifty years of progress in development, health and poverty reduction.

Specifically, both abrupt and slow-onset climate impacts produce changes in the natural cycles of ecosystems, droughts, floods, heat waves, fires, coastal losses, among others. They have brought with them a major threat to the enjoyment of a wide range of rights, inter alia, the right to life, food, housing, health, water and the right to a healthy environment. In addition, the measures that both States and business actors design and implement to respond to the climate crisis, including adaptation and mitigation measures to climate change, can also bring with them risks to the full enjoyment of human rights.

Similarly, nature provides the foundation for human health in all its dimensions and contributes to the immaterial aspects of the quality of life. The diversity of nature maintains humanity's ability to choose alternatives for an uncertain future. Along these lines, the Pan American Health Organization (PAHO) has established action plans on health and climate change for both the Caribbean and the Andean region, in order to propose strategies for the comprehensive management of the impacts of climate change on people's health.

In this regard, the Commission recalls that climate change directly affects the right to a healthy environment, which has been recognized as an autonomous and justiciable human right by the jurisprudence of the organs of the Inter-American Human Rights System. In this regard, Advisory Opinion 23/17 of the Inter-American Court of Human Rights (Inter-American Court of Human Rights) stands out, which stipulates that the protection of this right is not only intended to protect people's interest in ecosystems, but also aims at the protection of nature and all its components for their intrinsic value. Likewise,

the Inter-American Commission and court understand that the “jurisdiction” referred to in Article 1.1. of the American Convention<sup>14</sup> contemplates circumstances in which extraterritorial conduct of the States constitutes an exercise of jurisdiction by that State.

On the other hand, the risk of harm is particularly high for those segments of the population that are currently in a situation of marginalization or vulnerability or that, due to discrimination and pre-existing inequalities, have limited access to decision-making or resources, including women; children and adolescents; indigenous peoples; persons with disabilities; people living in informal settlements; migrants; peasants and people living in rural areas. This, despite the fact that they have contributed marginally to greenhouse gas emissions, the main cause of the climate crisis. As an example, during the fires in August 2019 that affected much of the Brazilian and Bolivian Amazon, as well as the Chaco in Paraguay; due in part to poor control over forest management, the Commission warned that indigenous peoples are the most affected.

Particularly, climate change poses serious threats to all Caribbean nations, despite the numerous differences between them. According to the IPCC, average temperatures in the region have increased between 0.1° and 0.2°C every decade, over the past three decades. Rainfall patterns in the region have changed, and an increase in the number of consecutive dry days is expected. Additionally, sea levels have risen at a rate of between two and four centimeters per decade over the past 33 years, a pattern that poses serious risks to the region’s valuable freshwater resources and to the coastal population that depends on tourism and agriculture. Even more serious, this would have devastating consequences, especially for millions of people living in poverty, who even in the best of cases, would face food insecurity, forced migration, disease and death.

Similarly, the Commission also emphasizes the disproportionate effects that

the climate emergency has on the countries of Central America. According to ECLAC, it has been identified that the intensity and increased frequency of tropical storms and hurricanes and prolonged droughts have affected the living patterns of people in that area of the region, causing internal displacement caused by the lack of opportunities and the destruction of infrastructure, among other factors. To that extent, issues such as the food crisis, the issue of human mobility and inequality and poverty rates could be increased disproportionately, jeopardizing the resilience and adaptation capacity of these countries to improve the living conditions of the people who inhabit them.

This resolution is framed in the context of mandates received from the General Assembly of the Organization of American States (OAS), which entrusted the IACHR (among other tasks) to contribute “to efforts to determine the possible existence of a link between the adverse effects of climate change and the full enjoyment of human rights.” Similarly, the Commission takes note of the provisions of the preamble to the Paris Agreement, which recognizes that in addressing climate change, States “should respect, promote and take into account their respective human rights obligations”. The purpose of this resolution is to systematize the human rights obligations of States in the context of the climate crisis in order for them to make public policy decisions under a rights-based approach.

# B

## Considerations

**RECALLING** the pronouncements of the IACHR and the Office of the Special Rapporteur on Economic, Social, Cultural, and Environmental Rights (REDESCA), where they have been expressing their deep concern about the risks associated with the decline in the effective enjoyment of human rights in the Americas due to climate change.

