

When Climate Moves People: A Turning Point in the Inter-American Human Rights System

By *Sofía Reca Milanta**

Abstract: This article explores the evolving role of the Inter-American Court of Human Rights (IACtHR) in addressing climate-induced human mobility, focusing on its landmark Advisory Opinion AO-32/2025 on Climate Emergency and Human Rights. It argues that the Court's jurisprudence reflects a gradual normative convergence between migration and environmental protection under Article 22 and Article 26 of the American Convention on Human Rights (ACHR). The article develops an analytical framework to explain this emerging bridge, identifying two interrelated dynamics: the strategic use of advisory jurisdiction as a driver of normative development, and the consolidation of a Transformative Social Approach (TSA) to human rights violations. Building on this framework, the article shows how AO-32/2025 advances a comprehensive human rights-based approach to climate mobility through a normative consolidation.

Keywords: Inter-American Court of Human Rights (IACtHR); Climate Change; Human Mobility; Advisory Opinions; Transformative Social Approach (TSA)

A. Introduction

In 2025, the Inter-American Court of Human Rights (IACtHR) issued two landmark Advisory Opinions (AO): AO-32/25 on the Climate Emergency and AO-31/25 on the Right to Care. Though developed simultaneously, both opinions serve as a “roadmap”¹ for the State's obligations. AO-32/25 innovatively recognizes a “human right to a healthy climate” under Article 26 of the American Convention on Human Rights (ACHR), with both collective and individual dimensions.² AO 31/25, grounded in the principles of equality, social co-responsibility, and solidarity, provides a “key dimension” for understanding and addressing the climate emergency, particularly regarding the inseparable relationship among the care of the person, the community, and the ecosystem.³

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1 Concurring Opinion, Judge Verónica Gómez, IACtHR Advisory Opinion 32/25 of May 29, 2025. Series A No. 32, para. 3.

2 IACtHR Advisory Opinion 32/25 of May 29, 2025. Series A No. 32, paras. 298-316.

3 A special acknowledgment is due to Indigenous associations and Indigenous women's organizations that shared written and oral contributions with the Court in the context of OC-31 and OC-32,

AO 32/25 stems from a process that reflects the “highest”⁴ level of participation in the history of the IACtHR, both in terms of the scale and the significance of the locations where the public hearings were held: regions directly impacted by the climate emergency. Days after its publication, the AO was widely hailed by human rights, environmental, and climate activism and doctrine as a “historic milestone”,⁵ “monumental”,⁶ “blueprint for rights-based climate action”.⁷ It has also been praised as a “big” vision of human rights protection.⁸

Among its most significant contributions, AO-32/25 explicitly addresses a human-rights-based approach⁹ to the climate–migration nexus. The IACtHR articulates a norma-

concerning the inseparable relationship between the care of the person, the community, and the ecosystem. These contributions bring together key dimensions for understanding and addressing the climate emergency from cultural consensus vital for our survival as a species (Concurring Opinion, Judge Verónica Gómez, IACtHR Advisory Opinion 32/25 of May 29, 2025. Series A No. 32, paras. 9-10).

4 Ibid., paras. 299-300.

5 CEJIL, La Corte IDH marca un hito histórico: una hoja de ruta jurídica para enfrentar la emergencia climática desde los derechos humanos, 3 July 2025, <https://cejil.org/comunicado-de-prensa/la-corte-idh-marca-un-hito-historico-una-hoja-de-ruta-juridica-para-enfrentar-la-emergencia-climatica-des-de-los-derechos-humanos/> (last accessed on 27 April 2026); Center for International Environmental Law, Opinión histórica de la Corte IDH: la crisis climática es una emergencia de derechos humanos, 3 July 2025, <https://www.ciel.org/news/corte-idh-opinion-climatica> (last accessed on 27 April 2026). /

6 Mary Lawlor, Climate change, human rights, and human rights defenders, UN Special Rapporteur on Human Rights Defenders, 11 July 2025, <https://srdefenders.org/resource/advisory-opinion-of-the-inter-american-court-of-human-rights/> (last accessed on 27 April 2026).

7 Maria Antonia Tigre / Maxim Bönnemann / Koery Silverman-Roati, A Blueprint for Rights-Based Climate Action: The Inter-American Court of Human Rights’ Advisory Opinion on the Climate Emergency, 9 July 2025, *Verfassungsblog*, <https://verfassungsblog.de/inter-american-court-of-human-rights-advisory-opinion-climate/> (last accessed on 27 April 2026), DOI: 10.59704/0e9954a4e3c581bb.

8 Lena Riemer / Luca Scheid, A Differentiated Path Forward: The Inter-American Court’s Advisory Opinion on Climate Change and Human Mobility Rights, A Sabin Center Blog, 10 July 2025, <https://blogs.law.columbia.edu/climatechange/2025/07/10/a-differentiated-path-forward-the-inter-american-courts-advisory-opinion-on-climate-change-and-human-mobility-rights/> (last accessed on 27 April 2026); Laura Clérico / Sofia Reca Milanta, Symposium on the Inter-American Court Advisory Opinions regarding the climate emergency and the right to care Part 3: Advisory Opinion 32 of 2025 on climate emergency and human rights. Climate inequality and vulnerability: from the margins to the center I, I.Connect Blog, 20 November 2025, <https://www.iconnectblog.com/symposium-on-the-inter-american-court-advisory-opinions-regarding-the-climate-emergency-and-the-right-to-care-part-3-advisory-opinion-32-of-2025-on-climate-emergency-and-human-rights-climate-inequality/> (last accessed on 27 April 2026).

9 According to the United Nations guidelines, rights-based approaches are based on human rights properties: universality and inalienability; indivisibility; interdependence and interrelatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law (United Nations, *The Human Rights Based Approach to Development Cooperation Towards A Common Understanding Among UN Agencies*, 2003).

tive link between the right to human mobility under Article 22 ACHR and the right to a healthy environment under Article 26 of the Convention. Before this development, the Court had not explicitly connected migrants' rights with environmental harm, nor had it directly framed climate-related displacement within the scope of Article 22. Nevertheless, a closer examination of its jurisprudence reveals a gradual doctrinal trajectory toward such an articulation.

This article argues that the emerging bridge between human mobility and the right to a healthy environment is shaped by two interrelated dynamics: first, the strategic deployment of the IACtHR's advisory jurisdiction; and second, a transformative social approach to human rights violations. These dynamics operate through several interconnected features, including the use of advisory opinions to develop conventional standards in emerging and complex fields, an inclusive, participatory deliberative process, the recognition of structural patterns of discrimination, and transformative remedies to address systemic human rights violations. Together, these features provide the analytical foundation for understanding the doctrinal significance of AO-32/25.

This development must be situated within the broader global debate on climate-induced mobility in a context of democratic backsliding.¹⁰ Climate change has become one of the most critical global challenges of the twenty-first century. Its complex interaction with human mobility has elevated climate migration to a central place in contemporary academic and political debates. Despite growing recognition of this phenomenon, significant gaps persist in international legal frameworks addressing environmentally induced displacement. United Nations Special Rapporteurs have underscored the need for "intersectional" and "rights-based" approaches to address the multidimensional impacts of climate change.¹¹

Within the Inter-American Human Rights System (IAHRS), climate mobility has gained increasing prominence.¹² Resolution No. 2/024 of the Inter-American Commission on Human Rights (IACHR) highlights that the Americas are among the "most exposed" regions to climate-related threats that disproportionately affect vulnerable populations. Over the past decade, an average of 24.5 million people have been displaced annually by disasters such as floods and storms, and by 2050, between 9.4 and 17.1 million people in Latin America will be internally displaced due to climate-related events.¹³ Climate change further exacerbates these trends; in the Americas, nearly 80% of internal displacement

10 IACtHR Advisory Opinion 32/25 of May 29, 2025. Series A No. 32, para. 461.

11 Special Rapporteur on Climate Change, Providing legal options to protect the human rights of persons displaced across international borders due to climate change, A/HRC/53/34, April 18, 2023, para. 64; Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, A/HRC/56/46, of July 24, 2024, paras. 23, 47 and 52.

