



CLIMATE CHANGE AND HUMAN RIGHTS

CONTRIBUTIONS BY AND FOR
LATIN AMERICA AND THE CARIBBEAN



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The preparation of this document was supervised by Joseluis Samaniego, Chief of the Sustainable Development and Human Settlements Division of the Economic Commission for Latin America and the Caribbean (ECLAC), and Francisco Xavier Mena, Acting Regional Representative for South America of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

The document was drafted by David Barrio Lamarche, Amanda Kron, Francisco Xavier Mena and Benjamin Schachter, with the collaboration of José Eduardo Alatorre, Carlos de Miguel, Jimmy Ferrer and Valeria Torres, of ECLAC, and Andrea Benavente, Felipe González, Fabián Molina and Alix Tesson, of OHCHR.

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Foreword

Climate change is the greatest threat of our times. Affecting every region of the world, global warming already has devastating effects on our planet and on humankind. Extreme weather events such as hurricanes, floods and droughts, as well as melting icecaps, soil erosion, biodiversity loss, ocean acidification, increasing temperatures and sea level rise are becoming more frequent and more pronounced.

Of even greater concern is the fact that the impacts of climate change are seriously compromising human rights. From the rights to health, food, water, housing, education and cultural life to the rights to development and to life itself, human rights and our very survival are under threat from climate change. The dramatic consequences of climate change are even more acute for persons and groups in vulnerable situations, including women, indigenous peoples, children, youth, migrants, persons with disabilities, coastal communities and lower-income groups, who are disproportionately affected by them. It is with good reason that the United Nations 2030 Agenda for Sustainable Development and its Sustainable Development Goals (SDGs)—including SDG 13 on climate action and SDG 16 on peace, justice and strong institutions—call for leaving no one behind.

Latin America and the Caribbean bears less responsibility than other regions for the causes of climate change, yet is highly vulnerable to its effects. Accordingly, States in the region have been leaders in calling for a human rights-based approach to climate change and climate action. In keeping with the objectives of the Paris Agreement and the SDGs, the region has begun transitioning to low-carbon development pathways and models grounded in fundamental principles such as fairness, justice, equality and non-discrimination. In both adaptation and mitigation measures, many States have placed people and their rights at the core, seeking to respect, protect and fulfil human rights.

As the present joint publication shows, the contributions of Latin America and the Caribbean to the climate change and human rights nexus are manifold. The countries of the region have not only been actively engaged in furthering rights-based approaches to climate action at the international level by, for instance, championing gender and indigenous peoples' initiatives under the United Nations Framework Convention on Climate Change (UNFCCC) process, but have also increasingly called for incorporating environmental and climate-related issues into the United Nations human rights system and mechanisms. The consistent support demonstrated by Latin American and Caribbean countries for Human Rights Council resolutions on the environment and climate change and the growing number of recommendations made and received during the universal periodic reviews (UPR) are only two salient examples.

Moreover, the countries of the region have progressively mainstreamed human rights in their national climate frameworks. The abundant references to human rights standards and principles in their nationally determined contributions, as well as in their national climate laws, strategies, policies and plans, are particularly noteworthy and serves as an example for other countries and regions of the world.

As the first regional environmental treaty in Latin America and the Caribbean and the first in the world to include specific provisions on environmental human rights defenders, the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) likewise represents a valuable regional contribution to ensuring that environmental and climate actions respect, protect and fulfil human rights and basic democratic principles. In addition to explicitly recognizing the right to a healthy environment, placing equality at its centre, and focusing on protection of the most marginalized and excluded, the regional agreement is a powerful tool for enhancing climate governance and countering the negative impacts of climate change in the countries of the region. By fostering access to climate information, public participation in climate decision-making and access to justice in climate-related matters and protecting climate activists, the Escazú Agreement can further support the safeguarding of human rights in the context of climate change.

Despite these significant strides, important challenges lie ahead. The countries of the region must strive not only to fully implement their international, regional and national obligations on human rights and climate change but also to ensure that actions taken on the ground are effective and adequately resourced and reach all sectors of society equally, particularly those at greatest risk. Furthermore, as one of the most dangerous regions for environmental human rights defenders, Latin America and the Caribbean must also continue to work resolutely to combat the deplorable pattern of harassment, attacks, threats and intimidation against those who defend our common environment.

As the international community steps up the level of ambition and continues to mobilize efforts and resources to curb climate change and prevent foreseeable climate-related harm, it is our hope that the Latin American and Caribbean region will remain at the forefront of human rights-based climate action. The shaping up and operationalization of the Paris Agreement, together with new generation of post-2020 nationally determined contributions and the policy instruments that will further implement them on the ground, certainly offers an unparalleled opportunity for the region to renew its commitment and ensure that human rights are fully applied and become a reality for all.

Alicia Bárcena

Executive Secretary
Economic Commission for Latin America
and the Caribbean (ECLAC)

Michelle Bachelet

United Nations High Commissioner
for Human Rights

Chapter I

The inextricable link between climate change and human rights

A. The impacts of climate change on human rights

Climate change constitutes a tangible threat to the full and effective exercise of rights recognized under international human rights law. The conclusions of the 2018 Special Report on Global Warming of 1.5°C by the Intergovernmental Panel on Climate Change (IPCC) are striking.¹ Climate change is already affecting people's lives, the realization of their rights and the ecosystems on which they depend.

The harmful impacts of climate change affect all human rights. Global warming not only impacts the right to health, food, water, development or an adequate standard of living and the enjoyment of cultural rights, it also threatens the very survival of people and their right to life and to physical integrity. Sea level rise and higher water temperatures, melting ice sheets and glaciers, more frequent heatwaves and extreme heat events, heavy rainfall and the increased risk of drought or disasters caused by global warming significantly hinder the protection, promotion and full exercise of human rights.

Climate change will aggravate the problem of access to drinking water, reducing its availability in some regions and increasing the frequency of droughts in many areas that are already arid. Climate change could also adversely affect food security and prices, including the production of staples. Likewise, climate change will contribute to forced migration, and those who migrate may find themselves in situations of greater vulnerability. It also threatens the very existence of some small island States, which could lose land mass or become uninhabitable due to new climate conditions.²

Furthermore, climate change is a threat multiplier, disproportionately accentuating its impacts on countries and those segments of the population that are already at a disadvantage. Those groups that are already marginalized and living in vulnerable situations, as a result of pre-existing inequalities and inequities, are even more affected and have less favourable conditions or reduced capacities to adapt to and to mitigate the consequences of climate change. Factors such as geography, poverty, gender, age, ethnicity or race, nationality of birth or social status, and disability may further aggravate those consequences.

In its report on the relationship between climate change and human rights,³ the Office of the United Nations High Commissioner for Human Rights (OHCHR) analyses in detail the impact of climate change on each human right and those population groups most affected by it.

B. The need to incorporate the human rights perspective in the fight against climate change

Climate action must be consistent with human rights obligations, standards and principles. States have an obligation to respect, protect, fulfil and promote all human rights for all people on the basis of equality and non-discrimination. Therefore, States must take affirmative measures to prevent human rights violations caused by climate change, including foreseeable long-term damages.

A human rights approach must be mainstreamed into the two principal strategies to deal with climate change, namely mitigation and adaptation. Mitigation actions aim to minimize the extent of global warming by reducing emissions and stabilizing greenhouse gas concentrations, while adaptation measures seek to

¹ See [online] https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Full_Report_High_Res.pdf.

² A/HRC/31/52.

³ A/HRC/10/61.

strengthen the capacity of societies and ecosystems to cope with and adapt to the effects and risks resulting from climate change. The integration of a human rights approach is therefore a legal and ethical imperative, since climate action should not infringe people's rights and such an approach can improve the effectiveness of those actions and result in greater benefits for all sectors of society.

Box I.1
Key messages on human rights and climate change

OHCHR has consistently reiterated the fundamental human rights obligations and responsibilities of States and other duty-bearers in relation to climate change. In order to ensure that climate change mitigation and adaptation efforts are adequate, consistent, meet the criteria of equality and non-discrimination, and are compliant with human rights obligations, States must:

1. Mitigate climate change and prevent its negative human rights impacts;
2. Ensure that all persons have the necessary capacity to adapt to climate change;
3. Ensure accountability and effective remedy for human rights harms caused by climate change;
4. Mobilize maximum available resources for sustainable, human rights-based development;
5. Cooperate at the international level to tackle the effects of climate change;
6. Ensure equity in climate action;
7. Guarantee that everyone enjoys the benefits of science and its applications;
8. Protect human rights from business harms;
9. Guarantee equality and non-discrimination;
10. Ensure meaningful and informed participation.

Source: Office of the United Nations High Commissioner for Human Rights (OHCHR), "Key messages on human rights and climate change" [online] https://www.ohchr.org/Documents/Issues/ClimateChange/KeyMessages_on_HR_CC.pdf.

As a result, human rights norms and principles must inform and strengthen the formulation of climate policies, promoting the coherence of sustainable policies and results. It is essential to harmonize policies and measures in the field of climate change with the general objectives of human rights, which should include evaluating the possible effects of such policies and measures on human rights.

Box I.2
Central elements of a rights-based approach to climate action

Human rights are universal, inalienable, indivisible, interdependent and interrelated. To protect and promote those rights, the principles of equality and non-discrimination, participation and inclusion and accountability must be adhered to and the rule of law respected. The human rights-based approach is a conceptual framework for development based on international human rights standards. It analyses obligations, inequalities and vulnerabilities, and anchors the plans, policies and programmes in a system of rights and corresponding obligations established by international law.

The central elements of the human rights approach are:

- The main objective when formulating policies and programmes should be fulfilling human rights;
- The right holders and their entitlements must be identified as well as the corresponding duty-bearers and their obligations;
- Principles and standards derived from international human rights law, particularly the Universal Declaration of Human Rights and the core universal human rights treaties, should guide all policies and programmes in all phases of the process.

Source: Office of the United Nations High Commissioner for Human Rights (OHCHR), *Understanding Human Rights and Climate Change*, 2015 [online] <https://www.ohchr.org/Documents/Issues/ClimateChange/COP21.pdf>.

Under international human rights standards, States are not only obliged to ensure procedural rights, such as access to information, participation and justice in climate matters, they must also adopt and apply legal and institutional frameworks to protect against environmental damages that interfere or may interfere with the enjoyment of human rights. At the national level, each State has the obligation to protect all persons in its territory from the harmful effects of climate change. Likewise, States have the primary obligation of non-discrimination in the application of laws and policies. The importance of integrating a human rights-based approach has also been recognized in the international arena. As the Paris Agreement states, when taking action to address climate change, Parties should respect, promote and consider their respective obligations on human rights.⁴

International cooperation to address the negative consequences of climate change is another essential principle enshrined in international law. States must act individually and collectively to regulate and reduce greenhouse gas emissions, mobilize adequate resources for climate change mitigation and adaptation measures and ensure the meaningful participation of all people in climate action.

The human rights perspective underpins the 2030 Agenda for Sustainable Development,⁵ the ultimate aim of which is to ensure that no one is left behind. One of the Sustainable Development Goals (SDGs) of the 2030 Agenda focuses on climate action (SDG 13), calling on countries to take urgent action to combat climate change and its impacts. The targets under this Goal include strengthening resilience and adaptive capacity to climate-related hazards and natural disasters in all countries; integrating climate change measures into national policies, strategies and planning; and improving education, awareness-raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning.

SDG 13 is complemented by SDG 14 on life below water and SDG 15 on life on land, both of which seek to ensure a safe and risk-free climate and a health environment. Some specific human rights are also reinforced by certain SDGs, as is the case with the right to health (SDG 3), education (SDG 4) and water (SDG 6). The principles of equality and non-discrimination, together with a gender approach, are embodied in SDG 5 (gender equality) and SDG 10 (reduced inequalities). In turn, SDG 16 plays a prominent role in the equation between human rights and climate change. By promoting the rule of law at the national and international levels, equal access to justice for all, public access to information, the adoption at all levels of inclusive, participatory and representative decisions and the protection of fundamental freedoms, SDG 16 contributes decisively to the mainstreaming of human rights into climate action.

⁴ A/HRC/31/52.

⁵ For more information on the link between human rights and the 2030 Agenda, see [online] <https://www.ohchr.org/EN/Issues/SDGS/Pages/The2030Agenda.aspx>.

Chapter II

International human rights standards applicable to climate change

A. Human Rights Council resolutions

As the main intergovernmental body of the United Nations responsible for the promotion and protection of all human rights around the globe, the Human Rights Council has been no stranger to the discussion surrounding human rights and climate change. Since adopting resolution 7/23, its first specific resolution on this matter, in March 2008, the Council has been addressing the issue of climate change regularly and has adopted a total of nine resolutions on the issue to date (see table II.1). In addition, the relationship between climate change and human rights has also been addressed in the Council's resolutions on the environment.¹

Table II.1
Human Rights Council resolutions on human rights and climate change

Resolution (date)	Notable aspects	Reports requested from OHCHR
7/23 (2008)	The Council expresses concern that climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights and requests OHCHR to prepare a study on the relationship between climate change and human rights.	Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61).
10/4 (2009)	The Council notes that climate change-related impacts have a range of implications, both direct and indirect, for the effective enjoyment of human rights and recognizes that the effects of climate change will be felt most acutely by those segments of the population who are already in vulnerable situations.	Summary of the Human Rights Council panel discussion on the relationship between climate change and human rights.
18/22 (2011)	The Council affirms that human rights obligations, standards and principles have the potential to inform and strengthen international and national policymaking in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes.	Report of the United Nations High Commissioner for Human Rights on the outcome of the seminar addressing the adverse impacts of climate change on the full enjoyment of human rights (A/HRC/20/7).
26/27 (2014)	The Council calls upon all States to continue to enhance international dialogue and cooperation in relation to the adverse impacts of climate change on the enjoyment of human rights, including the right to development.	Summary report of the Office of the United Nations High Commissioner for Human Rights on the outcome of the full-day discussion on specific themes relating to human rights and climate change (A/HRC/29/19).
29/15 (2015)	The Council emphasizes the urgent importance of continuing to address, as they relate to States' human rights obligations, the adverse consequences of climate change for all, particularly for developing countries and for people whose situation is most vulnerable to climate change and decides to incorporate into its programme of work a panel discussion on the adverse impact of climate change on States' efforts to progressively realize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and related policies, lessons learned and good practices.	Analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/HRC/32/23). Outcome of the panel discussion on the adverse impact of climate change on States' efforts to progressively realize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and related policies, lessons learned and good practices (A/HRC/32/24).

¹ See, for example, resolutions 16/11 (2011), 19/10 (2012), 25/21 (2014) and 28/11 (2015).

Table II.1 (concluded)

Resolution (date)	Notable aspects	Reports requested from OHCHR
32/33 (2016)	The Council encourages States, as appropriate, to integrate policies on health and human rights in their climate actions at all levels, including their national plans of action for climate mitigation and adaptation, and decides to incorporate into its programme of work a panel discussion on the adverse impact of climate change on States' efforts to realize the rights of the child and related policies, lessons learned and good practices.	Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child (A/HRC/35/13). Summary of the panel discussion on the adverse impact of climate change on States' efforts to realize the rights of the child and related policies, lessons learned and good practices (A/HRC/35/14).
35/20 (2017)	The Council notes the urgency of protecting and promoting human rights of migrants and persons displaced across international borders, in the context of the adverse impact of climate change, including those from small island developing States and least developed countries.	Summary of the panel discussion on human rights, climate change, migrants and persons displaced across international borders (A/HRC/37/35). Addressing human rights protection gaps in the context of migration and displacement of persons across international borders resulting from the adverse effects of climate change and supporting the adaptation and mitigation plans of developing countries to bridge the protection gaps (A/HRC/38/21).
38/4 (2018)	The Council urges States to strengthen and implement policies aimed at increasing the participation of women in climate change responses at the local, national, regional and international levels.	Summary of the panel discussion on women's rights and climate change: climate action, good practices and lessons learned (A/HRC/42/26).
41/21 (2019)	The Council urges States to strengthen and implement policies aimed at increasing the participation of persons with disabilities in climate change responses at the local, national, regional and international levels.	

Source: Office of the United Nations High Commissioner for Human Rights (OHCHR).

These resolutions have established the human rights perspective in climate action and the need to incorporate human rights into international negotiations on climate change. In addition to expressing concern about the adverse impact of climate change on the full enjoyment of all human rights, the Council generally reaffirms the urgency of combating its effects and States are urged to take human rights into account in the context of the United Nations Framework Convention on Climate Change (UNFCCC). The Council also requests a broad, integrated, gender-responsive and inclusive approach to climate change adaptation and mitigation policies, including express references to specific groups such as migrants, women, children and persons with disabilities.

The region of Latin America and the Caribbean has played an essential role in passing the aforementioned resolutions.² Resolution 7/23 was proposed by the Maldives and co-sponsored by seven Latin American and Caribbean States. The other resolutions have been widely supported by the countries of the region, thus demonstrating their strong support for establishing clear links between climate change and human rights at the level of the highest intergovernmental human rights body of the United Nations.

The Human Rights Council resolutions on human rights and climate change were co-sponsored by the following Latin American and Caribbean countries:³

- **Resolution 7/23:** Chile, Costa Rica, Nicaragua, Panama, Peru, Plurinational State of Bolivia and Uruguay.
- **Resolution 10/4:** Costa Rica, El Salvador, Guatemala, Panama, Peru and Plurinational State of Bolivia.
- **Resolution 18/22:** Bolivarian Republic of Venezuela and Uruguay.
- **Resolution 26/27:** Bolivarian Republic of Venezuela, Cuba and El Salvador.

² Latin American and Caribbean countries have also supported efforts to establish the link between human rights and the environment, by proposing and sponsoring resolutions in the Human Rights Council. For example, resolution 19/10, which appointed the first independent expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, was proposed by Costa Rica, Ecuador, Peru and Uruguay and was co-sponsored by the Dominican Republic, Honduras, Panama and Paraguay.

³ Extranet of the Human Rights Council. See (online) <https://www.ohchr.org/en/hrbodies/hrc/pages/hrcregistration.aspx>.

- **Resolution 29/15:** Bolivarian Republic of Venezuela, Guatemala, Haiti and Peru.
- **Resolution 32/33:** Haiti and Peru.
- **Resolution 35/20:** El Salvador, Haiti, Panama, Paraguay and Peru.
- **Resolution 38/4:** Chile, Mexico, Paraguay, Peru, Plurinational State of Bolivia and Uruguay.
- **Resolution 41/21:** Cuba, Haiti, Mexico, Peru, Plurinational State of Bolivia and Uruguay.

Moreover, the countries of Latin America and the Caribbean gave their overwhelming support to the historic resolution of the Council, entitled “Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development”,⁴ adopted in March 2019. In that resolution, the Council expresses grave concern at the situation of environmental human rights defenders around the world, and strongly condemns the killing of and all other human rights violations or abuses against environmental human rights defenders. In addition, it stresses that they must be ensured a safe and enabling environment to undertake their work free from hindrance and insecurity. Meanwhile, it notes with appreciation international instruments, such as Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (the Escazú Agreement), for the protection of environmental human rights defenders. This resolution was co-sponsored by eight Latin American and Caribbean countries (Argentina, Brazil, Haiti, Honduras, Mexico, Paraguay, Peru and Uruguay).

B. Universal periodic review

Established in 2006 pursuant to the General Assembly resolution establishing the Human Rights Council in replacement of the Commission on Human Rights, the universal periodic review (UPR) is a mechanism for reviewing the human rights situation of all Member States of the United Nations, carried out by a working group of the Human Rights Council. It aims to improve the human rights situation in all countries and provides a space to exchange good practices and technical cooperation.

Each State is reviewed every four and a half years, on the basis of a national report prepared by the State, contributions by United Nations entities, and a summary of information presented by relevant stakeholders, such as civil society organizations, national human rights institutions and academia, among others. The State under review receives recommendations from its peers, which it undertakes to follow-up with a view to presenting the progress made at the next review cycle.

As one of the main tools of the Human Rights Council, UPR has highlighted the link between human rights and climate change. For the countries of Latin America and the Caribbean, this platform is crucial not only because it is one forum in which they can prioritize this issue through recommendations to their peers, but also because their reviews have drawn particular attention to environmental and climate issues. To date the countries of Latin America and the Caribbean have made a total of 72 recommendations related to the environment and climate change and received a total of 76 (see table II.2).

The recommendations received are related to the promotion of policies, the creation and strengthening of bodies and institutions, assistance for groups especially vulnerable to environmental degradation and climate change, indigenous peoples’ rights, businesses and human rights, human rights defenders, the right to water, and disaster risk prevention and management.

⁴ A/HRC/RES/40/11.

Table II.2

Recommendations under the universal periodic review (UPR) made and received by Latin American and Caribbean countries on environmental and climate issues

Country	Number of recommendations made	Number of recommendations received
Argentina	-	2
Bolivia (Plurinational State of)	6	4
Brazil	1	5
Chile	1	2
Colombia	2	-
Costa Rica	7	2
Cuba	15	10
Dominica	-	1
Dominican Republic	1	1
Ecuador	3	7
El Salvador	1	2
Guatemala	1	-
Guyana	-	1
Haiti	13	12
Honduras	2	-
Jamaica	-	3
Mexico	6	-
Nicaragua	6	1
Panama	-	2
Paraguay	1	1
Peru	-	5
Saint Kitts and Nevis	-	3
Saint Lucia	-	3
Saint Vincent and the Grenadines	-	1
Suriname	-	2
Trinidad and Tobago	4	-
Venezuela (Bolivarian Republic of)	2	6
Total	72	76

Source: Office of the United Nations High Commissioner for Human Rights (OHCHR).

Below are some of the recommendations related to the environment and climate change received by Latin American and Caribbean countries in the framework of the UPR:

- **Argentina:** Continue the normative progress made in the area of environment and the strengthening of related bodies; and strengthen measures to combat the negative effect of the economic activities of companies on the environment and biodiversity.⁵
- **Brazil:** Continue its efforts on the implementation of the National Policy on Climate Change on reducing deforestation in the Amazon region; and ensure that the rights of indigenous people and respect of the environment and biodiversity are taken into due consideration in economic activities.⁶
- **Chile:** Reinforce its policies and adopt suitable measures in order to face the increased challenges of the environmental impact of development projects; and include in its policies on gender a section on the impact of climate change on women and establish strategies that ensure that women are part of decision-making on national climate action policies in accordance with the gender action plan agenda under the United Nations Framework Convention on Climate Change.⁷

⁵ See A/HRC/37/5, paras. 107.36 and 107.37.

⁶ See A/HRC/36/11, paras. 136.55 and 136.226.

⁷ See A/HRC/41/6, paras. 125.47 and 125.169.

- **Cuba:** Continue to strengthen early warning systems for natural disasters to increase the perception of risk in the population; and promote the effective use of mass media, mobile technologies and the Internet to increase awareness about disaster reduction.⁸
- **Ecuador:** Step up efforts to pursue policies and programmes for a healthy environment; and carry out the necessary measures to protect the environment and adopt specific measures to protect the enjoyment of the right to water.⁹
- **Guyana:** Continue and intensify programmes aimed at mitigating climate change negative impacts on food security and environment, and share the experience gained in this field with interested countries.¹⁰
- **Haiti:** Work to apply a human rights approach to all initiatives related to disaster prevention and response to emergencies in its efforts to build national capacity and resilience to natural disasters; spare no effort to face and mitigate the consequences of climate change and natural disasters; and prioritize the development of disaster risk reduction and preparedness strategies which include promotion of forestation.¹¹
- **Jamaica:** Continue its advocacy for keeping global warming at or below 1.5 degrees Celsius above the pre-industrial level; and seek assistance from the international community to more comprehensively address adaptation measures to address the effects of climate change.¹²
- **Peru:** Implement measures to mitigate the environmental impact of the exploitation of oil and gas and oil spills in the territories of indigenous peoples, on their communities and give further attention to environmental degradation; and create and implement a specific mechanism that will provide comprehensive assistance and protection to human rights defenders, and include them in its design, especially those human rights defenders that help communities affected by mining and hydroelectric projects.¹³
- **Plurinational State of Bolivia:** Continue to attach importance to environmental protection and achieve harmonious development of people and nature; and advance in the commitment to incorporate into the national human rights law the United Nations Guiding Principles on Business and Human Rights, with special attention to labour rights, rights of indigenous communities and environmental rights.¹⁴
- **Saint Kitts and Nevis:** Emphasize prevention with regards to facing up to climate change.¹⁵
- **Suriname:** Adopt measures to reduce the negative impact of mining on the environment and the rights of indigenous peoples and their lands, in conformity with international standards.¹⁶

With regard to the recommendations made by Latin American and Caribbean countries to other countries outside the region, some notable examples are: the recommendation made by the Plurinational State of Bolivia that Bangladesh should continue working at the national and international levels on the issue of human rights and climate change; Cuba's recommendation that Morocco should speed up the implementation of the national policy on climate change; and the recommendation by the Bolivarian Republic of Venezuela that the United States of America should comply with its international obligations for the effective mitigation of greenhouse gas emissions, because of their impact on climate change. The countries of the region have also made recommendations related to climate change to each other, such as Brazil's to Haiti¹⁷ or Costa Rica's to Saint Lucia.¹⁸

⁸ See A/HRC/39/16, paras. 24.97 and 24.188.

⁹ See A/HRC/36/4, paras. 118.26 and 118.85.

¹⁰ See A/HRC/15/14, para. 69.24.

¹¹ See A/HRC/34/14, paras. 115.166, 115.167 and 115.174.

¹² See A/HRC/30/15, paras. 118.22 and 118.23.

¹³ See A/HRC/37/8, paras. 111.46 and 111.68.

¹⁴ See A/HRC/28/7, paras. 114.29 and 115.3.

¹⁵ See A/HRC/31/16, para. 91.58.

¹⁶ See A/HRC/33/4, para. 133.102.

¹⁷ Brazil recommended that Haiti should work to apply a human rights approach to all initiatives related to disaster prevention and response to emergencies in its efforts to build national capacity and resilience to natural disasters (See A/HRC/34/14, para. 115.166).

¹⁸ Costa Rica recommended that Saint Lucia should take into account the rights of children in climate change strategies (See A/HRC/31/10, para. 88.120).

C. Treaty Bodies

The universal human rights system is based on nine core international human rights treaties, some of which have one or more optional protocols:

- (i) International Covenant on Civil and Political Rights (1966)
- (ii) International Covenant on Economic, Social and Cultural Rights (1966)
- (iii) International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- (iv) Convention on the Elimination of All Forms of Discrimination against Women (1979)
- (v) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- (vi) Convention on the Rights of the Child (1989)
- (vii) International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)
- (viii) Convention on the Rights of Persons with Disabilities (2006)
- (ix) International Convention for the Protection of All Persons from Enforced Disappearance (2006)

The countries of Latin America and the Caribbean are to be commended for their high ratification rate of the main international human rights treaties. The following are party to all nine treaties mentioned above (see annex A1): Argentina, Belize, Bolivarian Republic of Venezuela, Chile, Colombia, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Paraguay, Peru, Plurinational State of Bolivia, Saint Vincent and the Grenadines, and Uruguay.

Implementation of each of the main treaties is monitored by a committee or treaty body. There are currently ten human rights treaty bodies, composed of independent experts (the tenth treaty body, the Subcommittee on Prevention of Torture, established under the Optional Protocol to the Convention against Torture, monitors places of detention in States Parties to the Optional Protocol). These committees are responsible for issuing general observations (authorized interpretations of the treaty they monitor), concluding observations (recommendations based on periodic national reports) and views (based on individual complaints),¹⁹ among other functions.

Although no treaty addresses climate change specifically, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities refer to environmental issues. For example, article 12 of the International Covenant on Economic, Social and Cultural Rights establishes that the steps to be taken by the States Parties to achieve the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health shall include those necessary for the improvement of all aspects of environmental and industrial hygiene.

According to article 24 of the Convention on the Rights of the Child, States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. In particular, States Parties shall take appropriate measures to combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution. In turn, article 29 states that education of the child shall be directed to the development of respect for the natural environment.

¹⁹ Applies to the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities, the Committee on Enforced Disappearances, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child. The individual complaints mechanism of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families has not entered into force yet.

Meanwhile, article 11 of the Convention on the Rights of Persons with Disabilities on situations of risk and humanitarian emergencies, calls on States Parties to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including humanitarian emergencies and the occurrence of natural disasters.

In addition, treaties such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights recognize human rights that are adversely affected by climate change (such as the rights to life, integrity, health, education and food), as well as rights that are essential to combating global warming such as the rights of access to information, public participation and access to justice. In addition, the treaty bodies have progressively incorporated climate change and the impacts of environmental degradation on human rights into their general and concluding observations and views.

The treaty bodies have also expressed their views on climate change through specific statements. For example, the Committee on Economic, Social and Cultural Rights issued a statement on climate change and the International Covenant on Economic, Social and Cultural Rights on 8 October 2018, in which it noted the human rights implications of climate change and drew attention to the human rights duties of States as well as the contribution of human rights mechanisms and the role of the Committee. The Committee stated that it would continue to keep under review the impacts of climate change on economic, social and cultural rights, and provide guidance to States on how they can discharge their duties under the Covenant in the mitigation of climate change and adaptation to its unavoidable effects.²⁰ Five committees (Committee on the Elimination of Discrimination Against Women; Committee on Economic, Social and Cultural Rights; Committee on Migrant Workers; Committee on the Rights of the Child; and Committee on the Rights of Persons with Disabilities) issued a joint statement on human rights and climate change on 16 September 2019 in which they welcomed the Climate Action Summit 2019 and urged states to take into consideration their human rights obligations as they reviewed their climate commitments.²¹

1. General comments

General comments or general recommendations are authorized interpretations of the treaties by the committees. In addition to analysing and offering practical explanations of the obligations under the treaties, they provide guidance to the States on their implementation.