**EMPHASIZING** that climate change is one of the greatest threats to the full enjoyment and exercise of human rights of present and future generations, to the health of ecosystems and all species that inhabit the planet.

**CONSIDERING** that environmental degradation can cause perpetual and irreparable damage to human beings and nature, so a healthy environment is an essential right to ensure the existence not only of humanity but also of all forms of life on Earth.

**UNDERLINING** the importance of reorienting development towards a model that allows diversifying the energy matrix, moving towards cleaner technologies, energy efficiency and advancing sustainable agri-food systems, understanding these as decisive decisions to face climate change, the reduction of poverty and structural inequality.

**REAFFIRMING** that the implementation of international human rights standards together with the 2030 Agenda and its Sustainable Development Goals are an effective framework proposed by the International Community, States and civil society to adopt urgent measures to combat climate change and a necessary roadmap to ensure the protection of the right to a healthy environment and related human rights.

**HIGHLIGHTING** recent developments in environmental rights, in particular the adoption and entry into force of the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), and the adoption of UN Human Rights Council Resolution 48/13 recognizing the right to a healthy environment.



**TAKING INTO CONSIDERATION** that a significant part of global greenhouse gas emissions are caused by the activities, products and services of companies and that current systems of heavy consumption contribute substantially to climate change and environmental degradation and put at risk the enjoyment of human rights.

**EMPHASIZING** the urgency of redoubling mitigation and adaptation efforts by national and subnational governments within the framework of international cooperation, in order to orient their scope towards greater development and social equity inspired by values such as dignity, equality, freedom, solidarity and justice.

**EMPHASIZING** that a human rights-based approach to the implementation of international commitments on environmental law and climate change enhances the effectiveness of national responses to climate change taking into account traditional and local knowledge and knowledge. Similarly, this recognition must be covered by measures to generate and strengthen capacities in education and awareness of climate change of all social actors, especially in island and coastal States.

**RECALLING** that indigenous peoples, Afro-descendant, tribal and peasant communities inhabit regions whose ecosystems are extremely vulnerable to the adverse effects of climate change. Endangering the survival of these peoples, their ways of life and their relationship with the territory.

**NOTING** that the impacts of climate change that limit access to and use of land, water and forests interfere with the enjoyment of human rights such as life, health, food, work, culture, water and sanitation and self-determination of all people, and in particular, of individuals and groups in vulnerable situations, such as women, older adults, indigenous peoples, and Afro-descendants, tribal and peasant communities.

**EMPHASIZING** the importance of the procedural rights of access to information, public participation and justice in environmental matters and the fundamental role of individuals, peoples, communities, movements, and groups defending environmental human rights in the construction of ambitious climate policies and goals and in the protection of strategic ecosystems in the fight against climate change such as the oceans, the jungles, and forests.

**RECALLING** that particularly, the loss of native forests brings with it different problems such as modification in nutrient cycles, alterations to the hydrological regime, decrease in the capacity of retention and infiltration of water, increase in erosion and sedimentation of soils, drought, among others.

**RECOGNIZING** that the principle of progressivity and non-regression is fundamental for the realization of economic, social, cultural, and environmental rights and for the fulfillment of international and inter-American commitments assumed under the human rights and environmental law instruments in force to combat climate change, such as the United Nations Framework Convention on Climate Change and the Paris Agreement, among others.

**STRESSING** that National Human Rights Institutions and other State control bodies play a very important role in ensuring that States and other non-State actors, such as business, take measures to slow down the negative consequences of climate change; and that States devote the maximum available resources to the adoption of measures to mitigate it.

**REITERATING** that States must take action to limit the anthropogenic emission of greenhouse gases, which also concerns the obligation to regulate the activities and policies that produce it, in order to prevent as much as possible, the effects on the rights of people.

# C

## Operative Part

The Inter-American Commission on Human Rights (IACHR), in support of the Office of the Special Rapporteur on Economic, Social, Cultural, and Environmental Rights (REDESCA); within the framework of the functions conferred upon it by Article 106 of the Charter of the Organization of American States, in application of Article 41.b of the American Convention on Human Rights and Article 18.b of its Statute resolves to adopt the following resolution on “climate emergency: scope of inter-American human rights obligations”:

### **I. Centrality of the rights approach in the construction of climate change instruments, policies, plans, programs, and norms on climate change**

1. States should adopt and implement policies aimed at reducing greenhouse gas emissions that reflect the greatest possible ambition, foster resilience to climate change and ensure that public and private investments are consistent with low-carbon and climate-resilient development.
2. Those states in the region that have passed legislation on climate change and energy transition and those that have made a commitment to develop and update their Nationally Determined Contributions (NDCs) must incorporate a human rights approach into their construction and implementation.