12 See IACHR, Resolution No. 2/24, Human mobility induced by climate change, p. 6; Human Mobility and the Obligation to Protect: Toward a Subregional Perspective, OEA/Ser.L/V/II, July 21, 2023, Report of the Special Rapporteur on the Human Rights of Migrants, Felipe González, A/77/189, July 19, 2022.

13 IACHR, Resolution No. 2/24 on Human Mobility Caused by Climate Change, 26 December 2024, p. 4.

in 2022 was driven by climate disasters, with projections indicating that more than 216 million people across six continents could become internally displaced by 2050 due to environmental impacts.¹⁴

Domestic courts have also begun to address these emerging challenges. Notably, the Constitutional Court of Colombia, in ruling T-123 of April 2024, recognized forced displacements due to environmental factors and emphasized their multicausal and complex nature, as well as the fact that the most vulnerable populations are the most affected.¹⁵ The Court also refers to the importance of developing a “comprehensive regulatory framework”.¹⁶

Against this backdrop, AO-32/25 significantly broadens the legal understanding of human mobility. It moves beyond rigid categorizations and articulates specific States’ conventional obligations, opening significant avenues for addressing one of the most pressing challenges of our time. As some scholars have suggested, this regional achievement may become a global standard for future climate mobility protection.¹⁷

The article is structured in three parts. The first section reviews conceptual and theoretical debates on climate-induced mobility, focusing on the most controversial definitional and causal challenges. The second section develops the analytical framework by tracing the evolution of Inter-American jurisprudence on migration and environmental protection and identifying the dynamics that gradually connect these two fields. The third section analyzes AO-32/25 as a moment of normative convergence, focusing on the Court’s articulation of the notion of climate-migration, the multidimensional approach to climate vulnerability, the duty of inter-American cooperation, and the specific state’s obligations in the context of climate change.

B. Beyond Labels: Unpacking the Empirical and Discursive Dimensions of Climate Migration

Migration is a complex and multicausal phenomenon that takes multiple forms: short- or long-term, circular or linear, internal or international, voluntary or forced.¹⁸ Amid the con-

14 Ibid., p. 7.

15 Ibid., paras. 95-111.

16 Constitutional Court of Colombia, Judgement No. T-123, 16 April 2024, para. 274.

17 *Monica Namanya*, The Inter-American Court’s Advisory Opinion on the Climate Emergency and Human Rights: A Win for Climate-Displaced Persons?, EJIL: Talk!, 29 July 2025, <https://www.ejiltalk.org/the-inter-american-courts-advisory-opinion-on-the-climate-emergency-and-human-rights-a-win-for-climate-displaced-persons/> (last accessed on 27 April 2026).

18 *Roman Hoffmann / Barbora Sedov / Kira Vinke*, Improving the evidence base: A methodological review of the quantitative climate migration literature, *Global Environmental Change* 71 (2021), p. 4.

ceptual complexities, many scholars advocate for a “rights-based”¹⁹ and “collective”²⁰ approach to climate mobility centered on individuals affected by climate impacts—whether they move or stay—whose dignity, equality, and security must be protected. That’s the reason why scholars and human rights advocates have widely welcomed AO 32/25 on Climate Change and Human Rights, as we will analyze in the following sections.

Before engaging with the normative contributions of AO-32/2025, it is necessary to clarify the main challenges in conceptualizing climate migration and determining how, and to what extent, climate change acts as a causal driver.²¹ The interdisciplinary evolution of the field reflects a growing recognition that climate change interacts with vulnerabilities, capacities, and socio-political contexts in diverse ways (such as economic pressures, social dynamics, and political instability). This “multidimensionality” makes it empirically difficult to identify a “direct cause-and-effect”²² link between climate impacts and human movement. Consequently, climate change commonly operates as one driver among many rather than the exclusive trigger of mobility.²³

Before 2010, only a small number of studies explicitly examined how climate change shapes migration decisions; yet between 2010 and 2020, the number of publications increased tenfold²⁴. Despite the growing visibility, the category “climate migration” remains contested, with little analytical or methodological consensus.²⁵ Ferris identifies at least five disciplinary strands that have developed largely in parallel: (i) climate scientists concerned with the nature of environmental drivers; (ii) migration scholars framing mobility as an adaptation strategy; (iii) disaster risk reduction and humanitarian actors focusing on displacement linked to sudden-onset events; (iv) development researchers addressing

- 19 Roger Zetter, *Protecting People Displaced by Climate Change: Some Conceptual Challenges*, in: Jane McAdam (ed.), *Climate Change, Forced Migration, and International Law*, Oxford 2012, pp. 131-150.
- 20 Michael Werz / Max Hoffman, *Climate Change, Migration, and the Demand for Greater Resources: Challenges and Responses*, SAIS Review International Affairs 99 (2015), p. 100.
- 21 Walter Kälin, *Conceptualising Climate-Induced Displacement*, in: Jane McAdam (ed.), *Climate Change, Forced Migration, and International Law*, Oxford 2012, pp. 81-103, 139.
- 22 Ibid., p. 138.
- 23 Benoit Mayer, *Climate Change and International Law in the Grim Days*, The European Journal of International Law 24 (2013), pp. 947-970.
- 24 Emily C. Nabong / Lauren Hocking / Aaron Opdyke / Jeffrey Walters, *Decision-making factor interactions influencing climate migration: A systems-based systematic review*, WIREs Climate Change 14 (2023), p. 8.
- 25 Werz et al., note 20; Etienne Piguet, *Linking climate change, environmental degradation, and migration: An update after 10 years*, Wiley Interdisciplinary Reviews: Climate Change 13 (2022); Mayer, note 24; Hoffmann et al., note 19; Nabong et al., note 25; Victor Pérez Segura / Raquel Caro Carretero / Antonia Rua, *The elusive climate migrants: symbolic geographies in migration studies*, Comparative Migration Studies 13 (2025), pp. 1-18.

slow-onset environmental change and planned relocations; and (v) international lawyers examining the protection and security implications of climate change.²⁶

The complexity of climate-induced migration has produced divergent interpretations: the “maximalist” and “minimalist” approaches.²⁷ Maximalist perspectives predict large-scale displacement, primarily attributable to climate change. In contrast, minimalist approaches argue that most climate-linked mobility will be limited, internal, and shaped predominantly by non-climatic factors. At the same time, a substantial body of critical scholarship questions the analytical value of the climate migration category, arguing that it often functions as a discursive device that reproduces securitized frameworks and post-colonial imaginaries.²⁸ Piguet, for example, shows how the concept is selectively territorialized²⁹ and reinforces securitized or postcolonial imaginaries that disproportionately frame the Global South as a space of vulnerability and instability.³⁰

Despite its conceptual limitations, many scholars validate the category “climate migration”. In this line, systems-based approaches³¹ include a direct causal interlink between migration and specific factors, such as “financial capital”, “livelihood”, “food security”, “political stability”, “health”, and “social capital”, to assist climate-affected communities.³² The research concludes that deteriorating economic conditions and livelihoods are the main pathways toward climate-induced migration.³³ Further, men are often more likely than women to change their migration behavior in response to slow-onset climatic events.³⁴

Other findings focus on time, differentiating the effects of rapid versus slow-onset shocks.³⁵ They suggest that climate change may affect migration patterns along different

26 Elizabeth Ferris, Research on climate change and migration where are we and where are we going?, *Migration Studies* 8 (2020), pp. 612–625.