Several general comments expressly refer to climate change, emergencies and disasters or the environment, elaborate on the commitments of States Parties in relation to the rights enshrined in each treaty, most notably general comments No. 36 of the Human Rights Committee; Nos. 14 and 24 of the Committee on Economic, Social and Cultural Rights; general recommendation Nos. 27, 34, 36 and 37 of the Committee on the Elimination of Discrimination Against Women; general comments Nos. 15 and 16 of the Committee on the Rights of the Child; and Nos. 3, 4, 6 and 7 of the Committee on the Rights of Persons with Disabilities.²²

In its general comment No. 36 (2019) on the right to life,²³ the Human Rights Committee examines article 6 of the International Covenant on Civil and Political Rights in the context of climate change. In this regard, the Committee notes that environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life. It states that the implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States Parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors. States Parties should therefore ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments

²⁰ E/C.12/2018/1.

²¹ See [online] <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24998&LangID=E>.

²² Other general comments linking climate change and the environment to human rights include general comments Nos. 12, 13, 15, 21 of the Committee on Economic, Social and Cultural Rights; general recommendation No. 28 of the Committee on the Elimination of Discrimination Against Women; general comments Nos. 9, 17 and 20 of the Committee on the Rights of the Child; and No. 5 of Committee on the Rights of Persons with Disabilities.

²³ CCPR/C/GC/36.

and consult with relevant States about activities likely to have a significant impact on the environment, provide notification to other States concerned about natural disasters and emergencies and cooperate with them, provide appropriate access to information on environmental hazards and pay due regard to the precautionary approach.

The Committee on Economic, Social and Cultural Rights recalls in its general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities²⁴ that customary international law prohibits a State from allowing its territory to be used to cause damage on the territory of another State, a requirement that has gained particular relevance in international environmental law. States Parties should also consider the use of administrative sanctions to discourage conduct by business entities that leads, or may lead, to violations of the rights under the Covenant. For instance, in their public procurement regimes, States could deny the awarding of public contracts to companies that have not provided information on the social or environmental impacts of their activities or that have not put in place measures to ensure that they act with due diligence to avoid or mitigate any negative impacts on the rights under the Covenant.

In its general comment No. 14 (2000) on the right to the highest attainable standard of health,²⁵ the Committee interprets the right to health as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information. The Committee found that States should formulate and implement national policies aimed at reducing and eliminating pollution of air, water and soil.

Meanwhile, in its recent general recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change,²⁶ the Committee on the Elimination of Discrimination against Women notes that women, girls, men and boys are affected differently by climate change and disasters, with many women and girls experiencing greater risks, burdens and impacts. Situations of crisis exacerbate pre-existing gender inequalities and compound the intersecting forms of discrimination. The Committee calls for States Parties to address in their reports general obligations to ensure substantive equality between women and men in all areas of life, as well as the specific guarantees in relation to those rights under the Convention that may be particularly affected by climate change and disasters. States Parties should ensure that all policies, legislation, plans, programmes, budgets and other activities relating to disaster risk reduction and climate change are gender responsive and grounded in human rights-based principles, including equality and non-discrimination, participation and empowerment, accountability and access to justice.

The Committee's general recommendations No. 27 on older women and protection of their human rights, No. 34 on the rights of rural women and No. 36 on the right of girls and women to education also contain important references to climate change and natural disasters. It is established, for example, that climate change impacts differently on women, especially older women, who are particularly disadvantaged in the face of natural disasters. Their limited access to resources and decision-making processes increases their vulnerability to climate change. States Parties should ensure that climate change and disaster risk-reduction measures are gender-responsive and sensitive to the needs and vulnerabilities of older women. States Parties should also facilitate the participation of older women in decision-making for climate change mitigation and adaptation.²⁷

The Committee also determined that environmental issues, including climate change and natural disasters, have detrimental impacts on the well-being of rural women. States Parties should address specific threats posed to rural women by climate change, natural disasters, land and soil degradation, water pollution,

²⁴ E/C.12/GC/24.

²⁵ E/C.12/2000/4.

²⁶ CEDAW/C/GC/37.

²⁷ CEDAW/C/GC/27.

droughts, floods, desertification, pesticides and agrochemicals, extractive industries, monocultures, biopiracy and the loss of biodiversity, in particular agro-biodiversity. They should alleviate and mitigate those threats and ensure that rural women enjoy a safe, clean and healthy environment.²⁸

In its general recommendation No. 36,²⁹ the Committee pointed out that women and children are the most vulnerable groups during any natural disaster. The destruction of or use of schools as community shelters for affected families have serious consequences for access to education, causing loss of time for classroom instruction and high dropout rates. It therefore recommends that States give priority to the rehabilitation of schools affected by natural disasters, especially those serving disadvantaged girls and women; and ensure that all new school buildings adhere to prescribed building codes which incorporate disaster resilience, and carry out regular audits on existing schools.

For its part, the Committee on the Rights of the Child refers to environmental pollution in its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health.³⁰ In this regard, States should take measures to address the dangers and risks that local environmental pollution poses to children's health in all settings. States should, therefore, put children's health concerns at the centre of their climate change adaptation and mitigation strategies.

In addition, in its general comment No. 16,³¹ the Committee also maintains that the activities and operations of business enterprises can impact on the realization of a child's right to life, survival and development in different ways. For example, environmental degradation and contamination arising from business activities can compromise children's rights to health, food security and access to safe drinking water and sanitation.

In turn, the Committee on the Rights of Persons with Disabilities addresses, in its general comment No. 6 (2018) on equality and non-discrimination, the impact of situations of risk and humanitarian emergencies on persons with disabilities. It states that non-discrimination must be ensured in situations of risk and humanitarian emergencies. This means to include on an equal basis persons with disabilities in national emergency protocols, to fully recognize persons with disabilities in evacuation scenarios, to provide for accessible information and communication helplines and hotlines, to ensure that humanitarian aid relief is distributed in an accessible, non-discriminatory way to persons with disabilities in humanitarian emergencies, and to ensure that water, sanitation and hygiene facilities in emergency shelters and refugee camps are available and accessible for persons with disabilities.³²

In other general comments, the Committee notes that in situations of natural disasters and humanitarian emergencies, women with disabilities are less likely to have access to recovery and rehabilitation services or to have access to justice.³³ These emergencies and disasters also have a disproportionate effect on the right to inclusive education.³⁴ Similarly, in situations of risk and humanitarian emergencies, it is important for States Parties and humanitarian actors to ensure the active participation of and coordination and meaningful consultation with organizations of persons with disabilities.³⁵

2. Concluding observations

In accordance with the provisions of the international human rights treaties, States Parties are obliged to adopt all necessary measures to ensure that all persons under their jurisdiction enjoy the rights safeguarded in the respective instruments. They commit to submitting periodic reports on their progress, on which the treaty bodies issue concluding observations with recommendations for further progress in the framework of a constructive dialogue.

²⁸ CEDAW/C/GC/34.

²⁹ CEDAW/C/GC/36.

³⁰ CRC/C/GC/15.

³¹ CRC/C/GC/16.

³² CRPD/C/GC/6.

³³ CRPD/C/GC/3.

³⁴ CRPD/C/GC/4.

³⁵ CRPD/C/GC/7.

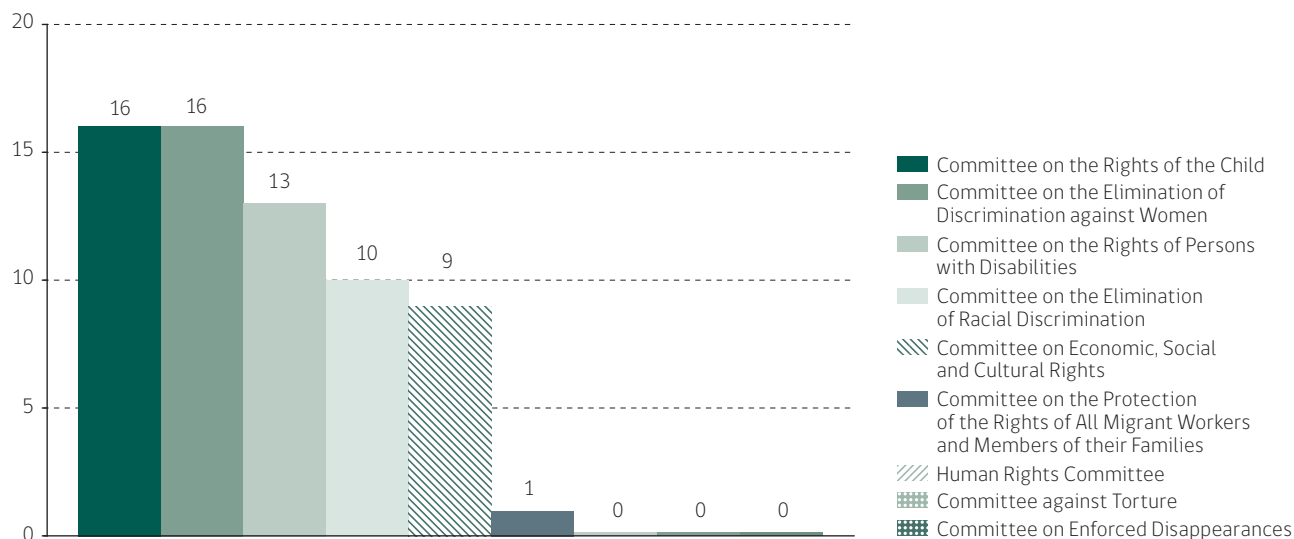
The various treaty bodies have been recognizing in the concluding observations issued in respect of countries of Latin America and the Caribbean the urgent need to incorporate a human rights-based approach into climate action and to consider the impacts that this phenomenon has on full enjoyment of human rights by all.

Over the last five years, the treaty bodies that have most often referred to the issue of climate change and related aspects in their concluding observations for the countries of Latin America and the Caribbean are the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities and the Committee on Economic, Social and Cultural Rights (see figure II.1 and table II.3). In this regard, the impacts of climate change, as well as disasters, emergencies and environmental degradation, on human rights have been mentioned in a total of 65 concluding observations.

Comparing these figures to the total number of concluding observations issued in respect of Latin American and Caribbean countries, the Committee on the Rights of Persons with Disabilities has included climate change in all its concluding observations. In the case of the Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination, the percentage of concluding observations with references to climate change or environmental issues is also significant, ranging from 69% to 77% (see figure II.2).

Figure II.1

Number of concluding observations issued in respect of countries of Latin America and the Caribbean that refer to climate change and related issues, since 2014



Source: Office of the United Nations High Commissioner for Human Rights (OHCHR).

Table II.3

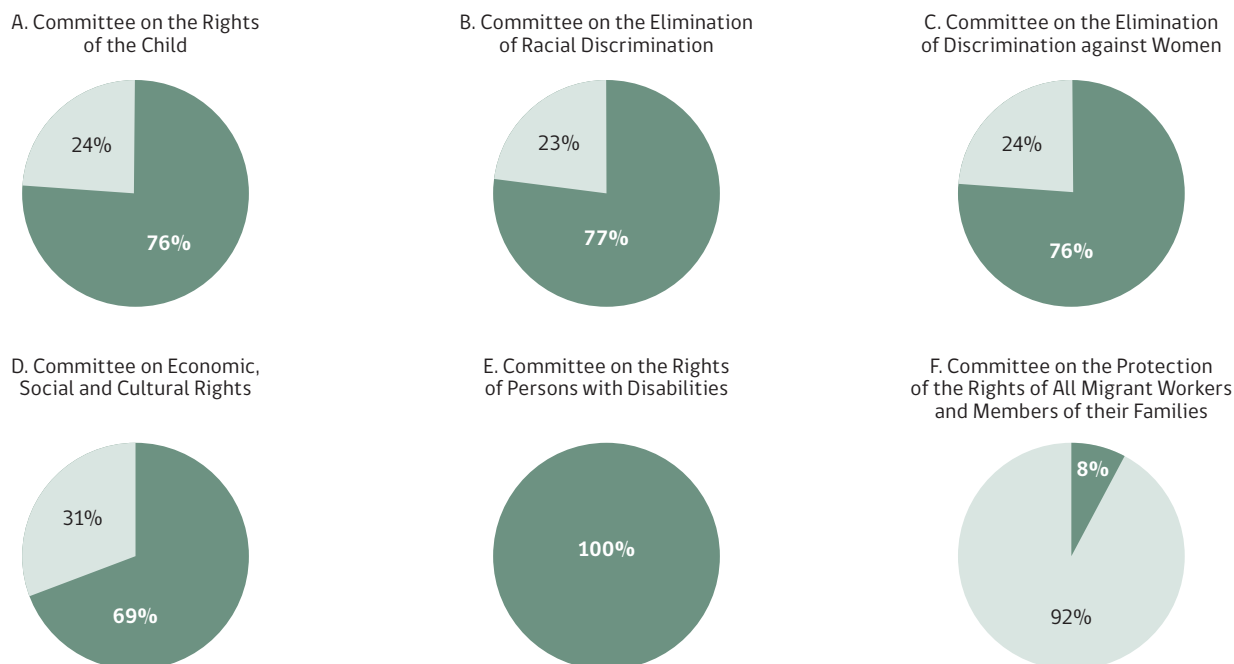
Concluding observations issued in respect of countries of Latin America and the Caribbean that refer to climate change and related issues, since 2014

Treaty body	2014	2015	2016	2017	2018	2019
Committee on Economic, Social and Cultural Rights		Chile (E/C.12/CHL/CO/4) Paraguay (E/C.12/PRY/CO/4)	Costa Rica (E/C.12/CRI/CO/5) Honduras (E/C.12/HND/CO/2) Dominican Republic (E/C.12/DOM/CO/4)	Colombia (E/C.12/COL/CO/6) Uruguay (E/C.12/URY/CO/5)	Argentina (E/C.12/ARG/CO/4) Mexico (E/C.12/MEX/CO/5-6)	
Committee on the Elimination of Racial Discrimination	Honduras (CERD/C/HND/CO/1-5) Peru (CERD/C/PER/CO/18-21)		Paraguay (CERD/C/PRY/CO/4-6)	Argentina (CERD/C/ARG/CO/21-23) Ecuador (CERD/C/ECU/CO/23-24)	Peru (CERD/C/PER/CO/22-23)	El Salvador (CERD/C/SLV/CO/18-19) Guatemala (CERD/C/GTM/CO/16-17) Honduras (CERD/C/HND/CO/6-8) Mexico (CERD/C/MEX/CO/18-21)
Committee on the Elimination of Discrimination against Women	Peru (CEDAW/C/PER/CO/7-8)	Ecuador (CEDAW/C/ECU/CO/8-9) Saint Vincent and the Grenadines (CEDAW/C/VCT/CO/4-8)	Argentina (CEDAW/C/ARG/CO/7) Haiti (CEDAW/C/HTI/CO/8-9) Honduras (CEDAW/C/HND/CO/7-8) Trinidad and Tobago (CEDAW/C/TTO/CO/4-7)	Barbados (CEDAW/C/BRB/CO/5-8) Costa Rica (CEDAW/C/CRI/CO/7) Guatemala (CEDAW/C/GTM/CO/8-9)	Bahamas (CEDAW/C/BHS/CO/6) Chile (CEDAW/C/CHL/CO/7) Mexico (CEDAW/C/MEX/CO/9) Suriname (CEDAW/C/SUR/CO/4-6)	Antigua and Barbuda (CEDAW/C/ATG/CO/4-7) Guyana (CEDAW/C/GUY/CO/9)
Committee on the Rights of the Child	Saint Lucia (CRC/C/LCA/CO/2-4) Venezuela (Bolivarian Republic of) (CRC/C/VEN/CO/3-5)	Brazil (CRC/C/BRA/CO/2-4) Chile (CRC/C/CHL/CO/4-5) Colombia (CRC/C/COL/CO/4-5) Honduras (CRC/C/HND/CO/4-5) Jamaica (CRC/C/JAM/CO/3-4)	Peru (CRC/C/PER/CO/4-5) Suriname (CRC/C/SUR/CO/3-4)	Antigua and Barbuda (CRC/C/ATG/CO/2-4) Barbados (CRC/C/BRB/CO/2) Ecuador (CRC/C/ECU/CO/5-6) Saint Vincent and the Grenadines (CRC/C/VCT/CO/2-3)	Argentina (CRC/C/ARG/CO/5-6) Guatemala (CRC/C/GTM/CO/5-6) Panama (CRC/C/PAN/CO/5-6)	
Committee on the Protection of the Rights of All Migrant Workers and Members of their Families						Guatemala (CMW/C/GTM/CO/2)
Committee on the Rights of Persons with Disabilities	Mexico (CRPD/C/MEX/CO/1)	Dominican Republic (CRPD/C/DOM/CO/1)	Bolivia (Plurinational State of) (CRPD/C/BOL/CO/1) Chile (CRPD/C/CHL/CO/1) Colombia (CRPD/C/COL/CO/1) Guatemala (CRPD/C/GTM/CO/1) Uruguay (CRPD/C/URY/CO/1)	Honduras (CRPD/C/HND/CO/1) Panama (CRPD/C/PAN/CO/1)	Haiti (CRPD/C/HTI/CO/1)	Cuba (CRPD/C/CUB/CO/1) Ecuador (CRPD/C/ECU/CO/2-3) El Salvador (CRPD/C/SLV/CO/2-3)

Source: UN Treaty Body Database [online] <https://tbinternet.ohchr.org>.

Figure II.2

Percentage of concluding observations issued in respect of countries of Latin America and the Caribbean that refer to climate change and related issues, since 2014



Source: Office of the United Nations High Commissioner for Human Rights (OHCHR).

Some of the recommendations made by the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities linked to climate change and the environmental impacts on the enjoyment of rights can be found below:³⁶

Committee on Economic, Social and Cultural Rights

Argentina

- The Committee recommended that Argentina reconsider the large-scale exploitation of unconventional fossil fuels in order to ensure compliance with its obligations under the Covenant, in the light of the Paris Agreement commitments. It also encouraged the State party to promote alternative and renewable energy sources, reduce greenhouse gas emissions and set national targets with time-bound benchmarks (E/C.12/ARG/CO/4).
- The Committee recommended that Argentina adopt a regulatory framework for hydraulic fracturing, including impact assessments in all provinces, preceded by consultations with the communities concerned, and appropriate documentation of its effects on air and water pollution, radioactive emissions, occupational health and safety risks, effects on public health, noise and light pollution and stress, potential to trigger seismic activity, and threats to agriculture, soil quality and the climate system (E/C.12/ARG/CO/4).

³⁶ The recommendations are listed in chronological order.

- The Committee recommended that Argentina adopt a regulatory framework that includes the application of the precautionary principle with regard to the use of harmful pesticides and herbicides, in particular those that contain glyphosate, in order to avoid the negative health impacts and environmental degradation that can result from their use (E/C.12/ARG/CO/4).³⁷
- The Committee recommended that Argentina adopt a comprehensive policy for the protection of human and environmental rights defenders, including actions to prevent attacks against them. In addition, the Committee recommended that the State party combat impunity in such cases by investigating threats, harassment, intimidation and violence and ensuring that perpetrators are punished (E/C.12/ARG/CO/4).³⁸

Mexico

- The Committee recommended that Mexico conduct independent studies on the potential social and environmental impact of natural resource exploration and development projects on the indigenous peoples concerned, publish the results and ensure that the agreements concluded for the implementation of these projects include measures to mitigate the impact on the economic, social and cultural rights of the indigenous peoples concerned, as well as adequate compensation (E/C.12/MEX/CO/5-6).³⁹
- The Committee also recommended that Mexico ensure that its water resources are properly protected, including from the negative effects of economic activities and the development of natural resources; establish sanctions and penalties for companies whose activities lead to the pollution of water resources (E/C.12/MEX/CO/5-6).⁴⁰

Committee on the Elimination of Racial Discrimination

Mexico

- The Committee recommended that Mexico ensure the protection indigenous peoples' right to own, use, develop and exercise full control over their lands, territories and resources by, inter alia, providing the necessary legal recognition and safeguards, in line with international standards (CERD/C/MEX/CO/18-21).
- The Committee also recommended that Mexico specify, in consultation with indigenous peoples, measures that promote mitigation, compensation for damage or losses and participation in the benefits of development projects, as well as measures to mitigate the effects of the climate crisis on their lands, territories and resources with a view to protecting their traditional ways of life and means of subsistence (CERD/C/MEX/CO/18-21).
- The Committee further recommended that Mexico make certain that, before permits are granted, and from the design s of economic development, energy, tourism, infrastructure and natural resource exploitation projects to their implementation, due respect is given to the right of indigenous peoples whose rights, lands, territories and resources may be affected to be consulted with a view to obtaining their free, prior and informed consent (CERD/C/MEX/CO/18-21).⁴¹

El Salvador

- The Committee recommended that El Salvador maintain and strengthen the dialogue between the Ministry of the Environment and indigenous peoples' organizations, particularly with regard to policies to address the climate crisis (CERD/C/SLV/CO/18-19).

³⁷ The Committee referred Argentina to its general comment No. 14 (2000) on the right to the highest attainable standard of health. In the case of Uruguay, it also recommended that the State party take the necessary steps to control the use of agrochemicals and monitor their public health effects (E/C.12/URY/CO/5).

³⁸ Similar recommendations were made in the concluding observations on Colombia (E/C.12/COL/CO/6), the Dominican Republic (E/C.12/DOM/CO/4) and Honduras (E/C.12/HND/CO/2).

³⁹ Similarly, recommendations were made in the concluding observations on Colombia (E/C.12/COL/CO/6).

⁴⁰ Similarly, recommendations were made in the concluding observations on Colombia (E/C.12/COL/CO/6) and Chile (E/C.12/CHL/CO/4).

⁴¹ Similar recommendations were made in the concluding observations on Argentina (CERD/C/ARG/CO/21-23), Guatemala (CERD/C/GTM/CO/16-17), Honduras (CERD/C/HND/CO/6-8) and Paraguay (CERD/C/PRY/CO/4-6).

Ecuador

- The Committee recommended that Ecuador ensure the effective implementation of protection measures and safeguards against negative environmental impacts and in support of the traditional ways of life of indigenous and Afro-Ecuadorian peoples (CERD/C/ECU/CO/23-24).

Paraguay

- The Committee recommended that Paraguay ensure that indigenous peoples affected by natural-resource exploitation activities in their territories receive compensation for losses or damage incurred and share in the profits generated by those activities (CERD/C/PRY/CO/4-6).⁴²

Committee on the Elimination of Discrimination against Women

Guyana

- The Committee recommended that Guyana review its climate change and energy policies, particularly those relating to the extraction of oil and gas, and develop a disaster risk reduction strategy that takes into account the negative effects of climate change on gender equality and on the lives of women and their families, especially those living in areas below sea level. (CEDAW/C/GUY/CO/9).⁴³
- The Committee also recommended that Guyana include a gender assessment in all environmental impact assessments and establish a mechanism to monitor the implementation of those assessments and to guarantee that rural and Amerindian women can fully contribute to the development of the country, give their free, prior and informed consent before any development, business, agro-industrial or extractive projects affecting their traditional lands and resources are initiated, whether carried out by national or foreign enterprises, can take advantage of adequate benefit-sharing agreements and are provided with adequate alternative livelihood (CEDAW/C/GUY/CO/9).

Antigua and Barbuda

- The Committee recommended that Antigua and Barbuda ensure that the rights of women and girls are a primary consideration in devising measures relating to climate change and disaster response and risk reduction and that such measures take into account the particular needs of disadvantaged groups of women, including older women, women with disabilities and migrant women (CEDAW/C/ATG/CO/4-7).
- The Committee recommended that Antigua and Barbuda strengthen measures to ensure the effective participation of women in the development and implementation of policies and action plans on disaster risk reduction, post-disaster management and climate change and that women are represented in decision-making processes at all levels (CEDAW/C/ATG/CO/4-7).⁴⁴
- The Committee also recommended that Antigua and Barbuda address the effects of the hurricanes on the environment and the education, health and livelihood of the affected women and girls, including by guaranteeing their physical and economic access to high-quality infrastructure and critical services, and promote their economic empowerment (CEDAW/C/ATG/CO/4-7).

Barbados

- The Committee recommended that Barbados include an explicit gender perspective in national policies and actions plans on climate change and disaster response and risk reduction, targeting women not only as those disproportionately affected by the effects of climate change and disasters but also as active participants in the formulation and implementation of such policies (CEDAW/C/BRB/CO/5-8).⁴⁵

⁴² A similar recommendation was made in the concluding observations on Peru (CERD/C/PER/CO/18-21).

⁴³ In accordance with its general recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change.

⁴⁴ A similar recommendation was made in the concluding observations on Argentina (CEDAW/C/ARG/CO/7), Bahamas (CEDAW/C/BHS/CO/6), Honduras (CEDAW/C/HND/CO/7-8) and Suriname (CEDAW/C/SUR/CO/4-6).

⁴⁵ A similar recommendation was made in the concluding observations on Antigua and Barbuda (CEDAW/C/ATG/CO/4-7).

Haiti

- The Committee recommended that Haiti ensure that rural women are represented in decision-making processes at all levels in the agricultural sector, thus enabling them also to better address the impacts of natural disasters and climate change (CEDAW/C/HTI/CO/8-9).

Saint Vincent and the Grenadines

- The Committee recommended that Saint Vincent and the Grenadines ensure that the development and implementation of policies and programmes on disaster preparedness, response to natural disasters and impacts of climate change, as well as other emergencies, are based on a comprehensive gender analysis and mainstream the concerns of women, especially those of rural women, and include them in the design and management of such programmes (CEDAW/C/VCT/CO/4-8).

Committee on the Rights of the Child

Argentina

- The Committee recommended that Argentina require all companies to undertake due diligence with regard to children's rights, in particular to carry out periodic child-rights impact assessments, consultations and full public disclosure of the environmental, health-related and human rights impact of their business activities, and their plans to address such an impact. (CRC/C/ARG/CO/5-6).⁴⁶
- The Committee also recommended that Argentina strengthen implementation of legislative and other measures to protect the physical and mental health of children, particularly indigenous children, from environmental harm caused by third parties, and ensure that the impact of mining and agrochemicals on underlying determinants of health, such as food, safe drinking water and sanitation, is minimized and that the entities responsible are held accountable and victims afforded effective remedies (CRC/C/ARG/CO/5-6).
- The Committee further recommended that Argentina define budgetary lines for children in disadvantaged or marginalized situations, particularly children with disabilities and indigenous children, that may require affirmative social measures, and ensure that those budgetary lines are protected even in situations of economic crisis, natural disaster or other emergencies (CRC/C/ARG/CO/5-6).⁴⁷

Panama

- The Committee recommended that Panama guarantee full public disclosure of the environmental, health-related and human rights impacts of planned projects and activities, as well as of plans to address such impacts, and ensure consistent consideration of the results of environmental impact assessments of investment projects (CRC/C/PAN/CO/5-6).⁴⁸

Ecuador

- The Committee recommended that Ecuador ensure that affected communities, including rural communities, indigenous peoples and nationalities and Afro-Ecuadorian communities have access to information about planned mining operations and any associated risks, particularly for children (CRC/C/ECU/CO/5-6).

⁴⁶ A similar recommendation was made in the concluding observations on Colombia (CRC/C/COL/CO/4-5), Guatemala (CRC/C/GTM/CO/5-6) and Peru (CRC/C/PER/CO/4-5).

⁴⁷ A similar recommendation was made in the concluding observations on Barbados (CRC/C/BRB/CO/2), Honduras (CRC/C/HND/CO/4-5), Jamaica (CRC/C/JAM/CO/3-4) and Saint Vincent and the Grenadines (CRC/C/VCT/CO/2-3).

⁴⁸ A similar recommendation was made in the concluding observations on Brazil (CRC/C/BRA/CO/2-4).

Antigua and Barbuda

- The Committee recommended that Antigua and Barbuda identify, including through the collection of disaggregated data, the types of risks children would face in the event of natural disasters and ensure that the special vulnerabilities and needs of children, as well as their views, are taken into account in developing policies and programmes addressing climate, environmental change and disaster risk management (CRC/C/ATG/CO/2-4).⁴⁹

Suriname

- The Committee recommended that Suriname develop strategies, including awareness-raising, to reduce the vulnerabilities and risks for children owing to climate change, in particular children in situations of poverty, including Amerindian and Maroon communities; and mainstream child-specific and child-sensitive risk and vulnerability reduction strategies into its national plan on climate change and disaster preparedness and emergency management and strengthen its social safety nets and social protection framework so as to more effectively mitigate the multiple social, economic and environmental impacts of climate change (CRC/C/SUR/CO/3-4).

Chile

- The Committee recommended that Chile increase children's awareness and preparedness for climate change and natural disasters by incorporating the topic into the school curriculum and teachers' training programmes (CRC/C/CHL/CO/4-5).

Committee on the Rights of Persons with Disabilities

Cuba

- The Committee recommended that Cuba develop and disseminate widely a national plan on situations of risk and humanitarian emergencies that provides for assistance for all persons with disabilities and that takes into account their requirements, through specific and cross-cutting approaches, and a protocol on risk mitigation for persons with disabilities in situations of risk through accessible early warning systems, including in sign language, Easy Read and Braille, focusing in particular on persons living in rural areas, and continue providing training to first responders (CRPD/C/CUB/CO/1).

