



CENTER FOR JUSTICE AND INTERNATIONAL LAW

# ACCESS TO JUSTICE AND EFFECTIVE REMEDIES IN THE CONTEXT OF CLIMATE LITIGATION

THEMATIC GUIDE FOR ANALYSING  
ADVISORY OPINION 32



# ACCESS TO JUSTICE AND EFFECTIVE REMEDIES IN THE CONTEXT OF CLIMATE LITIGATION

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The Center for Justice and International Law (CEJIL) has a mission to promote structural change and protect individuals and communities at risk in the Americas through the strategic use of the Inter-American Human Rights System, United Nations protection mechanisms, and international human rights law.

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# ACCESS TO CLIMATE INFORMATION AND HUMAN RIGHTS OBLIGATIONS

Series: International law in the face of the climate emergency

On July 3, 2025, the Inter-American Court of Human Rights (IACHR) published its [Advisory Opinion AO-32/25](#), entitled “**Climate Emergency and Human Rights**” (AO32), a fundamental legal tool that paves the way for addressing the climate emergency through international human rights law. This series of thematic guides presents in a systematic and practical manner the innovative contributions and insights of AO32, issued in response to a joint request submitted by the States of Colombia and Chile in January 2023.

The Center for Justice and International Law (CEJIL), together with other actors, promoted the submission of this OC to the Inter-American Court of Human Rights and has promoted a series of debates around the [questions raised](#). The Inter-American Court of Human Rights generated a wide-ranging process and received [contributions](#) from hundreds of experts, organizations, universities, indigenous peoples and leaders, States, national human rights institutions, rapporteurs, cities, etc.

Advisory opinions provide access to an authoritative interpretation of the scope of international human rights law on various issues, such as the climate emergency. This series of informative guides brings together the most relevant legal standards and novel aspects of AO32 on the basis of several thematic areas for study and strategic application. Other relevant sources and background information from the inter-American and universal systems are also included. Finally, it highlights lines of action that the community of practice can promote and strengthen based on state obligations in the area of human rights.

## INTRODUCTION

The joint request submitted by Colombia and Chile required the Inter-American Court of Human Rights to rule on issues related to access to justice and effective judicial remedies in the context of the climate emergency. In particular, it sought clarification from the Court on the following questions: What measures should States adopt to ensure that individuals can effectively, promptly, and adequately seek justice when their substantive rights, such as the right to life, health, or a healthy environment, are affected by the impacts of climate change? Why is it important for all people to have access to timely, clear, accurate, and accessible information about the environment and the climate system in order to access justice? What should States do to ensure that administrative and judicial proceedings truly fulfill the objective of guaranteeing human rights in the face of the impacts of climate change and overcoming structural obstacles to access to climate justice? This informative guide analyzes the legal developments of AO32 on these issues, in light of international principles and standards, the jurisprudence of the Court, inter-American doctrine, and some of the contributions made by CEJIL and other experts and organizations in the context of the AO32 development process and other regional and universal processes<sup>1</sup>.

El acceso a la justicia, junto con el derecho a la información y la participación pública y la protección del derecho a defender derechos, constituye uno de los pilares fundamentales para alcanzar la justicia climática y garantizar la protección efectiva de los derechos humanos frente a los impactos del cambio climático. Estos llamados derechos de procedimiento permiten que personas, comunidades y organizaciones exijan acciones estatales frente a la crisis climática y reclamen el cumplimiento de sus derechos, tanto individuales como colectivos. En América Latina y en otras regiones del mundo, el uso del litigio climático se ha intensificado como una herramienta clave para la rendición de cuentas y la exigibilidad de derechos ambientales y derechos humanos impactados en el contexto de la emergencia climática.

Access to justice, together with the right to information and public participation and the protection of the right to defend rights, constitutes one of the fundamental

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1. The Amici Curiae briefs submitted by CEJIL, together with human rights organizations and experts, to the Inter-American Court of Human Rights in the AO32 case can be consulted at the following specialized website: <https://cejil.org/clima/>

pillars for achieving climate justice and guaranteeing the effective protection of human rights in the face of the impacts of climate change. These so-called procedural rights allow individuals, communities, and organizations to demand state action in the face of the climate crisis and to claim the fulfillment of their rights, both individual and collective. In Latin America and other regions of the world, the use of climate litigation has intensified as a key tool for accountability and the enforcement of environmental and human rights impacted in the context of the climate emergency.

In AO32<sup>2</sup>, the Inter-American Court of Human Rights establishes specific parameters that seek to remove the structural obstacles that have historically limited access to justice and redress for the individuals and communities most affected by climate change. These criteria cover institutional, procedural, and evidentiary dimensions. Among the most relevant aspects developed by the Court are the need to strengthen institutional capacities for the administration of justice in environmental and climate matters, the relaxation of evidentiary standards, the application of the *pro actione* principle, and the guarantee of a reasonable time frame, understood as a requirement for speed in proceedings. In addition, the Court highlights the importance of adapting the rules of standing to allow for both individual and collective and cross-border lawsuits, as well as adopting flexible evidentiary standards that facilitate the production of evidence and the

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**2.** Inter-American Court of Human Rights. Climate Emergency and Human Rights (Interpretation and scope of Articles 1.1, 2, 4.1, 5.1, 8, 11.2, 13, 17.1, 19, 21, 22, 23, 25, and 26 of the American Convention on Human Rights; 1, 2, 3, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights, “Protocol of San Salvador”; and I, II, IV, V, VI, VII, VIII, XI, XII, XIII, XIV, XVI, XVIII, XX, XXIII, and XXVII of the American Declaration of the Rights and Duties of Man). Advisory Opinion AO-32/25 of May 29, 2025. Series A No. 32, paras. 540-560 and operative paragraph 17 adopted by four votes in favor and three partially against. **3.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 304. **4.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 279-286, 314-316, and operative paragraph 7, adopted by four votes in favor and three against, which states: “The recognition of Nature and its components as subjects of rights constitutes a normative development that makes it possible to strengthen the protection of the integrity and functionality of ecosystems in the long term, providing effective legal tools in the face of the triple planetary crisis and facilitating the prevention of existential damage before it becomes irreversible. This concept represents a contemporary manifestation of the principle of interdependence between human rights and the environment, and reflects a growing international trend toward strengthening the protection of ecological systems against present and future threats.”

recognition of traditional and local knowledge alongside the best available science. Finally, it emphasizes the need to guarantee comprehensive reparation along with monitoring or follow-up mechanisms.

AO32 also incorporates innovative perspectives that broaden the debate on access to justice in relation to the interests protected by the collective dimension of the right to a healthy climate; namely, present and future humanity and Nature<sup>3</sup>. Among these, the recognition of Nature as a subject of rights stands out<sup>4</sup>, as do references to the principle of intergenerational equity, emphasizing that current generations must take on and increase climate action so as not to pass on an extraordinary responsibility to future generations<sup>5</sup>.

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**5.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 194, 305-313.