27 Kälén, note 21, p. 81.

28 See Betsy Hartmann, Rethinking climate refugees and climate conflict: Rhetoric, reality and the politics of policy discourse, *Journal of International Development* 22(2010), pp. 233–246; Andrew Baldwin, Racialisation and the figure of the climate-change migrant, *Environment and Planning A: Economy and Space* 45 (2013), pp. 1474–1490.

29 Asia is the most referenced region in the climate migration literature. The Research on climate mobility in the Americas has focused disproportionately on the United States. The second most studied country on the continent is Mexico. Research on climate-related mobility in Europe remains limited, absence of explicit references to populations or territories in the abstracts suggests that the dominant approach tends to present climate migration as an abstract phenomenon, detached from empirical contexts (Pérez Segura *et al.*, note 26, pp. 6–9).

30 Piguet, note 26. Similarly, Pérez Segura, Caro Carretero, and Rúa argue that the climate migrant operates as a “virtual subject”: a discursive figure that condenses a horizon of future possibilities shaped by fears, risks, and projections (Pérez Segura *et al.*, note 26, p. 13).

31 Nabong *et al.*, note 15.

32 Ibid.

33 Ibid., p. 11.

34 Hoffmann *et al.*, note 19, p. 4.

35 Ibid; Gabrielle Daoust / Jan Selby, Climate change and migration: A review and new framework for analysis. *WIREs Climate Change* 15 (2024), pp. 1–18.

pathways, such as short-term weather shocks (storms and floods, droughts); gas emissions and environmental changes (increasing average temperatures); through policies in response to climate change (land acquisitions, dam-building); and narratives about current and future climate change impacts.³⁶

A second challenge concerns the controversial notion of “climate refugees”. Most people affected by environmental stressors move internally, and even when cross-border displacement occurs, they do not typically meet the legal criteria for refugee status. As Castles notes, the term “refugee” refers only to people who have crossed an international border to seek protection from persecution based on a range of factors clearly defined in the 1951 Refugee Convention: danger to life, limb, or liberty, on account of race, religion, nationality, membership of a particular social group, or political opinion³⁷. On the other hand, Kälén argues that people displaced across international borders may qualify as refugees in some instances, particularly if the authorities refuse to assist and protect them on account of their race, religion, nationality, membership of a particular social group, or political opinion in the context of disasters, violence, or armed conflict triggered by the effects of climate change.³⁸

The third challenge requires recognizing the significance of “immobility,” which includes the stasis induced by climate change, when people are physically and emotionally trapped by the environmental changes it causes.³⁹ These often-overlooked categories are increasingly being brought into the research frame, shifting from traditional approaches to a “new mobilities paradigm”.⁴⁰ In this sense, immobility not only interacts in complex ways with socio-environmental, infrastructural, political, and economic contexts but also with intersecting dimensions of inequality, such as gender, ethnicity, and race.⁴¹ It provides critical insight into populations who may be among the most vulnerable yet least visible in policy discussions.

36 *Daoust et al.*, note 35, pp. 1-2.

37 *Stephen Castles*, Afterword: What Now? Climate-Induced Displacement after Copenhagen, in: Jane McAdam (ed.), *Climate Change, Forced Migration, and International Law*, Oxford 2012, pp. 239-243, 241.

38 *Kälén*, note 22, p. 94.

39 *Louis Everuss*, Shifting from Climate Migration to Climate (Im)mobilities: Studying the Intersections between Climate Change and Human Movement, in: Andreas Neef / Natasha Pauli / Bukola Salami (ed) *De Gruyter Handbook of Climate Migration and Climate Mobility Justice*, Berlin 2024, pp. 19-37, 20.

40 *Ibid.*, *Aniseh Bro / Brandon Pludwinski / Luisa Veronis*, The Decision to Stay: A Framework for Conceptualising Voluntary Immobilities in: Andreas Neef / Natasha Pauli / Bukola Salami (eds.), *De Gruyter Handbook of Climate Migration and Climate Mobility Justice*, Berlin 2024, pp. 52-68.

41 *Andreas Neef / Natasha Pauli / Bukola Salami* (eds.), Introduction: Climate Mobilities and Climate Mobility Justice in the Anthropocene, in: Andreas Neef / Natasha Pauli / Bukola Salami (eds.), *De Gruyter Handbook of Climate Migration and Climate Mobility Justice*, Berlin 2024, pp. 1-15, 6.

Amid the conceptual complexities, as we mentioned before, many scholars advocate for a rights-based⁴² and collective⁴³ approach to climate mobility centered on individuals affected by climate impacts—whether they move or stay—whose dignity, equality, and security must be protected. This approach focuses on two predominant dimensions: the global nature of climate change and the responsibility of states and the international community to ensure adequate protection.⁴⁴ However, despite growing recognition of these obligations, the international legal framework remains fragmented and insufficient.

The conceptual debates surrounding causality, definitions, and categories underscore the need for flexible, multidimensional understandings of climate-related movement—ones that reflect the empirical realities of mobility, recognize the agency of affected people, and respond to the profound inequities that make climate change not only an environmental crisis but also a human rights challenge. There is consensus that strengthening rights-based approaches and developing more robust normative frameworks are essential to ensuring that individuals facing climate-related mobility or immobility receive adequate protection.

In the Latin American context, a fuller understanding of climate-induced mobility requires a broader “political-economy approach”.⁴⁵ In regions marked by structural inequality, rural poverty, and institutional fragility, displacement is rarely the result of climatic events alone. Rather, it emerges from the interaction between environmental stressors and structural drivers such as extractive industries, large-scale infrastructure projects, agro-industrial expansion, and processes of land concentration.⁴⁶ As the Colombian Constitutional Court emphasized in Judgment T-123/2024, mobility in climate contexts is not reducible to environmental causation. Still, it is instead produced through the intersection of environmental degradation, territorial dispossession, insecurity, and unequal development.⁴⁷ Climate mobility not only exposes the unequal distribution of environmental risks and harms but also provides the ethical and legal foundation for reorienting public policies to reduce vulnerabilities and strengthen social resilience.⁴⁸

42 Roger Zetter, *Protecting People Displaced by Climate Change: Some Conceptual Challenges*, in: Jane McAdam (ed.), *Climate Change, Forced Migration, and International Law*, Oxford 2012, pp. 131-150.

43 Werz et al., note 20, p. 100.

44 Zetter, note 42, p. 137.

45 See Alain De Serres / John Llewellyn / Preston Llewellyn, *The political economy of climate change mitigation policies: How to Build a Constituency to address global warming?*, ECO/WKP (2011), p. 5; Diosey Ramon Lugo-Morin, *Climate Induced Exile in Latin America: Intersectionality, Refugee Women, and the Dynamics of Conflict and Negotiation*, *Histories* (2026), pp. 6, 13, 1-29.

46 De Serres et al., note 45, p. 5.

47 Manoel Mauricio Ramos Neto, *A new Latin America climate constitutionalism emerges to protect disaster-induced internal displacement: lessons from the Mendoza Bohórquez and Niño de Mendoza case*, *Revista Ciência & Trópico* 49 (2025), pp. 103-124, 108.