Haiti

- The Committee recommended that Haiti ensure that persons with disabilities are effectively engaged in the design and implementation of measures for their protection and safety in situations of risk and humanitarian emergencies (CRPD/C/HTI/CO/1).

Panama

- The Committee recommended that Panama incorporate a disability perspective in its policies and programmes on climate change and include persons with disabilities in all stages of disaster management with a view to ensuring that their needs and rights are respected (CRPD/C/PAN/CO/1).⁵⁰

Honduras

- The Committee recommended that Honduras include a specific protocol to mitigate the risks to persons with disabilities in situations of risk, with accessible early-warning systems that incorporate sign language and Braille, focusing in particular on persons living in rural and remote areas. It also recommends that the State party mainstream disability in its climate change policies and programmes (CRPD/C/HND/CO/1).

⁴⁹ A similar recommendation was made in the concluding observations on Saint Vincent and the Grenadines (CRC/C/VCT/CO/2-3).

⁵⁰ Similar recommendations were made in the concluding observations on Cuba (CRPD/C/CUB/CO/1).

Plurinational State of Bolivia

- The Committee recommended that the Plurinational State of Bolivia take measures, in the light of the Sendai Framework for Disaster Risk Reduction (2015-2030), for the inclusion of persons with disabilities in strategies for climate change adaptation and disaster risk reduction, for the inclusion of accessibility in infrastructure and evacuation routes, and for the provision of information on disaster risk reduction, including in Braille and sign language and using alternative modes and formats of communication (Bolivia, CRPD/C/BOL/CO/1).⁵¹

Uruguay

- The Committee recommended that Uruguay provide ongoing training for civil protection personnel on the rights of persons with disabilities. The training should include the distribution of instruments on the inclusion of persons with disabilities in disaster risk reduction strategies and provision for accessibility in the design of infrastructure and evacuation routes (CRPD/C/URY/CO/1).

3. Individual complaints

Under certain conditions, the treaty bodies may examine individual complaints. Currently, eight of the 10 bodies can receive individual communications: the Human Rights Committee; the Committee on the Elimination of Racial Discrimination; the Committee against Torture; the Committee on the Elimination of Discrimination against Women; the Committee on the Rights of Persons with Disabilities; the Committee on Enforced Disappearances; the Committee on Economic, Social and Cultural Rights; and the Committee on the Rights of the Child. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families contains provisions for individual communications to be considered by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families. That mechanism will come into force when it has been accepted by 10 States Parties.

An individual complaint on the issue of climate change has not been considered specifically by any of the committees to date. However, Swedish youth climate activist Greta Thunberg, together with 15 other youngsters from 12 countries (including from two Latin American countries: Argentina and Brazil), announced the filing of an individual complaint with the Committee on the Rights of the Child on 23 September 2019 under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.⁵² In their complaint, the petitioners allege that climate change has devastating consequences on the human rights of children and that Member States' failure to tackle climate change constitutes a violation of child rights. If considered admissible, the Committee's decision in this case will be decisive in future analysis of the consequences of climate change on human rights.

Although it is not specifically related to climate change, it is worth noting a recent decision by the Human Rights Committee on a complaint filed by Norma Portillo Cáceres and others against Paraguay, published on 20 September 2019.⁵³ The communication was related to the impact of fumigation with agrochemicals on the life and health of rural workers and two children directly affected. The petitioners argued that Paraguay had failed in its duty to protect their human rights, by not acting diligently and allowing the extensive use of agrottoxins on farms adjacent to their homes, in breach of current regulations. They contended that, as a result of these fumigations, they became ill and one person died.

In this case, the Committee recognized that there is an undeniable relationship between the protection of the environment and the realization of human rights, and that environmental degradation may affect the effective enjoyment of the right to life. The Committee recalled that the right to life cannot be understood correctly if it is interpreted narrowly, and that the protection of that right requires that States adopt positive measures. It also recalled its general comment No. 36, in which the Committee established that the right to life also refers to the right to enjoy a decent life and to be free from acts or omissions that cause premature

⁵¹ A similar recommendation was made in the concluding observations on Colombia (CRPD/C/COL/CO/1) and Guatemala (CRPD/C/GTM/CO/1).

⁵² See (online) <https://www.unicef.org/press-releases/16-children-including-greta-thunberg-file-landmark-complaint-united-nations>.

⁵³ CCPR/C/126/D/2751/2016 (Spanish only).

or unnatural death. States must take all appropriate measures to address the general conditions of society that may give rise to threats to the right to life or prevent persons from enjoying their right to life with dignity, conditions such as the pollution of the environment. The Committee therefore found that the State had violated articles 6 and 17 of the International Covenant on Civil and Political Rights and had an obligation to provide an effective remedy, including by investigating the facts effectively and thoroughly; sanctioning those responsible; and making full reparation to the authors for the damage suffered. Paraguay was also under the obligation to take measures to prevent similar violations being committed in the future.

D. Special procedures

Various mandate holders of special procedures (independent experts appointed by the Human Rights Council to report and advise on human rights from a thematic or country-specific perspective) have also analysed the links between human rights and climate change. In addition to issuing statements,⁵⁴ transmitting communications to States⁵⁵ and paying visits to countries in which the importance of climate change is highlighted,⁵⁶ these mandate holders (special rapporteurs, independent experts and working groups) have also submitted annual reports to the Human Rights Council and/or the General Assembly that address the matter.

The reports by the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment⁵⁷ are perhaps those that have analysed in greatest detail the link between human rights and the changing climate. Two of the Special Rapporteur's recent reports deserve special attention.

In his 2016 report to the Human Rights Council (A/HRC/31/52), the Special Rapporteur analyses the human rights obligations relating to climate change. He describes the increasing attention paid to the relationship between climate change and human rights in recent years, reviews the effects of climate change on the full enjoyment of human rights and outlines the application of human rights obligations to climate-related actions. He explains that States have procedural and substantive obligations relating to climate change, as well as duties to protect the rights of the most vulnerable.

Meanwhile, in his 2019 report to the General Assembly (A/74/161), the Special Rapporteur discusses the urgent need for action to ensure a safe climate for humanity. He illustrates the devastating effects of the current global climate emergency on the enjoyment of human rights, and the crucial role for human rights in catalysing action to address climate change. He concludes that a safe climate is a vital element of the right to a healthy environment and is absolutely essential to human life and well-being. He also makes practical recommendations with respect to, among other things, addressing society's addiction to fossil fuels; accelerating other mitigation actions; enhancing adaptation to protect vulnerable people; ramping up climate finance; and financing loss and damage.

The then Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment also submitted a report to the Human Rights Council in accordance with Council resolution 19/10, which maps human rights obligations relating to the environment, on the basis

⁵⁴ See, for example, the statement of 11 mandate holders on the occasion of the Climate Action Summit 2019, [online] <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25003&LangID=E>, and the Joint statement of special procedures mandate holders on the occasion of the twenty-fourth session of the Conference of the Parties to the UNFCCC, [online]: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23982&LangID=E>.

⁵⁵ See, for example, the cases brought in connection with the participation of civil society organizations in the process of the UNFCCC (POL 3/2018 and OTH 8/2015).

⁵⁶ See, for example, the statement of the United Nations Special Rapporteur on human rights and the environment, John H. Knox on the conclusion of his mission to Uruguay of 28 April 2017, [online] <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21559&LangID=E>.

⁵⁷ The mandate holder has produced a number of thematic reports focusing on, among other things, the right to breathe clean air and the right to a healthy and sustainable environment (2019, A/HRC/40/55); children's rights in relation to the environment (2018, A/HRC/37/58); framework principles on human rights and the environment (2018, A/HRC/37/59); biodiversity (2017, A/HRC/34/49); climate change (2016, A/HRC/31/52); implementing human rights obligations relating to the enjoyment of a healthy environment (2016, A/HRC/31/53); compiling good practices (2015, A/HRC/28/61); mapping human rights obligations relating to the environment (2014, A/HRC/25/53); and his preliminary report outlining the relationship between the environment and human rights as well as States' obligations to protect these rights (2013, A/HRC/22/43).

of an extensive review of global and regional sources.⁵⁸ As part of this mapping exercise, a focus report on human rights and climate change was also produced, setting out the human rights threatened by climate change and the human rights obligations relating to climate change, as identified by the international human rights treaties and their treaty bodies.⁵⁹

Box II.1

Framework principles on human rights and the environment

The framework principles on human rights and the environment were prepared by the United Nations Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. Presented in his report A/HRC/37/59 submitted to the Human Rights Council in March 2018, the framework principles set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. These framework principles are particularly relevant to climate action.

The framework principles are:

1. States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.
2. States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment.
3. States should prohibit discrimination and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.
4. States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.
5. States should respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters.
6. States should provide for education and public awareness on environmental matters.
7. States should provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.
8. To avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.
9. States should provide for and facilitate public participation in decision-making related to the environment, and take the views of the public into account in the decision-making process.
10. States should provide for access to effective remedies for violations of human rights and domestic laws relating to the environment.
11. States should establish and maintain substantive environmental standards that are non-discriminatory, non-retrogressive and otherwise respect, protect and fulfil human rights.
12. States should ensure the effective enforcement of their environmental standards against public and private actors.
13. States should cooperate with each other to establish, maintain and enforce effective international legal frameworks in order to prevent, reduce and remedy transboundary and global environmental harm that interferes with the full enjoyment of human rights.
14. States should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.
15. States should ensure that they comply with their obligations to indigenous peoples and members of traditional communities
16. States should respect, protect and fulfil human rights in the actions they take to address environmental challenges and pursue sustainable development.

Source: United Nations, *Report of the Special Rapporteur on the Issue of Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment (A/HRC/37/59)*, 2018.

⁵⁸ A/HRC/25/53.

⁵⁹ See [online] <http://www.ohchr.org/Documents/Issues/Environment/MappingReport/ClimateChangemapping15-August.docx>.

The Special Rapporteur on the situation of human rights defenders also submitted a report on the situation of environmental human rights defenders to the General Assembly (A/71/281) that is particularly relevant to climate action. Defined as “individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna”,⁶⁰ environmental human rights defenders include climate activists. The report places a special emphasis on the alarming situation of environmental human rights defenders in Latin America and the Caribbean, which is one of the most dangerous regions in the world for them.⁶¹

A number of other special procedures mandate holders have addressed the issues of climate change and environmental degradation in the following reports:

- **Special Rapporteur on Extreme Poverty and human rights⁶²**

The report of the Independent Expert on the question of human rights and extreme poverty submitted to the General Assembly in 2010 (A/65/259); the report of the Independent Expert on the question of human rights and extreme poverty on her mission to Viet Nam submitted to the Human Rights Council in 2011 (A/HRC/17/34/Add.1); and the report of the Special Rapporteur on extreme poverty and human rights on climate change and poverty submitted to the Human Rights Council in 2019 (A/HRC/41/39).

- **Special Rapporteur on the human rights of migrants**

The report on the human rights of migrants submitted to the General Assembly in 2012 (A/67/299).

- **Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context**

The report on how the impacts of climate change have consequences for the fulfilment of the right to adequate housing, submitted to the General Assembly in 2009 (A/64/255).

- **Special Rapporteur on the rights of indigenous peoples**

The Special Rapporteur’s 2016 report to the General Assembly which provides a thematic analysis of conservation measures and their impact on indigenous peoples’ rights (A/71/229) and her 2017 report to the Human Rights Council which provides a thematic study on the impacts of climate change and climate finance on indigenous peoples’ rights (A/HRC/36/46).

- **Special Rapporteur in the field of cultural rights**

The Special Rapporteur in the field of cultural rights undertook a fact-finding mission to Tuvalu in 2019 to investigate the impact climate change is having and may have on culture and cultural rights in Tuvalu.⁶³

- **Special Rapporteur on the right to safe drinking water and sanitation**

The report of the Special Rapporteur submitted to the General Assembly in 2019 on megaprojects (A/74/197). The Special Rapporteur also prepared a position paper for the sixteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP 16) in 2010, which noted that improved water resource management should be a central component of climate change adaptation strategies. Moreover, the importance of water and sanitation for successful climate mitigation and adaptation, and the rights to water and sanitation more specifically, must be properly and adequately reflected within the agreement to be reached by Conference of the Parties, as well as in processes beyond COP16.⁶⁴

⁶⁰ A/71/281, para. 7.

⁶¹ The report notes that in the last five-year period (June 2011–July 2016), of the 137 communications, 48% concerned the Americas, the most dangerous area. Those promoting rights in relation to the extractive and mining industries, palm oil cultivation and deforestation proved to be most at risk (27 communications). The largest number of communications concerned Honduras (11), Mexico (10), Brazil (9) and Peru (8).

⁶² The special procedure was established under Commission on Human Rights resolution 1998/25 as the Independent Expert on the question of human rights and extreme poverty. The mandate and title were changed under Human Rights Council resolution 17/13, of June 2011.

⁶³ See [online] <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25035&LangID=E>.

⁶⁴ See [online] https://www.ohchr.org/Documents/Issues/Water/Climate_Change_Right_Water_Sanitation.pdf.

- **Special Rapporteur on the right to food**

The Special Rapporteur's 2015 report to the General Assembly which outlines the adverse impact of climate change on the right to food (A/70/287) and her 2018 report to the Human Rights Council which focuses on the right to food in the context of natural disasters (A/HRC/37/61).

- **Special Rapporteur on the human rights of internally displaced persons**

The Special Rapporteur's 2009 report to the General Assembly which discusses the nexus between climate change and internal displacements (A/64/214) and his 2011 report to the General Assembly which provides a thematic review of the issue of climate change and internal displacement (A/66/285).

E. Other related standards

United Nations Declaration on the Rights of Indigenous Peoples

The United Nations Declaration on the Rights of Indigenous Peoples,⁶⁵ adopted by the General Assembly on 13 September 2007, is a particularly important benchmark for Latin America and the Caribbean in the nexus between human rights and climate change.

Article 29 of the Declaration states that indigenous peoples have the right to the conservation and protection of the environment. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials are duly implemented.

Article 24.2 provides that indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right. Article 25 recognizes that indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Convention No. 169 of the International Labour Organization (ILO) concerning Indigenous and Tribal Peoples⁶⁶

ILO Convention No. 169 also includes provisions that guarantee the rights of indigenous peoples in the context of climate change. Under article 4, the Convention establishes the obligation to adopt special measures for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned, which shall not be contrary to the freely-expressed wishes of the peoples concerned. In addition, article 7.4 states that governments shall take measures, in cooperation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.

In turn, article 7.3 provides that governments shall ensure that, whenever appropriate, studies are carried out, in cooperation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.

Moreover, article 6 states that in applying the provisions of the Convention, governments shall: consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect

⁶⁵ A/RES/61/295.

⁶⁶ Ratified by Argentina, the Bolivarian Republic of Venezuela, Brazil, Chile, Colombia, Costa Rica, Dominica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru and the Plurinational State of Bolivia.

them directly; and establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them. The consultations carried out in application of the Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

United Nations Declaration on the Right to Development

The United Nations Declaration on the Right to Development⁶⁷ is equally applicable to climate change. Article 1 states that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

The Declaration also recognizes that the human person is the central subject of the development process and that development policy should therefore make the human being the main participant and beneficiary of development. As a result, States and individuals have responsibilities for development and, pursuant to article 4, States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development.

The right to development established by the Declaration is essential to achieving sustainable, low carbon development in the context of climate change. In addition to being applicable to technology transfer and global climate financing measures, this right must be adapted to current or future development models and styles on the basis of equity, justice and international cooperation.⁶⁸ Furthermore, when analysing the relationship between the right to development and climate change, it is important to recall that the realization of the right to development cannot justify the violation of other rights.⁶⁹

United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

Adopted by the General Assembly on 9 December 1998, the Declaration on Human Rights Defenders⁷⁰ is an essential instrument that guarantees the promotion and protection of the rights of environmental defenders and climate activists. The Declaration advocates the need for States to provide support and protection to human rights defenders in the context of their work. The rights of defenders are recognized, as well as the obligations of States and the responsibilities of all persons.

In particular, article 2 of the Declaration calls for each State to adopt such legislative, administrative and other measures as may be necessary to ensure that the rights and freedoms referred to in the Declaration are effectively guaranteed. Moreover, article 9 provides that everyone has the right to benefit from an effective remedy and that the State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction. Article 12 specifies that States shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

⁶⁷ A/RES/41/128.

⁶⁸ See Office of the United Nations High Commissioner for Human Rights (OHCHR), *Realizing the Right to Development* (HR/PUB/12/4), 2013 [online] https://www.ohchr.org/Documents/Publications/RightDevelopmentInteractive_EN.pdf.

⁶⁹ See paragraph 10 of the Vienna Declaration and Programme of Action (A/CONF.157/23), which states that while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights.

⁷⁰ A/RES/53/144.

Human Rights Council resolution 40/11

Adopted by the Human Rights Council in March 2019, this resolution⁷¹ recognizes the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development, and also refers to climate change. Upon its adoption, the Committee on the Rights of the Child together with the Special Rapporteurs on human rights and the environment and on the situation of human rights defenders highlighted the importance of the resolution for children and young people who were taking the lead in the fight against climate change. The experts underscored the important role of human rights defenders, including child human rights defenders, in supporting States to fulfil their obligations under the Paris Agreement and to realize the 2030 Agenda for Sustainable Development.⁷²

Global Compact for Safe, Orderly and Regular Migration

Adopted in Marrakesh (Morocco) on 11 December 2018 and endorsed by General Assembly pursuant to its resolution 73/195 of 19 December 2018,⁷³ the Global Compact for Safe, Orderly and Regular Migration recognizes that a comprehensive approach is needed to manage migration flows at the global level, establishing 23 objectives and commitments. The human rights-based approach permeates the Compact, given that it rests on the Universal Declaration of Human Rights, the international human rights treaties and multilateral environmental agreements.

Under objective 2 of the Compact, five commitments are listed pertaining to natural disasters, the adverse effects of climate change and environmental degradation. These include the commitments to strengthen joint analysis and sharing of information to better map, understand, predict and address migration movements, such as those that may result from sudden-onset and slow-onset natural disasters, the adverse effects of climate change, environmental degradation, as well as other precarious situations, while ensuring effective respect for and protection and fulfilment of the human rights of all migrants; and to harmonize and develop approaches and mechanisms at the subregional and regional levels to address the vulnerabilities of persons affected by sudden-onset and slow-onset natural disasters, by ensuring that they have access to humanitarian assistance that meets their essential needs with full respect for their rights wherever they are.

The region of Latin America and the Caribbean played a prominent role in the preparation and approval of the Global Compact, as well as in the development of its implementation measures. Mexico was one of the co-facilitators of the negotiations and of the 152 countries that voted in favour of adopting the General Assembly resolution endorsing the Compact, 26 were from the region. Furthermore, at the Intergovernmental Conference in Marrakesh, four Latin American countries (El Salvador, Guatemala, Honduras and Mexico) presented a Comprehensive Development Plan⁷⁴ for the region, prepared with the support of ECLAC, which seeks to offer people more opportunities in their countries of origin by promoting development, thus discouraging migration and tackling its structural causes.

United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas

The General Assembly adopted the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas on 17 December 2018,⁷⁵ which seeks to protect the rights of all rural populations, including peasants, agricultural and rural workers and indigenous peoples, among others. In addition to expressing concern that peasants and other people working in rural areas suffer from the burdens caused by environmental degradation and climate change, the Declaration states that peasants and other people working in rural areas have the right to the conservation and protection of the environment and the productive capacity of their lands (article 18.1).

⁷¹ A/HRC/RES/40/11.

⁷² See (online) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24393&LangID=E>.

⁷³ A/RES/73/195.

⁷⁴ LC/MEX/TS.2019/6 (Spanish only).

⁷⁵ A/RES/73/165.

With regard to climate change, article 18.3 stipulates that States shall comply with their respective international obligations to combat climate change. Peasants and other people working in rural areas have the right to contribute to the design and implementation of national and local climate change adaptation and mitigation policies, including through the use of practices and traditional knowledge.

This Declaration also bears the hallmark of Latin American and Caribbean countries. It was tabled by the Plurinational State of Bolivia, Cuba, Ecuador, El Salvador, Nicaragua, Paraguay and the Bolivarian Republic of Venezuela, among others, and 27 Latin American and Caribbean countries voted to adopt it.

Resolution 4/17 adopted by the United Nations Environment Assembly of the United Nations Environment Programme, on promoting gender equality and the human rights and empowerment of women and girls in environmental governance

This resolution⁷⁶ was adopted on 15 March 2019 at the fourth session of the United Nations Environment Assembly of the United Nations Environment Programme, pursuant to the proposal by Costa Rica.

The resolution invites Member States to recognize the importance of gender equality, the empowerment of women and the role that women play as managers of natural resources and agents of change in safeguarding the environment; to prioritize the implementation of gender policies and action plans developed under the multilateral environmental agreements; and to strengthen and implement policies aimed at increasing the participation and leadership of women in environmental decision-making and measures.

⁷⁶ UNEP/EA.4/RES.17.

Chapter III

Contributions from Latin America and the Caribbean

A. The global dimension

1. The human rights-based approach in the nationally determined contributions to the global response to climate change

The development and implementation of the nationally determined contributions (NDCs) must be consistent with international human rights standards. As essential pillars of the Paris Agreement,¹ NDCs reflect the commitments of the States to reduce their emissions and support the populations' climate change adaptation efforts. Therefore, human rights must be incorporated into NDCs, to improve their effectiveness and results for the benefit of all people and the planet and to ensure that climate actions do not negatively affect people's rights. Human rights should be taken into account throughout the NDC process and implementation cycle, by being mainstreamed not only into their content but also into their design, preparation, implementation and monitoring stages.

As table III.1 shows, NDCs of 14 Latin American and Caribbean countries include express references to human rights. In some cases, the references to human rights describe the background or context in which NDCs are to be implemented. In others, the references are more substantive and serve as an implementation guideline.

Table III.1

Nationally determined contributions of Latin American and Caribbean countries that include express references to human rights

Country	Reference
Bolivia (Plurinational State of)	Living Well is expressed in the complementarity of the rights of the people to live free of poverty and the full realization of economic, social and cultural rights and the rights of Mother Earth, which integrates the indivisible community of all systems of life and living, interrelated, interdependent and complementary beings who share a common destiny.
Brazil	The Government of Brazil is committed to implementing its intended nationally determined contribution (INDC) with full respect to human rights, in particular rights of vulnerable communities, indigenous populations, traditional communities and workers in sectors affected by relevant policies and plans, while promoting gender-responsive measures.
Chile	It is important to adopt perspectives that counteract the effects of climate change, including the protection and promotion of all human rights potentially affected by this phenomenon.
Costa Rica	Both climate policies and the actions that derive from them, will be based on the country's historical commitment to universal human rights and gender equality principles. Costa Rica has committed internationally, through the Geneva Pledge for Human Rights in Climate Action, to develop an exchange of experiences on matters related to human rights and climate change.
Cuba	The efforts and commitment of the authorities have ensure that today all Cubans, without exception, have access to fundamental human rights such as education, health and food security, among others.
Ecuador	Article 3, paragraphs 1 and 7, of the Constitution of Ecuador provides that the primary duties of the State include guaranteeing, without discrimination, the effective enjoyment of the rights established in the Constitution and in international instruments, including the rights to education, health, food, social security and water for its inhabitants, and the protection of natural and cultural heritage of the country, while people have the right to live in a healthy , ecologically balanced environment, free from pollution and in harmony with nature, according to paragraph 27 of article 66.
El Salvador	The human right to water is recognized.
Guatemala	Guatemala's INDC will comply with the mandates of the National Climate Change Policy (Government Agreement No. 329-2009), the Framework Act on Climate Change and its safeguards (article 3), human rights, gender equality, indigenous peoples' rights and internationally recognized principles by the country.
Guyana	In the delivery of all contributions, Guyana will be cognizant of, and respect, national and international commitments to human rights, including those of indigenous peoples and local communities and the needs and concerns of all other vulnerable groups.
Honduras	The actions to be carried out must improve the living conditions of people who, as a result of their situation, may be more vulnerable to climate change. These actions must ensure a cross-cutting human rights and gender equity perspective, ensuring that women, indigenous peoples and Afro-Hondurans can participate fully and effectively in decision-making.

¹ See [online] https://unfccc.int/sites/default/files/english_paris_agreement.pdf.

Table III.1 (concluded)

Country	Reference
Mexico	<p>Policies and actions include a cross-cutting human rights and gender perspective in order for the measures to be implemented to take into account women as important decision makers.</p> <p>The adaptation component of the INDC of Mexico was elaborated taking into account a gender equality and human rights approach. The population's capacity to adapt will be strengthened through transparent and inclusive social participation mechanisms, designed with a gender and human rights approach.</p> <p>It is fundamental to incorporate a gender and human rights approach into capacity-building, prioritizing the most vulnerable sectors and regions in order to reduce social inequality and the rights gap between women and men.</p>
Nicaragua	<p>The NDC, based on the right to sustainable development of the People of Nicaragua, contemplates the achievement of the targets pursuant to the provisions of normative instruments and policies financed by national budgetary allocations, foreign investment or international cooperation, in the energy sector, the agricultural sector, land use and changes in land uses.</p>
Uruguay	<p>The NDC aims to address the provisions set out in the Paris Agreement, as well as to promote adaptation and mitigation measures in Uruguay to tackle the challenge of climate change as part of the National Climate Change Policy in order to contribute to the country's sustainable development, with a global, intra- and intergenerational equity and human rights perspective.</p> <p>To make available, by 2025, georeferenced information on social vulnerability associated with adverse climatic events and incorporating a human rights and gender approach that covers children, people living in poverty or extreme poverty, those living in a street situation, older persons, people with disabilities, Afrodescendants, migrants, and the rural population.</p> <p>Strengthening social networks in the territory from a rights perspective, which contribute to the creation and dissemination of knowledge about climate change, decision-making at the local level and best early warning management practices.</p> <p>Strengthening the National Environmental Education Network for Sustainable Human Development, by encouraging educators to develop projects in classrooms, workshops, scientific educational fairs and non-formal activities on the theme of climate change within the framework of the National Environmental Education Plan and in connection with the National Human Rights Education Plan.</p>
Venezuela (Bolivarian Republic of)	<p>The Constitution of the Bolivarian Republic of Venezuela, approved by popular referendum in 1999, enshrines environmental rights and was one of the first to provide that "it is the right and duty of each generation to protect and maintain the environment for its own benefit and that of future generations. Every person has the right, individually and collectively, to enjoy a safe, healthy and ecologically balanced life and environment. It is a fundamental obligation of the State, with the active participation of society, to ensure that the population operates in an environment free from pollution, where air, water, soils, coasts, climate, the ozone layer, living species, are especially protected in accordance with the law".</p> <p>Promote and develop a vision of the rights of Mother Earth, as a representation of the rights of present and future generations, as well as respect for other forms of life.</p>

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of United Nations Framework Convention on Climate Change (UNFCCC), "NDC Registry (Interim)" [online] <https://www4.unfccc.int/sites/ndcstaging/Pages/Home.aspx>.

All 33 countries of Latin America and the Caribbean provided to a greater or lesser extent for some form of public participation in processes for drawing up their NDCs, including by making information available to relevant stakeholders or ensuring their participation in formal consultation mechanisms and meetings, or public hearings and consultations. For example, meetings, public consultations and workshops were held, and surveys conducted in Argentina. In addition, public participation is channelled through wider meetings of the National Climate Change Cabinet, which is responsible for proposing actions for the effective implementation, monitoring and updating of climate change strategies and plans.

The NDCs of some Latin American and Caribbean countries include essential elements from a human rights-based approach. Equality and non-discrimination, intergenerational equity, gender equality and special assistance for groups and people in situations of vulnerability are frequently included. For example, the NDC of Antigua and Barbuda contains references to intergenerational equity and the NDCs of Brazil, Chile and Costa Rica provide for assistance to be extended to those most vulnerable to the effects of climate change. The NDCs of the Bolivarian Republic of Venezuela, Costa Rica, Cuba and Guatemala mention children, while those of Dominica and Uruguay also refer to persons with disabilities. Meanwhile, the NDCs of Guyana and Uruguay also cover migration and displacement caused by climate change, and that of Brazil considers the rights of workers in sectors affected by the climate change policies and plans.

With regard to indigenous peoples, the NDCs of 14 countries of the region (Brazil, Costa Rica, Dominica, Ecuador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the Plurinational State of Bolivia and Suriname) make references that are generally related to the participation of indigenous peoples in the consultation processes and the provision of affirmative action or recognition of their particular vulnerability to the effects of climate change in order to address their specific needs. The NDC of the Plurinational State of Bolivia stresses the importance of recognizing the vision of indigenous peoples and their traditional representation structures in international climate agreements.