3. States must ensure that climate norms, policies and actions are constructed, updated and/or re-examined in a transparent and participatory manner with all social actors ensuring that climate actions do not adversely affect people's rights, the possibility of submitting observations by appropriate means and of contesting decisions through judicial or administrative means.
4. Within the framework of the obligation to mobilize the maximum of available resources in order to move towards a gradual but determined decarbonization of the economies of the region, States that are part of multilateral financing agencies should intensify their efforts to ensure that these institutions provide accessible credits or immediate subsidies in the field of mitigation and adaptation.
5. States must make significant efforts to advance comprehensive, universal, and comprehensive environmental education policies and programs, allowing people to acquire environmental awareness, modify their consumption behaviors and care for the environment, as well as aimed at ensuring that authorities and companies adopt patterns of sustainable development and protection of nature.
6. Given the limitation of resources, States must undertake an active search for them for the formulation and implementation of ambitious public climate policies in the face of public and private climate funds, such as multilateral banks, as well as mobilize their own resources towards mitigation and adaptation actions.
7. States should implement actions that promote international cooperation in a broad and participatory manner, at the bilateral, regional, and global levels. Based on the principle of common but differentiated responsibility, those States that have greater financial capacity must provide the guarantees to provide greater technical and logistical capacity to the States that have a greater degree of impact on climate change, as well as less financial and infrastructure capacity to face the climate emergency.

## II. Human rights in the context of environmental deterioration and the climate emergency in the Americas

8. All persons within the territories or within the jurisdiction of the OAS Member States are subject to all the rights contained in the American Declaration of the Duties and Rights of Man and other inter-American and international instruments to which the State concerned is a party. Likewise, the right to a healthy, balanced and pollution-free environment is part of the set of rights that States must guarantee and protect by reason of their obligations at the national and regional levels. This in turn implies, as stated in Advisory Opinion No. 23 of the Inter-American Court, recognizing that this right also protects all components of nature as a legal interest in itself, even in the absence of certainty or evidence about the risk to individual persons. It is about protecting nature and the environment not only because of their connection with a utility for the human being or because of the effects that their degradation could cause on other rights of people, such as health, life, or personal integrity, but also because of their importance for other living organisms with whom the planet is shared, also deserving of protection.
9. States must comply with their international obligations to protect and guarantee the enjoyment and exercise of human rights by all persons who, as a result of environmental impacts, including those attributable to climate change, are significantly affected both individually and collectively. In this sense, when fulfilling their obligations, they must try to do so taking into account the interdependence and indivisibility existing between all rights, understood integrally and in a conglobated way, without hierarchy among themselves and enforceable in all cases before those authorities that are competent to do so.
10. In order to comply with the substantive and procedural obligations arising from the right to a healthy environment, States must interpret in good faith the principles of environmental law in order to seek harmonization and consistency with the principles of international human rights law. In this regard, it is necessary for states to implement social and environmental impact studies, which must be carried out under

the parameters established by the ISHR and taking into account the cumulative damages and greenhouse gases that enter the atmosphere and contribute to climate change. Such actions must be framed under the application of the principle of due diligence, from which the principles of precaution and prevention of environmental damage are derived, they must be seriously considered in order to avoid damage, both within the territory and transboundary.