48 Ibid., p. 109.

The gender dimension further deepens this analysis. Women and girls represent nearly 80% of those displaced by climate-related causes in the region.⁴⁹ In this context, an “intersectional feminist approach”⁵⁰ highlights how pre-existing social, cultural, and economic inequalities interact with environmental degradation to amplify vulnerability and constrain adaptive capacity. Climate-induced displacement, therefore, cannot be understood without accounting for how gendered and racialized structures of inequality shape both exposure to risk and access to protection, particularly affecting rural, Indigenous, and Afro-descendant women.

Against this background, AO-32/25 on Climate Change and Human Rights has been widely welcomed by scholars and human rights advocates as a “historic milestone,” a “monumental” development, and a “blueprint for rights-based climate action”.⁵¹ The opinion has also been praised for advancing a “big vision” of human rights protection, marking what many view as a “transformative” moment in international legal doctrine.⁵²

As García observes, the Court’s contribution is particularly significant in three key dimensions. First, it advances the “connection debate” by explicitly recognizing the relationship between climate change and migration. In doing so, the Court also addresses climate-related immobility, framing it as a condition that can trigger concrete and enforceable human rights obligations for states. Second, the opinion intervenes in the “label debate” by questioning rigid categorizations of people on the move—such as the distinction between voluntary and forced mobility or between internal and cross-border movement. Instead, the Court adopts a functional approach that conceives mobility as a *de facto* condition of lack of protection. On this basis, through a political economy approach, the Court articulates specific state obligations. It suggests that effective protection may require developing new or adapted legal categories that respond to the realities of climate-related displacement.⁵³ AO-32/25 opens important avenues for addressing not only state responsibility but also the role of private and corporate actors in generating and exacerbating conditions of displacement.

Taken together, these elements underscore the transformative potential of AO-32/25. Yet, this potential ultimately depends on the extent to which its normative advances are translated into concrete policies capable of addressing the material drivers of inequality, dispossession, and environmental harm that underpin climate-induced mobility in the region.

49 *Pia Riggirozzi*, Climate Change and Forced Migration in Latin America, *Renewable Matter*, 12 November 2025, <https://www.renewablematter.eu/en/cop30-climate-change-forced-migration-latin-america> (last accessed on 27 April 2026).

50 *Lugo-Morin*, note 45, pp. 1-29.

51 See paras. 6, 7, 8 and 9.

52 *Riemer et al.*, note. 8; *Tigre et al.*, note 7.

53 *Lila García*, Precariedades In/hiper/mobilizadas en el context de la emergencia climática. A propósito de la OC 32/2025, Workshop at University of Buenos Aires, 9 December 2025, <https://www.youtube.com/live/B0ZI3mzAOIE?si=a-kdXmjJywcufSx.Ib> (last accessed on 27 April 2026).

C. Moving Borders, Moving Rights: The evolving role of the Inter-American Human Rights Court

Within the field of climate-induced mobility, the IACtHR provides much-needed clarity on several long-contested and controversial issues. The Court reconceptualizes climate-induced human movement as a matter of binding human rights obligations for states. The ruling extends beyond doctrinal innovation by offering guidelines for practical implementation, articulating specific state duties, reinforcing due diligence standards, and calling for the recognition of new legal categories for climate-displaced people, while also addressing immobility in the context of climate-induced displacement.

As will be explored in the following section, these developments demonstrate why the IACtHR's conclusions constitute not merely an incremental development, but a fundamental shift of the human rights law approach to one of the "most pressing challenges of our time."

Although prior to AO 32/2025 the IACtHR had not fully articulated a normative link between migrants' rights and environmental harm, its case law demonstrates a gradual convergence of these thematic strands. This raises a central preliminary question: how have environmental and climate harm, together with human mobility, been addressed in the Inter-American jurisdiction?

1. Fragmented or Simultaneous Pathways?

Since its initial Advisory Opinion in 1984, the Court has consistently advocated for a human rights-based approach to mobility through a broad and inclusive understanding of migration as a "multicausal and complex" phenomenon through the lens of non-discrimination (Article 1 ACHR), the Right to Nationality (Article 20 ACHR), and the Right to Freedom of Movement and Residence (Article 22 ACHR). Accordingly, migration includes both internal and international displacement, regardless of whether individuals are there "temporarily, in transit, legally, or in an irregular migratory situation".⁵⁴

Unlike other fields, the Court's Advisory Opinions⁵⁵ not only served as the initial driving force behind the development of the conventional standards for migrants' rights but also reflected overarching interests of states, the academy, and international organiza-

54 IACtHR, Advisory Opinion OC-21/2014 of August 19, 2014, para. 62.

55 See IACtHR, Advisory Opinion OC-4/84, Proposed Amendments to the Naturalization Provisions of the Constitution of Costa Rica (Arts. 13 and 20 American Convention on Human Rights), 19 January 1984, Series A No. 4; Advisory Opinion OC-16/99, The Right to Information on Consular Assistance in the Framework of the Guarantees of Due Process of Law, 1 October 1999, Series A No. 16; Advisory Opinion OC-18/03, Juridical Condition and Rights of Undocumented Migrants 17 September 2003, Series A No. 18; Advisory Opinion OC-21/14, Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection, 19 August 2014, Series A No. 21, and Advisory Opinion OC-25/18, The Institution of Asylum and Its Recognition as a Human Right under the Inter-American System of Protection, 30 May 2018, Series A No. 25.

tions, as evidenced by the “unprecedented participation.” Notably, migration case law is essentially grounded in the visionary ruling AO 18/03 on the “Juridical Condition and Rights of Undocumented Migrants”. The Court recognized that “all persons have attributes inherent to their human dignity [...] which are, consequently, superior to the power of the State”.⁵⁶ Thus, “the principle of equality before the law, equal protection before the law and non-discrimination belong to jus cogens”, which obligates States to “abstain” from carrying out any action that, directly or indirectly, is aimed at creating situations of de jure or de facto discrimination. States must also “take affirmative action” to reverse or change discriminatory situations.⁵⁷

Furthermore, AO 18/03 acknowledged the special “vulnerability” of migrants, which has both an “ideological” dimension and a “historical context”, sustained by “de jure” inequalities (between nationals and aliens in the laws) and “de facto” inequalities (such as structural disparities).⁵⁸ Accordingly, the “migratory status of a person can never justify depriving him of the enjoyment and exercise of his human rights”.⁵⁹

On the other hand, environmental jurisprudence can be divided into two distinct phases.⁶⁰ The first phase, or “early phase”⁶¹, addressed environmental protection primarily through the rights of Indigenous Peoples—namely, collective property (Article 21 ACHR), dignified life (Article 4 ACHR), and political participation (Article 23 ACHR). During this phase, the Court began to acknowledge—albeit indirectly—that environmental degradation can lead to forced displacement under Article 22 of the ACHR.⁶² This position was reflected in *Nadege Dorzema* (2012), a case addressing the mass expulsion of Haitian migrants in the Dominican Republic. Furthermore, the Court recognizes that environmental harm disproportionately affects Indigenous and Afro-descendant communities whose livelihoods and cultural identities are closely tied to their natural environment.⁶³

56 IACtHR, Advisory Opinion OC-18/03 of September 17, 2003, para. 73

57 Ibid., para. 103.

58 Ibid., para. 112.

59 Ibid., para. 134.

60 See Separate Opinion Judge Ferrer Mac Gregor Poisot, IACtHR Case of the Indigenous Communities of the Lhaka Honhat Association (Our Land) v. Argentina. Merits, Reparations and Costs. Judgment of February 6, 2020. Series C No. 400.