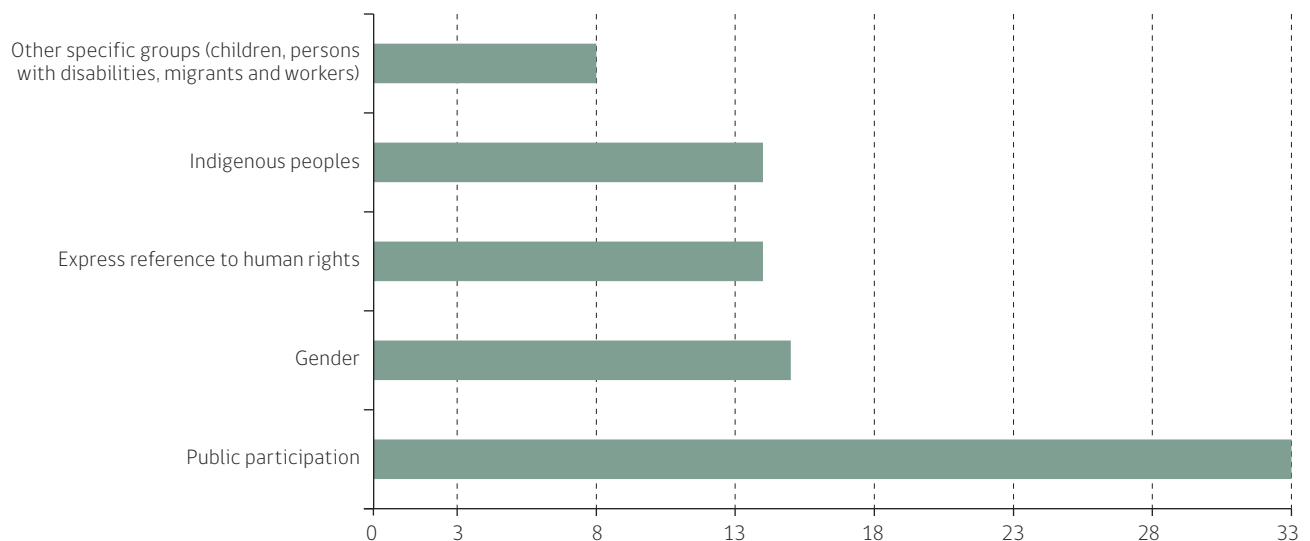
In relation to the gender-based approach, the NDCs of 15 of the 33 countries of the region include a gender perspective. Gender equality is expressly recognized in the NDCs of Brazil, Costa Rica, Ecuador, Guatemala, Haiti, Honduras, Mexico and Peru. In addition, the particular vulnerability of women to the impacts of climate change is established in the NDCs of Barbados and the Dominican Republic, while those of Dominica and Saint Vincent and the Grenadines provide for affirmative action on issues such as climate finance or disaster risk reduction and management. The NDC of Uruguay includes a specific reference to gender in adaptation measures. In order to incorporate a gender approach into the NDC of Ecuador, a participatory drafting methodology was developed and applied in which equal numbers of men and women participated, assisted by the National Council for Gender Equality.

The following countries and territories have adopted strategies or action plans on gender and climate change: Costa Rica, Cuba, the Dominican Republic, Haiti, Panama, Paraguay, Peru, and the Yucatán peninsula and Sonora in Mexico. In addition to developing their respective countries' NDC, such plans also strengthen the implementation of gender equality actions under the United Nations Framework Convention on Climate Change (UNFCCC).

Figure III.1 summarizes the human rights-based approach in the NDCs of Latin America and the Caribbean.

Figure III.1

The human rights-based approach in the NDCs of Latin America and the Caribbean
(Number of countries)



Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of United Nations Framework Convention on Climate Change (UNFCCC), "NDC Registry (Interim)" [online] <https://www4.unfccc.int/sites/ndcstaging/Pages/Home.aspx>.

2. Gender

The countries of the region have also been extremely active in incorporating gender equality into the UNFCCC processes, reinforcing the importance of involving men and women under conditions of equality and non-discrimination and of mainstreaming the gender dimension into national climate policies. An example of that leadership is the Lima Work Programme on Gender, adopted at the twentieth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP 20) held in Lima in December 2014, chaired by Peru. This was later complemented by the gender action plan (GAP) established pursuant to decision 3/CP.23 adopted at COP 23 in Bonn, Germany, in November 2017.²

² See decision 3/CP.23 [online] <https://undocs.org/en/FCCC/CP/2017/11/Add.1>.

Among other things, the Lima Work Programme on Gender invites States Parties to advance gender balance, promote gender sensitivity in developing and implementing climate policy, and achieve a gender-responsive climate policy in all relevant activities under the Convention. It also calls for additional efforts to be made by Parties to improve the participation of women in their delegations and in all bodies established under the Convention, and establishes a two-year work programme for promoting gender balance and achieving gender-responsive climate policy.

Another notable initiative in the field of gender and climate change is the For All Coalition,³ spearheaded by Costa Rica and launched in September 2018, which seeks to strengthen gender considerations in climate action through activities focused on the political and technical dimensions. On the political front, the Group of Parties Friends of the Coalition will facilitate the creation spaces for dialogue and negotiation. On the technical front, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) will provide technical support and guidance for the development of strategies and proposals for decision elements for the different international human rights and environmental conventions.

A Ministerial Declaration on Gender Equality and Climate Change⁴ was put forward by Peru, Costa Rica and Chile at COP 24, which recognizes the active role of women as agents of climate adaptation and mitigation solutions and calls for the promotion and support of gender-responsive climate actions and policies at all levels.

3. Indigenous peoples

The countries of Latin America and the Caribbean have also advocated for strengthening the participation of indigenous peoples in climate policy and decision-making. Proof of this is the proposal to establish the Local Communities and Indigenous Peoples Platform (LCIPP) to facilitate the exchange of experiences and the sharing of best practices and lessons learned related to mitigation and adaptation in a holistic and integrated manner and to enhance the engagement of local communities and indigenous peoples in the UNFCCC process.⁵

The Plurinational State of Bolivia, Costa Rica and Ecuador spearheaded the initiative that led to the establishment of the Platform pursuant to decision 1/CP.21 and its launch at COP 24. Guatemala and Peru were also active participants in its operationalization. At the same meeting, it was decided to establish the Local Communities and Indigenous Peoples Platform Facilitative Working Group with the objective of further operationalizing the Platform and facilitating the implementation of its three functions related to knowledge, capacity for engagement, and climate change policies and actions. The Facilitative Working Group shall comprise of 14 representatives, seven of whom will be representatives of the States Parties and the other seven will be representatives from indigenous peoples' organizations.

4. Action for Climate Empowerment

Article 6 of UNFCCC states that Parties shall promote and facilitate the development and implementation of educational and public awareness programmes on climate change and its effects; public access to information on climate change and its effects; and public participation in addressing climate change and its effects. Similar provisions are found in article 10 (e) of the Kyoto Protocol and in article 12 of the Paris Agreement. The measures and actions related to these articles have been called "Action for Climate Empowerment" and are structured around six priority areas: education, training, public awareness, public access to information, public participation and international cooperation.

In 2012, the Conference of the Parties adopted the Doha Work Programme on article 6 of UNFCCC and requested the organization of annual dialogues on this article to share experiences and exchange best practices. In addition, Parties were invited to designate focal points to promote Action for Climate Empowerment.⁶

³ See [online] <http://wedocs.unep.org/bitstream/handle/20.500.11822/27346/FOR%20ALL%20Coalition.pdf?sequence=21&isAllowed=y>.

⁴ See [online] https://www.klimaat.be/files/7715/4461/3639/Gender_Equality_Declaration.pdf.

⁵ See FCCC/CP/2017/11/Add.1, decision 2/CP.23 and United Nations Framework Convention on Climate Change (UNFCCC), "Local Communities and Indigenous Peoples Platform (LCIPP)" [online] <https://unfccc.int/es/10475#eq-2>.

⁶ See decision 15/CP.18 [online] <https://unfccc.int/resource/docs/2012/cop18/eng/08a02.pdf>.

Action for Climate Empowerment enjoys significant support among the countries of the region of Latin America and the Caribbean. In addition to the fact that 21 countries of the region⁷ have designated focal points, the Lima Ministerial Declaration on Education and Awareness-raising, which stresses education, public participation and public access to information on climate change, was adopted at COP 20 in 2014.⁸ The Declaration was subsequently complemented by decision 17/CMA.1, adopted in Katowice (Poland) in 2018.⁹

5. Other contributions under UNFCCC and the Paris Agreement

The countries of Latin America and the Caribbean have also been extremely active in incorporating the human rights perspective into other areas covered by UNFCCC and the Paris Agreement. Through the Independent Association for Latin America and the Caribbean (AILAC)¹⁰ and the Alliance of Small Island States (AOSIS),¹¹ the countries of the region have requested consideration be given to human rights in general (the 2007 Malé Declaration on the Human Dimension of Global Climate Change¹² of AOSIS or the proposal for human rights language in the text of the Paris Agreement made by AILAC)¹³ and to specific matters, such as the Warsaw International Mechanism for Loss and Damage Associated with Climate Change Impacts¹⁴ or the mechanisms outlined in article 6 of the Paris Agreement.¹⁵

Meanwhile, in order to strengthen the call to action, Peru, together with France and the UNFCCC secretariat, launched the Non-State Actor Zone for Climate Action (NAZCA)¹⁶ portal that records the climate commitments of countries, regions, cities, companies, investors and other actors.

B. The regional dimension

1. The Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement): a powerful tool for climate action with a human rights-based approach

The Escazú Agreement, adopted on 4 March 2018 by 24 countries of Latin America and the Caribbean,¹⁷ was negotiated with the support of the technical secretariat, the Economic Commission for Latin America and the Caribbean (ECLAC), and the significant participation of the public. It was opened for signature and ratification by the 33 countries of the region on 27 September 2018 and requires 11 ratifications to enter into force.¹⁸

In addition to being the first regional environmental treaty of Latin America and the Caribbean, the Escazú Agreement is the only one that has been produced as a result of the United Nations Conference on Sustainable Development (UNCSD) (Rio+20) and is the first in the world to incorporate specific guarantees for a safe and enabling environment for human rights defenders in environmental matters, and for the protection and promotion of their rights.

⁷ See [online] <https://unfccc.int/topics/education-and-outreach/focal-points-and-partnerships/ace-focal-points>.

⁸ See decision 19/CP.20 [online] <https://unfccc.int/resource/docs/2014/cop20/eng/10a03.pdf>.

⁹ See decision 17/CMA.1 [online] https://unfccc.int/sites/default/files/resource/CMA2018_03a02E.pdf.

¹⁰ Comprising Chile, Colombia, Costa Rica, Guatemala, Honduras, Panama, Paraguay and Peru.

¹¹ Comprising Antigua and Barbuda, the Bahamas, Barbados, Belize, Cuba, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago.

¹² See [online] http://www.ciel.org/Publications/Male_Declaration_Nov07.pdf.

¹³ See [online] <http://ailac.org/wp-content/uploads/2014/02/AILAC-ADP-Human-Rights-submission-2015.pdf>.

¹⁴ See decision 2/CP.19 [online] <https://unfccc.int/sites/default/files/resource/docs/2013/cop19/eng/10a01.pdf>.

¹⁵ See, for example, AILAC proposals [online] <http://ailac.org/wp-content/uploads/2014/02/All-submissions-Todas-las-propuestas-2016.pdf>.

¹⁶ See [online] <https://climateaction.unfccc.int/>.

¹⁷ Antigua and Barbuda, Argentina, Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, Plurinational State of Bolivia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, and Uruguay.

¹⁸ See Economic Commission for Latin America and the Caribbean (ECLAC), Observatory on Principle 10 in Latin America and the Caribbean [online] <https://observatoriop10.cepal.org/en/treaties/regional-agreement-access-information-public-participation-and-justice-environmental> for the updated list of signatures and ratifications.

The objective of the Escazú Agreement is to guarantee the full and effective implementation in Latin America and the Caribbean of the rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters, and the creation and strengthening of capacities and cooperation, contributing to the protection of the right of every person of present and future generations to live in a healthy environment and to sustainable development.

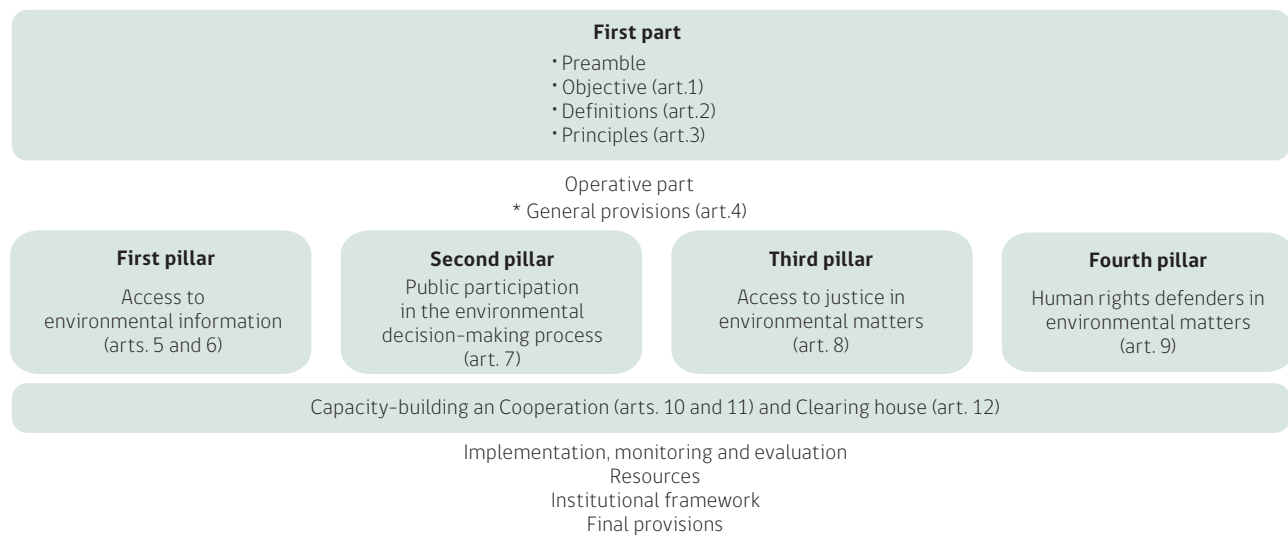
It is an unprecedented treaty in the region that, first and foremost, seeks to combat inequality and discrimination in the exercise of environmental rights by placing equality at the centre of sustainable development. As the United Nations Secretary-General, António Guterres, has stated, the Escazú Agreement “has the potential to unlock structural change and address key challenges of our times.”¹⁹ Through access to information, participation and justice, the Agreement allows the improvement of environmental management and protection in areas such as natural resource governance, biodiversity conservation, climate change, land degradation or disaster risk reduction.²⁰

The Escazú Agreement is also a key human rights agreement for climate action. In addition to expressly recognizing and setting out procedural human rights, it serves as the basis for the full exercise of substantive rights such as the right to a healthy environment, the right to life, health or food in the context of climate change. It also focuses on persons and groups in vulnerable situations, in an effort to ensure that no one is left behind.

The human rights-based approach is deeply embedded in the text as a whole (see diagram III.1). In its preamble, the Escazú Agreement establishes that access rights contribute to the strengthening of, inter alia, human rights and reaffirms the importance of the Universal Declaration of Human Rights and other international human rights instruments that underscore that all States have the responsibility to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind, including those related to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Diagram III.1

Structure of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America (Escazú Agreement)



Source: Economic Commission for Latin America and the Caribbean (ECLAC).

¹⁹ LC/PUB.2018/8/-*, p. 6.

²⁰ In a statement issued on 13 September 2018, 28 Human Rights Council mandate holders underscored that the regional treaty not only guarantees good governance and basic democratic rights but is also an enabler for environmental protection and sustainable development (see Office of the High Commissioner for Human Rights (UN Human Rights), “UN experts urge prompt ratification of landmark Latin America and Caribbean environment treaty” [online] <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23557&LangID=E>). In turn, on 15 July 2019, 17 mandate holders issued communications to the 33 countries of Latin America and the Caribbean urging them to ratify the Escazú Agreement as a matter of priority (See Office of the High Commissioner for Human Rights, Reference: OL VCT 1/2019 [online] <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24640>).

Its principles include fundamental human rights standards, notably the principles of equality and non-discrimination, non-regression and progressive realization, and *pro persona*.

Under article 4, General provisions, the Escazú Agreement states that each Party shall guarantee the right of every person to live in a healthy environment and any other universally-recognized human right related to the Agreement. Moreover, each Party shall seek to adopt the most favourable interpretation for the full enjoyment of and respect for the access rights when implementing the Agreement.

To guarantee access to environmental information, articles 5 and 6 of the Agreement establish active and passive transparency obligations. It states that the public has the right to access to environmental information in a State Party's possession, control or custody, in accordance with the principle of maximum disclosure. Pursuant to this provision, access to climate information is guaranteed, as environmental information is understood to be any information that is written, visual, audio, and electronic, or recorded in any other format, regarding the environment and its elements and natural resources, including information related to environmental risks, and any possible adverse impacts affecting or likely to affect the environment and health, as well as to environmental protection and management (art. 2). The Escazú Agreement means that the public shall have access to data and information on emissions, climate vulnerabilities and other information related to climate observations and the risks associated with climate change, among other things.

The Escazú Agreement sets out standards and specific conditions to access climate information. The right of access to environmental information includes requesting and receiving information from competent authorities without mentioning any special interest or explaining the reasons for the request, thus ensuring equality of treatment and non-discrimination. Competent authorities shall respond to requests for environmental information as quickly as possible and within a period not longer than 30 business days from the date of receipt of the request, or less if so stipulated in domestic legislation. To facilitate access, environmental information shall be disclosed at no cost, insofar as its reproduction or delivery is not required. Reproduction and delivery costs shall be reasonable and made known in advance, and payment can be waived in the event that the applicant is deemed to be in a vulnerable situation or to have special circumstances warranting such a waiver.

In addition, the Escazú Agreement also promotes the generation and proactive dissemination of climate information, such as sources related to CO₂ emissions. Article 6 states that each Party shall guarantee, to the extent possible within available resources, that the competent authorities generate, collect, publicize and disseminate environmental information relevant to their functions in a systematic, proactive, timely, regular, accessible and comprehensible manner. Each Party shall have in place one or more up-to-date environmental information systems, which may include, inter alia, a list of polluted areas; scientific, technical or technological reports; and climate change sources. Furthermore, each Party shall take steps to establish a pollutant release and transfer register covering air, water, soil and subsoil pollutants, as well as materials and waste in its jurisdiction. Of particular importance for the management of disasters is the provision that the relevant competent authority shall immediately disclose and disseminate through the most effective means all pertinent information in its possession that could help the public take measures to prevent or limit potential damage. Moreover, each Party shall develop and implement an early warning system using available mechanisms.

The Agreement also strengthens public participation in climate issues from a rights perspective. Pursuant to article 7, each Party shall ensure the public's right to participation and, for that purpose, commits to implement open and inclusive participation in environmental decision-making processes, which includes those related to climate change. To this end, each Party shall guarantee mechanisms for the participation of the public in decision-making processes, revisions, re-examinations or updates with respect to projects and activities, and in other processes for granting environmental permits that have or may have a significant impact on the environment, as well as other environmental decision-making processes with respect to environmental matters of public interest. This includes climate change and carbon neutrality policies, plans and strategies, as well as the preparation, updating and follow-up of the NDCs.

Parties shall adopt measures to ensure that the public can participate in the decision-making process from the early stages, so that due consideration can be given to the observations of the public. To that effect, each Party shall provide the public with the necessary information in a clear, timely and comprehensive manner, to give effect to its right to participate in the decision-making process. Reasonable timeframes will be provided, and processes shall be adapted to the social, economic, cultural, geographical and gender

characteristics of the public. Public authorities shall also make efforts to identify the public directly affected by projects or activities that have or may have a significant impact on the environment and shall promote specific actions to facilitate their participation.

Regarding access to justice, the Escazú Agreement also offers important tools in the context of climate change. According to article 8, each Party shall guarantee access to judicial and administrative mechanisms to challenge and appeal, with respect to substance and procedure any decision, action or omission related to the access to environmental information and to public participation in the decision-making process, as well as any other decision, action or omission that affects or could affect the environment adversely or violate laws and regulations related to the environment. In turn, considering its circumstances, each Party shall have competent State entities with access to expertise in environmental matters; effective, timely, public, transparent and impartial procedures that are not prohibitively expensive; broad active legal standing in defence of the environment; the possibility of ordering precautionary and interim measures; measures to facilitate the production of evidence of environmental damage, when appropriate and as applicable, such as the reversal of the burden of proof and the dynamic burden of proof; and mechanisms for redress, where applicable.

Considering the underlying inequality in the region with regard to climate change, both in terms of its impact and the ability to adapt and respond to its effects, the special attention paid to persons and groups in vulnerable situations in the Escazú Agreement is particularly relevant. Article 2 defines persons or groups in vulnerable situations as those persons or groups that face particular difficulties in fully exercising the access rights recognized in the Agreement, because of circumstances or conditions identified within each Party's national context and in accordance with its international obligations. In addition to the general provision to ensure that guidance and assistance is provided to the public—particularly those persons or groups in vulnerable situations—in order to facilitate the exercise of their access rights, the Agreement contains specific measures for these persons and groups under each right.

For example, on access to environmental information, each Party shall endeavour, where applicable, to ensure that the competent authorities disseminate environmental information in the various languages used in the country, and prepare alternative formats that are comprehensible to those groups, using suitable channels of communication. Under public participation in the environmental decision-making processes, the public authorities shall make efforts to identify and support persons or groups in vulnerable situations in order to engage them in an active, timely and effective manner in participation mechanisms. In order to facilitate access to justice in environmental matters for the public, each Party shall establish, inter alia, measures to minimize or eliminate barriers to the exercise of the right of access to justice. Each Party shall also meet the needs of persons or groups in vulnerable situations by establishing support mechanisms, including, as appropriate, free technical and legal assistance.

Another core pillar of the Agreement is the protection and promotion of the rights of human rights defenders in environmental matters, which includes climate activists and defenders. Under article 9, each Party shall guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity. Likewise, adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters shall be taken. Each Party shall also take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that human rights defenders in environmental matters may suffer while exercising the rights set out in the Agreement. Additionally, article 4 provides that States shall guarantee an enabling environment for the work of persons, associations, organizations or groups that promote environmental protection, by recognizing and protecting them.

2. The link between human rights and climate change in the inter-American human rights system

The inter-American human rights system has been instrumental in developments linking human rights and environmental issues, including climate change. Environmental issues have been not only incorporated into important inter-American multilateral human rights treaties, but also brought to the fore by the establishment of the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights of the Inter-American Commission on Human Rights (IACHR).

The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) states in its article 11 that everyone shall have the right to live in a healthy environment, and that the States Parties shall promote the protection, preservation and improvement of the environment.²¹

In turn, the Inter-American Convention on Protecting the Human Rights of Older Persons also, recognizes older persons' right to live in a healthy environment. To that end, States Parties shall adopt appropriate measures to safeguard and promote the exercise of this right, inter alia to foster the development of older persons to their full potential in harmony with nature; and to ensure access for older persons, on an equal basis with others, to basic public drinking water and sanitation services, among others (article 25).²²

The General Assembly of the Organization of American States has also analysed the relationship between climate change and human rights. In 2008, it adopted resolution AG/RES. 2429 (XXXVIII-O/08) on human rights and climate change in the Americas,²³ which emphasizes that climate change is a shared concern of all humankind, and that its effects have an impact on sustainable development and could have consequences for the full enjoyment of human rights.

For its part, IACHR has received two petitions related to climate change to date. The first one was filed in 2005 by an Inuk woman and Chair of the Inuit Circumpolar Conference against the United States, for relief from human rights violations resulting from global warming caused by government acts and omissions. The petition called for the adoption of mandatory measures to limit the United States' emissions of greenhouse gas; for the impacts of United States' greenhouse gas emissions on the Arctic to be taken into account; and for the establishment and implementation of a plan, resources and assistance to enable the Inuit to adapt to the impacts of climate change. The Commission dismissed the claim as not enough information had been provided to determine the facts. The second petition was filed against Canada by the Athabaskan Arctic Council (AAC) in 2013. The AAC claim argued that the lack of effective regulation of black carbon emissions violated the human rights of Arctic Athabaskan peoples, including their rights to culture, property and health and their means of livelihood.

Meanwhile, the Inter-American Court of Human Rights issued Advisory Opinion OC-23/17 on 15 November 2017 at the request of the Republic of Colombia,²⁴ in which it analyses the relationship between the environment and human rights. The Court not only emphasizes the interdependence and indivisibility between human rights, the environment and sustainable development, but also stresses that the adverse effects of climate change affect the real enjoyment of human rights. All human rights are vulnerable to environmental degradation, in that the full enjoyment of all human rights depends on a supportive environment. In addition, the Court recognizes that environmental damage will be experienced with greater force in the sectors of the population that are already in a vulnerable situation.

The Court considers that the substantive rights that are particularly vulnerable to environmental impact include the rights to life, personal integrity, health, water, food, housing, participation in cultural life, property, and the right to not be forcibly displaced. It also notes that procedural rights, such as access to information, public participation in decision-making or access to an effective remedy, help States to guarantee substantive rights and meet their obligations. In this regard, the Court welcomes the Escazú Agreement as a positive instrument to safeguard environmental rights (para. 218).

Another salient aspect of the advisory opinion is the Court's analysis of the scope of the term jurisdiction under article 1.1 of the American Convention on Human Rights and States' obligations in environmental matters. In this regard, the Court recalls that "jurisdiction" encompasses a broader concept that is not limited to the national territory of a State but contemplates circumstances in which the extraterritorial conduct of a State constitutes an exercise of its jurisdiction (para. 78). Therefore, a State is responsible not only for acts

²¹ See OAS, "Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights 'Protocol of San Salvador'" [online] <http://www.oas.org/juridico/english/treaties/a-52.html>.

²² See OAS, "Inter-American Convention on Protecting the Human Rights of Older Persons" [online] http://www.oas.org/en/sla/dil/inter_american_treaties_A-70_human_rights_older_persons.asp.

²³ See OAS, 2008 [online] <http://www.oas.org/consejo/GENERAL%20ASSEMBLY/Resoluciones-Declaraciones.asp>.

²⁴ See [online] http://www.corteidh.or.cr/docs/opiniones/seriea_23_ing.pdf.

and omissions within its territory, but also for those within its territory that could have effects on the territory or inhabitants of another State (para. 94), which is especially important in the context of climate change. In turn, the American Convention on Human Rights obliges States to take actions to prevent eventual human rights violations, therefore the obligation of prevention applies to damages that may occur within or outside the territory of the State of origin (para. 133).

The Court concludes that, in order to respect and ensure the rights to life and integrity of the persons subject to their jurisdiction, States have the obligation to prevent significant environmental damage, within or outside their territory, and, to this end, must regulate, supervise and monitor activities within their jurisdiction that could produce significant environmental damage; conduct environmental impact assessments when there is a risk of significant environmental damage; prepare a contingency plan to establish safety measures and procedures to minimize the possibility of major environmental accidents; and mitigate any significant environmental damage that may have occurred (pp. 93–94).

C. The national dimension

1. Climate change in the constitutions of Latin American and Caribbean countries

As the supreme law of the land, the constitutions of Latin American and Caribbean countries are sources of primary law that necessarily underpin the link between human rights and climate change at the domestic level.

Although the number and scope of legal measures and policies on climate change has increased significantly in the region since the issue was recognized at the global level —particularly following the adoption of the United Nations Framework Convention on Climate Change (UNFCCC) in 1992—, the inclusion of climate terminology into constitutional frameworks is relatively recent. Currently, there are express references to climate change in just five of the 33 constitutions of Latin America and the Caribbean, namely those of the Bolivarian Republic of Venezuela, Cuba, the Dominican Republic, Ecuador and the Plurinational State of Bolivia. However, these represent 42% of all national constitutions around the world that contain the words “climate change” or “climate”. As can be seen in table III.2, globally, a total of 12 countries include these references in their constitutions.

Table III.2

Constitutions that contain express references to climate change

Country	Year of enactment (reform)
Bolivia (Plurinational State of)	2009
Côte d'Ivoire	2016
Cuba	2019
Dominican Republic	2015
Ecuador	2008 (2015)
Nepal	2015 (2016)
Sri Lanka	1978 (2015)
Thailand	2017
Tunisia	2014
Venezuela (Bolivarian Republic of)	1999 (2009)
Viet Nam	1992 (2013)
Zambia	1991 (2016)

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of the Constitute Project, [online database] <http://constituteproject.org>.

The references to climate change contained in the constitutions of the region are set out below:

Plurinational State of Bolivia

“Article 407. The objectives of the State’s comprehensive rural development policy, in coordination with autonomous and decentralized territorial entities, are to: [...] 4. Protect agricultural and agro-industrial production against natural disasters and severe weather, geological and other events. The law will provide for the creation of an agricultural insurance.”

Cuba

“Article 16. The Republic of Cuba bases international relations on the exercise of its sovereignty and anti-imperialist and internationalist principles, in accordance with the interests of the people and, consequently: [...] (f) promotes the protection and conservation of the environment and the fight against climate change, which threatens the survival of the human species, based on the recognition of common but differentiated responsibilities, the establishment of a fair and equitable international economic order, and the eradication of illogical patterns of production and consumption; (g) defends and protects the enjoyment of human rights and repudiates any manifestation of racism or discrimination”.

Ecuador

“Article 413. The State shall promote energy efficiency, the development and use of environmentally clean and healthy practices and technologies, as well as renewable, diversified, low-impact energy that does not put at risk food sovereignty, the ecological balance of ecosystems or the right to water.

Article 414. The State shall adopt appropriate, cross-cutting measures to mitigate climate change, by limiting greenhouse gas emissions, deforestation and air pollution; it shall take measures for the conservation of forests and vegetation, and shall protect the population at risk.