## KEY ASPECTS OF THE LEGAL STANDARDS AND NOVEL DEVELOPMENTS OF AO32

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## 1. ACCESS TO JUSTICE, DUE PROCESS, AND EFFECTIVE REMEDIES

### 1.1 GENERAL ASPECTS

Articles 8 and 25 of the American Convention on Human Rights (hereinafter “ACHR”) constitute the core of protection of the right of access to justice, due process, and judicial protection through adequate and effective remedies. In general terms, the Inter-American Court of Human Rights has indicated that “State Parties must provide effective judicial remedies to victims of human rights violations (Article 25) and that these remedies must be substantiated in accordance with the rules of due process of law (Article 8.1); all this, in compliance with the general obligation to guarantee the free and full exercise of the rights recognized by the American Convention to all persons under their jurisdiction (Article 1.1)”<sup>6</sup>.

Article 25 of the American Convention on Human Rights establishes that States have the obligation to guarantee all persons within their jurisdiction access to a simple, prompt, and effective judicial remedy before a competent judge or tribunal. This means that when a person or community considers that their rights have been violated, they must have accessible and effective mechanisms to seek justice<sup>7</sup>. The Inter-American Court of Human Rights has pointed out that the effectiveness of these remedies is not measured solely by their formal existence, but by their actual capacity to provide an adequate means of obtaining redress. Even if a judge ultimately dismisses a complaint on the grounds of lack of

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**6.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 540, citing Case of Velásquez Rodríguez v. Honduras. Preliminary Objections. Judgment of June 26, 1987. Series C No. 1, para. 91, and Case of Da Silva et al. v. Brazil. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 27, 2024. Series C No. 552, para. 63. **7.** Inter-American Court of Human Rights. Case of the Indigenous Communities Members of the Lhaka Honhat Association v. Argentina. Merits, Reparations, and Costs. Judgment of February 6, 2020. Series C No. 400, paras. 294-295.

legal merit, the State still has a duty to provide procedures for challenging acts considered to be violations of rights<sup>8</sup>. In addition, Articles 8 and 25 of the ACHR establish that individuals have the right to receive a response from the judicial authorities within a reasonable time, which reinforces the obligation of States to guarantee timely and accessible justice<sup>9</sup>.

With regard to due process rules, the Inter-American Court of Human Rights has indicated that they constitute:

“[a] set of requirements that must be observed in procedural instances so that individuals are in a position to adequately defend their rights against any act of the State, adopted by any public authority, whether administrative, legislative, or judicial, that may affect them. Due process is, in turn, closely linked to the notion of justice, which is reflected in: (i) access to justice that is not only formal but also recognizes and addresses the factors of real inequality among those subject to trial; (ii) the conduct of a fair trial; and (iii) the resolution of disputes in such a way that the decision adopted is as close as possible to the highest level of legal correctness, that is, ensuring, to the greatest extent possible, a fair solution”<sup>10</sup>.

Due process guarantees are applicable to criminal, civil, labor, tax, and any other type of judicial proceedings in which the rights and obligations of individuals are determined<sup>11</sup>. Furthermore, in administrative proceedings that may affect fundamental rights, minimum guarantees must be respected to ensure that

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**8.** Inter-American Court of Human Rights. Case of Castañeda Gutman v. Mexico. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 6, 2008. Series C No. 184, para. 101, and Case of the Indigenous Communities Members of the Lhaka Honhat Association v. Argentina. Merits, Reparations, and Costs. Judgment of February 6, 2020. Series C No. 400, para. 295. **9.** Inter-American Court of Human Rights. Case of Genie Lacayo v. Nicaragua. Merits, Reparations, and Costs. Judgment of January 29, 1997. Series C No. 30, para. 77; Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations, and Costs. Judgment of November 27, 2008. Series C No. 192, para. 155; Case of Teachers of Chañaral and Other Municipalities v. Chile. Preliminary objection, Merits, Reparations, and Costs. Judgment of November 10, 2021. Series C No. 443, para. 171, and Case of the Indigenous Communities Members of the Lhaka Honhat Association v. Argentina. Merits, Reparations, and Costs. Judgment of February 6, 2020. Series C No. 400, para. 295. **10.** Inter-American Court of Human Rights. Case of Ruano Torres et al. v. El Salvador. Merits, Reparations, and Costs. Judgment of October 5, 2015. Series C No. 303, para. 151. **11.** Inter-American Court of Human Rights. Case of the Constitutional Court v. Peru. Merits, Reparations, and Costs. Judgment of January 31, 2001. Series C No. 71, paras. 69-71, and Case of López et al. v. Argentina. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 25, 2019. Series C No. 396, para. 200.

the decision is not arbitrary, since the discretion of the administration has insurmountable limits, one of which is respect for human rights<sup>12</sup>.

For access to justice to be truly effective, the process must recognize and address the situations of real inequality faced by individuals who turn to the judicial system. When conditions of disadvantage exist, it is necessary to adopt compensatory measures that help eliminate or reduce the structural obstacles that hinder the adequate defense of their rights and interests<sup>13</sup>. In AO32, the Court includes key aspects, such as providing sufficient resources and specialized bodies, training with an intercultural and interdisciplinary approach, and guaranteeing free access when appropriate.

Finally, the jurisprudence of the Inter-American Court of Human Rights has emphasized that the right of access to justice must guarantee that, within a reasonable time frame, the persons affected or their relatives can learn the truth about what happened and that the necessary investigations are carried out to prosecute and, if appropriate, punish those responsible for human rights violations, such as those committed against human rights and environmental defenders<sup>14</sup>.

## 1.2. ACCESS TO JUSTICE AND EFFECTIVE REMEDIES IN RELATION TO STATE OBLIGATIONS TO PROTECT THE ENVIRONMENT AND A HEALTHY CLIMATE

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**12.** Inter-American Court of Human Rights. Case of Baena Ricardo et al. v. Panama. Merits, Reparations, and Costs. Judgment of February 2, 2001. Series C No. 72, paras. 126-127, and Case of Claude Reyes et al. v. Chile. Merits, Reparations, and Costs. Judgment of September 19, 2006. Series C No. 151, paras. 118-119. **13.** Among others, Inter-American Court of Human Rights. The Right to Information on Consular Assistance in the Framework of Due Process Guarantees. Advisory Opinion AO-16/99 of October 1, 1999. Series A No. 16, para. 119; Case of Vélez Looz v. Panama. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 23, 2010. Series C No. 218, para. 152, and Case of Furlan and Relatives v. Argentina. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 31, 2012. Series C No. 246, para. 268. **14.** Among others, Inter-American Court of Human Rights. Case of Kawas Fernández v. Honduras. Merits, Reparations, and Costs. Judgment of April 3, 2009. Series C No. 196, paras. 112, 117, and 190, and Case of Luna López v. Honduras. Merits, Reparations, and Costs. Judgment of October 10, 2013. Series C No. 269, para. 188.

The Inter-American Court of Human Rights has addressed the issue of access to justice in the context of States' obligations to protect the environment and ensure a healthy climate. In this regard, it has emphasized that access to justice offers important avenues for redress in this area: "to challenge any rule, decision, act, or omission by public authorities that contravenes or may contravene environmental law obligations; to ensure the full realization of other procedural rights, namely the right to access to information and public participation, and to remedy any violation of their rights as a result of non-compliance with environmental law obligations, it allows individuals to demand compliance with environmental regulations"<sup>15</sup>. Furthermore, this access is closely linked to the full exercise of other procedural rights, such as public participation and access to information, through appropriate judicial mechanisms<sup>16</sup>. In this regard, individuals must have the possibility of seeking justice when they consider that a decision, act, or omission did not adequately take into account their interests or points of view<sup>17</sup>.