61 *Gaston Medici Colombo*, Climate Change-Related Obligations under the Inter-American Human Rights System: A prospective mapping, Spanish Yearbook of International Law 28 (2024), pp. 275-288, 279

62 IACtHR, Case of *Nadege Dorzema v. Dominican Republic*, October 24, 2012, para. 39

63 Cases of *del Pueblo Saramaka Vs. Surinam*, para. 85, *Comunidades Indígenas Miembros de la Asociación Lhaka Honhat (Nuestra Tierra) Vs. Argentina*, para. 247; *Comunidad Mayagna (Sumo) Awas Tingni. Fondo, Reparaciones y Costas*, paras. 148, 149, 151; *Comunidad Indígena Yakye Axa Vs. Paraguay*, paras. 124, 131, 135-137, 154, *Comunidad Indígena Sawhoyamaya Vs. Paraguay*, paras. 118-121, 131. This connection was reaffirmed in *Kama and Friol* (2024) where affected communities successfully demonstrated that environmental degradation had led to their forced displacement.

The second phase, driven by Advisory Opinion No. 23/17 in 2017, marked a turning point toward an “ecocentric approach”.⁶⁴ The Court recognized the right to a healthy environment as an “autonomous and actionable” right under Article 26 ACHR in relation to the Economic, Social, Cultural, and Environmental rights (ESCER). The “autonomy” refers to different entitlements (health, liberty, education, life, etc.), and a series of obligations that States must comply with that give meaning to their differentiated legal recognition⁶⁵. The case of *Lhaka Honhat* (2020) represents a “milestone” because it establishes violations of different ESCER that may be derived from and protected by Article 26: the rights to cultural identity, participation in cultural life, a healthy environment, food, and water. Moreover, the remedies ordered have a differentiated focus, seeking to redress violations of each of the social, cultural, and environmental rights.⁶⁶

Finally, in *Habitants la Oroya* (2023), the Court analyzed the multiple effects of environmental and climate harm on vulnerable populations. The Court described the area as a “sacrifice zone,” referencing the devastating and differentiated impact of climate harm on certain “geographical” regions and groups in situations of vulnerability⁶⁷.

Drawing on the ecocentric approach, the Court acknowledges “the right not to be forcibly displaced” as particularly vulnerable to environmental harm.⁶⁸ It also expanded the definition of at-risk groups to include not only Indigenous and Afro-descendant communities but also populations in specific geographic⁶⁹ locations whose survival depends on marine, forest, or river ecosystems, and those living in geographically exposed areas such as coastal zones and small islands.⁷⁰

II. Bridging the Gap

The jurisprudence on migration and environmental protection within the Inter-American system reveals a gradual but significant convergence between these two fields. This article argues that this emerging bridge is shaped by two interrelated dynamics: first, the strategic deployment of the IACtHR advisory jurisdiction; and second, a transformative social approach to human rights violations. These dynamics are expressed through advisory opinions

64 *Medici Colombo*, note 62, p. 279; *Sofia Reca Milanta / Diego Montalván Zambrano*, *De la resistencia a la participación: El impacto de los amicus curiae en el litigio ambiental y climático interamericano* (under review).

65 Separate Opinion Judge Ferrer Mac Gregor Poisot, note 60, para. 43.

66 *Sofia Reca Milanta*, *La navegación de los DESCAs en la jurisdicción interamericana*, *Revista de Estudios Constitucionales*, Universidad de Talca (Chile) 22 (2024), pp. 30-53.

67 IACtHR, *Case of La Oroya Population v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 27, 2023. Series C No. 511, para 180.

68 IACtHR, *Advisory Opinion OC 23/17 on The Environment and Human Rights*, of November 15, 2017. Series A No. 23, para. 66.

69 *Ibid.*, para. 66.

70 See para. 64.

as instruments for normative development, a more inclusive and participatory deliberative process, recognition of structural patterns of discrimination, and adoption of structural remedies to address systemic human rights violations. We argue that these features are the analytical foundation of Advisory Opinion AO-32/2025, which explicitly articulates a normative link between the right to human mobility under Article 22 and the right to a healthy environment under Article 26 ACHR.

1. The IACtHR Advisory Jurisdiction as a Strategic Mechanism

Unlike contentious cases, advisory jurisdiction under Article 64 ACHR operates as a parallel system⁷¹ with a dual purpose: interpreting international instruments of the IAHRs and assessing the compatibility of domestic law with those instruments.⁷² There is no explicit requirement for States requesting an opinion to be parties to the ACHR. Consequently, all OAS member States and certain OAS organs can seek advisory opinions from the IACtHR.⁷³ A further distinctive feature of these proceedings is their highly participatory nature, particularly through the extensive use of public hearings and *amicus curiae* submissions⁷⁴, which are published as part of the official record (Art 73 Rules of Procedure IACtHR).

The IACtHR's advisory jurisdiction has served as a "strategic"⁷⁵ mechanism with at least two key purposes. First, it provides the Court with specialized knowledge and empirical insights on "core human rights issues"⁷⁶, particularly in technically complex domains such as climate change and human mobility.⁷⁷ As mentioned in the previous section, AO 18/2003 on the "Juridical Condition and Rights of Undocumented Migrants" and 23/2017 on "The Environment and Human Rights" have played a pivotal role in shaping jurisprudential developments, a trend further consolidated by AO 32/2025. These landmark

71 *Walter Arévalo Ramírez / Andrés Rousset Siri*, Compliance with Advisory Opinions in the Inter-American Human Rights System, *AJIL Unbound* 117 (2023), pp. 298-302, 299; *Claudia Martin*, Advisory Proceedings: Inter-American Court of Human Rights (IACtHR), *The Max Planck Encyclopedia of International Procedural Law*, in: Hélène Ruiz Fabri (ed.), Oxford 2019, pp. 1-25, 3. *Pablo Saavedra Alessandri*, A Broader Look at the Transformative Impact of the Inter-American Court of Human Rights' Decisions, in: Armin von Bogdandy et al. (eds.), *The Impact of the Inter-American Human Rights System: Transformations on the Ground*, Oxford 2024, p. 549.

72 *Arévalo Ramírez*, note 71, p. 298.

73 *Martin*, note 71, p. 7.

74 *Ibid.*

75 *Reca Milanta et al.*, note 63.

76 *Arévalo Ramírez et al.*, note 71, p. 300.

77 *Lila García / Estefanía Giaccone / Lauura Clérico*, L. Developing Standards on Climate-Related Human Mobility With (a Little) Help of Amici Curiae in the Advisory Opinion 32/2025, *IConnect Blog*, 5 March 2026, <http://www.iconnectblog.com/developing-standards-on-climate-related-human-mobility-with-a-little-help-of-amici-curiae-in-the-advisory-opinion-32-2025> (last accessed on 27 April 2026).

rulings have enabled the Court to proactively improve emerging conventional standards and specific states' obligations, thereby influencing domestic legal systems beyond the constraints of individual contentious cases.