Article 415. The central State and the decentralized autonomous governments shall adopt integral and participatory urban land-use planning and land use policies that regulate urban growth, urban wildlife management and encourage the establishment of green areas. Decentralized autonomous governments shall develop programmes for the rational use of water, and for reducing, recycling and the adequate treatment of solid and liquid wastes. Non-motorized land transport shall be encouraged and facilitated, especially through the establishment of bicycle lanes.”

Dominican Republic

“Article 194. Land-use plan. It is a priority of the State the formulation and execution, by law, of a land-use plan that ensures the efficient and sustainable use of the natural resources of the Nation, in line with the need for adaptation to climate change.”

Bolivarian Republic of Venezuela

“Article 127. It is a right and a duty of each generation to protect and maintain the environment for its benefit and for the future. Everyone has the right, individually and collectively, to enjoy a safe, healthy and ecologically balanced life and environment. The State shall protect the environment, biological diversity, genetic resources, ecological processes, national parks and natural monuments and other areas of special ecological importance. The genome of living beings cannot be patented. The law on bioethical principles shall regulate matter.

It is a fundamental obligation of the State, with the active participation of society, to ensure that the population lives in an environment free of pollution, where air, water, soils, coasts, climate, the ozone layer, living species, are afforded particular protection, in accordance with the law.”

In addition to the express references to climate change in those national constitutions, the region of Latin America and the Caribbean is also leading the way with regard to constitutional recognition of the right to a healthy environment. The right to a healthy environment is not only expressly established in regional instruments such as the Escazú Agreement (articles 1 and 4.1) and the Protocol of San Salvador (article 11), but is also recognized in the constitutions of 20 countries of the region (see map III.1).

Map III.1

Latin America and the Caribbean: constitutional treatment of the right to live in a healthy environment



Source: Economic Commission for Latin America and the Caribbean (ECLAC), Observatory on Principle 10 in Latin America and the Caribbean [online] <https://observatoriop10.cepal.org/>.

Note: The boundaries and names shown on this map do not imply official endorsement or acceptance by the United Nations.

2. Human rights in climate change legal frameworks in Latin America and the Caribbean²⁵

Another means by which the countries of Latin America and the Caribbean have accelerated their action against climate change at the national level is through the adoption of specific legal frameworks on climate change. Such laws build on and complement general environmental legislation that exists in most of the countries of the region, some of which explicitly addresses the issue of climate change.

a) Climate change legislation

Climate change legislation has proven to be an extremely useful tool to establish national climate change systems, policies and plans; create climate governance bodies (such as national councils or committees); and regulate environmental and climate instruments (such as financial and market instruments). They have also served to enhance and prioritize the issue of climate change in State action. Climate legislation in the region has given greater prominence to climate change in the domestic sphere and helps to strengthen policy coordination and coherence among different governmental and non-governmental stakeholders.

As map III.2 and diagram III.2 show, nine Latin American and Caribbean countries have adopted climate-related laws in recent years, namely: Brazil (2009), Mexico (2012), Guatemala (2013), Honduras (2014), Paraguay (2017), Colombia (2018), Dominica (2018), Peru (2018) and Argentina (2019).²⁶ At the same time, the following countries are examining bills or draft bills, or are at least discussing the possibility of having specific laws on this matter: Chile, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Grenada, Nicaragua, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago.

²⁵ The legislation referred to can be consulted at the Observatory on Principle 10 in Latin America and the Caribbean of ECLAC [online] <https://observatoriop10.cepal.org/en>.

²⁶ The National Congress of Argentina passed the Minimum Standards for Climate Change Adaptation and Mitigation Act on 20 November 2019. It will enter into force once published in the Official Gazette of Argentina.

Map III.2

Latin America and the Caribbean: countries with climate change laws

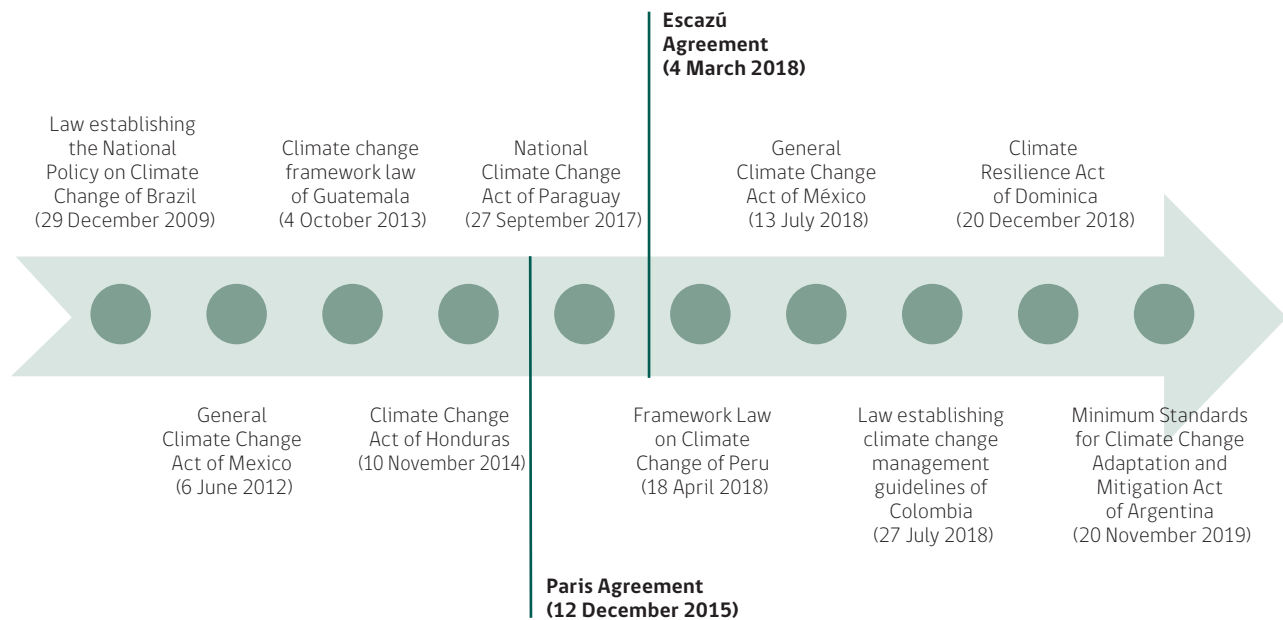


Source: Economic Commission for Latin America and the Caribbean (ECLAC), Observatory on Principle 10 in Latin America and the Caribbean [online] <https://observatoriop10.cepal.org/>.

Note: The boundaries and names shown on this map do not imply official endorsement or acceptance by the United Nations.

Diagram III.2

Latin America and the Caribbean: timeline of national climate change legislation



Source: Economic Commission for Latin America and the Caribbean (ECLAC).

At the regional level, the framework law on climate change,²⁷ adopted by the Latin American and Caribbean Parliament in 2011, is noteworthy. Touching on adaptation, vulnerability management and mitigation actions associated with climate change, it constitutes a guide and reference for future legislative developments.

The human rights-based approach is a crucial conceptual framework for climate legislation in the region. When analysing inequalities and obligations regarding climate action, this approach not only mainstreams human rights principles and standards into the law, but also focuses on rights, prioritizes processes and results, and pays particular attention to the groups most vulnerable to climate change and environmental degradation.

As table III.3 shows, four out of the nine climate laws in force in the region include an explicit reference to human rights in their text. In addition, all of them include references to specific human rights or elements of a human rights-based approach.

Table III.3

Latin America and the Caribbean: references to human rights in climate legislation

Country	Act	Includes the term "human rights"	References to specific human rights or elements of a human rights-based approach
Argentina	Minimum Standards for Climate Change Adaptation and Mitigation Act		<ul style="list-style-type: none"> • Focus on vulnerability • Right to information • Right to participation • Right to education • Right to health
Brazil	Law No. 12,187 of 2009, establishing the National Policy on Climate Change		<ul style="list-style-type: none"> • Focus on vulnerability • Right to information • Right to participation • Right to education • Right to health
Colombia	Law No. 1931 of 2018, establishing climate change management guidelines		<ul style="list-style-type: none"> • Focus on vulnerability • Right to information • Right to participation
Dominica	Climate Resilience Act (No. 16 of 2018)	X	<ul style="list-style-type: none"> • Focus on vulnerability • Right to information • Right to participation • Gender • Rights of indigenous peoples • Rights of persons with disabilities
Guatemala	Framework law to regulate the reduction of vulnerability and the mandatory adaptation to the effects of climate change, and the mitigation of greenhouse gases (Decree No. 7-2013)	X	<ul style="list-style-type: none"> • Focus on vulnerability • Right to a healthy environment • Right to information • Right to participation • Gender • Rights of indigenous peoples • Right to education • Right to health • Right to food • Right to water
Honduras	Climate Change Act (Decree No. 297-2013)		<ul style="list-style-type: none"> • Focus on vulnerability • Equality and non-discrimination • Right to a healthy environment • Right to information • Right to participation • Right to education • Right to health
Mexico	General Climate Change Act (2012)	X	<ul style="list-style-type: none"> • Focus on vulnerability • Right to a healthy environment • Right to information • Right to participation • Access to justice • Right to education • Right to health • Right to food • Right to water

²⁷ See Latin American and Caribbean Parliament, "Ley Marco sobre Cambio Climático" (Spanish only), 2011 [online] http://parlatino.org/pdf/leyes_marcos/leyes/ley-cambio-climatico-pma-2-dic-2011.pdf.

Table III.3 (concluded)

Country	Act	Includes the term "human rights"	References to specific human rights or elements of a human rights-based approach
Paraguay	Law No. 5875/17 on Climate Change		<ul style="list-style-type: none"> • Focus on vulnerability • Equality and non-discrimination • Right to information • Right to participation
Peru	Framework Law No. 30754 of 2018 on Climate Change	X	<ul style="list-style-type: none"> • Focus on vulnerability • Equality and non-discrimination • Right to information • Right to participation • Gender • Rights of indigenous peoples • Right to education • Right to health • Right to food • Right to water • Right to cultural life

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of legislation of the respective countries.

Below are some of the relevant aspects from a human rights perspective from each of the climate laws of the region:

Argentina

The Minimum Standards for Climate Change Mitigation and Adaptation Act is the most recent climate law in the region. Approved on 20 November 2019, it seeks to lay the foundations for proper climate change management and, in particular, the design and implementation of climate change mitigation and adaptation policies, actions, instruments and strategies. It promotes compliance with the General Environment Act, Law No. 25,675, and the implementation of UNFCCC, the Paris Agreement and meet Argentina's NDC. To this end, it applies the principles of the General Environment Act (such as intergenerational equity, solidarity and cooperation) and UNFCCC.

The Act formalizes climate change policy and management instruments, including the climate change response plans of the different jurisdictions; the National Climate Change Response Plan; the national greenhouse gas inventory and monitoring of mitigation measures system; the national information system on climate change vulnerability, impacts and adaptation; the National Cabinet for Climate Change; and environmental education and awareness-raising mechanisms to change habits and move towards sustainable consumption patterns.

The Act states that climate change response plans must be developed through a participatory process and must include certain information such as the baseline and pattern of greenhouse gas emissions or the diagnosis and analysis of impacts, vulnerability and capacity to adapt considering current and future climate change scenarios. The plans must also include schemes for the governance and participation of the various sectors in the definition and implementation of adaptation and mitigation measures.

Meanwhile, the functions of the National Cabinet of Climate Change include designing participatory processes and promoting awareness of climate change through educational and cultural activities that help to educate the public and raise awareness by encouraging their participation. The Cabinet's round tables will have a broad membership, allowing the public and private sectors, workers, civil society, academia, subnational entities and others to interact, report, receive inputs and share the Cabinet's work plan, progress and results.

Brazil

The 2009 law establishing the National Climate Change Policy²⁸ was the first climate law adopted in the region. In addition to establishing that Policy, it sets out its principles, objectives, guidelines and instruments. It also includes the voluntary commitment to reduce projected emissions from 36.1% to 38.9% by 2020 and sectoral adaptation and mitigation plans and measures in areas such as health, energy, agriculture, mining and transportation.

²⁸ See [online] <https://www2.camara.leg.br/legin/fed/lei/2009/lei-12187-29-dezembro-2009-599441-publicacaooriginal-121756-pl.html>.

The National Policy will be guided by the principle of citizen participation, acting for the sake of present and future generations to reduce the impacts of anthropogenic interference with the climate system.

In addition, adopted measures shall take into consideration the different socioeconomic contexts of their application, distribute the resulting financial burdens across economic sectors and populations and communities concerned in an equitable and balanced way. It also states that sustainable development is the key to addressing climate change while reconciling it with meeting the common and particular needs of the population and communities.

The objectives of the National Policy shall be in line with sustainable development with the purpose of seeking economic growth, the eradication of poverty and the reduction of social inequalities. Adaptation measures will be implemented with the participation and collaboration of relevant economic and social agents or beneficiaries, particularly those especially vulnerable to the adverse effects of climate change.

One of the Policy's guidelines is the encouragement and support for the participation of the federal, state, district and municipal levels of government, as well as the production sector, academia and civil society organizations, in the development and implementation of policies, plans, programmes and actions related to climate change. Another is promoting the dissemination of information, education and capacity-building on and public awareness of climate change.

Colombia

Law No. 1931 establishing climate change management guidelines of Colombia,²⁹ provides guidelines for climate change management with regard to the decisions of public and private actors, and fosters the engagement of the State, departments, municipalities, districts, metropolitan areas and environmental authorities principally in climate change adaptation and mitigation actions, with the objective of reducing the vulnerability of the country's population and ecosystems to the effects of climate change and promoting the transition towards a competitive, sustainable economy and low carbon development.

Its principles include self-management, joint responsibility and responsibility, which state that all natural or legal persons, whether public or private, have the responsibility to participate in climate change management and shall contribute to the fulfilment of the climate commitments undertaken by the country. Under the cost-benefit principle, priority shall be given to implementing climate change adaptation options that will offer the greatest benefit in terms of reducing impacts on the population for the lowest cost or effort invested, and that generate greater social, economic or environmental co-benefits.

The law defines vulnerability as physical, economic, social, environmental or institutional susceptibility or liability to suffering adverse effects when a physical event associated with a hydroclimatological phenomenon occurs. It corresponds to the propensity to suffer losses of or damages to human beings and their livelihoods, as well as to the deterioration of ecosystems, biodiversity, ecosystem services, water resources, and physical, social, economic and support systems that can be affected (article 3).

In addition, the law establishes the National Climate Change Information System, which will provide transparent and consistent data and information over time for evidence-based decision-making related to climate change management.

It also creates the National Climate Change Council as a permanent consultative body of the Intersectoral Commission on Climate Change (CICC), to provide advice on decision-making, in order to establish effective connections with unions, social organizations, the fifth commissions of Congress and academia on climate change management. The Council will comprise representatives of trade unions, non-governmental organizations (NGOs) working on climate change issues, academia, international development and cooperation organizations, and Congress.

²⁹ See [online] <http://es.presidencia.gov.co/normativa/normativa/LEY%201931%20DEL%2027%20DE%20JULIO%20DE%202018.pdf>.

Dominica

The Dominica Climate Resilience Act³⁰ provides for the establishment of the Climate Resilience Execution Agency of Dominica (CREAD), in order to rebuild the country as the first climate-resilient nation. It seeks to ensure that Dominica will be more resilient to natural hazards and better able to respond to, manage and recover from climate-related disasters.

The Act states that it is desirable that due regard be had to applying the principles of gender equality in the structure and operation of CREAD, and it is understood that “gender equality” means that women, men, girls and boys enjoy the same human rights status, have equal opportunities, equal access to and control over resources and equal participation in decision making.

On access to information, one function of CREAD is to promote the development of Dominica as a climate-resilient nation by disseminating relevant information, and one of its duties is to provide publicly accessible web-based and other monitoring of the progress of projects.

CREAD shall serve the interests of the nation as a whole, giving due consideration to the needs of persons who are vulnerable on account of their age, gender or disability, and it shall operate to the highest standards of transparency, gender-inclusiveness and community engagement. That engagement includes discussions with representatives of indigenous peoples, NGOs, women, persons with disabilities and the elderly.

CREAD shall ensure that: there is community engagement in the design, implementation and evaluation of all projects managed by it; public consultations are held for communities affected by large scale infrastructure projects; and it holds stakeholders’ forum meetings at least twice a year to engage in dialogue with, and receive feedback from, civil society, the private sector, and other interested individuals.

Guatemala

The main purpose of the framework law³¹ to regulate the reduction of vulnerability and the mandatory adaptation to the effects of climate change, and the mitigation of greenhouse gases of Guatemala is to adopt practices that foster conditions in the country to reduce vulnerability to, improve capacities for adaptation to and allow the development of proposals to mitigate the effects of climate change caused by greenhouse gas emissions.

It recognizes that, pursuant to the Universal Declaration of Human Rights, the American Convention on Human Rights and its Additional Protocol on Human Rights in the Area of Economic, Social and Cultural Rights, the ideal human being can only be realized if the conditions that allow each person to enjoy their economic, social and cultural rights, such as the human right to a healthy and ecologically balanced environment, are created. In addition, the framework law expressly sets out the obligation to guarantee the right to health and food, among others, in accordance with the country’s commitments to address the effects of climate change arising from its ratification of various environmental treaties.

Comprehensiveness, cultural identity and participation are some of the guiding principles of the framework law. As a result, cultural and ethnic elements as well as a gender perspective should be considered in the design of plans, programmes and actions; pertinent traditional and ancestral practices for the use and management of natural resources that contribute to the adaptation to the impacts of climate change and the mitigation of greenhouse gas emissions should be identified and promoted; and the broadest participation of citizens and organizations, including that of the different peoples, should be fostered in the design of climate change plans, programmes and actions.

The law creates the National Climate Change Information System, which all public and private entities must provide with information directly related to climate change, especially in terms of greenhouse gas emissions and their reduction, and vulnerability and adaptation to climate change, as requested by the Ministry of the Environment and Natural Resources, needed for mandated national reports.

³⁰ See [online] <http://www.dominica.gov.dm/laws/2018/Climate%20Resilience%20Act%202018.pdf>.

³¹ See [online] <http://www.marn.gob.gt/Multimedios/2682.pdf>.

The right to participation is channelled through the National Council on Climate Change, a regulatory body with public and private participation, including representatives of indigenous and *campesino* organizations, trade unions, municipalities, environmental NGOs and academia. The National Council and the Secretariat for Planning and Programming of the Office of the President (SEGEPLAN) will work together to develop a National Action Plan for Climate Change Adaptation and Mitigation.

The law calls for strategic and operational plans to be drawn up as a matter of priority on human health, coastal marine areas, and agriculture, livestock and food security. With regard to human health, climate change should be taken into account in plans to improve efforts to prevent and reduce vector diseases that may increase as a result of climate variability, by taking advantage of new technologies and ancestral and traditional knowledge. In coastal marine areas, efforts will be focused on minimizing the impacts caused by climate variability and change on the most vulnerable and at-risk populations. Regarding agriculture, livestock and food security, plans will be put in place to allow the Guatemalan agricultural sector to adapt to the variability and effects of climate change, taking into account the scenarios and effects of climate change.

The rights of indigenous peoples are considered in article 16 on production practices relevant to climate change adaptation, which states that natural or legal persons providing services and producing goods shall consider climate variability and change, as well as the specific conditions of the different regions, including relevant traditional and ancestral knowledge, using appropriate technologies that are clean, environmentally-friendly and will not harm the ecological and biophysical conditions of the country. Likewise, they shall adopt new practices, including those rooted in traditional and ancestral knowledge, that allow production that is resilient to climate change, ensure that the country's population has basic foodstuffs and minimize soil degradation.

Article 23 on education, dissemination and public awareness states that all public institutions, where appropriate, shall promote and facilitate strategic actions to disseminate information on, raise public awareness of and educate the public about the impacts of climate change, which will encourage the population, in their different roles, to participate conscientiously and proactively, given the imminent danger to their physical integrity, production capacity, health, heritage and development.

Honduras

The Climate Change Act³² of Honduras establishes the principles and regulations needed to plan for, prevent and respond to the impacts of climate change in an adequate, coordinated and sustained manner.

Some of its principles include those of transparency and accountability, social equity, climate risk culture and participation. According to the principle of transparency and accountability, the institution responsible for implementing climate adaptation policies is required to inform all citizens, taking into account the process of accountability established in the Constitution. Under social equity, the competent authority, in all its initiatives, must prioritize the most socially vulnerable groups in the implementation of adaptation policies. With regard to the climate risk culture, the State is responsible for training its population to manage climate risks in its territory and, pursuant to the principle of participation, for ensuring citizen participation in environmental conservation, protection and restoration activities.

The specific objectives of the Act include: (i) guaranteeing the right of the population to a healthy environment; (ii) reducing the vulnerability of the country's population and ecosystems to the adverse effects of climate change; (iii) developing education, research, development and technology transfer programmes on climate change and adaptation, in coordination with public and private universities; and (iv) establishing the basis for public consultations.

To channel the right to public participation, the Act creates the Inter-Agency Committee on Climate Change, composed of, among others, members of civil society organizations working on the issue that may be convened at the discretion of the Committee. The Committee's functions include formulating the national policy on climate change, to be submitted to the Executive for consideration and approval, and approving the implementation guidelines for plans, strategies, programmes and projects for climate change mitigation and adaptation measures. The Committee shall promote and facilitate, at the national, regional and local levels,

³² See [online] https://observatoriop10.cepal.org/sites/default/files/documents/hn_-_ley_del_cambio_climatico_y_otros_decretos.pdf.

strategic actions to disseminate information on, raise public awareness of and educate the public about the impacts of climate change, which will encourage the population, in their different roles, to participate conscientiously, socially and proactively.

The Act also creates an Inter-Agency Technical Committee on Climate Change, as a permanent support and consultation body composed of, among others, members of civil society organizations working on climate change matters that may be convened at the discretion of the Technical Committee.

Mexico

Mexico's General Climate Change Act³³ establishes a legal framework to regulate public climate change adaptation and mitigation policies.

The law seeks to guarantee the right to a healthy environment and establish the coordinated responsibilities of the State, federal entities and municipalities in the development and implementation of public policies on climate change adaptation and the mitigation of greenhouse gas emissions. It also seeks to reduce the vulnerability of the country's population and ecosystems to the adverse effects of climate change, as well as to create and strengthen national capacities to respond to the phenomenon; to promote education, research, development and the transfer of technology and innovation and dissemination in terms of climate change adaptation and mitigation; and to establish the basis for public consultations.

Of particular importance is the clear link the Act establishes between human rights and climate change. In this regard, article 26 states that when adopting measures to address climate change, human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations, the right to development, gender equality, women's empowerment and intergenerational equity must be fully respected.

With regard to the institutional framework, the Act creates the Climate Change Council as a permanent advisory body of the Interministerial Commission on Climate Change. The Council will be composed of at least 15 members from the social, private and academic sectors, with recognized achievements and experience with regard to climate change. The Council's functions will include promoting informed and responsible social participation, through public consultations determined in coordination with the Interministerial Commission.

Other noteworthy provisions are the National Emissions Registry, which must be publicly accessible, the national risk atlas and the vulnerability atlases and the Climate Change Fund. The resources of the Climate Change Fund will be allocated to, among other things, climate change adaptation actions that prioritize social groups located in the most vulnerable areas of the country; and education, sensitization, awareness-raising and information dissemination programmes in order to move towards a low carbon economy and climate change adaptation.

With regard to access to information, the different levels of government should facilitate and promote public awareness, by making information on climate change available. Article 76 of the Act also establishes an Information System on Climate Change, under the aegis of National Institute of Statistics and Geography, to generate a set of key indicators that will form the basis for the preparation of reports on climate change adaptation and mitigation. In this connection, article 106 provides that every person is entitled to have access to information requested on climate change and put at his or her disposal by the relevant authorities, including the Interministerial Commission, the Climate Change Council and the Information System on Climate Change, in accordance with the law.

The Act also establishes promoting education and spreading a culture of combating climate change at all educational levels, as well as carrying out education and information campaigns to raise public awareness about the causes and effects of climate change as responsibilities of the State.

Authorities at the federal and state level must promote responsible social participation, by listening to and meeting the needs of the public and private sectors and society in general. This includes in the formulation of the National Strategy, plans and programmes and in the planning, execution and monitoring of the National Climate Change Policy.

³³ See [online] http://www.diputados.gob.mx/LeyesBiblio/pdf/LGCC_130718.pdf.

Article 60 states that the participation and consultation of the social and private sector will be fostered in the preparation of the National Strategy, so that people can express their views during its drafting, updating and implementation, in accordance with the provisions of the Planning Act and other applicable regulations.

With regard to the planning, implementation and monitoring of the National Climate Change Policy, article 110 states that the Interministerial Commission must: (i) invite organizations of the social and private sectors to put forward their opinions and proposals regarding climate change adaptation and mitigation; (ii) enter into agreements with social and private environmental organizations; (iii) recognize the most outstanding efforts of society to tackle the adverse effects of climate change; and (iv) undertake actions and investments with the social and private sectors to implement climate change adaptation and mitigation measures.

The principles of the National Policy include joint responsibility between the State and society in general, a comprehensive and cross-cutting nature, citizen participation, and transparency and access to information and justice. The different levels of government should facilitate and promote the awareness of the population, by making information on climate change available and providing effective access to the relevant judicial and administrative procedures in accordance with the applicable legal provisions.

Meanwhile, article 33 sets out the objectives of public mitigation policies, which include promoting environmental protection, sustainable development and the right to a healthy environment by mitigating emissions; and promoting the participation of the social, public and private sectors in the design, development and implementation of those policies.

Paraguay

The purpose of the Climate Change Act³⁴ of Paraguay is to establish the general regulatory framework for planning and responding to the impacts of climate change in an urgent, appropriate, coordinated and sustained manner. Its purpose is to contribute to the implementation of actions that reduce vulnerability, improve adaptation capacities and allow for the development of mitigation proposals.

The Act's guiding principles are those established in UNFCCC. As a result, it applies the principles of intergenerational equity, comprehensiveness, the need to take into account the different socioeconomic contexts and the right to sustainable development. In addition, it embraces the principles of the National Environmental Policy, the National Climate Change Policy and the other general principles of environmental law recognized in judicial decisions and by scholars. The principles of subsidiarity (ensuring that decisions are taken as closely as possible to the citizen), sustainability, transparency, equity and solidarity (actions that benefit everyone equally) are to be highlighted in this regard.

In relation to access to information, the Act creates the National Climate Change Directorate, which, among other functions, shall promote the exchange of scientists with research and secondary and higher education institutions, both at the national and international levels; and publish and disseminate catalogues, manuals, articles and technical reports on its work in its areas of expertise.

The Act also provides for the creation of the National Climate Change Commission as an inter-institutional, collegiate, deliberative and consultative body of the National Climate Change Policy. The Commission shall be composed of representatives from, among other institutions, the Ministry of Women's Affairs, the Ministry of Public Health and Social Welfare, the National Institute for Indigenous Affairs, the Ministry of Education and Science, the Paraguayan network of environmental NGOs and universities, and could be expanded to include new members.

Peru

The Framework Law on Climate Change³⁵ of Peru fosters the comprehensive, participatory and transparent management of climate change adaptation and mitigation measures in order to reduce the country's vulnerability to climate change, take advantage of opportunities for low carbon growth and comply with the State's international commitments under UNFCCC, with an intergenerational approach.

³⁴ See [online] <http://www.bacn.gov.py/leyes-paraguayas/8712/ley-n-5875-nacional-de-cambio-climatico>.

³⁵ See [online] <https://busquedas.elperuano.pe/normaslegales/ley-marco-sobre-cambio-climatico-ley-n-30754-1638161-1/>.

Its principles include mainstreaming, subsidiarity, accountability, transparency, participation and climate governance:

- Principle of mainstreaming. State action to combat climate change must be mainstreamed and multilevel. Action shall be planned with the input of different sectors and actors, incorporating a comprehensive vision and promoting the involvement of the private sector, civil society and indigenous or native peoples, in order to offer multidimensional and joined up responses.
- Principle of subsidiarity. The competencies and functions of public entities at each level of government in the field of climate change are exercised in a manner to provide services that are more efficient and closer to the citizen.
- Principle of accountability. The authorities responsible for the comprehensive management of climate change, and the public and private entities that administer financial resources for climate change adaptation and mitigation are accountable to public bodies exercising horizontal accountability and to citizens and shall publish accountability reports on their website.
- Principle of transparency. It is the duty of the State to make all public information related to climate change available, respecting the right of every person to access that information correctly and in a timely manner without the need to mention any special interest or explain the for the request, thus reducing information asymmetries.
- Principle of participation. Everyone has the right and duty to participate responsibly in the decision-making processes for the comprehensive management of climate change that are adopted at each level of government. For this purpose, the State guarantees timely and effective participation, taking into account intercultural and gender approaches.
- Principle of climate governance. Public processes and policies on climate change adaptation and mitigation are designed to enable the effective participation of all public and private actors in decision-making, conflict management and consensus building, based on clearly defined responsibilities, goals and objectives at all levels of government.