Other relevant normative sources that expressly refer to the state's duty to guarantee access to justice in environmental matters and remove barriers to addressing the climate emergency are Article 8 of the Regional Agreement on Access to Information, Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)<sup>18</sup>; Principle 10 of the 1992 Rio Declaration on Environment and Development<sup>19</sup>; and the 2010 Guidelines for the Development of National Legislation on Access to

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**15.** Inter-American Court of Human Rights. *Case of the Residents of La Oroya v. Peru*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 27, 2023. Series C No. 511, para. 273. See also, Inter-American Court of Human Rights. *Environment and human rights (state obligations in relation to the environment in the context of protecting and guaranteeing the rights to life and personal integrity—interpretation and scope of Articles 4.1 and 5.1, in relation to Articles 1.1 and 2 of the American Convention on Human Rights)*. Advisory Opinion AO-23/17 of November 15, 2017. Series A No. 23, paras. 234 and 237. **16.** Inter-American Court of Human Rights. *Advisory Opinion AO-23/17*, para. 234. **17.** Inter-American Court of Human Rights. *Advisory Opinion AO-23/17*, para. 235. See also, *Case of the Indigenous Communities Members of the Lhaka Honhat Association v. Argentina*. Merits, Reparations, and Costs. Judgment of February 6, 2020. Series C No. 400, paras. 294-295.

Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines)<sup>20</sup>, among others<sup>21</sup>.

In AO32, the Inter-American Court of Human Rights reaffirms the criteria on access to justice and the existence of effective remedies to protect the environment and a healthy climate. It also delves into certain situations in which this access must be guaranteed, such as in the context of the transition to more sustainable economies, including the energy transition. In this regard, the Court

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**18.** Article 8 on access to justice in environmental matters states that: “1. Each Party shall guarantee the right to access to justice in environmental matters in accordance with the guarantees of due process. 2. Each Party shall ensure, within the framework of its national legislation, access to judicial and administrative bodies to challenge and appeal, on the merits and procedure: a) any decision, action, or omission related to access to environmental information; b) any decision, action, or omission related to public participation in environmental decision-making processes; and c) any other decision, action, or omission that adversely affects or may adversely affect the environment or contravene legal norms related to the environment. 3. To guarantee the right of access to justice in environmental matters, each Party, considering its circumstances, shall have: a) competent state bodies with access to specialized knowledge in environmental matters; b) effective, timely, public, transparent, impartial, and non-prohibitive procedures; c) broad standing to defend the environment, in accordance with national legislation; d) the possibility of ordering precautionary and provisional measures to, among other purposes, prevent, cease, mitigate, or remedy damage to the environment; e) measures to facilitate the production of evidence of environmental damage, where appropriate and applicable, such as the reversal of the burden of proof and the dynamic burden of proof; f) mechanisms for the timely enforcement and compliance with relevant judicial and administrative decisions; and g) mechanisms for redress, as appropriate, such as restitution to the state prior to the damage, restoration, compensation or payment of a financial penalty, satisfaction, guarantees of non-repetition, care for affected persons, and financial instruments to support redress. 4. To facilitate public access to justice in environmental matters, each Party shall establish: a) measures to reduce or eliminate barriers to the exercise of the right of access to justice; b) means of publicizing the right of access to justice and the procedures for its effective exercise; c) mechanisms for systematizing and disseminating relevant judicial and administrative decisions; and d) the use of interpretation or translation of languages other than the official languages when necessary for the exercise of that right. 5. To give effect to the right of access to justice, each Party shall address the needs of persons or groups in vulnerable situations by establishing support mechanisms, including free technical and legal assistance, as appropriate. 6. Each Party shall ensure that judicial and administrative decisions taken in environmental matters, as well as their reasoning, are recorded in writing. 7. Each Party shall promote alternative dispute resolution mechanisms in environmental matters, where appropriate, such as mediation, conciliation, and others that allow for the prevention or resolution of such disputes. **19.** Where relevant, Principle 10 provides that: “[...] Effective access to judicial and administrative proceedings, including compensation for damages and appropriate remedies, shall be provided.” **20.** Specifically, Chapter III on Access to Justice and Guidelines 15 to 26. **21.** See also, UN. United Nations Special Rapporteur on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy, and sustainable environment, John H. Knox. Annex: Framework Principles on Human Rights and the Environment, A/HRC/37/59, January 24, 2018, Framework Principle 10: “States should facilitate access to effective remedies for violations of human rights and national laws relating to the environment.”

maintains that States must ensure that individuals can access justice when they consider that their rights are being threatened or violated as a result of policies and measures adopted to achieve a just transition in the labor market. This includes, for example, situations of worker displacement or job loss resulting from both the transition to more sustainable economies and the effects of climate change on sectors such as fishing, agriculture, or tourism<sup>22</sup>.

In short, States have an obligation to ensure that individuals and communities have access to simple, rapid, and effective administrative and judicial remedies that allow them to challenge decisions and obtain redress, question the adequacy of policies and processes implemented by the State with regard to human rights obligations, and monitor and enforce compliance with them, as well as ensure the full exercise of other procedural rights, such as access to information and participation in decision-making.

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**22.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 447.



## 2. INSTITUTIONAL AND REGULATORY DIMENSIONS TO FACILITATE ACCESS TO CLIMATE JUSTICE

In AO32, the Inter-American Court of Human Rights develops some adjustments to facilitate access to climate justice and strengthen the administration of justice in climate litigation cases. In particular, it referred to (1) the creation of judicial and administrative mechanisms specializing in environmental and climate rights; (2) training in environmental and climate justice for administrators and operators of justice; (3) application of the *pro actione* principle; (4) procedural equality and compensation measures in access to justice for vulnerable groups particularly affected by climate change; (5) broad standing to sue; and (6) cross-border dimensions of the justiciability of environmental and climate rights.

### 2.1. CREATION OF JUDICIAL AND ADMINISTRATIVE MECHANISMS SPECIALIZING IN ENVIRONMENTAL AND CLIMATE RIGHTS

Although the Inter-American Court of Human Rights does not require the creation of a specialized jurisdiction, in the sense of one exclusively dedicated to a particular area of law, it does urge States to seriously consider the creation of administrative and jurisdictional bodies specializing in environmental and climate matters<sup>23</sup>, providing them with sufficient resources to promptly resolve the requests submitted to them.

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**23.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 542.

## 2.2. TRAINING IN ENVIRONMENTAL AND CLIMATE JUSTICE FOR ADMINISTRATORS AND OPERATORS OF JUSTICE

Given the complexity of environmental and climate litigation, the Inter-American Court of Human Rights considers it necessary to provide adequate means and resources and to strengthen the capacities of the administrative and judicial bodies that hear cases in this area. Thus, it considers that progress should be made to establish ongoing training for administrators and operators of justice “on climate change, its causes and impacts on human rights, the measures adopted by other public authorities in the context of the climate emergency, and the legal tools and standards applicable to ensure the protection of human rights”<sup>24</sup>.