Second, in previous research, we analyzed how the participatory design of advisory proceedings strengthens the institutional role and legitimacy of the Court by enabling a more inclusive deliberative process involving states, international organizations, academics, and civil society actors.⁷⁸ Amicus curiae submissions constitute active and substantive contributions, either as relevant arguments or by providing standards of review to the Court's reasoning, particularly in an area where legal standards remain underdeveloped⁷⁹. In recent research we demonstrated how amici interventions can play a stabilizing role in the Court's deliberative process by tempering radical dissenting opinions of some judges on critical issues, such as the right to a healthy climate and environment under art. 26 ACHR.⁸⁰

Participation in migration-advisory proceedings has progressively expanded over time. Beginning with AO-16/99, which received submissions from eight member States, the IACH, and 22 individuals and institutions, engagement increased in subsequent opinions. AO-18/03 marked a significant turning point in the Court's history. The proceedings included two public hearings—held for the first time outside the Court's headquarters, in Santiago, Chile—and involved 12 States, the IACH, the United Nations High Commissioner for Refugees (UNHCR), nine civil society and academic institutions, and the Central American Council of Attorneys-General for Human Rights. This participatory dynamic continued in later advisory opinions, with AO-21/14 involving nine member States and AO-25/18 receiving 55 written observations and 26 additional contributions from states, OAS bodies, international organizations, state agencies, NGOs, academic institutions, and civil society actors.

A similar trend is observed in the environmental field. AO-23/17 attracted 44 written submissions from states, OAS organs, NGOs, academics, and individuals, alongside a public hearing held in Guatemala, further consolidating the participatory character of the Court's advisory practice. AO-32/2025 reflects the "highest"⁸¹ level of participation in the history of the IACtHR, both in terms of scale and the relevance of the locations where public hearings were held, specifically regions directly impacted by the climate emergency. This proceeding engaged with over 260 amicus curiae submissions by 600 actors. Regarding climate-induced mobility, García, Giaccone and Clérico identify three categories

78 *Reca Milanta et al.*, note 64. See *Sandra Fredman*, *Adjudicating Human Rights: Bounded Deliberative Democracy*, *Federal Law Review* 53 (2025), pp. 1-29.

79 *García et al.*, note 77.

80 *Reca Milanta et al.*, note 64.

81 IACtHR Advisory Opinion 32/25 of May 29, 2025. Series A No. 32, paras. 299-300.

of participants: international organizations⁸²; the academic community, represented by the contribution of the “European Professors” and affected populations, specifically the “Comunidad El Bosque”.⁸³

Against this backdrop, the “transformative impact”⁸⁴ of advisory proceedings rests on democratic and participatory features that shape a particularly fruitful source of collective construction of conventional law. Nevertheless, several questions remain regarding its enforceable nature. The Court has repeatedly emphasized that, while advisory opinions do not have the binding force of judgments issued in contentious cases, they nonetheless produce “undeniable legal effects”⁸⁵ under the conventionality control doctrine⁸⁶. Accordingly, domestic authorities must interpret and apply national law in conformity with the Inter-American corpus juris.⁸⁷ However, their effectiveness depends on States’ willingness to implement them into concrete and practical measures, such as establishing domestic legal frameworks to address climate-induced displacement.⁸⁸

Furthermore, some scholars have observed a tension between the breadth of participation and the degree to which contributions are reflected in the Court’s reasoning. Despite the large number of submissions in AO-32/2025, it is paradoxical that the IACtHR appeared to privilege “big players” in support of its arguments and in developing its main standards.⁸⁹ This dynamic prompts critical inquiry into whether participatory mechanisms genuinely democratize the Court’s reasoning or whether certain institutional actors—such as international organizations or prominent academic groups—exercise greater epistemic authority.⁹⁰

82 Including the UNHCR (United Nations High Commissioner for Refugees), IOM (International Organization for Migrations) and the UN Special Rapporteur on the Human Rights of Internally Displaced Persons.

83 *García et al.*, note 77.

84 *Saavedra Alessandri*, note 71, p. 562.

85 IACtHR, Advisory Opinion OC-18/03, 2003, para. 63.

86 *Martin*, note 71, p. 19.

87 IACtHR, Opinion OC- 21/ 14 of August 19, 2014. Ser. A No. 21, para. 31.

88 *Namanya*, note 17.

89 In three cases, amici curiae function as relevant arguments by providing contextual information that reinforces State obligations related to climate mobility. First, the UNHCR’s submission is used to demonstrate the effects of climate-related displacement. Second, the “European Professors” support the Court’s reasoning on the scope and importance of shared responsibility and international and regional cooperation as we will explore in the next section. Third, the submission made by the UN Special Rapporteur on the Human Rights of Internally Displaced Persons is used to reinforce States’ obligations to guarantee respect for the family unit within human mobilization processes (*García et al.*, note 77).

90 *García et al.*, note 77.

2. The IACtHR's Transformative Social Approach

Secondly, we argue that the emerging bridge between migration and environmental jurisprudence is also reinforced by what we call the IACtHR *Transformative Social Approach* (TSA).⁹¹ This approach has gradually emerged through the Court's recognition of the judicial protection and autonomy granted to Economic, Social, Cultural, and Environmental Human Rights (ESCEHR) under Article 26 of the ACHR. The TSA provides a critical lens for the interpretation of the principle of equality with reference to several indicators, including historically entrenched discriminatory practices; systemic or historical contexts of exclusion, marginalization, or subordination; geographic vulnerability; and the reality that affected groups may experience discrimination despite formally neutral legal frameworks.⁹²

As developed in Section II, this approach aligns with a broader political-economy understanding of climate-induced mobility. From this perspective, forced displacement is not limited to its distributive consequences but must be analyzed in light of the underlying economic, social, cultural, and environmental structures that produce it.

Drawing on previous research, we argue that the TSA rests on several core features. First, it addresses structural patterns of discrimination by conceiving equality primarily as anti-subordination—that is, as the dismantling of hierarchical social relations and institutional practices that perpetuate marginalization.⁹³ These patterns are dynamic and contextual. Second, it incorporates a cooperative and participatory approach to compliance—including the Inter-American Commission, civil society organizations, domestic oversight institutions such as ombuds offices, and other states. Finally, the TSA emphasizes transformative remedies that seek to reorganize public institutions and policies to ensure effective access to basic needs and social rights. Although the phenomenon of courts ruling against governments and ordering broad institutional reforms raises important legitimacy debates at

91 Sofia Reca Milanta, Mapping the Inter-American path of human mobility: Toward a Transformative Social Approach? (under review).

92 Separate opinion of Judge Ferrer Mac Gregor Case of the Hacienda Brasil Verde Workers v. Brazil. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 20, 2016. Series C No. 318, par.79.

93 Martín Aldao / Laura Clérico / Liliana Ronconi, A Multidimensional Approach to Equality in the Inter-American Context: Redistribution, Recognition, and Participatory Parity, in: Armin von Bogdandy / Eduardo Ferrer Mac-Gregor / Mariela Morales Antoniazzi / Flávia Piovesan / Ximena Soley (eds.), Transformative Constitutionalism in Latin American. The emergence of a New Lus Commune, Oxford 2017, pp. 83-96, 84.

the domestic⁹⁴ and international levels⁹⁵, within the IAHRs, the principle of equality and non-discrimination under Article 1 of the ACHR has played a pivotal role in addressing deeply embedded discriminatory factors.⁹⁶

The Court has consistently acknowledged the heightened vulnerability of migrants as a condition shaped both “ideological” narratives and “historical contexts”, sustained by *de jure* inequalities (between nationals and aliens in the laws) and *de facto* inequalities (structural disparities). Accordingly, migration-related rulings frequently address structural patterns of discrimination affecting Haitian and Mexican migrants, as well as forced internal and cross-border displacement in contexts of systemic violence, armed conflict, and enforced disappearances.⁹⁷ These dynamics have become intensified due to the recent “anti-immigrant backlash”,⁹⁸ which threatens democratic institutions and shapes large-scale migration trends.⁹⁹ In this context, the IACtHR’s “multidimensional” approach to climate mobility in AO 32/2025 is grounded in the premise that the climate emergency exacerbates inequality.