Furthermore, the law foresees comprehensive climate change management, whereby climate change adaptation and mitigation measures are incorporated into the investment policies, strategies, plans, programmes and projects of the three levels of government, within the framework of their competencies and functions, in a coherent and complementary manner, through a transparent participatory process that includes the private sector and civil society, with a special emphasis on indigenous or native peoples, in order to integrate climate change management and national development in harmony with nature. It sets out different approaches to comprehensive climate change management, including:

- Mitigation and adaptation based on traditional knowledge. Recover, value and use the traditional knowledge of indigenous or native peoples and their vision of harmonious development with nature, in the design of climate change mitigation and adaptation measures, guaranteeing the fair and equitable distribution of the benefits derived from their use.
- Mitigation and adaptation based on the conservation of carbon sinks. Promote the participation of local communities and indigenous or native peoples in the protection, conservation and sustainable management of forests, which are important carbon sinks, and recover deforested areas throughout the country, in order to increase the number of carbon sinks.
- Intergenerational approach. The decisions and actions taken by current generations guarantee that future generations can exercise the right to safe and healthy lives in a sustainable environment of no lesser quality than that of the current generation.
- Intercultural approach. Consult, value and incorporate the different cultural visions and ancestral knowledge, concepts of well-being and development of indigenous and Afro-Peruvian peoples closely related to their identity.

- Human rights approach. Design, implement, monitor and evaluate climate change mitigation and adaptation measures, considering their impact on human rights, particularly those of women, children, indigenous or native peoples, and other vulnerable human groups.
- Equality approach. Public entities are responsible for carrying out the necessary actions to guarantee equality between women and men, by developing policies that counteract the negative situations that ignore the presence of women in climate change mitigation and adaptation measures, prioritizing women's interests and needs, and considering the differentiated impact of damages.

The State, through its three levels of government, in a coordinated and participatory manner, adopts adaptation and mitigation measures. The ministries and their affiliated agencies, within the scope of their powers and functions, are responsible for, among other things, (i) promoting the development of comprehensive vulnerability and adaptation studies to identify vulnerable areas, as well as scientific research and technological development for climate change mitigation and adaptation, taking into account the traditional knowledge of indigenous or native peoples; (ii) designing, implementing, monitoring and evaluating policies, measures and projects to build the capacity to adapt to the impacts of climate change and reduce vulnerabilities, giving priority to vulnerable populations; and (iii) promoting the informed participation of citizens, particularly vulnerable populations, such as women and indigenous peoples, in comprehensive climate change management with the aim of strengthening climate governance and sustainable development in harmony with nature, among others.

The law establishes the National Climate Change Commission as a permanent space through which the public sector and civil society can monitor compliance with public policies on climate change, as well as the State's international commitments under UNFCCC, in order to prepare proposals that contribute to the climate change decision-making process at the State level. The Commission's rules of procedure provide for the participation of representatives of national, regional and local government, as well as those of communities, trade unions, universities, professional associations and others.

The law makes special reference to non-state actors in comprehensive climate change management. In this regard, it empowers the private sector, civil society and indigenous peoples to recommend climate change adaptation and mitigation measures, such as increasing and preserving carbon sinks and reducing greenhouse gas emissions, among others, in accordance with the provisions of the law and its regulations. The participation of non-state actors is governed by the Prior Consultation Act (law No. 29785).

With regard to environmental education, article 18 states that various ministries, including the Ministries of Education, of Culture and of Women and Vulnerable Populations, shall implement the National Environmental Education Policy and the National Environmental Education Plan, taking into account equality, interculturality, climate risk management, sustainable development in harmony with nature, intergenerational and vulnerable population approaches, adapted to the linguistic particularities of each area. The communication and awareness-raising strategies to promote environmental values among citizens and economic agents shall also be mindful of the cultural and linguistic characteristics of the area. Article 19 calls for universities and education and research centres to promote and carry out scientific research, technological developments and innovation in the field of climate change, with an intercultural and bilingual approach.

Chapter VI of the law specifically addresses transparency, access to information and citizen participation. Pursuant to the aforementioned principle of accountability, the responsible authorities and organizations shall publish online the allocation and execution of financial resources for all activities related to climate change. In addition, they must have a person or office responsible for managing, systematizing and administering the information they generate or possess, in order to respond to information requests by public bodies and citizens within the legal timeframe.

These authorities and organizations must provide timely, appropriate and up-to-date information, considering intercultural approaches and the predominant language of the place where the public policy or investment project related to climate change is to be implemented, in order to ensure the effective enjoyment of the right to information. They also shall establish mechanisms for the exchange of information, consultations and dialogue, in order to guarantee the effective participation of stakeholders in all stages of public policies and investment projects related to climate change.

Indigenous participation is also addressed under chapter VI, specifying that the State safeguards the right of participation of indigenous or native peoples, by respecting their social, collective and cultural identity, customs, traditions and institutions, in the formulation, implementation, monitoring and evaluation of public policies and investment projects related to climate change that affect them, in accordance with ILO Convention No. 169 concerning Indigenous and Tribal Peoples.

Other innovative elements of the framework law relate to financing, migration, risk management and food security.

- With regard to financial resources, as well as public, private and international cooperation funds, priority is given to those destined for vulnerable populations, particularly women and indigenous or native peoples.
- In connection with environmental migrants, the government shall issue an action plan to prevent and address forced migration caused by the effects of climate change, in order to avoid increasing pressure on urban infrastructure and services, and worsening health, education and social indicators.
- With regard to managing risks to the nation's cultural heritage, the Ministry of Culture incorporates disaster risk management into the management of the material assets of the nation's cultural heritage.
- On the matter of promoting food security, the government shall issue an action plan to promote food security, prioritizing medium and small-scale agricultural production, in order to increase resilience to risks and disasters in the country.

In addition to the aforementioned climate change legislation, attention is also drawn to Law No. 71 on the Rights of Mother Earth³⁶ and the Framework Law No. 300 on Mother Earth and Comprehensive Development for Living Well³⁷ of the Plurinational State of Bolivia. Although they do not specifically address climate change, they include important provisions for climate change adaptation and mitigation from a rights perspective. The laws not only recognize the rights of Mother Earth but also establish the obligations and duties of the State and society to ensure them. Furthermore, they introduce the concept of living well and are underpinned by the principle of compatibility and complementarity of rights, obligations and duties, implying the interdependence and mutual support of: (i) the rights of Mother Earth as the collective, public interest right-holder; (ii) the collective and individual rights of indigenous nations and peoples, *campesinos*, and intercultural and Afro-Bolivian communities; (iii) the fundamental civil, political, social, economic and cultural rights of the Bolivian people to living well through their comprehensive development; and (iv) the right of the urban and rural populations to live in a fair, equitable and supportive society without material, social and spiritual poverty.

The Latin American and Caribbean region has also pioneered the adoption of laws to protect glaciers. These laws consider these ice bodies to be a common heritage, they create an institutional framework for their protection and establish transparency and access to information measures in order to promote their sustainable management as a collective good. Such laws exist in Argentina³⁸ and Peru.³⁹

b) Disaster risk prevention laws

Disaster risk prevention laws are another essential legal framework to tackle climate change in the region. Currently enacted in 26 countries of Latin America and the Caribbean (see annex A2), these adopt a human rights-based approach and seek to guarantee the right to life, health and integrity. Moreover, they also

³⁶ See [online] <http://www.mineria.gob.bo/juridica/20101206-17-42-21.pdf>.

³⁷ See [online] <http://www.madretierra.gob.bo/index.php/ley-marco-apmt>.

³⁸ Law No. 26,639 on the Minimum Standards for the Preservation of Glaciers and the Periglacial Environment (2010). See [online] <http://www.derecho.uba.ar/academica/derecho-abierto/archivos/Ley-26639-PP-para-la-Preservacion-de-los-Glaciares-y-del-ambiente-periglacial.pdf>.

³⁹ Law No. 30,286 establishing the National Research Institute for Glacier and Mountain Ecosystems (2014). See [online] <http://www.minam.gob.pe/wp-content/uploads/2017/04/Ley-N%C2%B0-30286.pdf>.

safeguard the principles of equality and non-discrimination, the rights to information and participation, and consideration of the needs and views of people and groups most vulnerable to the effects of disasters in the disaster risk management and prevention.

The disaster risk prevention laws of Colombia, the Dominican Republic, Mexico, Peru, the Plurinational State of Bolivia and Uruguay employ a human rights-based approach:

Colombia

Law No. 1523 of 2012, adopting the National Disaster Risk Management Policy and establishing the National Disaster Risk Management System,⁴⁰ states that risk management is a development policy fundamental to ensuring sustainability, territorial security and collective rights and interests, and improving the quality of life of those populations and communities at risk. The law is guided by, among others, the principle of equality, by virtue of which all natural persons will receive the same humanitarian aid assistance and treatment in disaster situations foreseen in the law. According to the principle of protection, the authorities must protect the lives and physical and mental integrity, the assets, and collective rights to public safety, peace and health and to the enjoyment of a healthy environment of the residents of Colombia, against possible disasters or dangerous phenomena that threaten or cause harm to the aforementioned. Under the principle of participation, the authorities and entities of the National Disaster Risk Management System must recognize, facilitate and promote the organization and participation of ethnic communities and of civic, neighbourhood, charitable, voluntary and public associations. It is the duty of all persons to participate in the management process in their community. The principle of cultural diversity is also recognized, by virtue of which the risk processes must be respectful of the cultural particularities of each community in accordance with peoples' economic, social and cultural rights. The principle of timely information states that the authorities of the National Disaster Risk Management System must keep all natural and legal persons duly informed of, inter alia, risk possibilities, disaster management, and rehabilitation and construction actions.

Dominican Republic

The Risk Management Act (Law No. 147-02)⁴¹ of 2002 is guided by the principles of protection and participation, among others, which state that the lives and physical integrity, productive structures, assets and environment of persons in the national territory must be protected against possible disasters or dangerous events that may occur; and that, during prevention, mitigation and disaster response activities, the competent entities shall ensure that the channels and procedures for citizen participation provided for by law are functioning. The Act creates the National System for Disaster Prevention, Mitigation and Response (SN-PMR), to be composed of, among others, community and non-governmental organizations whose actions regarding risks and disasters are related to the prevention, mitigation, care and recovery of the population. Two of the functions of the National System are to develop and keep up-to-date an integrated national information system that serves as a knowledge base for institutions and the general population in the development of plans, programmes and projects for risk prevention and mitigation and in the preparation of disaster responses; and to release and disseminate public information in the event of a disaster.

Mexico

The Civil Protection Act⁴² of 2012 states that public policies for civil protection shall prioritize the promotion of social participation to build resilient communities and provide priority care to vulnerable populations, among other things. Civil protection authorities must act in accordance with the principles of prioritizing the protection of people's lives, health and integrity, of equity, of transparency and social participation, and of honesty and respect for human rights. The Act provides for a Risk, Hazards and Vulnerability Information Subsystem to keep the population informed in a timely manner. It also tasks the relevant authorities with developing and updating action protocols for the care of children and adolescents, persons with disabilities and older persons under civil protection programmes.

⁴⁰ See [online] <http://wsp.presidencia.gov.co/Normativa/Leyes/Documents/ley152324042012.pdf>.

⁴¹ See [online] http://www.defensacivil.gob.do/transparencia/images/docs/base_legal/LEY-147-02-Y-REGLAMENTO-874-09.pdf.

⁴² See [online] http://www.diputados.gob.mx/LeyesBiblio/pdf/LGPC_190118.pdf.

Peru

Law No. 29664⁴³ of 2011, creating the National Disaster Risk Management System (SINAGERD), states that the general principles that govern disaster risk management are, among others: the protective principle, according to which persons are at the core of disaster risk management, therefore their lives and physical integrity, productive structures, assets and environment must be protected against possible disasters or dangerous events that may occur; the principle of equity, which guarantees all persons, without discrimination, equality of opportunity and equal access to services related to disaster risk management; and the principle of participation. The law also establishes the National Information System for Disaster Risk Management and mechanisms that facilitate public access to geospatial information and administrative records, generated by technical-scientific public bodies related to disaster risk management.

Plurinational State of Bolivia

The Risk Management Act (Law No. 602)⁴⁴ of 2014 states that priority is given to all persons living in the national territory with regard to the protection of life, physical integrity and health against risk of disasters caused by natural, socio-natural, technological and anthropic threats, as well as social, economic, physical and environmental vulnerabilities. Persons have the right to information and public entities must inform the population about the possibilities of risks and the occurrence of disasters and/or emergencies, as well as the actions that will be carried out. Vulnerable populations must be prioritized for care, with preferential treatment for pregnant women, children, older persons, people who are incapacitated as a result of illness and differently abled persons. The Act recognizes people's right to participate in activities that involve risk management and to receive timely care from the State in the event of adverse phenomena. The State and autonomous territorial entities must identify, evaluate, systematize, and reappraise and apply ancestral risk management knowledge and practices, together with the indigenous peoples and *campesinos* and intercultural and Afro-Bolivian communities, within the framework of their cosmovision and respecting their natural territorial organizational structures. The Act also establishes an Integrated Information and Alert System for Disaster Risk Management (SINAGER-SAT) and a National Early Warning System for Disasters (SNATD).

Uruguay

The National Emergency System Act (Law No. 18,621)⁴⁵ of 2009 states that the System shall be guided by the principle of protection of life, significant assets and the environment, according to which every person has the right to the protection of his or her life and physical integrity, as well as the right to cultural heritage, means of livelihood and environment against the existence of risks and possible disasters. The principle of information provides that the communication of risk management with a preventive approach implies that all stakeholders take responsibility for disseminating and democratizing relevant information. Likewise, under the principle of training and education, citizen participation shall be promoted.

3. Climate change strategies, policies, plans and programmes⁴⁶

Most countries of the region have adopted specific strategies, policies and plans to combat climate change (see annex A3). These policy instruments allow climate change to be mainstreamed into national planning processes, provide a global policy framework for low-carbon, climate-change-resilient development, and identify strategic options and national and sectoral priorities. They also set out the responsibilities of national, subnational and local institutions in planning for climate change and ensure, in a strategic manner, the concerted action of all the actors involved. In some cases, sectoral climate change instruments complement these strategies, policies and plans, such as those for the energy, agriculture, transport or water sectors.

⁴³ See [online] <http://www.minam.gob.pe/wp-content/uploads/2017/04/Ley-N%C2%B0-29664.pdf>.

⁴⁴ See [online] <http://www.defensacivil.gob.bo/web/uploads/pdfs/ley602.pdf>.

⁴⁵ See [online] <https://legislativo.parlamento.gub.uy/temporales/leytemp1220752.htm>.

⁴⁶ The policy instruments mentioned are available for consultation at the Observatory on Principle 10 in Latin America and the Caribbean [online] <https://observatoriop10.cepal.org/en>.

A human rights approach is crucial to ensuring effective, coherent and comprehensive climate policies. The promotion, protection and fulfilment of human rights should guide climate action in order to ensure the rights to an adequate standard of living, equality and non-discrimination, to encourage the active and informed participation of the population in climate action and to ensure that no one is left behind in adaptation and mitigation measures, particularly those most vulnerable to the effects of climate change.

In accordance with their international obligations, constitutions and legal frameworks, most countries of the region of Latin America and the Caribbean have incorporated international human rights standards into their climate change policies and strategic planning.⁴⁷ As shown in table III.4, all climate policies in the region include, to a greater or lesser extent, human rights references and standards relevant to climate change.

All the national climate policies analysed herein address fundamental human rights in the context of climate change, such as the rights to information, participation, health, education, food and water. Moreover, a human rights approach is expressly recognized in the policy instruments of Belize, Chile, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Paraguay and Uruguay.

For example, the National Climate Change Adaptation Policy of Costa Rica and the National Climate Change Policy of Paraguay include a definition of the rights-based approach. The policy of Costa Rica states that climate change entails several risks that can affect human rights, from threats to health to damage to property, livelihoods and even cultures, fostering solidarity through affirmative action especially aimed at protecting the most vulnerable groups. Similarly, the vulnerability of populations with structural disadvantages, owing to their social or economic status, such as indigenous peoples, must be considered. In the application of the Policy, a “non-exclusion” or “non-discrimination of any kind” approach is adopted, in line with the tenet of the Sustainable Development Goals to leave no one behind.⁴⁸

Meanwhile, the policy of Paraguay defines the rights-based approach as a conceptual framework for the human development process that is normatively underpinned by international human rights standards and, operationally seeks to promote, protect and enforce these rights. Such an approach is included in the regulations, principles and standards of the international human rights system in development legislation, programmes, plans and processes.⁴⁹

Several States also focus on persons and groups in vulnerable situations. The Brazilian National Climate Change Adaptation Plan (*Plano Nacional de Adaptação à Mudança do Clima*), for example, devotes a section to identifying those population groups who are most vulnerable to climate change, because of their composition, exposure to risks and gaps or geographical location. It also establishes a methodology and indicators for ascertaining and for assisting these groups.⁵⁰

⁴⁷ Some countries of the region are in the process of establishing climate policies including human rights standards, such as Guyana (National Climate Change Policy and Action Plan 2020–2030) and Saint Vincent and the Grenadines (National Climate Change Policy).

⁴⁸ See Ministry of the Environment and Energy/Ministry of Planning and Economic Policy/ National Commission for Risk Prevention and Emergency Assistance (MINAE/MIDEPLAN/CNE), *Política Nacional de Adaptación al Cambio Climático de Costa Rica 2018-2030*, 2018 [online] http://www.pgrweb.go.cr/DocsDescargar/Normas/No%20DE-41091/Version1/Politica_ADAPTACION_24_abril.pdf.

⁴⁹ See Ministry of the Environment/United Nations Development Programme (SEAM/UNDP), *Política Nacional de Cambio Climático*, Asunción, 2012 [online] http://dncc.seam.gov.py/wp-content/uploads/2018/11/Politica-Nacional-CC_2016.pdf.

⁵⁰ See Ministério do Meio Ambiente, *Plano Nacional de Adaptação à Mudança do Clima: Estratégias Setoriais e Temáticas*, Brasília, 2016 [online] https://www.mma.gov.br/images/arquivo/80182/LIVRO_PNA_Plano%20Nacional_V2_copy_copy.pdf.

Table III.4 Latin America and the Caribbean (26 countries): the human rights approach in climate change strategies, policies, plans and programmes

Country	Procedural human rights										Substantive human rights										Specific groups						
	Right to information	Right to participation	Access to justice	Right to a healthy environment	Right to health	Right to education	Right to food	Right to adequate housing	Right to water	Right to cultural life	Gender perspective ^a	Indigenous peoples	Afrodescendants	Persons with disabilities	Children and youth	Older persons	Migrants	Campeños and rural communities									
Argentina	X	X	X		X	X	X	X	X	X	X	X		X	X			X									
Bahamas	X	X			X	X	X	X	X																		
Belize	X	X	X		X	X	X	X	X	X	X																
Brazil	X	X	X		X	X	X	X	X	X	X	X	X			X	X	X									
Chile	X	X	X		X	X	X	X	X	X	X	X		X				X									
Colombia	X	X	X		X	X	X	X	X	X	X	X				X	X	X									
Costa Rica	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Cuba	X	X	X		X	X	X	X	X	X	X							X									
Dominica	X	X	X		X	X	X	X	X	X	X	X		X				X									
Dominican Republic	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Ecuador	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X									
El Salvador	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Grenada	X	X	X		X	X	X	X	X	X	X							X									
Guatemala	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Haiti	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Honduras	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Jamaica	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Mexico	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Nicaragua	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Panama	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Paraguay	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Peru	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Saint Lucia	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Suriname	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Trinidad and Tobago	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X									
Uruguay	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X									

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of the climate change strategies, policies and plans of the countries of Latin America and the Caribbean.

^a Includes "gender equity".

Some of the most salient elements of national climate change strategies, policies, plans and programmes are analysed below, classified by right, specific group and other key aspects.

a) Right to information

Access to climate information, which is encompassed under access to environmental information, is essential to combating climate change. For that reason, all the climate strategies, policies and plans in the region incorporate measures related to the generation, access to and dissemination of climate data and information. Based on the principles of transparency and maximum disclosure, and in many cases covered by general access to information laws (which 23 countries of the region currently have),⁵¹ access to climate information can be structured around two aspects: active transparency (the proactive generation and dissemination of climate information by States) and passive transparency (each person is able to request and receive climate information held by, under the control of or in possession of the competent authority).

Two Latin American and Caribbean policy instruments expressly refer to the Principles (including Principle 10, which regulates access to information, participation and justice in environmental matters) of the Rio Declaration on Environment and Development, specifically the National Climate Change Strategy of Mexico and the National Climate Change Policy, Strategy and Action Plan 2015–2020 of Belize, which states that the principles endorsed by the Rio Declaration shall be fully observed and that under the Rio Declaration human and environmental rights are acknowledged as an integral part in sustainable development.

Passive transparency is expressly recognized in climate policies in the region. For example, a guiding principle of the National Climate Change Action Plan 2017–2022⁵² of Chile is transparency, which states that the disclosure of government acts, resolutions, procedures and documents, as well as the information on which these are based, shall be respected and safeguarded, and that every person shall have access to that information. The National Climate Change Adaptation Policy of Costa Rica includes the principle of transparency and accountability, according to which facilitating access to information is a catalyst for individual and collective action in climate matters, ensuring better decision-making and efficiency in the use of the resources. The National Climate Change Strategy 2012–2025⁵³ of Ecuador calls for actions to be fostered so that citizens have access to understandable information on climate change, which allows them to relate the issue to their daily lives in such a way that it helps to change attitudes. Similarly, the National Climate Change Policy of Paraguay states that the institutions responsible for climate change policies or strategies shall make the information available to the public and ensure that all actors in society can access information on climate change in order to avoid asymmetries. Meanwhile, transparency is one of the guiding principles of the National Policy to Combat Climate Change of Haiti, according to which environmental information must be presented in a format that is appropriate to the different information uses.⁵⁴ In Uruguay, the National Climate Change Policy⁵⁵ calls on the relevant institutions to promote the generation and access to information that is germane to decision-making.

However, the greatest developments in the region's climate policies have perhaps been related to active transparency measures. As stated in the National Policy for the Adaptation to Climate Change⁵⁶ of the Bahamas, the government will ensure that society, at all levels and in all sectors, is adequately informed on climate change issues and their implications. That is precisely one of the objectives of the National Climate

⁵¹ See Observatory on Principle 10 in Latin America and the Caribbean, "Latin America and the Caribbean: countries with freedom of information laws" [online] <https://observatoriop10.cepal.org/en/resources/countries-freedom-information-laws-2017-latin-america-and-caribbean>.

⁵² See Ministry of the Environment (MMA) *Plan de Acción Nacional de Cambio Climático 2017-2022*, 2017 [online] https://mma.gob.cl/wp-content/uploads/2017/07/plan_nacional_climatico_2017_2.pdf.

⁵³ See Ministry of the Environment (MAE), *Estrategia Nacional de Cambio Climático del Ecuador: ENCC 2012-2025*, Quito, 2012 [online] https://www.gob.ec/sites/default/files/regulations/2018-10/Documento_Politica-Estado-Estrategia-Nacional-Cambio-Climatico.pdf

⁵⁴ See Ministry of the Environment, *Politique nationale de lutte contre les changements climatiques (PNCC)*, 2019 [online] <https://www.mde.gouv.ht/index.php/fr/nos-publications/documents-officiels>.

⁵⁵ See Sistema Nacional Ambiental, Gabinete Nacional Ambiental and Sistema Nacional de Respuesta al Cambio Climático y Variabilidad (National Environmental System, National Environmental Cabinet and National Climate Change and Variability Response System) *Política Nacional de Cambio Climático*, 2017 [online] https://www.uy.undp.org/content/dam/uruguay/docs/MAYE/Pol%C3%ADtica_Nacional_de_Cambio_Clim%C3%A1tico_uv.pdf.

⁵⁶ See National Climate Change Committee and The Bahamas Environment, Science and Technology Commission, *National Policy for the Adaptation to Climate Change*, 2005 [online] <http://www.best.gov.bs/Documents/ClimateChangePolicy.pdf>.

Change Policy for Grenada, Carriacou and Petite Martinique (2017–2021)⁵⁷ which seeks to ensure that citizens, communities and consumers have knowledge about potential climate vulnerabilities/risks and the impact of greenhouse gas emissions; and are willing and able to participate in activities to adapt to/mitigate climate change.

Chile's National Climate Change Action Plan 2017–2022 includes several action lines related to active transparency, such as the generation, analysis and updating of climate information, which seeks to improve climate information and update it continually; or the generation, analysis and updating of information on climate change vulnerability and risks, which seeks to collate specific and up-to-date information on the threat of extreme hydrometeorological events and their impact on those populations most at risk. In that connection, vulnerability maps of the national territory will be produced and updated. Another action line aims to develop a monitoring and reporting system to follow up on adaptation actions and keep a record of the information available in the country on vulnerability and adaptation, allowing progress and information gaps to be identified and facilitating reporting under UNFCCC.

The main process of the National Climate Change Policy⁵⁸ of Colombia includes the production of information on an appropriate scale, capacity to analyse the information, and generation of products aimed at decision makers. Meanwhile, the guidelines of the National Climate Change Adaptation Policy of Costa Rica include setting up information platforms and climate services, and the promotion of scientific research, systematic data collection and current and forward-looking analysis of information on the impacts of and losses and damages resulting from hydrometeorological threats, as well as the quantification and analysis of costs, opportunities and social benefits associated with climate change adaptation measures in different sectors.

Climate change information systems are another tool that facilitates access to climate information. The policies of Colombia, the Dominican Republic, Guatemala, Jamaica and Paraguay foresee such systems. The National Climate Change Adaptation and Mitigation Plan⁵⁹ of Argentina proposes the establishment of a National Greenhouse Gas Emissions Inventory and Monitoring of Mitigation Measures System and a National Information System on the Impacts of and Vulnerability and Adaptation to Climate Change. The National Climate Change Plan⁶⁰ of El Salvador calls for the creation of a socio-environmental and climate statistical information system and the development of a national social and environmental statistical system. In turn, the National Climate Change Strategy⁶¹ of Honduras mandates the editing, publication and dissemination of a synthesis of national climate change information. Meanwhile, Mexico has established the National Emissions Registry and the Climate Change Information System, and one of the action lines of the Action Plan to Implement the National Climate Change Policy⁶² of Panama is to carry out a rolling information dissemination and training programme on the issue of climate change. Some other countries, such as Peru, contemplate in their national climate change strategies the establishment of early warning systems to safeguard the population's lives.

The policies of Saint Lucia, Trinidad and Tobago, and Uruguay also offer innovative approaches to the generation of climate information. Two of the adaptation measures of Saint Lucia's National Adaptation Plan 2018–2028⁶³ are to expand the National Poverty Assessment to include climate vulnerability and to conduct a national climate vulnerability assessment to inform decision-making processes. The Government

⁵⁷ See Government of Grenada, *National Climate Change Policy for Grenada, Carriacou and Petite Martinique (2017–2021)*, 2017 [online] <https://www.gov.gd/egov/docs/other/Grenada-National-Climate-Change-Policy-2017.pdf>.

⁵⁸ See Ministry of the Environment and Sustainable Development, *Política Nacional de Cambio Climático*, 2017 [online] http://www.minambiente.gov.co/images/cambioclimatico/pdf/Politica_Nacional_de_Cambio_Climatico_-_PNCC/PNCC_Politicas_Publicas_LIBRO_Final_Web_01.pdf.

⁵⁹ See Ministry of the Environment and Sustainable Development, *Resolución 447/19*, 2019 [online] <https://argentinambiental.com/legislacion/nacional/resolucion-447-19-plan-nacional-de-adaptacion-y-mitigacion-al-cambio-climatico/>.

⁶⁰ See Ministry of the Environment and Natural Resources (MARN), *Plan Nacional de Cambio Climático de El Salvador*, 2015 [online] <http://www.marn.gob.sv/wp-content/uploads/PNCC.pdf>.

⁶¹ See Government of Honduras, *Agenda Climática de Honduras*, 2017 [online] http://www.miambiente.gob.hn/media/adjuntos/pdf/DNCC/2017-11-07/21%3A54%3A13.132488%2B00%3A00/AGENDA_CLIMATICA.pdf.

⁶² See Gaceta Oficial Digital, *Decreto Ejecutivo No. 35*, 2007 [online] http://www.miambiente.gob.pa/images/stories/ena/DECRETO_EJECUTIVO_N_35.pdf.

⁶³ See Government of Saint Lucia, *Saint Lucia's National Adaptation Plan (NAP): 2018–2028*, 2018 [online] <https://climatechange.govt.lc/wp-content/uploads/2018/07/SLU-NAP-May-2018.pdf>.

of Trinidad and Tobago recognizes that relevant data is critical to the implementation of the National Climate Change Policy⁶⁴ and, accordingly, shall institute a policy of free exchange of information and data among ministries and agencies. Lastly, one of the action lines of the National Climate Change Policy of Uruguay is to strengthen national financing allocations and access to international financing to generate, obtain and systematize information related to climate change and variability and actions taken to address this issue in an integrated, useful and accessible manner for decision-making.

b) Right to participation

Together with access to information, the participation of individuals and groups in climate decision-making has emerged as one of the fundamental pillars of climate action and governance in policy instruments. The active and meaningful involvement of all relevant actors in climate issues occupies a prominent place in all climate policies in Latin America and the Caribbean. Public participation not only allows climate issues to be addressed from a participatory and representative approach, but also facilitates compliance with measures and allows decision makers to identify societies' priorities, needs and concerns with regard to adaptation and mitigation actions.