In addition, the application of “an intercultural and interdisciplinary approach, allowing decisions to be made based on the best available science” should be promoted, which means that justice administrators should be provided with timely and sufficient access to the best available scientific knowledge<sup>25</sup>. Likewise, the Court clearly states that such knowledge must integrate indigenous, traditional, and local knowledge<sup>26</sup>. The intercultural perspective implies recognizing the diversity of indigenous peoples, including their worldview, native language, practices, and institutions, among other distinctive cultural aspects of their cultural identity<sup>27</sup>, as well as valuing and taking into account that diversity when administering justice<sup>28</sup>.

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**24.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 542. **25.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 542. **26.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 542. **27.** Inter-American Court of Human Rights. Case of Norín Catrimán et al. (Leaders, members, and activists of the Mapuche Indigenous People) v. Chile. Merits, Reparations, and Costs. Judgment of May 29, 2014. Series C No. 279, para. 204; Case of the Miskito Divers (Lemoth Morris et al.) v. Honduras. Judgment of August 31, 2021. Series C No. 432, para. 101, and Case of the U’wa Indigenous People and its Members v. Colombia. Merits, Reparations, and Costs. Judgment of July 4, 2024. Series C No. 530, para. 333. **28.** CEDAW Committee. General Recommendation No. 39 (2022) on the rights of Indigenous women and girls, CEDAW/C/GC/39, October 31, 2022, paras. 4-5. See also, Case of the Tagaeri and Taromenane Indigenous Peoples v. Ecuador. Preliminary Objection, Merits, Reparations, and Costs. Judgment of September 4, 2024. Series C No. 537, paras. 468-469.

## 2.3. APPLICATION OF THE PRO ACTIONE PRINCIPLE

The pro actione principle in climate justice guarantees effective access to justice, mandating that the protection of human rights be prioritized in the face of the effects of climate change<sup>29</sup>. Because the impacts of climate change can be very serious and particularly affect the most vulnerable individuals and communities, the Inter-American Court of Human Rights considers that legal proceedings related to these issues should be conducted in a manner that facilitates prompt, real, and effective access to justice, especially when it comes to protecting the rights of individuals or groups affected by climate change<sup>30</sup>. This means, among other things, that: (1) procedural rules must be interpreted and applied in the most favorable manner possible so that individuals and communities can file their actions and appeals, including favoring broad standing in collective and individual claims and allowing for the correction of possible non-substantive defects and avoiding preliminary dismissals on procedural grounds<sup>31</sup>; (2) eliminate legal and practical barriers that prevent or hinder bringing cases to justice, particularly with respect to children and adolescents (hereinafter “CAs”) and collectively to indigenous peoples and communities<sup>32</sup>; and (3) make the necessary adjustments and adopt the necessary measures so that groups in situations of special vulnerability can enjoy effective access to justice, including through access to free legal representation<sup>33</sup>.

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**29.** An example of the practical application of this principle can be found in the dissenting opinion of three Ministers of the Constitutional Court of Chile regarding the majority decision taken on the basis of formal rigors not to accept the request alleging a setback in environmental protection. In this regard, they stated: “The recent Advisory Opinion AO32/25, issued by the Inter-American Court and requested, among others, by the State of Chile, refers emphatically to the obligation of States to guarantee effective access to justice in environmental matters. In particular, it emphasizes the application of the pro actione principle [...]. In this context, it is paradoxical, to say the least, that the Chilean Constitutional Court—the body called upon to guarantee the supremacy of the Constitution—has chosen to exclude from consideration a petition denouncing a regression in environmental protection standards, based on procedural requirements that are not expressly provided for in the Constitution or in its Organic Law. Such a decision contradicts the active position of the State of Chile on this matter. Dissenting opinion accompanying the Judgment issued by the Constitutional Court of Chile in Case No. 16.625-25-CPT on July 24, 2025, para. 22. **30.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 543. **31.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 546. **32.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 542, 604, and 613. **33.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 603-604 and 613.

## 2.4. PROCEDURAL EQUALITY AND COMPENSATION MEASURES IN ACCESS TO JUSTICE FOR VULNERABLE GROUPS PARTICULARLY AFFECTED BY CLIMATE CHANGE

In AO32, the Inter-American Court of Human Rights addresses the situation of certain disadvantaged groups particularly affected by climate change, such as children and adolescents, women, indigenous and tribal peoples, communities of African descent, rural and fishing communities, and the need to adopt compensatory measures to help eliminate or reduce the structural obstacles that hinder the adequate defense of their rights and interests<sup>34</sup>. The Court requires States to adopt differentiated and reasonable measures for the effective protection of the procedural rights of these groups, including access to justice<sup>35</sup>.

The standards established by AO32 must be complemented for their interpretation and application with the provisions of the Brasilia Rules on Access to Justice for Persons in Vulnerable Situations<sup>36</sup>, which constitute an instrument adopted in the Ibero-American sphere to ensure that persons in vulnerable situations can effectively access justice<sup>37</sup>. These rules recognize the structural vulnerability of persons who, due to factors such as age, gender, sexual orientation and gender identity, physical or mental condition, or social, economic, ethnic, and/or cultural circumstances, encounter particular difficulties in fully

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**34.** Among others, Inter-American Court of Human Rights. The Right to Information on Consular Assistance in the Framework of Due Process Guarantees. Advisory Opinion AO-16/99 of October 1, 1999. Series A No. 16, para. 119; Case of Vélez Loo v. Panama. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 23, 2010. Series C No. 218, para. 152; Case of Furlan and Relatives v. Argentina. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 31, 2012. Series C No. 246, para. 268, and Advisory Opinion AO-23-17, para. 67. **35.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 223. **36.** The Brasilia Rules on Access to Justice for Persons in Vulnerable Situations were adopted by the XIV Ibero-American Judicial Summit in March 2008. Ten years later, in 2018, 73 of the 100 Rules were updated within the framework of the Plenary Assembly of the XIX edition of the Ibero-American Judicial Summit, which took place from April 18 to 20, 2018, in the city of Quito (Ecuador). **37.** Inter-American Court of Human Rights. Case of Teachers of Chañaral and Other Municipalities v. Chile. Preliminary objection, Merits, Reparations, and Costs. Judgment of November 10, 2021. Series C No. 443, paras. 150-151; Case of the Tagaeri and Taromenane Indigenous Peoples v. Ecuador. Preliminary objection, merits, reparations, and costs. Judgment of September 4, 2024. Series C No. 537, paras. 468-469, and Case of Galetovic Sapunar et al. v. Chile. Preliminary objection, Merits, Reparations, and Costs. Judgment of October 3, 2024. Series C No. 538, para. 83.

exercising their rights under the legal system<sup>38</sup>. The Rules establish that some groups require special attention, such as children and adolescents, older persons or persons with disabilities, persons living in poverty, indigenous peoples, and persons deprived of liberty, among others. To this end, the Brasilia Rules urge those who are part of the justice system to ensure that the judicial protection of recognized rights is effective, taking the most appropriate measures according to the different situations of vulnerability<sup>39</sup>.