Similarly, structural poverty and inequality have been identified as critical factors exacerbating environmental harm as an autonomous right under Article 26 ACHR, particularly for Indigenous communities, as evidenced in cases *Lhaka Honhat* (2020), *Pueblos Rama y Kriol* (2023), *Pueblo Indígena U’ma* (2024), and *Pueblo Indígena Tagaeri* (2024). The Court has further acknowledged the severe and differentiated impacts of climate harm on certain “geographical” regions and vulnerable groups, notably in *La Oroya* (2023).

Structural remedies have thus become a defining feature of the Court’s response to cases involving both migration and environmental harm. These measures frequently intervene directly in public policy and institutional frameworks to address systemic discrimination and ensure access to essential services, including housing, healthcare, food, potable water,

94 *Mark Tushnet*, Social Welfare Rights and the Forms of Judicial Review, *Texas Law Review* 82 (2004), pp. 1897-1898; *David Landau*, Political Institutions and Judicial Role in Comparative Constitutional Law, *Harvard Law Journal* 51 (2010), p. 319; *Rosalind Dixon*, Responsive Judicial Review. Democracy and Dysfunction in the Modern Age, *Comparative Constitutionalism*, Oxford 2023, p. 97; *Michaela Hailbronner*, *The Failures of Others: Justifying Institutional Expansion in Comparative Public and International Law*, Cambridge 2026.

95 *Alexandra Hunneus*, Reforming the States from Afar: Structural Reform Litigation at the Human Rights Courts, *Yale Journal of International Law* 40 (2015).

96 *Victor Abramovich*, De las violaciones masivas a los patrones estructurales: nuevos enfoques y clásicas tensiones en el Sistema Interamericano de Derechos Humanos, *Derecho PUCP: Revista de la Facultad de Derecho* 63 (2009), pp. 7-39, 31-33; *Laura Clérico / Martín Aldao*, Nuevas miradas de la igual en la jurisprudencia de la Corte Interamericana de Derechos Humanos: La igualdad como redistribución y como reconocimiento. *Lecciones y Ensayos* 89 (2011), pp. 141-179.

97 *Reca Milanta*, note 91.

98 *Daniel Auer / Max Schaub*, Mass Emigration and the Erosion of liberal Democracy, *International Studies Quarterly* 68 (2024).

99 NORC Global at the University of Chicago, Final Report on Democratic Backsliding and Migration Intentions in Latin America and the Caribbean, norc.org/content/dam/norc-org/pdf2024/backsliding-and-migration-opinion-poll-report-1.pdf (last accessed on 27 April 2026).

and public infrastructure. As highlighted by Judge Ferrer Mac-Gregor, such remedies often have a differentiated focus designed to redress violations across multiple interconnected social and environmental rights.¹⁰⁰

All these features converge in AO-32/25, particularly in the Court's articulation of "climate vulnerability", the duty of "inter-American cooperation", and the "state obligations" in the context of climate change. These duties are necessary to ensure equal opportunities, eradicate extreme poverty, promote the equitable distribution of resources, and guarantee the participation of affected communities in decisions relating to their development.

D. Normative Convergence: A Paradigm Shift in the IACtHR

AO No. 32/25 firmly situates a human rights-based approach to climate mobility. Rather than treating conceptual ambiguity as a barrier, the AO constructs a comprehensive normative framework that captures the multifaceted causes and consequences of climate change. Crucially, the Court moves beyond abstract doctrinal innovation by providing detailed guidance for implementation. It articulates specific state obligations, strengthens due diligence standards, and calls for the recognition of new legal categories addressing the protection gaps faced by climate-displaced populations, while simultaneously foregrounding the often-overlooked reality of populations unable to move despite escalating climate risks. Most significantly, the Court moves forward the recognition of structural discrimination by developing the category of "climate vulnerability". This analytical shift enables the Court to impose far-reaching state obligations, with particular emphasis on structural remedies to dismantle the underlying conditions that perpetuate vulnerability.

I. A Multicausal, Complex, and Intersectional Approach to Climate Migration

The Court has taken a decisive step in adopting a "multi-causal", "complex" and "intersectional" approach to the climate-migration phenomenon. The comprehensive approach, based on Article 22 ACHR, includes all forms of movement that can result from climate "disasters" or "climate change impacts"¹⁰¹ coupled with pre-existing situations of vulnerability and displacement factors (such as conflict, violence, poverty, food insecurity, or inequalities).¹⁰² The impacts of climate change can also affect populations already in situations of forced displacement, "exacerbating the risks they face and driving additional displacement, as well as prolonged and continuous displacement".¹⁰³

100 Separate Opinion Judge Ferrer Mac Gregor Poisot, IACtHR Case of The Indigenous Communities of the Lhaka Honhat Association vs. Argentina, para. 4.

101 IACtHR, Advisory Opinion 32/2025 of 29 May 2025, paras. 416-417.

102 *Clérico et al.*, note 8.

103 According to the UNHCR, by the end of 2023, nearly three-quarters of forcibly displaced people were living in countries with high or extreme exposure to climate-related risks,703 thereby increasing their vulnerability (IACtHR, Advisory Opinion 32/2025 of 29 May 2025, para. 418.

The court also considers the time factor, distinguishing between sudden-onset events (such as droughts, floods, landslides, and fires) and slow-onset environmental degradation (such as desertification, coastal erosion, and potential submersion of low-lying island states).¹⁰⁴ The IACtHR's solutions reflect this analytical sophistication, recognizing that increased disaster risks may necessitate planned resettlement from high-risk areas and acknowledging both the "preventive" and "reactive"¹⁰⁵ dimensions of climate mobility responses.

Furthermore, drawing on the Inter-American Commission on Human Rights Resolution No. 2/24 on "Human Mobility Induced by Climate Change" AO 32/2025 addresses "immobility", an important category often overlooked in most legal and policy frameworks, as we mentioned above. This concept includes individuals or communities living in areas affected by or at risk of climate events who are unable to move, whether "involuntarily" because they cannot adapt or migrate, or "voluntarily" for cultural, traditional, economic, or social reasons, among others.¹⁰⁶

II. *Climate Vulnerability as an Emerging Normative Category*

The IACtHR approach to climate vulnerability is multidimensional and dynamic. This approach is superior to reductionist ones that focus exclusively on the economic dimension. Thus, it implies considering multiple factors, such as "access to rights, the quality of environmental governance, and community resilience", and the lack of access to essential services for a dignified life. In addition, it must be interpreted considering variations in each state's circumstances and population (para. 595). Finally, the approach must remain open and be porous to understanding new vulnerabilities.

AO 32/2025 adopts a "multidimensional" approach grounded in the premise that the climate emergency exacerbates inequality¹⁰⁷. This approach emerges explicitly from the principles of international human rights protection¹⁰⁸, fundamental principles and obligations in the context of the climate emergency¹⁰⁹, and "the best available science" in "dialogue with different knowledges: scientific, traditional, local, and indigenous".

104 *Riemer et al.*, note 7.

105 *Ibid.*

106 IACtHR, Advisory Opinon 32/2025, para. 419.

107 *Clérico et al.*, note 98.

108 Such as the Pro persona principle, the best interests of the child, the principle of progressivity, and the prohibition of discrimination.

109 Including the pro natura principle, precautionary, prevention, and polluter pays principles, intra- and intergenerational equity, "enhanced" due diligence, the progressive development of ESCR, common but differentiated responsibilities, the obligation to cooperate, and the prohibition of transboundary harm.