11. States have an obligation to cooperate in good faith in order to prevent pollution of the planet, which entails reducing their emissions to ensure a safe climate that enables the exercise of rights. This involves exchanging resources, technology, knowledge and capacities to build societies that operate in a low-emission environment, move towards a clean and just energy transition, and protect people's rights. States that are in a position to do so should contribute to covering the costs of mitigation and adaptation of States prevented from doing so, in accordance with the principle of common but differentiated responsibilities. In general, the fundamental principles of climate justice should serve as a guide for international cooperation.
12. States must ensure that both public and private entities reduce their GHG emissions. This translates into implementing prevention, supervision, regulation and access to justice measures in the field of Green House Gases (GHG) reduction, aimed at both the public and business sectors. For this, States can resort to the design of financial and fiscal incentives for sustainable activities, low in carbon footprint and accompanied towards a transition to renewable and clean energy sources. Such programs must be constructed with a cross-cutting approach to rights.
13. States should consult and seek the consent of persons whose rights could be violated by programs and projects that involve a risk of significant environmental damage. Such programmes and projects include those aimed at mitigating greenhouse gases and adapting to the impacts of climate change.
14. States should take appropriate measures to ensure that individuals and communities affected by human rights abuses and violations under their jurisdiction have access to effective redress mechanisms, including the accountability of companies and the determination of their criminal, civil or administrative responsibility. In case of violation of rights as a result of environmental damage, States have the obligation to make full reparation to the victims, which implies the restoration of the environment as a mechanism of integral restitution and guarantee of non-repetition.
15. To this end, for the effective protection of human rights, States must

take appropriate measures to mitigate greenhouse gases, implement adaptation measures and remedy the resulting damages. These obligations should not be neglected because of the multi-causal nature of the climate crisis, as all States have common but differentiated obligations in the context of climate action. As with economic, social, and cultural rights, environmental rights, in the context of climate change, must be guaranteed to the maximum of the resources available to the State in order to progressively achieve their full effectiveness by all appropriate means.

### III. Rights of individuals and groups in situations of vulnerability or historical discrimination in environmental and climate matters

16. Climate change affects all people, but it generates differentiated impacts with respect to the effective enjoyment of their rights. States have a reinforced obligation to guarantee and protect the rights of individuals or groups who are in situations of vulnerability or who are particularly vulnerable to the damage and adverse impacts of climate change because they have historically and systematically borne the greatest burden of structural inequality.
17. States must immediately adopt measures that take into account the perspectives of gender equality and intersectionality, in addition to differentiated approaches, which make visible the aggravated risks to human rights against individuals, groups, and communities in a situation of vulnerability and historical exclusion in the hemisphere.
18. People in poverty, extreme poverty, homelessness or living in informal settlements are more susceptible to the immediate and long-term impacts of climate change. States have the responsibility to generate public policies and all the necessary measures to protect in a priority and specific way the rights of people living in poverty, both in urban and rural contexts. The lack of purchasing power of people requires that States take reinforced measures to protect the human rights of the population in a situation

of poverty population in the face of climate change, guaranteeing their participation in decision-making.

19. Women and girls face greater risks, threats and violations of their human rights, such as life, personal integrity and health, due to the adverse effects of climate change that increase all existing gender inequalities. States should adopt differentiated measures to address all women in their various roles, to prevent and eradicate all forms of violence when exposed to natural disasters, such as floods, storms, avalanches, and landslides, caused by climate change. They must also guarantee them the right to education and access to technological means to increase their resilience and adaptation to climate change. Similarly, States should encourage the effective participation of women and girls in decision-making regarding policies and measures to combat climate change.
20. Faced with migrant workers and others who mobilize for reasons directly or indirectly associated with climate change, States must guarantee due process during the procedure leading to the recognition of their migratory status, and in any case guarantee their human rights, such as the safeguard of non-refoulement while their status is determined. For their part, they must guarantee access to the right to health associated with climatic or meteorological phenomena to all people without discrimination based on national origin or any other reason prohibited under the contexts of human mobility. Likewise, access to justice, to reparation measures and guarantees of non-repetition to people forced to move by expansion of development projects that aggravate the adverse consequences of climate change must also be recognized.
21. Based on the principle of intergenerational equity, all children and adolescents have the right to enjoy a healthy environment and to live on a planet equal to or in better conditions than their ancestors. States should ensure that the impacts of climate change do not threaten their rights to life, personal integrity, and health because of their special sensitivity to temperature changes and vector-borne diseases. States must also ensure that their rights to education, identity, housing, water, and sanitation are not affected by the destruction or alteration of basic infrastructure for their well-being such as schools, hospitals, and public transport systems.
22. To reduce the impacts of diseases associated with climate change on the health of people who are older adults and people who are in a situation of disability, it is necessary for States to develop plans and policies for preventive care in medical care specifically on this type of risk, and to generate training programs for their caregivers or family members in case of emergencies or disasters caused by climate change.



## IV. Rights of indigenous peoples, tribal communities, Afro-descendants and peasants or those working in rural areas in the face of climate change.