Similarly, the Inter-American Commission on Human Rights (IACHR) has stated that: “[States] should adopt immediate measures to guarantee access to justice in environmental and climate matters of a judicial or administrative nature in accordance with the guarantees of due process, eliminate all barriers to its exercise and ensure free technical and legal assistance. This also includes the obligation to develop remediation measures to different relevant actors and especially to people directly affected by the climate crisis”<sup>40</sup>.

In application of these inter-American standards, some of the adaptations required of justice services may include access to information and culturally adapted procedures, in which interpretation into indigenous languages is available, and the elimination of procedural costs and other economic and financial impediments.

Specifically, in AO32, the Inter-American Court refers to the adaptations necessary to: (1) address economic, geographic, and linguistic barriers to access to climate justice<sup>41</sup>; (2) facilitate access to justice for children and adolescents, recognizing their progressive capacity as subjects of rights and their active role with respect to human and environmental rights<sup>42</sup>; and (3) ensure that indigenous and tribal peoples, as well as Afro-descendant, rural, and fishing communities, can access justice in defense of their collective rights in the face of the climate emergency<sup>43</sup>.

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**38.** Chapter I: Preliminary, Section 2. Beneficiaries of the Rules, Rule 1(3). **39.** Chapter II: Effective Access to Justice for the Defense of Rights, Rule (25). **40.** IACHR and REDESCA. Resolution No. 3/2021 on Climate Emergency: Scope of Inter-American Obligations, 2021, para. VI.36. **41.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 542 and 600. **42.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 604. **43.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 613.

Poverty is a structural factor of vulnerability, as it increases the risk of human rights violations and seriously restricts access to effective justice mechanisms and adequate measures of reparation<sup>44</sup>. For this reason, the Inter-American Court of Human Rights considers that the justice system must ensure “free legal assistance for people affected by the climate emergency, upon demonstration of their inability to afford the costs of litigation”<sup>45</sup>.

In particular, the Inter-American Court elaborates on the measures required to facilitate access to justice for children, including the creation of judicial, quasi-judicial, or extrajudicial mechanisms that are effective and adapted to their needs; the elimination of legal and practical barriers that make it difficult for children and adolescents to file complaints or initiate legal proceedings on their own before public authorities; access to effective judicial remedies to protect their human rights in the face of environmental or climate damage, as well as free and effective legal assistance, considering the capacities of each State; and exemption from paying court costs in proceedings initiated by children and adolescents<sup>46</sup>.

In the case of indigenous, tribal, Afro-descendant, rural, and fishing communities, States must move forward in adopting measures that recognize and reverse the legal and practical barriers that hinder their access to justice. To this end, they must offer avenues of access to justice that respect their knowledge, traditions, and ways of life; guarantee that they have free and adequate legal representation; provide translation and interpretation services when necessary; and waive court costs in proceedings initiated by these communities to defend their rights against environmental or climate damage<sup>47</sup>.

In addition, the Inter-American Court refers to the essential role and strengthening of specialized mechanisms for the protection of the rights of children and indigenous and tribal peoples, such as national human rights

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**44.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 619. **45.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 542. **46.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 604. **47.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 613.

institutions, in the context of the climate emergency. It urges that they be given independence, clear powers, and sufficient resources (human, technical, and financial) to carry out their work, including the ability to represent them in legal proceedings and to create channels for informed participation in environmental and climate issues that concern them<sup>48</sup>.

## 2.5. BROAD STANDING

An innovative aspect of AO32 is that it clearly highlights the need to adapt the rules on standing to file lawsuits or initiate judicial or administrative proceedings in environmental and climate matters. The Inter-American Court of Human Rights emphasizes that legal systems must allow for both individual and collective claims, taking into account that climate change affects individuals and communities in an interrelated manner<sup>49</sup>. Along the same lines, Article 8.3.c) of the Escazú Agreement encourages States to adopt broad criteria in their national legislation regarding standing to sue in defense of the environment.

Given the primarily collective nature of climate litigation, the Inter-American Court of Human Rights considers that States should provide in their legal systems “for procedural mechanisms within their domestic regulations that allow for broad forms of standing, such as procedural institutions of collective, public, or popular standing, which may be used to request measures to protect the environment and the climate system, without the need to demonstrate an individual interest or impact”<sup>50</sup>. To this end, the organs of the administration of justice must be provided with the necessary technical, budgetary, and human resources to enable them to perform their function of administering justice adequately<sup>51</sup>. This understanding does not preclude the right of individuals and groups affected by climate change to take action individually, for which it is also necessary to have forms of direct

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**48.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 603-604 and 613. **49.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 546-549. **50.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 549. **51.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 548.

or personal standing. In these cases, in the Court’s opinion, “the evaluation of the interests to be examined must be flexible and take into account factors such as the exposure and vulnerability of the individuals, communities and ecosystems affected or threatened by climate change, based on their geographical location, adaptation capabilities, and the structural inequalities that may exacerbate vulnerability to climate impacts”<sup>52</sup>.

## 2.6. TRANSBOUNDARY DIMENSIONS OF THE JUSTICIABILITY OF ENVIRONMENTAL AND CLIMATE RIGHTS

In Advisory Opinion AO-23/17, the Inter-American Court of Human Rights laid the foundations for access to justice in cases of transboundary environmental damage, i.e., damage that occurs in one country but affects people living in another<sup>53</sup>. If an activity or project that occurs in the territory or under the jurisdiction or control of a State causes an environmental impact that harms communities or individuals in a neighboring country, those individuals should not be left without judicial protection. Even if they live outside the territory where the damage originates, they have the right to access justice to claim for the violation of their human rights, such as health or a healthy environment, without discrimination on the basis of nationality, residence, or the place where the damage occurred<sup>54</sup>.

In AO32, the Court reiterates that the guarantee of access to justice implies the standing of persons and entities that do not reside in the territory of the State<sup>55</sup>. But it also explicitly mentions that climate damage is, by its nature, transboundary<sup>56</sup>. For this reason, “States must provide prompt, adequate and effective redress to individuals and States that are victims of transboundary harm resulting from activities carried out in their territories or under their jurisdiction, when there is a causal link between the damage caused and the act or omission of the State of origin in relation to activities in its territory or under its jurisdiction or control”<sup>57</sup>.

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**52.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 550. **53.** Inter-American Court of Human Rights. Advisory Opinion AO-23-17, paras. 95-104. **54.** Inter-American Court of Human Rights. Advisory Opinion AO-23-17, para. 239. **55.** Inter-American Court of Human Rights. Advisory Opinion AO-23-17, para. 103, and Advisory Opinion AO-32/25, para. 551. **56.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 295 and 551. **57.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 551.



### 3. ECOCENTRIC APPROACH TO PROTECTION IN THE ACHR AND IN DUBIO PRO NATURA

AO32 recognizes, for the first time, Nature as a subject of rights within the inter-American system, highlighting the close interdependence between human rights, ecosystems, and all components of the environment<sup>58</sup>. According to the majority opinion of the Inter-American Court of Human Rights<sup>59</sup>, an ecocentric approach offers coherent and effective legal tools to address the triple planetary crisis of climate change, biodiversity loss, and pollution, and allows for preventive action against damage that could become existential and irreversible<sup>60</sup>. Furthermore, it is consistent with trends observed in national court decisions in the region<sup>61</sup>.