Public participation is considered a cross-cutting procedural right in the climate change policies, plans, programmes and strategies of the region. Most climate policies in the region recognize and guarantee participation as a right. The National Climate Change Adaptation and Mitigation Plan of Argentina adopts a community-based adaptation approach, whereby the active participation of stakeholders is fostered. According to the National Policy for the Adaptation to Climate Change of the Bahamas, the government will endeavour to obtain, to the greatest extent possible, the involvement and participation of all stakeholders at the national level in addressing issues related to climate change. Similarly, the guiding principles of the National Climate Change Policy, Strategy and Action Plan 2015–2020⁶⁵ of Belize, include developing an efficient governance framework that guarantees citizen participation, accountability and transparency. A guiding principle of the National Climate Change Strategy of Ecuador is citizen participation, pursuant to which steps will be taken to actively and positively involve all people and organizations in the implementation of measures and actions to mitigate and adapt to climate change. In turn, one of the principles of the National Climate Change Policy for Grenada, Carriacou and Petite Martinique (2017–2021) is national ownership and engagement, whereby citizens, community-based organizations, civil society groups, NGOs, private sector, research institutes and government will be involved in defining priorities, delivering climate resilience, low carbon development and evaluating progress. Haiti's National Policy to Combat Climate Change is based on the guiding principle of participation, which calls for an inclusive approach that takes into account the concerns of different sectors of society, especially the most vulnerable, such as women, youth and people with reduced mobility. Meanwhile, effective citizen participation is one of the guiding principles of the National Climate Change Strategy⁶⁶ of Mexico.

Participation mechanisms include public hearings and consultations, as well as standing and formal consultation and advisory bodies. The National Climate Change Action Plan 2017–2022 of Chile sets out four mechanisms: (i) access to relevant information; (ii) citizen consultations; (iii) participatory public accounts; and (iv) civil society advisory boards. In turn, the action lines of the National Climate Change Strategy of Honduras include strengthening intersectoral and local consultation and participation spaces, by establishing sustainable consultative social networks, and strengthening spaces for focus groups, by creating, for example, an indigenous working group. As detailed in Annex A4, there are formal consultation bodies in at least 25 countries in the region.

Participation mechanisms are also used in the design, development, monitoring and implementation phases of climate strategies, policies and programmes. The National Climate Change Strategy of Honduras aims to improve the effectiveness of the relevant adaptation and mitigation actors' participation in the

⁶⁴ See Government of the Republic of Trinidad and Tobago, *National Climate Change Policy*, 2011 [online] https://www.ema.co.tt/images/Files/policies/climate_change_2011.pdf.

⁶⁵ See Caribbean Community Climate Change Centre, *A National Climate Change Policy, Strategy and Action Plan to Address Climate Change in Belize*, 2014 [online] <http://extwprlegs1.fao.org/docs/pdf/blz169290.pdf>.

⁶⁶ See Government of Mexico, *Estrategia Nacional de Cambio Climático. Visión 10-20-40*, 2013 [online] <https://www.gob.mx/cms/uploads/attachment/file/41978/Estrategia-Nacional-Cambio-Climatico-2013.pdf>.

different planning and execution phases of public climate change policies, in order to advance knowledge, awareness, ownership and implementation of adaptation and mitigation actions, and strengthen governance, both locally and nationally. At the same time, the Climate Change Policy Framework for Jamaica⁶⁷ promotes consultative processes and communication to improve public participation in mitigation and adaptation response measures. The National Climate Change Policy of Paraguay also calls for the effective involvement of citizens in the drafting, planning, implementation, monitoring and evaluation of climate change policies, plans, programmes and projects. Similarly, the National Climate Change Policy of Uruguay seeks to establish institutional and intersectoral mechanisms for effective and informed participation in the promotion, formulation, implementation, monitoring and evaluation of the policy and its action lines and the climate change and variability mitigation and adaptation plans, programmes and projects.

In some cases, the policies set out a minimum number of activities that must be undertaken for public participation to be considered successful. This is the case for the National Climate Change Action Plan 2017–2022 of Chile, which requires that training and consultative seminars and workshops be held for the different sectors and that outreach material be produced for each sector on climate change impacts, vulnerability, actions and disseminated through different media. The Final National Climate Change Policy, Strategy and Action Plan for Suriname 2014–2021⁶⁸ states that the government will create a framework through which early stakeholder involvement and participation can be guided, thus taking into account the interests of stakeholders and affected parties.

The inclusion of vulnerable persons and groups in the participation processes is another area in which a great deal of progress has been made with regard to national climate policies in Latin America and the Caribbean. The National Climate Change Policy of Colombia states that the planning processes for climate change management should include mechanisms for the participation of the most vulnerable populations. Participation and inclusion is a guiding principle of the National Climate Change Adaptation Policy of Costa Rica, which calls for affirmative actions to ensure the inclusion of groups particularly vulnerable to climate change, through deliberative spaces with representatives of civil society organizations and members of vulnerable communities, to discuss and contribute to the development of public policies and adaptation plans. Processes must take into account participants' specific social conditions, gender, ethnicity or other factors to ensure that they are as broad and meaningful as possible. Moreover, the National Climate Change Strategy of Mexico lists the active participation of the target population as a criterion for prioritizing adaptation measures. Similar provisions can be found in the policies of the Dominican Republic, Saint Lucia and Trinidad and Tobago.

c) Access to justice

Access to justice in climate matters is expressly included in the National Climate Change Strategy of Mexico and in the National Climate Change Adaptation Plan 2015–2030⁶⁹ of the Dominican Republic.

The National Climate Change Strategy of Mexico refers to Principle 10 of the Rio Declaration on Environment and Development, which states that “[e]ffective access to judicial and administrative proceedings, including redress and remedy, shall be provided”. The strategy also indicates that the provisions of the Constitution and the Federal Environmental Liability Act on environmental liability allow individuals to access the national justice system to request that environmental damage be remedied, thus opening up the possibility for society to assert its right to a healthy environment. The strategy's action lines include promoting individuals' access to environmental justice and the restitution of environmental damage *in natura* when possible, or redress in areas considered to be a priority in the context of climate change. Similarly, the principles of the National Climate Change Adaptation Plan 2015–2030 of the Dominican Republic include promoting environmental justice and compensation for ecological debt.

⁶⁷ See Government of Jamaica, *Climate Change Policy Framework for Jamaica*, 2015 [online] <http://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/2016/05/Jamaica-Climate-Change-Policy-fwL-2015.pdf>.

⁶⁸ See Caribbean Community Climate Change Centre and the Directorate for Environment, Ministry of Labour, Technological Development and Environment, *Final National Climate Change Policy, Strategy and Action Plan for Suriname 2014–2021*, 2015 [online] <http://dms.caribbeanclimate.bz/M-Files/openfile.aspx?objtype=0&docid=6509>.

⁶⁹ See Ministry of the Environment and Natural Resources, *Plan Nacional de Adaptación para el cambio climático en la República Dominicana 2015–2030*, 2016 [online] <https://ambiente.gob.do/publicaciones-oficiales/plan-nacional-de-adaptacion-para-el-cambio-climatico-en-la-republica-dominicana-2015-2030-pnacc/>.

Box III.1

Climate litigation in Latin America and the Caribbean

In recent years, there have been important developments regarding climate litigation in Latin America and the Caribbean. Although these cases are relatively new and are fewer than those brought before the courts in other parts of the world, the case law developments in the region set a high standard and the courts have also managed to prioritize climate action and provide redress for the adverse effects on human rights. Two recent cases in Colombia are worth noting:

Judgement C-035/16 of 8 February 2016 of the Constitutional Court of Colombia declared certain provisions of the laws on the National Development Plans for the periods 2010–2014 and 2014–2018 unconstitutional, as they put the moorland ecosystems at risk. The Court based its decision on the moorlands' exceptional characteristics, such as their fragility, lack of regulatory protection and role in providing up to 70% of the population's drinking water. Furthermore, it underscored the moorlands' ability to capture carbon dioxide from the atmosphere, stating that their carbon capture capacity exceeded that of a similar-sized tropical forest.

Judgement STC 4360-2018 of 5 April 2018 of the Supreme Court of Justice of Colombia is perhaps even more significant in terms of its scope and implications. By filing an action for protection (*acción de tutela*), 25 young people, aged between 7 and 25, sued the Government of Colombia and several department governors' offices over the increase in deforestation rates in the Amazon. The plaintiffs live in cities considered to be at high risk to the effects of climate change, have an average life expectancy of 78 years (75 years for men and 80 years for women) and expect to live their adult lives between 2041 and 2070 before reaching old age from 2071 onwards. During those periods of time, according to current climate change scenarios, they argued, the average temperature in Colombia is expected to increase by 1.6°C and 2.14°C, respectively. Moreover, they recalled that the government had made national and international commitments to cut deforestation and greenhouse gas emissions, including reducing the net deforestation rate to zero in the Colombian Amazon by 2020. The deforestation rate of 44% in the Colombian Amazon, together with the lack of adequate measures to address this situation, altered their living conditions, affected their right to health and infringed present and future generations' possible enjoyment of a healthy environment.

The Court upheld the application and found that the Colombian State had not tackled deforestation in the Amazon efficiently and was in breach of its commitments. The Court also recognized the Colombian Amazon as a "rights-holder" and, therefore, a beneficiary of protection, conservation, preservation and restoration. The Court also ordered the State to prepare, with the participation of the plaintiffs, the affected communities and the populations concerned, a plan of action to stem the deforestation rate and an intergenerational compact for life in the Colombian Amazon, with measures to reduce deforestation and greenhouse gas emissions to zero.

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of the Supreme Court of Justice of Colombia, *STC4360-2018*, 2018 [online] <https://observatoriop10.cepal.org/sites/default/files/documents/stc4360-2018.pdf>, and the Constitutional Court of Colombia, *Sentencia C-035/16*, 2016 [online] <http://www.corteconstitucional.gov.co/relatoria/2016/c-035-16.htm>.

d) Right to a healthy environment

The right to a healthy environment is expressly recognized as the cornerstone of climate policy instruments in Costa Rica, Ecuador, Guatemala, Mexico and Nicaragua.

The stated focus of the National Climate Change Adaptation Policy of Costa Rica will be to safeguard the right to a healthy and ecologically balanced environment, as enshrined in article 50 of the Constitution, and the rights related to the commitment to intergenerational solidarity implicit in the concept of sustainable development, in the sense of guaranteeing the right of future generations to a less dangerous climate.

For its part, the National Climate Change Strategy 2012–2025 of Ecuador recalls that the Constitution recognizes the right of the population to live in a healthy and ecologically balanced environment, which guarantees sustainability and good living, by declaring that it was in the public interest to preserve the environment, conserve ecosystems, biodiversity and the integrity of the country's genetic heritage, prevent environmental damage and recover degraded natural spaces.

The National Climate Change Action Plan⁷⁰ of Guatemala reaffirms that environmental protection and ecological balance have constitutional status and that article 97 of the Constitution recognizes the human right to a healthy and ecologically balanced environment.

In Mexico, the National Climate Change Strategy states that access to justice opens the possibility for society to assert its right to a healthy environment and to achieve the aim of the General Climate Change Act.

Meanwhile, the National Environmental and Climate Change Strategy⁷¹ of Nicaragua is underpinned by article 60 of the Constitution and the principles of the National Development Plan, which seek to ensure the population's right to a healthy environment.

e) Right to health

The links between the right to health and climate change are examined in detail in all the climate policies of the region analysed herein. The strategies and policies of Argentina, Belize, Brazil, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Paraguay, Suriname and Uruguay, among others, pay particular attention to this right, both in relation to the risks that climate change poses to its enjoyment and the measures that States must adopt to ensure its full exercise in the context of climate change.

The policies follow the logic of a rights-based approach, focusing on elements such as availability, accessibility, acceptability and quality. As a result, two of the guiding principles of the National Climate Change Adaptation Policy of Costa Rica are the fair distribution of possibilities and opportunities for access to resources, goods and services to promote, improve and maintain individual and collective health, giving priority to those population groups most vulnerable to climate change; and that it is the responsibility of the State to guarantee, under a rights-based approach, uninterrupted health services that provide direct care to the entire population, without geographical, social, economic and cultural limits, given the effects of climate change. The National Climate Change Strategy 2012–2025 of Ecuador, for its part, calls for the implementation of prevention measures to protect human health against the impacts of climate change and the promotion of actions aimed at providing vulnerable and priority groups with timely access to quality health services, as a measure to help build their capacity to respond to the health effects attributed to climate change. Meanwhile, the National Climate Change Action Plan of Guatemala states that when adopting measures to combat climate change the right to health of the population shall be respected.

In addition to implementing and strengthening public policies focused on reducing health risks associated with the effects of climate change, and to increasing and strengthening public policies focused on reducing risks to public health infrastructure, the Special Climate Change Programme 2009–2012⁷² of Mexico recalls the applicable human rights standards on this matter. In this sense, it reiterates that the right to health includes the enjoyment and equal access to adequate medical care and, more generally, to goods, services and conditions that allow a person to lead a healthy life. The underlying determinants of health include food and nutrition, adequate housing, access to safe and potable water and adequate sanitation, and a healthy environment.

The National Climate Change Policy of Uruguay also aims to strengthen the Comprehensive National Health System with the objective of helping to generate conditions that ensure the comprehensive health of the population in the context of the impacts of climate change and variability, as well as of extreme climatic and meteorological events. In that connection, the policy calls for health information and monitoring systems to be reinforced and adapted, by promoting the inclusion of environmental health indicators; infrastructure

⁷⁰ See CNCC and SEGEPLAN (National Climate Change Council and Secretariat for Planning and Programming of the Office of the President) (2016) *Plan de Acción Nacional de Cambio Climático* [online] <https://www.segeplan.gob.gt/nportal/index.php/biblioteca-documental/file/480-plan-de-accion-de-cambio-climatico>.

⁷¹ See Government of Nicaragua (2010) *Estrategia Nacional Ambiental y del Cambio Climático Plan de Acción 2010-2015* [online] http://euroclimaplus.org/intranet/_documentos/repositorio/Plan%20de%20Acci%C3%B3n%20Cambio%20Clim%C3%A1tico%202010-2015_Nicaragua.pdf.

⁷² See Interministerial Climate Change Commission (2009) *Programa Especial de Cambio Climático 2009-2012* [online] http://www.semarnat.gob.mx/archivosanteriores/programas/Documents/PECC_DOF.pdf.

and human resources critical for health care in the context of climate change and variability to be identified and adapted; research, the generation of scientific evidence, training and dissemination of knowledge to be promoted in order to reduce the risks to human health associated with climate change and variability; and the primary care level of health services to be strengthened, in order to improve the local capacities of communities, by promoting the development of climate change and variability resilience.

f) Right to education

The obligation to respect, protect and guarantee the right to education is also reflected in Latin American and Caribbean climate strategies, policies and plans. This right is essentially addressed from two perspectives. The first is to ensure that basic access to education for all is not adversely affected by the threats posed by climate change. This is addressed above all by the construction of climate-resilient educational infrastructures, as well as the adoption of measures to guarantee the adaptability, accessibility and availability of the right. The second approach is related to education for climate change, so that present and future generations, at all educational levels, know about the impacts and proposed measures and are better able to respond to climate change. Environmental and climate education is also essential for the exercise of other human rights such as participation in decision-making.

This last approach is perhaps the most widespread in the climate policies of the region. Climate education is foreseen in the strategies and policies of Argentina, the Bahamas, Belize, Chile, Colombia, Costa Rica, the Dominican Republic, Grenada, Guatemala, Haiti, Mexico, Nicaragua, Panama, Paraguay, Suriname, Trinidad and Tobago, and Uruguay.

Education and awareness strategies to address climate change propose cross-cutting actions to mainstream climate change into formal education systems, develop capacities in the public and private sectors and civil society, and raise public awareness of the problem of change climate, its impacts and possible solutions. This is achieved through specific actions in formal and non-formal education at all levels, developing teaching and outreach materials, carrying out information campaigns and public activities, and training professionals with specialized knowledge in climate change. Most of the countries of the region also incorporate the gender approach into climate education policies. In addition, they give due consideration to cultural, ethnic and other elements, and seek to prioritize vulnerable people and groups. In many cases, these measures are complemented by specific environmental education and climate change policies and programmes.

g) Right to adequate housing

Having adequate housing, as part of a decent standard of living, is essential for the enjoyment of human rights. In a context of climate threats and risks, the policies of the countries of Latin America and the Caribbean include specific considerations and measures to achieve safe, decent and habitable housing in complex climate change scenarios.

Brazil, Colombia, Costa Rica, Cuba, the Dominican Republic, Nicaragua, Suriname and Uruguay are some of the countries that include the right to adequate housing in their climate policies and planning instruments. Mainly, elements such as habitability, accessibility and housing location are considered.

The National Climate Change Policy of Uruguay seeks, for example, to promote the development of sustainable and climate-resilient cities, communities, human settlements and infrastructures, which help to reduce greenhouse gas emissions, by properly integrating climate change and variability mitigation and adaptation and ecosystem services into the design, construction, management and maintenance of housing, infrastructure, equipment and public service provision. Meanwhile, the National Environmental and Climate Change Strategy of Nicaragua states that the government has implemented programmes for decent housing built in accordance with risk reduction standards.

A general objective of the National Climate Change Policy⁷³ of the Dominican Republic is to promote decent housing in healthy environments, by facilitating the population's access to affordable, safe and decent housing, with legal protection and in socially integrated, sustainable human settlements that meet the criteria of proper risk management and universal accessibility for people with physical disabilities. Meanwhile, the Final National Climate Change Policy, Strategy and Action Plan for Suriname 2014–2021 seeks to make available high quality and affordable housing for all citizens and states that existing and new build housing is to be retrofitted, designed and/or built to be climate resilient and takes advantage of potential future green growth opportunities.

h) Right to food

The right to food can be seriously compromised by climate change, as its impacts create additional difficulties for countries' efforts to ensure that everyone is able to access enough food to be protected against hunger and malnutrition. The climate policies of the region also accept this reality and address agriculture and food issues from a human rights perspective. Most refer to concepts such as food security and sovereignty.

The human rights approach in relation to food is included in the policies of Argentina, Brazil, Colombia, Costa Rica, Cuba, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Saint Lucia. They include criteria such as suitability, availability, accessibility and sustainability for adequate food.

For example, the National Climate Change Adaptation Policy of Costa Rica states that the right to adequate food, among others, is central to achieving adaptation to climate change. The National Climate Change Plan of El Salvador aims to shield food and nutritional security from the effects and impacts of climate change. In turn, the National Climate Change Strategy 2012–2025 of Ecuador recalls the right of all Ecuadorians to secure and permanent access to healthy, sufficient and nutritious food, preferably produced locally and in accordance with their diverse cultural identities and traditions, and promotes food sovereignty. Therefore, one of the specific objectives of the Strategy in relation to climate change adaptation is to establish conditions that guarantee food sovereignty in the context of the effects of climate change. The Strategy also specifies that energy sovereignty shall not be achieved at the expense of food sovereignty, nor will it affect the right to water.

One of the action lines of the National Climate Change Strategy of Mexico is to guarantee food security in the face of climate threats by giving preference to measures for comprehensive watershed management, biodiversity conservation and soil restoration and other ecological support systems. Meanwhile, the National Environmental and Climate Change Strategy of Nicaragua refers to the Zero Hunger and Zero Usury programmes, which also contribute to climate change adaptation efforts, since they seek to reduce poverty and increase food security. The Strategy also guarantees food and health security for vulnerable populations, by promoting crop diversification, reclaiming local knowledge, promoting a sustainable land management policy and developing sound agricultural practices for the better management of agricultural land.

For its part, one of the goals of the National Climate Change Adaptation Plan for Grenada, Carriacou and Petite Martinique (2017–2021)⁷⁴ is to lay the foundation for food availability, stability, access and security amidst increasing climate change risks. The National Adaptation Plan 2018–2028 of Saint Lucia also seeks to enhance nutrition, food availability, quality and security through adaptation in the agricultural sector.

i) Right to water

There is a general consensus about the impact of climate change on the quality, access and availability of water resources, for both human and non-human use. Therefore, water and water security are one of the priority areas addressed by the climate change strategies, policies and plans of the region. They refer in

⁷³ See MEPyD (Ministry of the Economy, Planning and Development) (2016) *Política Nacional de Cambio Climático (PNCC)* [online] <http://economia.gob.do/mepyd/wp-content/uploads/archivos/planificacion/politica-cambio-climatico-julio-2016.pdf>.

⁷⁴ See Government of Grenada (2017) *National Climate Change Adaptation Plan (NAP) for Grenada, Carriacou and Petite Martinique (2017–2021)* [online] <https://www.gov.gd/egov/docs/other/Grenada-National-Adaptation-Plan-2017.pdf>.

a cross-cutting manner to how climate change reduces the availability and quality of water, as a result of droughts or pollution, or excess water due to storms and floods, and the impacts of this on people's lives, health, hygiene and food. All the policy instruments analysed herein cover the water sector.

In addition to considering water to be a strategic resource and prioritizing adaptation and mitigation measures in the water sector, the human rights approach is particularly relevant to water management in the climate policies of the region. The National Climate Change Adaptation Policy of Costa Rica states that, from a human rights approach, adaptation to climate change will only be achieved if the right to drinking water, among others, is guaranteed. The National Climate Change Strategy of Ecuador, in turn, recalls that the human right to water is fundamental and inalienable, declaring that resource a national strategic asset for public use, that is inalienable, imprescriptible, non-seizable and essential for life.

Thus, climate policies refer to the essential and interrelated characteristics of this human right as identified by the Committee on Economic, Social and Cultural Rights in its general comment No. 15,⁷⁵ namely availability, quality and accessibility. For example, the tasks of the State Plan for Addressing Climate Change: “*Tarea Vida*”⁷⁶ of Cuba include ensuring the availability and efficient use of water to meet local demand, and strengthening monitoring, surveillance and early warning systems to assess water conditions and quality regularly. Meanwhile, one of the action lines of the National Climate Change Strategy of Mexico is to implement and strengthen public policies focused on guaranteeing the availability, both in terms of quality and quantity, of water in areas considered to be priorities because of the probability of scarcity as a result of climate change, with emphasis on strengthening the eco-hydrological services provided by ecosystems.

The policy instruments of Grenada, Nicaragua, Saint Lucia and Uruguay also include essential elements such as equality, accessibility and quality when addressing the issue of water. A goal of the National Climate Change Adaptation Plan for Grenada, Carriacou and Petite Martinique is to establish a climate-responsive water governance structure. Nicaragua's National Environmental and Climate Change Strategy calls for the implementation of the National Water Act to maintain efficient use under the principle of equity, prioritizing the access of residents of the communities to sufficient, good quality drinking water. The expected outcomes of Saint Lucia's National Adaptation Plan 2018–2028 include increased water access, availability and quality, and increased water efficiency and conservation. Lastly, the National Climate Change Policy of Uruguay promotes the consideration of climate change and vulnerability in the comprehensive management of water resources in an effort to ensure their availability and quality.

j) Right to cultural life

Cultural considerations occupy a prominent place in the climate policies of Latin America and the Caribbean. On the one hand, the national policies of the region recognize the threats that climate change poses for cultural rights. For example, the National Climate Change Policy, Strategy and Action Plan 2015–2020 of Belize, notes that damage to cultural assets is one of the impacts of climate change and calls for the integrity of the national cultural heritage, archaeological or living, tangible or intangible, to be conserved. On the other hand, policies, such as the National Climate Change Action Plan of Guatemala, recall that protecting the country's cultural heritage has constitutional standing and that climate actions must seek to preserve that heritage.

In addition, climate policies frequently include the cultural dimension in their measures and instruments to ensure that climate action does not affect the population's enjoyment of their cultural rights. In Brazil, Chile and Ecuador, climate actions must respond to sociocultural dimensions, respecting cultural diversity. Meanwhile, the National Climate Change Policy, Strategy and Action Plan 2015–2020 of Belize argues that sustaining a strong and diverse cultural background, multiculturalism and collective identity will maintain and enhance the vibrancy and resourcefulness of decision-making, governance and management of climate change. In Honduras, space or platforms that facilitate public participation must do so under conditions of equality and respect for multiculturalism and different territories.

⁷⁵ E/C.12/2002/11.

⁷⁶ See CITMA (Ministry of Science, Technology and the Environment) (2017) *Enfrentamiento al Cambio Climático en la República de Cuba: Tarea Vida* [online] <http://www.contraloria.gob.cu/documentos/noticias/FOLLETO%20TAREA%20VIDA.PDF>.

Similarly, cultural identity is one of the principles governing the National Climate Change Action Plan of Guatemala, which refers to the need to identify and promote those traditional and ancestral practices for the use and management of natural resources that are appropriate and contribute to climate change adaptation and the mitigation of greenhouse gas emissions. Meanwhile cultural diversity is one of the cross-cutting themes of the National Climate Change Policy of Paraguay. This is a conceptual framework for the human development process that incorporates aspects related to cultural diversity when establishing lines of action with respect to climate change. The strategic guidelines and objectives must take into account differentiated approaches that consider the cultural characteristics of each sector of society to ensure that everyone benefits equally. The Policy also calls for cultural considerations to be included in the design of all plans, programmes and actions, and in the decision-making process.

Another approach is that of the National Climate Change Strategy⁷⁷ of Peru, which calls for a differentiated and intercultural approach when implementing measures that affect indigenous peoples. Moreover, the intercultural approach must be considered in relation to climate change adaptation actions, in national policies and in regional and local development plans, as well as in the collection, generation and dissemination of information on climate change and its effects and opportunities.

k) Equality and non-discrimination

The principle of equality and non-discrimination, a fundamental element relating to the protection of human rights, has been mainstreamed into many of the climate strategies, policies and plans of the region. Any distinction, exclusion or restriction related to climate change that undermines the recognition, enjoyment or exercise of human rights and fundamental freedoms under conditions of equality and non-discrimination for any reason or condition should be avoided. The principle of equality also implies special consideration for people and groups in situations of vulnerability, in order to reach the most disadvantaged and marginalized.

For example, the National Climate Change Adaptation Policy of Costa Rica adopts a “non-exclusion” or “no discrimination of any kind” approach, consistent with the ultimate aim of the Sustainable Development Goals of “leaving no one behind”. Additionally, the National Climate Change Policy, Strategy and Action Plan 2015–2020 of Belize calls for non-discrimination to be encouraged and equal access to opportunities provided for all in all livelihood development initiatives. A guiding principle of the National Climate Change Action Plan 2017–2022 of Chile is that measures must be of benefit to all, with a special focus on the most vulnerable sectors, communities, ecosystems and infrastructure, which are generally the most exposed and suffer the greatest impact from climate change. Similar provisions can be found in the National Climate Change Adaptation Plan 2015–2030 of the Dominican Republic, according to which the most vulnerable should be taken into consideration as a priority. Moreover, the National Climate Change Policy of Paraguay recognizes the right of all individuals in a society to receive equal treatment before the law.

l) Equity

Understood as meeting equitably the development and well-being needs of present and future generations, the principle of equity is also included in the climate policy instruments of the countries of Latin America and the Caribbean. In the context of climate change, this principle is reflected in the need for mitigation and adaptation efforts to benefit people in developing countries, people in vulnerable situations and future generations.

The National Climate Change Policy, Strategy and Action Plan 2015–2020 of Belize states that the principle of equity shall be observed and that the government should aim to protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Meanwhile, equity is one of the guiding principles of the National Climate Change Action Plan of Chile and the National Climate Change Policy of Paraguay and the National Climate Change Adaptation Plan 2015–2030 of the Dominican Republic, among others. Equity is also a guiding principle of Haiti’s National Policy to Combat Climate Change. It states that the right of social groups, territories and regions to benefit from national resources without discrimination must be respected.

⁷⁷ See Ministry of the Environment (2015) *Estrategia Nacional ante el Cambio Climático* [online] <http://www.minam.gob.pe/wp-content/uploads/2015/09/ENCC-FINAL-250915-web.pdf>.

In turn, the National Climate Change Policy of Uruguay must contribute to the sustainable development of the country, with perspective of intra- and intergenerational equity and human rights, in an effort to create a more resilient, less vulnerable society, with a greater capacity to adapt to climate change and variability, and that is more aware of and takes responsibility for this challenge. Intergenerational solidarity is also highlighted in the National Climate Change Adaptation Policy of Costa Rica, which is implicit in the concept of sustainable development, in the sense of guaranteeing the right of future generations to a less dangerous climate. Intergenerational equity is also mentioned in the National Climate Change Action Plan of Guatemala.

m) Gender-based approach⁷⁸

A gender perspective is another aspect that characterizes the climate policy instruments of the region. Recognizing the particular vulnerability of women to climate change, the countries of the region have not only adopted specific measures to address existing inequalities, but also seek to empower and strengthen the role of women in climate change adaptation and mitigation measures.

Gender equality is expressly included in the strategies and policies of Argentina, Belize, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, the Dominican Republic, El Salvador, Grenada, Guatemala, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Lucia and Suriname, among others. A specific section of the National Climate Change Adaptation and Mitigation Plan of Argentina is devoted to mainstreaming a gender perspective.

The National Climate Change Adaptation Policy of Costa Rica states that gender equity is an inherent aspiration for the fulfilment of human rights. When implementing the Policy, the interrelation between the various vulnerabilities (social, economic, environmental) that affect women individually and collectively, particularly those with disabilities, older women, girls or adolescents, among other groups, shall be taken into account. It also calls for processes that promote and ensure that women take ownership of and that make visible their management of adaptation efforts in all areas. Likewise, the National Climate Change Action Plan of Guatemala focuses on gender equality and the empowerment of women, as does the National Climate Change Adaptation Plan 2015–2030 of the Dominican Republic which recognizes the role of women as agents of change and encourages their participation in the transformation of society towards low carbon and resilient development.