Against this backdrop, a multidimensional approach to “climate vulnerability”¹¹⁰ is shaped by diverse factors, including institutional structures, adaptive capacities, and pre-existing conditions of discrimination or exclusion.¹¹¹ Accordingly, AO 32/2025 distinguishes between “high” and “low” vulnerability.¹¹² High vulnerability is driven by “intersectional socio-economic development patterns, unsustainable use of ocean and land, marginalization, historical and current-day patterns of inequality, and governance deficit”.¹¹³ Drawing in case *La Oroya* (2024), the Court also set an overall landscape of the specific vulnerability faced by certain territories: “States in Latin America and the Caribbean are particularly vulnerable, not only because of their geographical position, but also because of their direct dependence on natural resources [...] particularly those residing in the Amazon region and in the Caribbean Island States”.¹¹⁴

Notably, we emphasize two key aspects of climate vulnerability. First, that various territorial and sectoral inequalities influence the diagnosis of the climate emergency. Second, that populations already experiencing structural and intersectional inequality are more vulnerable to the risks and damage associated with the climate emergency.¹¹⁵ Said vulnerability is reinforced by their rural origin and, in general, it especially affects women and children.¹¹⁶ In this sense, AO 31/2025 on the Right to Care also acknowledges how the climate crisis—by limiting access to clean air, safe water, and sanitation—disproportionately increases the care burden on women and girls.

Vulnerability must also be understood as a “dynamic and contextual condition”.¹¹⁷ Thus, the Court warns that not all groups especially affected by climate change correspond to “traditionally protected categories within Inter-American jurisprudence”.¹¹⁸ Instead, “new” vulnerability patterns—such as young people in a situation of unemployment—emerge to guarantee the effectiveness of human rights in the context of the climate emergency. Accordingly, States have a “duty to identify groups that, although not traditionally recognized as protected categories, face situations of disadvantage”.¹¹⁹ This obligation entails adopting specific, reasonable, and differentiated measures, including the rights to a

110 IACtHR, Advisory Opinion 32/2025 of 29 May 2025, para. 62.

111 Ibid.

112 Ibid., para. 101.

113 Ibid.

114 Ibid, para. 118.

115 Ibid.

116 Ibid., para. 420.

117 Ibid., para. 98.

118 Including people in a situation of multidimensional poverty, children and adolescents, elderly and disabled people, women and LGBTTIQ+ people, indigenous, tribal, Afro-descendant communities, people who suffer differentiated effects in the context of climate disasters, defenders of the environment and a healthy climate, people in mobility induced by the climate emergency (Ibid., para. 628)

119 Ibid., para. 629.

healthy environment, life, personal integrity and health, private and family life, property and housing, freedom of residence and movement, access to water and food, work and social security, culture, and education.

III. Inter-American Cooperation and Solidarity as Key

To enable the clear delimitation of specific States' duties to face the climate emergency and to demand "its fulfillment autonomously with respect to other duties related to environmental protection"¹²⁰, the Court acknowledges "substantive"¹²¹ and "procedural"¹²² obligations. Importantly, this normative framework extends beyond State conduct to incorporate the role of private and corporate actors¹²³. Accordingly, AO-32/25 reinforces States' obligations to "regulate, supervise, and monitor" corporate behavior through robust environmental and human rights due diligence frameworks.¹²⁴

During the public hearings, the written observations submitted by the "European Professors" support the Court's reasoning on the scope and importance of shared responsibility and regional cooperation, taking a collective approach to migration flows based on a "good neighbor"¹²⁵ principle. In this line, the Court acknowledges for the first time "Inter-American cooperation" as a duty "grounded in democratic principles" to ensure "equal opportunities, eradicate extreme poverty, promote equitable income distribution, and guarantee full participation of communities in decisions relating to their development".¹²⁶ This approach highlights the need for coordinated regional responses to climate-related mobility, including strengthened bilateral mechanisms, humanitarian assistance, and the protection of migrants throughout transit and destination processes.¹²⁷

Building on this cooperative framework, states must ensure the safe, orderly, and regular management of migration flows.¹²⁸ In doing so, the Court addresses a regulatory gap within traditional human rights frameworks by clarifying that states must protect individuals during displacement, prevent risks along migration routes, combat trafficking,

120 Ibid., para. 300.

121 Substantive rights include the protection of nature rights to life; personal integrity and health; privacy and family life; property; freedom of residence and movement; access to water and food; access to work and social security; as well as access to culture and education.

122 Procedural rights upheld by the opinion comprise the rights to science, access to information, political participation, access to justice, and the right to defend the environment.

123 IACtHR, Advisory Opinon 32/2025, paras. 348-349.

124 Including adopting a "national adaptation plan", developing the required infrastructure works to prevent natural disasters, developing climate policies related to human mobility produced by climate disasters or by the progressive degradation of the environment, and taking measures for the protection, conservation, and revaluation of natural and cultural heritage.

125 Ibid., para. 431.

126 Ibid., para. 248.

127 Ibid., para. 432.

128 Ibid.

establish temporary shelters or relocation mechanisms, and train officials responsible for assisting displaced populations.¹²⁹

IACtHR becomes the first human rights tribunal to explicitly order member states to establish effective legal and administrative mechanisms for cross-border displaced persons.¹³⁰ Recognizing the temporal dimensions of climate displacement, the framework encompasses short-term relief measures, such as “humanitarian visas” or “temporary stays” in the aftermath of sudden-onset events. It highlights the need for longer-term protection mechanisms, such as refugee status.

The Court further emphasizes the duty to adopt preventive measures, requiring states to exercise enhanced due diligence to avoid forced displacement resulting from climate-related disasters and environmental degradation.¹³¹ Protecting a broad range of rights—including life, personal integrity, health, housing, water, food, culture, and education—is considered essential to prevent forced mobility linked to climate impacts.¹³²

E. Conclusions

Advisory Opinion AO-32/25 consolidates an emerging bridge between migration and environmental protection within the IAHRs. A defining feature of this jurisprudential development is the Court’s consistent use of participatory processes as a strategic mechanism to reinforce both its institutional and its interpretative authority. Through the unprecedented involvement of states, civil society, academic institutions, international organizations, and individuals, the advisory proceedings evolved into a deliberative forum in which the Inter-American Court—together with *amici curiae*—plays a key role in shaping innovative conventional standards to confront one of the defining challenges of our time. This proactive and forward-looking approach is particularly significant given the persistent gaps in the international legal framework governing climate-related displacement.

At the same time, important questions remain unresolved. The expansion of participatory mechanisms prompts critical reflection on whether such processes genuinely democratize the Court’s reasoning or whether certain institutional actors—such as international organizations or influential academic networks—exercise disproportionate epistemic authority. More broadly, the Court’s transformative approach raises questions about its competence and legitimacy. In the specific field of climate migration, some scholars have also suggested that, despite its ambitious framing, AO-32/25 may fall short of fully addressing the scope

129 *Ibid.*, paras. 428, 431, 432.

130 *Ibid.*, para. 433.

131 *Ibid.*, para. 422.

132 *Ibid.*, paras. 392-457.

and operationalization of the right to seek and receive asylum under Article 22(7), as well as the precise contours of the principle of non-refoulement in climate-related contexts¹³³.

However, there is no doubt that AO-32/25 represents a turning point in the IAHRs: one in which climate-induced mobility is increasingly understood through a transformative, multidimensional, and cooperative approach to human rights.



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133 *Riemer et al.*, note 8; *Felipe Navarro*, How the Inter-American Court Could Advance Protection for Climate-Displaced Individuals, Just Security Blog, 12 June 2026, <https://www.justsecurity.org/96690/inter-american-court-climate-displacement/> (last accessed on 26 April 2026).