In addition, the Inter-American Court of Human Rights incorporates principles of international environmental law into the framework for interpreting human rights, such as the pro natura principle. This principle seeks to ensure that legal decisions guarantee the greatest possible conservation, restoration, and protection of ecosystems. An articulated reading of the pro natura principle with the protection of human rights and the pro persona principle would imply that the right to a healthy environment in the ACHR should not only be understood as a fundamental right for the existence of humanity, but also as a right of Nature itself as a subject of protection<sup>62</sup>.

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**58.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 279-286 and operative paragraph 7, adopted by four votes in favor and three against. **59.** On this point, three of the seven judges of the Inter-American Court voted in dissent. See, in this regard, the dissenting votes accompanying Advisory Opinion AO-32/25. **60.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 279. **61.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 286. **62.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 271, 281-283, 315, and 552.



#### 4. THE RIGHT OF ACCESS TO ENVIRONMENTAL AND CLIMATE INFORMATION AS AN ENABLER OF ACCESS TO JUSTICE

In AO32, the Inter-American Court of Human Rights reiterates that access to information is an essential procedural right for the population to exercise its rights and effectively monitor the State's actions in response to the climate emergency. Having clear, accurate, accessible, and timely climate information not only promotes participation in public affairs, but also enables access to justice. Without data based on scientific evidence or understandable to various sectors of the population, individuals and communities are limited in their ability to demand accountability, demand the prevention and cessation of harm, and defend their rights in the face of the impacts of climate change<sup>63</sup>.



For more information on the standards relating to access to information developed in AO32, [Thematic Guide 1 - Access to climate information and human rights obligations](#)

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63. Corte IDH. Opinión Consultiva OC-32/25, párrs. 271, 281-283, 315 y 552.



## 5. FLEXIBLE EVIDENTIARY STANDARDS

### 5.1. ADMISSIBILITY, VALIDITY, AND EVIDENTIARY ASSESSMENT

In climate justice, more flexible criteria should be applied in the presentation, validity, and assessment of evidence, given that climate change litigation poses particular challenges. This is due to the technical complexity of the issue, the difficulties in proving the causal link between climate damage and its origin by traditional means, scientific uncertainty, and inequalities in access to information and evidence, especially when facing powerful actors such as large polluting companies or States themselves<sup>64</sup>. In particular, the Inter-American Court of Human Rights establishes as a duty for States to presume “the causal link between GHG emissions and the degradation of the climate system, as well as the one that exists between this degradation and the resulting risks for natural systems and people”<sup>65</sup>, and to adopt criteria on the reversal of the burden of proof to ensure effective access to justice<sup>66</sup>.

Furthermore, it urges administrative and judicial bodies to interpret the rules of evidence in these cases, taking into account key principles such as the availability of evidence, procedural cooperation, and the principles of pro persona, pro natura, and pro actione<sup>67</sup>. In addition, the duty of enhanced due diligence implies that evidentiary standards and the reasoning behind administrative and judicial decisions take into account the best available science<sup>68</sup>.

Flexibility in evidentiary rules, together with the application of the standards of the inter-American human rights system and conventionality control, seeks to strengthen the capacity of administrative and judicial bodies to protect

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**64.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 552-553. **65.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 553. **66.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 554. **67.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 552. **68.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 363, 367, 483-487, and 503.

rights in the face of the climate emergency and to offer victims effective mechanisms to demand justice.

## 5.2. SUITABLE TYPES OF EVIDENCE WITH SPECIAL REFERENCE TO SATELLITE EVIDENCE

The Inter-American Court of Human Rights further elaborates on the role of technology as an indispensable tool for access to climate justice, especially with regard to evidence. Recognizing the complexity of climate litigation and how traditional evidentiary rules can become an “unjustified obstacle to effective access to justice,” the Inter-American Court establishes an innovative standard<sup>69</sup>. AO32 highlights the obligation of States to guarantee access to suitable means of evidence and, in particular, to “satellite evidence in view of its probative pertinence in the context of the climate emergency”<sup>70</sup>. In response to inequalities in access to this type of technology, the Inter-American Court establishes that States must “activate cooperation mechanisms in the area of technology transfer to allow the use of such evidence”<sup>71</sup>.

## 5.3. EVIDENCE BASED ON THE BEST AVAILABLE SCIENCE CANNOT BE IGNORED

The Inter-American Court of Human Rights emphasizes that access to justice in climate matters requires that courts consider the best available science<sup>72</sup> and that these justice operators be provided with timely and sufficient access to that knowledge<sup>73</sup>. In this regard, it identifies the reports of the Intergovernmental Panel on Climate Change (IPCC) as the most reliable scientific source<sup>74</sup>. However, it also warns that, in order to adequately address the climate crisis, it is essential to integrate the traditional knowledge and knowledge systems of indigenous peoples and local communities with conventional scientific sources<sup>75</sup>.

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**69.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 552. **70.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 555. **71.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 555, and UN. United Nations Special Rapporteur on the promotion and protection of human rights in the context of climate change, Elisa Morgera. Report on access to information on climate change and human rights, A/79/176, July 18, 2024, para. 57. **72.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 236. **73.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 542. **74.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 33 and 487. **75.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 476 and 480.



## 6. PRECAUTIONARY PRINCIPLE APPLIED TO CLIMATE JUSTICE

The precautionary principle, incorporated into environmental and climate change instruments<sup>76</sup>, is a fundamental tool of environmental law that establishes that, when there is a foreseeable risk of serious or irreversible damage to the environment, the lack of scientific certainty should not be used as a reason or justification for delaying the adoption of effective measures to prevent such damage.

The Inter-American Court of Human Rights has reaffirmed this approach by stating that States must act in accordance with the precautionary principle when: (1) there is no scientific certainty about the environmental impact of an activity; (2) there are plausible indications that such activity could cause serious and irreversible damage; and (3) States are in a position to take effective measures to prevent such possible damage<sup>77</sup>.

In the field of climate justice, this principle requires judges and authorities to prioritize prevention and environmental protection for people and ecosystems even in contexts of scientific uncertainty, especially when human rights such as health or the right to life are at stake. Its application may entail the need to dispense with proof of a direct causal link, or to reverse the burden of

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**76.** Among others, Rio Declaration, principle 15, which states that “[i]n order to protect the environment, States shall widely apply the precautionary approach in accordance with their capabilities. Where there is a threat of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation,” and UN. United Nations Framework Convention on Climate Change, 1992, Article 3.3 regarding principles: “The Parties should take precautionary measures to anticipate, prevent, or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, bearing in mind that policies and measures to deal with climate change should be cost-effective in order to ensure global benefits at the lowest possible cost. To this end, such policies and measures should take into account different socioeconomic contexts, be comprehensive, include all relevant sources, sinks, and reservoirs of greenhouse gases, and cover all economic sectors. Efforts to address climate change may be carried out in cooperation among interested Parties. **77.** Inter-American Court of Human Rights. Advisory Opinion AO-23/17, para. 180.

proof, especially in cases involving victims in particularly vulnerable situations in the context of the climate emergency<sup>78</sup>. Ultimately, guaranteeing access to environmental and climate justice means not only responding to damage that has already occurred, but also actively preventing damage that, although uncertain, could seriously and irreversibly jeopardize the human rights of individuals and ecosystems.