23. States must adopt measures to ensure that the climate crisis does not affect or jeopardize the effective protection of the human rights of indigenous peoples, Afro-descendant, tribal or peasant communities such as life, personal integrity, freedom of expression, protection of family life, water, food, the healthy environment, or communal property, among others.
24. States must respect and guarantee without any discrimination meaningful participation through the guarantee of the right to prior consultation seeking free, prior and informed consent in the design of action plans, public policies, norms and / or projects directly and indirectly related to the fight against climate change. Such participation should take into account an intercultural approach and adequately incorporate traditional and local knowledge on mitigation and adaptation and respect the duty of accommodation in the final decision.
25. The protection of the right to effective judicial protection and judicial guarantees of indigenous peoples and tribal, Afro-descendant or peasant communities must also include measures to repair material and immaterial damage, measures of satisfaction, guarantees of non-repetition, implementation of resources for the recovery of collective memory and preservation of culture.
26. States shall respect and protect the rights of peasants and other persons working in rural areas and shall take the necessary measures to combat all forms of discrimination against them in the context of the climate crisis. This also includes the obligation to protect their right to adequate food, the free use of seeds and traditional forms of food production, including agroecology, housing and work that are threatened by weather phenomena or significant temperature variations. States must ensure the availability of economic and financial support such as subsidies, loans, and grants when they lose their crops or houses due to floods or droughts, as well as all technical and legal assistance to access them.

## V. Rights of land and nature defenders

27. Environmental and climate advocates are directly affected by projects that are implemented as response or adaptation measures to climate change, such as hydroelectric plants, solar and wind farms and monocultures and large-scale animal husbandry. Accordingly, by recognizing their important work at the national and regional levels and their valuable contribution to the fight against climate change, States should take immediate steps to promote and protect the rights of these persons to life, integrity and personal freedom, assembly and freedom of association, privacy and the protection of honor and dignity, movement and residence, due process and judicial guarantees, ensuring that defenders are not harassed, stigmatized, discriminated against or killed for the work they do.
28. States must act decisively and decisively to prevent attacks, threats, intimidation, or killings and effectively investigate and punish those responsible, including those directly or indirectly related to business, in contexts of social and armed conflicts.
29. States must recognize the centrality of the leadership of children, adolescents, and young people, as well as their movements, in the fight against climate change. States must generate the necessary protection mechanisms to guarantee that children and adolescents can exercise their activism and defense of environmental rights, also promoting their inclusion and participation in decision-making spaces.
30. States must also recognize the essential role that women play as environmental, land and territory defenders in the organization and leadership of processes to defend the healthy environment on the continent. It is the responsibility of States to ensure the effective participation of women environmental defenders and their movements in decision-making processes related to combating climate change, including measures taken for a just transition. In this regard, States must implement public policies and concrete measures that, together with recognizing their contribution, protect them against aggression, attacks and other forms of harassment or gender-based violence in these contexts.
31. In cases of abuses or violations of the rights of individuals or groups defending the Land and Nature where companies or private actors related to the extractive sector intervene, States must strengthen transparent and effective mechanisms for monitoring, surveillance and control over these,

providing, as appropriate, effective sanctions and adequate reparations to apply the criminal and administrative actions that are available in the countries to the protection of people's lives and livelihoods.

## **VI. Rights of access to information, public participation and access to justice in environmental and climate matters**

32. The effective implementation of the procedural rights of access to information, public participation and justice in environmental matters is an accelerator of climate action in the region and enhances the fulfillment of the substantial obligations of States. In this sense, it is a priority not only to advance in the consecration of these rights but also in the effective implementation of them.
33. To ensure transparency and access to information on the causes and consequences of the global climate crisis, measures to address it, the impacts of projects on the climate and how to achieve them, States have a positive obligation of active transparency to generate timely, complete, understandable, clear, accessible, culturally appropriate information, truthful and expeditious on adaptation, mitigation and means of implementation on climate change for all people, taking into account the particularities and specific needs of people and groups in situations of vulnerability.
34. All information on development projects that potentially increase global temperature with greenhouse gas emissions should be governed by the principle of maximum publicity. In the same way, they must ensure the progressive strengthening of environmental information systems at the national, subnational, and local levels on greenhouse gas inventories, management and sustainable use of forests, carbon footprint, emission reduction and climate financing, among others.
35. To ensure the effective participation of all people in public or private climate decision-making processes, States should clearly demand that it be open and inclusive and occur at an early stage in all phases of decision-making and that people's comments be duly taken into account as a result of meaningful participation processes. Non-state or private actors involved

in the implementation of projects, works or activities that potentially increase the global temperature with greenhouse gas emissions should ensure and make available to the public information on the technical and physical characteristics of the project, its impacts and planned measures, as well as the technologies available for use, among others.