Gender is also considered in the design of the climate strategies and policies of Mexico, Nicaragua and Paraguay. A gender approach is included in all the climate change policies of Mexico, as well as its social vulnerability reduction strategies. Similarly, a gender equality approach has been mainstreamed into mitigation and adaptation actions, as well as education, training and dissemination measures. The National Climate Change Mitigation and Adaptation Policy of Nicaragua guarantees the involvement of women and men in climate change mitigation and adaptation actions, measures, plans and strategies at all levels. Meanwhile, the gender perspective is a cross-cutting theme of the National Climate Change Policy of Paraguay and constitutes a conceptual framework for the human development process in which actions should be considered that ensure that both men and women will benefit equally from climate change measures, although differentiated approaches must be adopted for each gender. It also calls for the gender perspective to be included in the design of all plans, programmes and actions and in the decision-making process, and in efforts to build institutional capacities that will allow women's greater participation in climate change adaptation and mitigation measures.

⁷⁸ Sometimes, climate policy instruments refer to "gender equity". The Committee on the Elimination of Discrimination against Women has recalled on numerous occasions that "equality" and "equity" are not synonyms or interchangeable, and has insisted on the preference for the term "equality". See, for example, the Committee's general recommendation No. 28 (2010), which states that: "Inherent to the principle of equality between men and women, or gender equality, is the concept that all human beings, regardless of sex, are free to develop their personal abilities, pursue their professional careers and make choices without the limitations set by stereotypes, rigid gender roles and prejudices. States parties are called upon to use exclusively the concepts of equality of women and men or gender equality and not to use the concept of gender equity in implementing their obligations under the Convention. The latter concept is used in some jurisdictions to refer to fair treatment of women and men, according to their respective needs. This may include equal treatment, or treatment that is different but considered equivalent in terms of rights, benefits, obligations and opportunities" (para. 22) [online] <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement>.

Another way in which the gender approach is considered is through the disaggregation of information related to climate change. Chile's National Climate Change Action Plan, for example, disaggregates information related to vulnerability and risk by sex, given that women and men may be affected differently by climate change. The National Adaptation Plan 2018–2028 of Saint Lucia also disaggregates information by sex as well as other indicators.

n) Specific groups

i) Indigenous peoples

Indigenous peoples are expressly recognized in the climate policies of Argentina, Brazil, Chile, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Suriname. The approach adopted by the policies of other countries, such as El Salvador, to the rights of indigenous peoples is underpinned by an ethnic approach and from the value given to communities' traditional knowledge and cultural values.

The climate strategies and policies of some countries, such as Guatemala and Mexico, refer to instruments such as ILO Convention No. 169 concerning Indigenous and Tribal Peoples and the United Nations Declaration on the Rights of Indigenous Peoples. The rights of indigenous peoples are a specific safeguard with which actions developed in the framework of the National Climate Change Action Plan of Guatemala must comply, to ensure that those rights are respected when adopting measures to tackle climate change. In the case of plans, projects or actions that may affect the lives of large indigenous populations, the consultation processes and prior, free and informed consent, in accordance with applicable international standards, shall be taken into account. Meanwhile, the Special Climate Change Programme 2009–2012 of Mexico refers to the United Nations Declaration on the Rights of Indigenous Peoples, article 19 of which provides that "States shall consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them." Similarly, the National Climate Change Strategy of Honduras calls for the rights of indigenous and tribal peoples to be considered and for consultation and participation processes to be based on free, prior and informed consent.

Numerous climate instruments consider indigenous peoples to be one of the groups especially at risk due to the impacts of climate change and are the beneficiaries of affirmative actions to guarantee their rights and inclusion. The National Climate Change Adaptation Plan of Brazil includes the social, cultural and economic dimensions in promoting adaptation actions, with particular attention paid to vulnerable groups and populations, such as indigenous peoples, and adopts an approach based on ethnic criteria. The National Climate Change Adaptation Policy of Costa Rica advocates affirmative actions to guarantee the inclusion of groups particularly vulnerable to climate change, such as indigenous communities, by establishing deliberative spaces with representatives of these communities to discuss and contribute to the creation of public policies and adaptation plans. It also requires that consideration be given to the vulnerability of populations that suffer from structural disadvantages, as a result of their social or economic status, such as indigenous peoples. Similarly, implementation of the National Climate Change Strategy of Peru must take into account the greater vulnerability of the poorest populations and at-risk groups, such as indigenous peoples and rural populations in general.

In addition, the recognition and promotion of traditional knowledge in adaptation and mitigation measures is given a prominent place in numerous policies of the region, particularly in areas such as sustainable agriculture, forest management, water management or biodiversity conservation. For example, Paraguay's National Climate Change Policy calls for institutional capacities to be strengthened to promote traditional systems (knowledge and practices), such as innovations of indigenous peoples and local communities to adapt to climate change and mitigate its effects, and for the knowledge and practices of indigenous peoples and rural communities to be promoted in forest conservation. It also proposes raising financial resources focused on the impact of climate change on vulnerable social sectors, especially indigenous peoples and the conservation of their forests. The National Climate Change Mitigation and Adaptation Policy of Nicaragua also recognizes that climate change affects the habits, customs and traditions of indigenous peoples, so emphasis will be placed on supporting them in their activities for the preservation of the environment and sustainable use of natural resources.

In turn, one of the approaches of the National Climate Change Adaptation Policy of Costa Rica is related to indigenous peoples, stating that as a result of their close relationship with the environment and their resources, indigenous peoples are important actors in terms of adaptation. The link between communities and ecosystems can support the improvement of resilience to climate change, by leveraging ancestral knowledge and techniques to find creative solutions to cope with the impacts of climate change. From the perspective of adaptation, indigenous knowledge and ancestral techniques that allow these peoples to adapt to climate change in their own territories should be recognized, encouraged, supported and promoted.

A number of climate change measures in the region implement differential and intercultural approaches. An output of the National Climate Change Strategy of Peru is to raise awareness, build capacities and support implementation of measures regarding risks exacerbated by climate change in populated areas. These services must be implemented with an approach adapted to the collective rights of indigenous peoples. It also calls for multisector and inter-sector coordination spaces to be strengthened and promoted, with the participation of indigenous peoples' representatives when appropriate, on the issue of reducing emissions and carbon sequestration and capture; for synergies to be established with indigenous peoples to promote efficiency in emissions management; and for the exchange of information on the management of greenhouse gas emissions, carbon sequestration and increase of sinks to be promoted among scientific entities and interest groups, such as indigenous communities.

ii) Afrodescendants

Some instruments expressly mention Afrodescendants as a group that is particularly vulnerable to climate change or beneficiaries of specific actions. Brazil's National Climate Change Adaptation Plan calls for special attention to be paid to the most vulnerable groups and peoples (such as quilombolas) when promoting climate change adaptation. Meanwhile, the National Climate Change Strategy of Honduras provides for the establishment of relevant working groups, including on Afrodescendent peoples. Lastly, Nicaragua's National Environmental and Climate Change Strategy seeks to strengthen capacities for the organization, planning, administration and protection of protected areas at the national level and in the territories of Afrodescendent peoples.

iii) Persons with disabilities

The rights of persons with disabilities are another aspect included in the climate policies of Latin America and the Caribbean. References to this group are found in the policies of Costa Rica, Ecuador, Guatemala, Mexico and Uruguay.

In addition to pointing out the particular risks that climate change poses for persons with disabilities, the region's policies provide affirmative measures to guarantee their equality and inclusion. Persons with disabilities are listed among the priority care groups in the National Climate Change Strategy 2012–2025 of Ecuador, given the greater likelihood of them being affected by climate change, as an at risk group that would have greater difficulty recovering. An action line of the National Climate Change Policy of Uruguay, in turn, is to promote the population's resilience and capacity to adapt through actions directed towards persons with disabilities, among others, bearing in mind their exposure to climate change and variability, habitat and natural environment in a comprehensive manner.

The rights of persons with disabilities must be respected in the design and implementation of climate measures. This is a specific safeguard of the National Climate Change Action Plan of Guatemala. An action line of the National Climate Change Strategy of Mexico is that aspects of disability, among other factors, must be taken into account in the design of all climate change policies and that different sectors of society must be involved in their implementation.

iv) Children, adolescents and youth

In addition to the aforementioned principle of intergenerational equity, numerous climate policies give special consideration to children, adolescents and young people in their provisions. The National Climate Change Strategy 2012–2025 of Ecuador includes children and adolescents among the priority care groups.

The National Climate Change Action Plan of Guatemala also prioritizes care for the most vulnerable populations, including children, and reiterates that the human rights of children must be respected when adopting measures to address climate change.

Specific actions are foreseen for children and adolescents in climate policies such as those of Costa Rica, Honduras, Jamaica and Nicaragua. Regarding participation and inclusion, the National Climate Change Adaptation Policy of Costa Rica provides for affirmative actions to guarantee the inclusion of groups particularly vulnerable to climate change, such as young people, by establishing deliberative spaces to discuss and contribute to the creation of public policies and adaptation plans. The National Climate Change Strategy of Honduras foresees training for local populations and strategic groups, such as young people, to promote its implementation, as well as the creation of a specific working group for young people. Lastly, the Climate Change Policy Framework for Jamaica states that the government, in the development of strategies and approaches to address climate change, will engage those most vulnerable to climate change impacts, including children. Special emphasis will be placed on providing information geared towards children and youth.

v) Older persons

The region of Latin America and the Caribbean has also played a pioneering role in addressing the issues of old age and ageing in climate change policies from a human rights perspective. The strategies and policies of Costa Rica, Ecuador and Uruguay consider older persons as a group particularly vulnerable to climate change and old age a condition that can exacerbate the interplay among the various social, economic and environmental vulnerabilities.

The National Climate Change Adaptation Policy of Costa Rica foresees affirmative actions to guarantee the inclusion of groups particularly vulnerable to climate change, such as older persons, by establishing deliberative spaces to discuss and contribute to the creation of public policies and adaptation plans. Similarly, the National Climate Change Strategy 2012–2025 of Ecuador considers older persons to be a priority care group. Meanwhile, one of the action lines of the National Climate Change Policy of Uruguay is to promote adaptability and resilience through actions aimed at older persons.

vi) Migrants

Climate policies such as those of Costa Rica, Guatemala, Honduras and Mexico refer to the impacts of climate change on migration and the need to respect the human rights of migrants in relation to this phenomenon. Guatemala's National Climate Change Action Plan is categorical in this regard, requiring that the adoption of measures to address climate change respect the rights of migrants.

The National Climate Change Adaptation Policy of Costa Rica, the National Climate Change Strategy of Honduras and the Special Climate Change Programme 2009–2012 of Mexico all analyse the consequences that global warming has on migration. The Policy of Costa Rica states that climate change will affect populations who will be forced to move within the country, or to migrate abroad, with humanitarian consequences. The National Climate Change Strategy of Honduras notes that one of the adverse effects of climate change already evident is the increasingly frequent relocation and migration processes at the national, regional and international levels. These processes are recurring and almost constant. Climate change and its threats, particularly for the most vulnerable population groups, could generate unprecedented migration processes, which would result in an increase in demand for humanitarian aid and coverage of basic needs, as well as discontent and social mobilization in order to obtain solutions for and assert the rights of relocated persons or climate refugees. The effects of climate change, as is pointed out in the Special Climate Change Programme 2009–2012 of Mexico, increases vulnerabilities related to climate-induced migration.

With regard to risk management, the National Climate Change Strategy of Honduras seeks to prevent, reduce and address in an appropriate and timely manner the temporary or permanent displacements of human populations as a result of climatic events. It also advocates the establishment and strengthening of a legal and institutional framework to address the particular conditions of climate-induced migrations, based on human rights and within the framework of climate change adaptation strategies.

vii) *Campesinos and rural communities*

Campesinos and rural communities have also been included in those groups most vulnerable to climate change. The National Climate Change Strategy of Peru states that it must be applied with proper consideration given to the country's context and taking into account the greater vulnerability of the poorest populations and at-risk groups, such as rural populations in general. One of the action lines of the National Climate Change Strategy of Mexico is to strengthen the identification of and care for priority areas, settlements and social groups to reduce vulnerability and increase the resilience of human settlements in rural areas, among others. Similarly, the National Climate Change Policy of Uruguay also promotes resilience and capacity for adaptation through actions aimed at the rural population.

The National Climate Change Plan of El Salvador provides for risk maps of communities and rural settlements to be drawn up with the participation of their inhabitants, which will be key risk management instruments. In addition, vulnerable communities and rural settlements will implement an ongoing, locally-managed risk reduction programme.

In turn, the National Climate Change Strategy of Honduras calls for the participation of *campesinos* and rural populations living in extreme poverty in national efforts to tackle climate change. That participation includes community and *campesino* organizations, associations of agricultural and artisan workers, fishermen or rural workers. The establishment of a working group on *campesinos* is also foreseen.

viii) *Other specific groups*

Other groups referred to in the design and implementation of climate instruments of the region, either because of the negative impacts climate change is likely to have on them or the need to prioritize their care, include people living in poverty, marginalized urban or suburban populations, people living in a street situation and those with severe or highly complex medical conditions. The National Climate Change Strategy of Honduras considers areas subject to multiple risks, which carry added complexities and vulnerabilities. The National Climate Change Adaptation Plan of Brazil identifies homeless people, fisherfolk and coastal communities, and Roma. Meanwhile, the National Climate Change Policy of Uruguay refers to those people living below the poverty line or the extreme poverty line, and the National Climate Change Strategy 2012–2025 of Ecuador goes even further by including persons deprived of liberty, victims of domestic and sexual violence and child abuse, pregnant women, and people with lower income levels and limited service coverage.

Final considerations

There are clear human rights obligations with respect to climate change and climate change mitigation and adaptation. Actions to prevent the foreseeable adverse effects of climate change should be coherent with and be informed by the obligations to respect, protect and fulfil the human rights of all persons. Moreover, in the event of environmental damage or human rights violations, States and duty bearers should ensure that rights holders have access to the necessary legal remedies.

To effectively meet such human rights obligations, climate measures should also be participatory, gender-responsive and adequately resourced. They must also protect the rights of all persons and particularly those in vulnerable situations. The different stakeholders, including businesses, should effectively mitigate their contributions to climate change and ensure respect for human rights. Furthermore, both individual and collective action is required to mobilize and allocate adequate means of implementation for climate change mitigation and adaptation.

In keeping with international human rights obligations, the Latin American and Caribbean region has made significant strides in incorporating human rights into climate action. These efforts have been made on several fronts. At the global level, countries of the region have taken important steps to mainstream a rights-based perspective into the United Nations Framework Convention on Climate Change (UNFCCC) process and the United Nations human rights protection system. Their leading role in the advancement of the UNFCCC gender and indigenous peoples' initiatives as well as their decisive support for the Human Rights Council resolutions on climate change since 2008 reflects their sustained commitment to this matter.

Furthermore, the number of recommendations on climate change and environmental issues made and received by Latin American and Caribbean countries in human rights mechanisms such as the universal periodic review (UPR) and the treaty bodies demonstrates the growing importance of a rights-based approach to climate change in the region. The countries of the region have made 72 recommendations and received 76 environmental and climate-related UPR recommendations to date and, in the last five years, treaty bodies have issued a total of 65 concluding observations with references to climate change and related matters. In the period of reference, the vast majority of committees have referred to climate change or related issues in their concluding observations to the countries of the region and one of them, the Committee on the Rights of Persons with Disabilities, has made recommendations on these matters in all its concluding observations.

Regionally, the right to a healthy environment has been recognized in the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) of the Inter-American Human Rights System and, more recently, reaffirmed by the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), the first regional environmental treaty of Latin America and the Caribbean, of which ECLAC is the secretariat. As an environmental and human rights treaty, the Escazú Agreement aims to ensure the right of present and future generations to a healthy environment and to sustainable development through the rights of access to information, public participation and access to justice. Furthermore, by focusing on persons and groups in vulnerable situations and upholding equality and non-discrimination, the Escazú Agreement materializes the 2030 Agenda for Sustainable Development's ultimate aim: to leave no one behind. Moreover, the agreement is the first in the world to include specific provisions on human rights defenders in environmental matters, thereby setting an important example by ensuring environmental actions respect, protect and fulfil human rights. It is now critical for this landmark agreement to be signed, ratified and operationalized, so that the vital protection envisioned can have its intended effect.

Countries of the region have likewise recognized key human rights obligations in their national climate policy instruments. The references to human rights and specific elements in the climate change laws of Latin American and Caribbean countries, and the numerous climate strategies, policies and plans that refer to

human rights or adopt a human rights-based approach are both noteworthy and should be further developed. It is particularly important that all the policy instruments reviewed in this document include references to procedural rights such as access to information and public participation, and also to substantive rights including health, education, and food and water.

As recognized by the Intergovernmental Panel on Climate Change (IPCC) and the United Nations Human Rights Council, a rights-based approach results in more effective climate action. The countries of Latin America and the Caribbean should therefore continue to be guided by human rights standards when adopting new climate instruments or amending existing ones. In addition, full and effective implementation of the climate legal and policy frameworks remains a challenge, as does ensuring policy consistency and coherence. Promoting the rights of people disproportionately affected by climate change is another pending matter. Additional consideration should be given to the rights of specific groups, including women, indigenous persons, migrants and communities in vulnerable situations. The region must also redouble its efforts to combat the worrying trend of threats, attacks and intimidations against environmental human rights defenders.

The updating of the nationally determined contributions (NDCs) mandated by the Paris Agreement from 2020 onward, and the adoption of the measures to implement them at the national level, offer an unprecedented opportunity for Latin American and Caribbean countries to further strengthen a rights-based approach in climate action. The Escazú Agreement and the United Nations human rights mechanisms can undoubtedly play a crucial role in guiding and assisting countries in that regard.

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Annexes

Annex A1

Table A1.1
Latin America and the Caribbean: ratification of selected United Nations treaties

	Antigua and Barbuda	Argentina	Bahamas	Barbados	Belize	Bolivia (Plurinational State of)	Brazil	Chile	Colombia	Costa Rica	Cuba	Dominica	Dominican Republic	Ecuador	El Salvador	Grenada	Guatemala	Guyana	Haiti	Honduras	Jamaica	Mexico	Nicaragua	Panama	Paraguay	Peru	Saint Kitts and Nevis	Saint Lucia	Saint Vincent and the Grenadines	Suriname	Trinidad and Tobago	Uruguay	Venezuela (Bolivarian Republic of)	
United Nations Framework Convention on Climate Change, 1992	1993	1994	1994	1994	1994	1994	1994	1994	1995	1994	1994	1993	1998	1993	1995	1994	1995	1994	1996	1995	1995	1993	1995	1995	1994	1993	1996	1993	1997	1994	1994	1994		
Kyoto Protocol, 1997	1998	2001	1999	2000	2003	1999	2002	2002	2001	2002	2002	2005	2002	2000	1998	2002	1999	2003	2005	2000	1999	2000	2000	1999	1999	2002	2008	2004	2003	2006	1999	2001	2005	
Paris Agreement, 2015	2016	2016	2016	2016	2016	2016	2016	2017	2018	2016	2016	2016	2017	2017	2017	2016	2017	2016	2017	2016	2017	2016	2017	2016	2016	2016	2016	2016	2016	2019	2018	2016	2017	
Escazú Agreement, 2018	2018	2018	2019	2018	2018	2019	2018	2018	2018	2018	2018	2018	2018	2018	2018	2019	2018	2019	2019	2018	2019	2019	2019	2019	2018	2018	2019	2019	2019	2019	2019	2019	2019	
International Covenant on Civil and Political Rights, 1966	2019	1986	2008	1973	1996	1982	1992	1972	1969	1968	2008	1993	1978	1969	1979	1991	1992	1977	1991	1997	1975	1981	1980	1977	1992	1978	2011	1981	1976	1978	1970	1978	1978	
International Covenant on Economic, Social and Cultural Rights, 1966	2019	1986	2008	1973	2015	1982	1992	1972	1969	1968	2008	1993	1978	1969	1979	1991	1988	1977	2013	1981	1975	1981	1980	1977	1992	1978	1981	1976	1976	1978	1970	1978	1978	
International Convention on the Elimination of All Forms of Racial Discrimination, 1965	1988	1968	1975	1972	2001	1970	1968	1971	1981	1967	1972	1972	1983	1966	1979	2013	1983	1977	1972	2002	1971	1975	1978	1967	2003	1971	2006	1990	1981	1984	1973	1968	1967	
Convention on the Elimination of All Forms of Discrimination against Women, 1979	1989	1985	1993	1980	1990	1990	1984	1989	1982	1986	1980	1980	1982	1981	1981	1990	1982	1980	1981	1983	1984	1981	1981	1981	1987	1982	1985	1982	1981	1993	1990	1981	1983	
Convention on the Rights of the Child, 1989	1993	1990	1991	1991	1990	1990	1990	1990	1991	1990	1991	1991	1991	1990	1990	1990	1990	1990	1991	1995	1990	1991	1990	1990	1990	1990	1990	1993	1993	1993	1991	1990	1990	1990
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990	2007				2001	2000	2005	1995					2002	2003	2003	2003	2003	2010	2013	2005	2008	1999	2005	2008	2005	2008	2005	2010				2001	2016	
Convention on the Rights of Persons with Disabilities, 2006	2016	2008	2015	2013	2011	2009	2008	2008	2011	2008	2007	2012	2009	2008	2007	2014	2009	2014	2009	2008	2007	2007	2007	2007	2008	2008	2019	2011	2010	2017	2015	2009	2013	

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of United Nations Treaty Collection [online] <http://treaties.un.org>.

Note: Shaded cells indicate that the agreement has only been signed, as at 29 October 2019.

Annex A2

Table A2.1

Latin America and the Caribbean (26 countries): disaster risk prevention laws

Country	Title of the law	Date of enactment
Antigua and Barbuda	Disaster Management Act (No. 13 of 2002)	2002
Argentina	Law No. 27287 on the National Comprehensive Risk Management and Civil Protection System	2016
Bahamas	Disaster Preparedness and Response Act (No. 4 of 2006)	2006
Barbados	Emergency Management Act (No. 20 of 2006)	2006
Belize	Disaster Preparedness and Response Act (No. 10 of 2000)	2000
Bolivia (Plurinational State of)	Law No. 602 on Risk Management	2014
Brazil	Law No. 12,340 which sets forth provisions on transfer of resources from the federal level to state, Federal District and municipal entities for the implementation of preventive actions in areas of disaster risk and response and recovery in areas affected by disasters, and on the National Fund for Public Disasters, Protection and Civil Defence, and other provisions	2010
	Law No. 12,608 establishing the National Protection and Civil Defence Policy	2012
Chile	Law No. 16,282 establishing permanent arrangements in the event of earthquakes or catastrophes	1965
Colombia	Law No. 46 of 1988, establishing and regulating the National Disaster Prevention and Response System, granting extraordinary powers to the President of the Republic and enacting other provisions	1988
	Law No. 1523 of 2012, adopting the National Disaster Risk Management Policy and establishing the National Disaster Risk Management System	2012
Costa Rica	National Emergency and Risk Prevention Act (Law No. 8488)	2005
Dominican Republic	Law No. 147-02 on Risk Management	2002
El Salvador	Civil Protection, Disaster Prevention and Mitigation Act (Decree No. 777)	2005
Guatemala	Law No. 109-96 on the National Coordinating Office for Disaster Reduction	1996
Haiti	State of Emergency Act	2008
Honduras	National Risk Management System Act (Decree No. 151/09)	2009
Jamaica	Disaster Preparedness and Emergency Management Act (No. 15 of 1993)	1993
Mexico	Civil Protection Act	2012
Nicaragua	Law No. 337 establishing the National System for Disaster Prevention, Mitigation and Response	2000
Panama	Law No.7 regulating the National Civil Protection System	2005
Paraguay	Law No. 2615/05 establishing the National Emergencies Secretariat	2005
Peru	Law No. 29664 of 2011, creating the National Disaster Risk Management System (SINAGERD)	2011
Saint Kitts and Nevis	National Disaster Management Act (No. 5 of 1998)	1999
Saint Lucia	Disaster Management Act (No. 30 of 2006)	2006
Saint Vincent and the Grenadines	National Emergency and Disaster Management Act (No. 15 of 2006)	2006
Uruguay	National Emergency System Act (Law No. 18621)	2009
Venezuela (Bolivarian Republic of)	National Civil Protection and Disaster Management Act (Presidential Decree No. 1,557)	2008

Source: Economic Commission for Latin America and the Caribbean (ECLAC).

Annex A3

Table A3.1

Latin America and the Caribbean (28 countries): climate change strategies, policies, plans and programmes

Country	Climate change strategies, policies, plans and programmes	Date of adoption
Argentina	National Climate Change Adaptation and Mitigation Plan	2019
Bahamas	National Policy for the Adaptation to Climate Change	2005
Barbados	National Climate Change Policy	2012
Belize	National Climate Change Policy, Strategy and Action Plan 2015-2020	2014
Brazil	National Policy on Climate Change	2009
	National Climate Change Adaptation Plan	2016
Chile	National Climate Change Action Plan 2017-2022	2017
	National Climate Change Adaptation Plan	2014
Colombia	Colombian Low Carbon Development Strategy	2011
	National Climate Change Policy	2017
	National Climate Change Adaptation Plan	2012
Costa Rica	National Climate Change Strategy	2009
	National Climate Change Adaptation Policy 2018-2030	2018
Cuba	State Plan for Addressing Climate Change: "Tarea Vida"	2017
Dominica	National Climate Change Adaptation Policy	2002
	Low-Carbon Climate-Resilient Development Strategy 2012-2020	2012
Dominican Republic	National Climate Change Policy	2016
	National Climate Change Adaptation Plan 2015-2030	2016
Ecuador	National Climate Change Strategy 2012-2025	2012
El Salvador	National Climate Change Strategy	2013
	National Climate Change Plan	2017
Grenada	National Climate Change Policy for Grenada, Carriacou and Petite Martinique (2017-2021)	2017
	National Climate Change Adaptation Plan for Grenada, Carriacou and Petite Martinique (2017-2021)	2018
Guatemala	National Climate Change Action Plan	2016
Guyana	National Climate Change Policy and Action Plan 2020-2030	(forthcoming)
Haiti	National Policy to Combat Climate Change	2019
	National Adaptation Action Plan to Address Climate Change	2019
Honduras	National Climate Change Strategy	2015
Jamaica	Climate Change Policy Framework	2015
Mexico	National Climate Change Strategy	2013
	Special Climate Change Programme 2014-2018	2014
Nicaragua	National Environmental and Climate Change Strategy	2010
	National Climate Change Mitigation and Adaptation Policy and establishment of the Climate Change Response System	2019
Panama	National Climate Change Strategy 2050	2019
	National Climate Change Policy	2012
Paraguay	National Climate Change Policy	2012
Peru	National Climate Change Strategy	2015
Saint Lucia	Climate Change Adaptation Policy	2015
	National Adaptation Plan 2018-2028	2018
Suriname	National Climate Change Policy, Strategy and Action Plan 2014-2021	2015
Trinidad and Tobago	National Climate Change Policy	2011
Uruguay	National Climate Change Policy	2017

Source: Economic Commission for Latin America and the Caribbean (ECLAC).

Annex A4

Table A4.1

Latin America and the Caribbean (25 countries): formal and permanent consultation bodies on climate issues

Country	Institution
Argentina	National Climate Change Cabinet
Bahamas	National Committee on Climate Change
Barbados	National Climate Change Committee
Belize	National Climate Change Committee
Bolivia (Plurinational State of)	Plurinational Authority for Mother Earth
Brazil	Climate Change Forum
Chile	Permanent Presidential Advisory Commission on Climate Change Regional Climate Change Committees
Colombia	National Climate Change Council
Costa Rica	Citizen's Advisory Council on Climate Change Scientific Council on Climate Change
Dominican Republic	National Climate Change Council and Clean Development Mechanism
Ecuador	Inter-Agency Committee on Climate Change
El Salvador	National Environmental Sustainability and Vulnerability Council National Safeguards Committee
Grenada	National Climate Change Committee
Guatemala	National Climate Change Council
Guyana	National Climate Change Committee
Haiti	National Climate Change Committee Advisory Council on Climate Change
Honduras	Inter-Agency Committee on Climate Change Inter-Agency Technical Committee on Climate Change
Jamaica	Climate Change Advisory Board
Mexico	Climate Change Council
Nicaragua	Climate Change Commission
Panama	National Climate Change Committee
Paraguay	National Climate Change Commission
Peru	National Climate Change Commission
Saint Lucia	National Climate Change Committee
Uruguay	National Climate Change and Variability Response System

Source: Economic Commission for Latin America and the Caribbean (ECLAC), on the basis of the review of nationally determined contributions (NDC), voluntary national reviews, plans, climate change policies and strategies and websites of the ministries of the environment of the countries of the region.



Climate change represents the foremost threat to the full exercise of human rights today. In accordance with international human rights standards, climate action must be guided by and ensure the respect for and the protection and fulfilment of the human rights of all persons, particularly the most vulnerable.

The countries of Latin America and the Caribbean have made significant strides in incorporating a human-rights-based approach into climate action. In this joint publication, the Economic Commission for Latin America and the Caribbean (ECLAC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) have undertaken to highlight the numerous contributions to the human rights perspective made by and for the region. The commitment of the region's countries to human rights in relation to climate change is evident on several fronts: from the United Nations Framework Convention on Climate Change processes and initiatives and the nationally determined contributions, to the recommendations of the United Nations human rights mechanisms, the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) and national climate legal and policy frameworks.