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**78.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 553-554.



## 7. REASONABLE TIME FRAME UNDER A PARAMETER OF SPEED

The right of access to justice also implies that cases must be processed, resolved, and decisions enforced within a reasonable time frame<sup>79</sup>. In situations where the damage may be irreversible or have cumulative effects, as in the case of climate change, a reasonable time frame requires a parameter of speed that takes into account the subject matter, type, and stages of the litigation<sup>80</sup>. In addition, particular attention must be paid to issues such as the imminence of the risk, the urgency of the measures required, the impact of inaction on the human rights of the petitioners, and their situation of special vulnerability<sup>81</sup>.

The Inter-American Court of Human Rights emphasizes that, in contexts where time is a crucial factor, the slowness or inefficiency of judicial proceedings may, in practice, amount to a denial of justice<sup>82</sup> and lead to additional or aggravated violations of rights.

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**79.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 544. See also, Inter-American Court of Human Rights. Case of Genie Lacayo v. Nicaragua. Merits, Reparations, and Costs. Judgment of January 29, 1997. Series C No. 30, para. 77; Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations, and Costs. Judgment of November 27, 2008. Series C No. 192, para. 155; Case of Teachers of Chañaral and Other Municipalities v. Chile. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 10, 2021. Series C No. 443, para. 171, and Case of the Indigenous Communities Members of the Lhaka Honhat Association v. Argentina. Merits, Reparations, and Costs. Judgment of February 6, 2020. Series C No. 400, para. 295. **80.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 544. **81.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 545.



## 8. COMPREHENSIVE REPARATION

As part of access to justice, there must be the possibility of obtaining comprehensive reparation. Reparation measures for harm and damage to people and nature in the context of the climate emergency must be accessible through judicial and administrative mechanisms that are adequate, effective, and aimed at “enhancing the adaptation and resilience capabilities of the individuals affected and the ecosystems impacted, so that they contribute to a sustainable recovery from the adverse effects of climate change”<sup>83</sup>.

A significant part of the jurisprudence of the Inter-American Court of Human Rights relates to the development of a range of reparations measures under the notion of comprehensive reparation. Along these lines, in AO32, the Inter-American Court of Human Rights calls for reparations in the context of the climate emergency, whether ordered domestically or in international proceedings, not to be limited to pecuniary compensation measures<sup>84</sup>. In addition, it addresses specific aspects of reparation, specifying that: (1) restitution measures will require the restoration of the climate system and ecosystems, intensification of mitigation efforts, as well as the financing and implementation of conservation or restoration actions and plans; (2) rehabilitation measures, which generally include health care, will be linked to medical care for diseases related to or exacerbated by climate change, which must be provided in an accessible, timely, acceptable, high-quality, culturally appropriate, and respectful manner that respects people’s autonomy; (3) compensatory measures must be based on appropriate methodologies for assessing losses and damages related to climate change; and (4) guarantees of non-repetition aimed at promoting structural changes should focus on reducing vulnerability factors, ensuring effective compliance with duties related to the protection of a healthy

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**83.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 557. **84.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 559.

environment and climate, and strengthening the resilience of natural and human systems, all within the framework of sustainable development<sup>85</sup>.

Additionally, it is noted that States must have mechanisms in place to supervise and monitor the implementation of reparations measures. These measures must be based on the best available scientific information and must be designed and implemented with full respect for the rights of the affected individuals and communities, both in terms of substantive and procedural rights<sup>86</sup>.

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**85.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 558. **86.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 559.



## 9. ENHANCED DUE DILIGENCE IN THE INVESTIGATION OF CRIMES AGAINST ENVIRONMENTAL DEFENDERS

The jurisprudence of the Inter-American Court of Human Rights establishes the State's duty to investigate with enhanced due diligence human rights violations committed against environmental defenders, especially threats and attacks on their integrity and life, but also other types of aggression or harassment, committed by both public officials and private individuals; to punish those responsible; and to grant adequate reparation to the victims<sup>87</sup>. As the Court has indicated, "this obligation must be assumed by the State as its own legal duty and not as a mere formality"<sup>88</sup>.

In AO32, the Inter-American Court emphasizes the heightened risk faced by environmental defenders in the context of the climate emergency, marked by a "general climate" or "context of criminalization and violence" that seeks to delegitimize the fundamental work they do and produce an intimidating effect. In this regard, it highlights the need to advance "the recognition and protection of the right to defend environmental human rights in all spheres of the State, as well as in society in general"<sup>89</sup>.

With regard to the obligation to investigate, prosecute, and punish, it is necessary to incorporate intersectional approaches that recognize the heightened risks faced by certain environmental defenders who, due to the interrelation of various factors, are particularly vulnerable to heightened forms of violence<sup>90</sup>. These

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**87.** Inter-American Court of Human Rights. Case of Kawas Fernández v. Honduras. Merits, Reparations, and Costs. Judgment of April 3, 2009. Series C No. 196, paras. 77 and 148-149; Case of Luna López v. Honduras. Merits, Reparations, and Costs. Judgment of October 10, 2013. Series C No. 269, paras. 123 and 153-157; Case of Escaleras Mejía et al. v. Honduras. Judgment of September 26, 2018. Series C No. 361, paras. 47, 54, and 67-70; Case of the Residents of La Oroya v. Peru. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 27, 2023. Series C No. 511, paras. 303-305, and Advisory Opinion AO-32/25, paras. 566 and 580-586. **88.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 581. **89.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 563 and 575.

include women defenders, indigenous peoples, Afro-descendant populations, and rural communities, as well as journalists.

Furthermore, considering the effect that impunity can have on other defenders and on society as a whole, the Court calls for strengthening institutional capacity to investigate, prosecute, and punish crimes committed against defenders with increased diligence, thereby reversing patterns of impunity within the framework of a “special duty to protect.”<sup>91</sup> In particular, it encourages the development of specific investigation protocols and the establishment of specialized prosecutors’ offices or units to address crimes committed against those who defend the environment and human rights<sup>92</sup>.

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For more information on the standards developed in AO32 regarding access to justice and diligent investigation of human rights violations committed against human rights, environmental, and climate defenders, see [Thematic Guide 2 - The right to defend human rights and environmental and climate defenders](#)

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**90.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 571 and 585. **91.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, paras. 569-587. **92.** Inter-American Court of Human Rights. Case of Acosta et al. v. Nicaragua. Preliminary Objections, Merits, Reparations, and Costs. Judgment of March 25, 2017. Series C No. 334, paras. 223-224; Case of Escaleras Mejía et al. v. Honduras. Judgment of September 26, 2018. Series C No. 361, para. 102; Case of Digna Ochoa and Relatives v. Mexico. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 25, 2021. Series C No. 447, paras. 178-179; Case of Sales Pimenta v. Brazil. Preliminary Objections, Merits, Reparations, and Costs. Judgment of June 30, 2022. Series C No. 454, para. 170; Case of Members of the “José Alvear Restrepo” Lawyers’ Collective v. Colombia. Preliminary Objections, Merits, Reparations, and Costs. Judgment of October 18, 2023. Series C No. 506, para. 979, and Advisory Opinion AO-32/2525, para. 586.