36. States should adopt immediate measures to guarantee access to justice in environmental and climate matters of a judicial or administrative nature in accordance with the guarantees of due process, eliminate all barriers to its exercise and ensure free technical and legal assistance. This also includes the obligation to develop remediation measures to different relevant actors and especially to people directly affected by the climate crisis.
37. It is a priority that States make focused efforts to identify, assign, mobilize and make use of the maximum of available resources to strengthen the capacities of all judicial operators, justice assistants, Public Prosecutor's Office, and control bodies to prevent, investigate and punish situations related to threats or violations of human rights related to climate change.
38. Similarly, it is recommended that States take measures to harmonize national legislation and policy measures that guarantee people affected by climate change and environmental degradation procedural rights in environmental matters; coordinate inter-institutionally and intersectorally their institutions to ensure the comprehensiveness and coherence of actions; and strengthen their technical and legal capacities for environmental democracy.

## VII. Extraterritorial obligations of states in environmental and climate matters

39. States are tasked with implementing human rights obligations that are intertwined with those of international environmental law in the contexts of polluting activities within their jurisdiction, or under their control, so that they do not cause serious harm to their environment or that of other countries or areas outside the limits of national jurisdiction. At the same time, the rule of customary international law of "doing no harm" would be breached as a result of greenhouse gas emissions and thus the increase in frequency and intensity of meteorological phenomena attributable to climate change, which, regardless of their origin, contribute cumulatively to the emergence of adverse effects in other States.

40. In this regard, a State is responsible not only for actions and omissions in its territory, but also for those within its territory that could have effects on the territory or inhabitants of another State. Under this, States have the obligation, within their jurisdiction, to regulate, supervise and supervise activities that may significantly affect the environment inside or outside their territory. In addition, it is necessary to establish a contingency plan, in order to have safety measures and procedures to minimize the possibility of large environmental accidents, and mitigate the significant environmental damage that could be generated.

41. In the context of the climate crisis, the obligation to prevent transboundary environmental harm is manifested in the development and implementation of GHG mitigation targets that reflect a level of ambition consistent with the obligations of the Paris Agreement and other applicable instruments, particularly with the obligation not to exceed global temperature to such an extent as to jeopardize the enjoyment of human rights.

## **VIII. Responsibility of companies to respect human rights and remedy possible violations thereof in the environmental and climate context**

42. Companies must adjust their behavior and operations to the norms of the business and human rights regime, in the terms established in the United Nations Guiding Principles on Business and Human Rights, taking as a reference the parameters and recommendations contained in the report “Business and Human Rights: Inter-American Standards” of the REDESCA of the IACHR.

43. In their national action plans on business and human rights, States should take into account the role of business and its contribution to the increase in GHGs, leading to the aggravation of the climate crisis and the concomitant limitation of the effective enjoyment of human rights. Such plans should expressly state that the duty of companies to respect human rights includes the adoption of human rights and environmental policies; exercise due diligence that brings together their duty to respect human rights and the reduction of GHG emissions; redress human rights violations for which they are directly responsible and work to persuade other actors

to respect human rights where influential relationships exist.