## 10. CONVENTIONALITY CONTROL

Conventionality control is the obligation of all State authorities, especially judges and bodies with jurisdictional functions, to interpret and apply domestic law in accordance with the ACHR and the jurisprudence of the Inter-American Court of Human Rights<sup>93</sup>. This means that they must ensure that the regulatory frameworks and practices of States respect and are aligned with international human rights standards.

In AO32, the Inter-American Court of Human Rights indicates how these standards should be applied in the context of climate litigation, noting that the competent authorities have a duty to guarantee the protection of human rights against the effects of climate change, using conventionality control as a key tool. To this end, they must take into account the standards developed by the Court in its jurisprudence and, in particular, in AO32. The Court states that the interpretative development of these standards is based not only on the provisions of the American Convention on Human Rights, but also on the American Declaration of the Rights and Duties of Man, the Charter of the Organization of American States (OAS), and the Inter-American Democratic Charter, meaning that the standards developed in AO32 are applicable in all OAS Member States<sup>94</sup>.

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**93.** Among others, Inter-American Court of Human Rights. Case of Almonacid Arellano et al. v. Chile. Preliminary Objections, Merits, Reparations, and Costs. Judgment of September 26, 2006. Series C No. 154, para. 124; Case of Colindres Schonenberg v. El Salvador. Merits, Reparations, and Costs. Judgment of February 4, 2019. Series C No. 373, para. 129, and Advisory Opinion AO-23/17, para. 28.

**94.** Inter-American Court of Human Rights. Advisory Opinion AO-32/25, para. 560.



## 11. CONCLUSION

Access to justice and effective remedies is an essential pillar for protecting human rights in the face of the effects of climate change. Together with the right of access to information, public participation, and the protection of those who defend rights, it constitutes the basis for climate action with a human rights approach. AO32 contains specific parameters for advancing climate justice, which can be used both in litigation strategy and in judicial interpretation to hold States accountable and ensure redress for affected communities.

It is essential that States, through their justice systems, adopt the guidelines established by the Inter-American Court of Human Rights in AO32, eliminating structural barriers that hinder access to environmental and climate justice. This involves strengthening the capacities of judicial systems, making evidentiary standards more flexible, promoting broad procedural standing, recognizing traditional and local knowledge alongside the best available science, and ensuring agile, inclusive, and effective processes. Likewise, they must incorporate comprehensive reparation mechanisms and ensure the participation of the communities most vulnerable to climate change.

To this end, by majority vote<sup>95</sup>, the Inter-American Court of Human Rights ruled that the right of access to justice obliges States to “ensure key aspects in terms of (i) providing sufficient resources for the administration of justice in this context, (ii) applying the pro actione principle; (iii) ensuring speed and reasonable timeframes in judicial proceedings; (iv) adequate provisions regarding standing, (v) evidence, and (vi) reparation, as well as (vii) application of inter-American standards.”

Finally, AO32 leaves the door open for Nature to be recognized as a subject of rights and for the principle of intergenerational equity to be incorporated, ensuring that the decisions taken protect the rights and responsibilities of present and future.

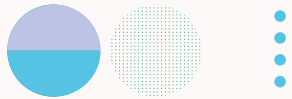
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**95.** That is, by four votes in favor and three partially against with respect to decision point 17 of Advisory Opinion AO-32/25.

## HUMAN RIGHTS OBLIGATIONS IN PRACTICE: TOWARDS THE EFFECTIVE IMPLEMENTATION OF ADVISORY OPINION AO-32/2025

- Ensure that accessible and effective administrative and judicial mechanisms are in place to process claims related to environmental and climate damage.
- Strengthen the capacities and expertise of administrative and judicial bodies in environmental and climate matters.
- Incorporate procedural compensation measures for individuals and communities facing structural barriers, including free legal assistance and exemption from costs, among others.
- Implement mandatory and ongoing training programs on environmental and climate justice for administrators and operators of justice.
- Apply the pro actione principle to prioritize procedural interpretations that favor access to climate justice.
- Establish rules that expand standing to allow for collective, popular, and public actions.
- Recognize the cross-border justiciability of environmental and climate rights by enabling actions when damages cross borders.
- Ensure that citizens have access to environmental and climate information in a timely, accurate, complete, clear, and accessible manner, from both public and private entities.
- Adopt flexible criteria for admissibility, validity, and evaluation of evidence, taking into account the technical complexity of climate cases.
- Allow the use of satellite evidence, independent scientific expertise, and other technologies that facilitate climate litigation.
- Expressly recognize that evidence based on the best available science, such as that currently provided by the IPCC, cannot be ignored and must be incorporated as a basis for administrative and judicial decision-making.
- Establish criteria for prioritizing and expediting environmental and climate cases, considering their urgency and the possible irreversibility of the damage.
- Design reparations measures that include compensation, restitution, rehabilitation, and guarantees of non-repetition, in accordance with inter-American standards.





## RELEVANT SOURCES

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## BACKGROUND ON AO32 AND INSTITUTIONAL INFORMATION ON CEJIL

The issuance of advisory opinions is part of the functions assigned to the Inter-American Court of Human Rights for the protection of human rights in the Americas. Advisory opinions do not resolve specific disputes, but they contain authoritative interpretations that develop and establish the scope and content of the rights and obligations of States under the American Convention on Human Rights (ACHR) and other relevant treaties on current issues, such as the severity of the climate emergency. The Court's findings in these opinions carry significant legal weight: they help guide the development of international law, influence the creation of laws, public policies, and state decisions, and strengthen the legal tools available to civil society organizations, environmental defenders, and communities affected by climate change. Given the broad scope of this advisory function, **the AO's opinions are binding on all OAS member states, not just those countries that have ratified the ACHR.**

The strength of AO32 lies not only in its content, but also in the robust consultation and participation process that preceded it. According to the Court itself, AO32 was the result of the most participatory process in its history. More than 650 individuals and organizations submitted 263 written contributions, and hundreds more participated in the three public hearings held. Among them were States, social and academic organizations, human rights defenders, indigenous communities, scientists, children, and adolescents. The diversity and breadth of voices reflect the urgency and global scope of the climate emergency, as well as the interest of different sectors in international justice playing an active role in addressing it.

**The Center for Justice and International Law (CEJIL)** has a mission to contribute to the enjoyment of human rights through the effective use of the Inter-American

Human Rights System (IAHRS) and other international protection mechanisms. It played a key role in promoting and developing AO32, discussing its relevance and content with organizations and experts, providing technical input to the requesting States, coordinating participatory processes with more than 1,500 people, and submitting five briefs with substantive contributions to the Court.

The inter-American debate on the matter and the inputs presented can be accessed on the [specialized website](#) of the Inter-American Court of Human Rights. CEJIL also has a [website](#) with technical information and complementary information on the process, where relevant documentation can be accessed..



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