44. Companies must adopt plans to reduce GHG emissions from their products and services, as well as those from their subsidiaries and suppliers. These measures are especially aimed at those sectors that tend to pollute disproportionately, such as the fossil fuel sector and factory farming that is linked to increased deforestation. Such companies should not hinder the implementation of environmental policies that seek the common good and respect for environmental rights. In addition, companies must publicly report their emissions, their vulnerability to the climate and their risk of disused assets, while not hindering access to justice, particularly for human rights defenders in environmental matters.
45. Companies should consider the measures they can implement to help limit global warming to 1.5°C. The goal of companies should be to implement the most advanced technology available to minimize their carbon footprint, for which the implementation of ISO 14067, related to the carbon footprint of products, can be useful. In situations where the negative impact on the environment is inevitable, given the current technology or if the cost of such technology is prohibitive, the company has the co-responsibility to mitigate and remedy.
46. Companies must comply with all existing environmental laws and make clear commitments in line with their responsibility to respect human rights through environmental protection, put in place human rights due diligence processes (including human rights impact assessments) to identify, prevent, mitigate, and account for how they address their environmental impact on human rights, and enable all to be redressed. the negative human rights effects they have caused or contributed to.
47. By virtue of the right to collective property, States have the duty to own, delimit and demarcate the collective ancestral territory, taking into account the particular characteristics of the specific human group and avoiding granting concessions for projects that may affect the territories in the process of titling, delimitation and demarcation without a process of consultation and consent. Therefore, climate change mitigation and adaptation projects, implemented in collectively owned territories, would be in contravention of the ACHR if the constituent elements of the right to collective property are not fully protected. In this regard, States must exhaustively justify the limitation of this right when conflicts arise with rights of State property or third parties through measures (i) established by law; (ii) necessary; (iii) proportional, and (iv) whose purpose is to achieve a legitimate objective in a democratic society.

## IX. Fiscal, economic and social policies for a just transition

48. States must take into account their human rights obligations, including labor and trade union rights, when designing and implementing policies for a transition to a carbon-free future. With this, States comply with their human rights obligations related to the mitigation and adaptation of climate change and in turn reduce the risk of potential conflicts associated with a sudden transition and without adequate planning, which could delay efforts to establish an economy compatible with a stable climate.
49. Generating taxes on fossil fuel-based energy sources and adopting policies that incentivize low-GHG activities have the potential to create jobs, increase energy efficiency and incentivize renewable energy. States should seek to distribute revenues from carbon pricing into public investments or social programs that support low-income households, including their access to energy, as a way to benefit the population most affected by climate change.
50. State policies must ensure that new jobs created in emerging sectors such as renewable energy and plant agriculture are jobs that respect labor and trade union rights. Social protection programs must be adapted to respond to climate shocks and other adverse turbulence to protect people from the effects of both climate change and climate-related policies. These programs include, but are not limited to, agricultural insurance, unemployment benefits, pensions for older workers, and universal access to health care.
51. States have the opportunity to include in their “just transition” plans systems that offer payments for ecosystem services as compensation to communities that maintain healthy ecosystems, ensuring a gender and intersectionality approach, and that people in vulnerable situations are not excluded from such programs, which may require official land titles, a certain size of land or expensive application processes.
52. Within the framework of climate finance mechanisms, States should seek the generation of institutional frameworks that allow obtaining permanent funds for the financing of losses and damages caused by climate change. Particularly, these initiatives should focus on providing the people who have been most disproportionately affected with resources to mitigate the

impacts.

53. States are recommended to implement policies focused on training and job retraining, so that people can actively contribute in low-emission growth sectors, while social programs support those who may be negatively affected.
54. To avoid rising prices of basic goods and other negative effects of carbon taxes and reduced energy subsidies on households, States should create programs to protect sectors and populations in situations of particular vulnerability through subsidies that allow accessibility to these goods.
55. States must comply with all their human rights and environmental obligations in the context of mining activities for energy transition purposes, given that the transition to a low-carbon future requires the extraction of minerals necessary for the construction of products and infrastructure that allow the operation of the renewable energy matrix.
56. States should focus their efforts on all those strategies that rapidly promote investments in climate-resilient infrastructure, forms of mobility and energy free of polluting emissions, the reduction of the use of fossil fuels, the creation and / or updating of urban plans for adaptation and mitigation to climate change and efficient waste management, with a special emphasis on the incorporation in these measures in favor of people in street situations, as well as people living in informal settlements and people in situations of extreme poverty.
57. States should consider minimizing all subsidies for fossil fuels, creating taxes on them and redistributing revenues towards clean, renewable, and non-polluting energy systems, such as wind or solar, putting respect for human rights at the center for the development of these energy sources.

Finally, the IACHR, and in particular the SRESCER as a specialized mandate, are available to the Member States to provide the required technical assistance in order to implement the standards and provisions established in this resolution.

Approved on December 31, 2021 by: Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; Joel Hernández García and Edgar Stuardo Ralón Orellana, members of the IACHR.