LATIN AMERICA AND THE CARIBBEAN: A Rights-Based Approach to Climate Change

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Published by

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July 2025

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REPORT

AKNOWLEDGEMENTS

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Special thanks to the key informants from the Argentina, Peru and Honduras ACT Forums.

Finally, we acknowledge the significant contributions of Ruusa Gawaza of Felm; and Julius Mbatia and Christian Wolff of ACT Alliance. Special thanks to Fiona Connelly of ACT Alliance for editorial coordination.

CONTENTS

LIST OF ABBREVIATIONS

AfAAAQ Framework	The principle of availability, accessibility, acceptability, and quality
AILAC	Independent Association of Latin America and the Caribbean
AOSIS	Alliance of Small Island States
CEJIL	The Center for Justice and International Law
CEPAL	The more widely used Spanish acronym for the Economic Commission for Latin America and the Caribbean (ECLAC)
CIDH	Inter-American Commission on Human Rights
CMA	Parties to the Paris Agreement
COP	Conference of the Parties
DRR	Disaster risk reduction
ECLAC	Economic Commission for Latin America and the Caribbean
EIA	Environmental impact assessments
Escazú Agreement	Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean
FAO	The Food and Agriculture Organization
GCM	The Global Compact for Safe, Orderly and Regular Migration
GCR	The Global Compact on Refugees
HRBA	Human rights-based approach
HRC	Human Rights Council
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
IAHRS	Inter-American Human Rights System
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
IDPs	Internally displaced persons
IHRL	International human rights law
ILC	International Law Commission

IMRF	International Migration Review Forum
IPCC	The Intergovernmental Panel on Climate Change
IRL	International refugee law
LAC	Latin American and Caribbean region
MERCOSUR	The Common Market of the South Residence Agreement
NCCP	Brazil National Climate Change Policy
OAU	Organization of African Unity
OCHA	Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the UN High Commissioner for Human Rights
RBA	Rights-based approach
REDD+	Reduced emissions from deforestation and forest degradation
RESAMA	South American Network for Environmental Migrations
TNC	Transnational corporation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNASUR	Union of South American Nations (UNASUR)
UNDRIP	United Nations Declaration on the. Rights of Indigenous Peoples
UNFCCC	United Nations Convention on Climate Change; the Convention
UNHRC	United Nations Human Rights Council
VNR	Voluntary National Report
WIM	Warsaw International Mechanism on Loss and Damage

1. Description and scope of theproject

PHOTO: Hora de Obrar.

1.1 Context of the study and methodology

Climate change, a pressing challenge of our time, poses significant threats to both human and non-human life, profoundly impacting fundamental human rights like health, housing, water, and food security. Operating as a multiplier of threats, it disproportionately affects disadvantaged nations and communities based on factors such as geography, poverty, gender, and minority status. Vulnerable groups often lack the resources needed for effective adaptation and mitigation. Such vulnerable groups encompass children, women, Indigenous communities, Afro descendent peoples; elderly, disabled, and displaced individuals; as well as people in danger of being displaced and/or unable to move; and certain groups of migrants who grapple with severe physical, social, economic, and psychological hardships, often lacking the resources needed for effective adaptation and mitigation. Serving as a catalyst, climate change intensifies threats arising from clim¬ate-related crises and conflicts, revealing deep-seated inequities.

For instance, in 2020, Central America and the Caribbean experienced one of the three warmest years, while South America saw its second warmest year, with temperatures exceeding the 1981–2010 average. Widespread drought had a significant impact on navigation, crop yields, and food production, worsening food security in various regions. South America, particularly the southern Amazon and Pantanal, faced its most severe drought in 50 years. The Caribbean, already under high water stress, experienced critical precipitation deficits.

On the other hand, intense late-year rains triggered landslides and floods in Central and South America, while 2020 surpassed 2019 as the most active year for fires in the southern Amazon, mainly due to drought. The Amazon basin, storing 10 percent of global carbon, faces increased deforestation, threatening its stability.

Despite being a carbon sink, continued deforestation could turn the Amazon into a carbon source. The Latin America and Caribbean region hold 57 percent of the world's primary forests, storing 104 gigatons of carbon and hosting 40-50 percent of global biodiversity. In 2020, the Atlantic basin experienced an unprecedented 30 named storms, including Hurricanes Eta and Iota, both Category 4, impacting over eight million people in Central America. Guatemala, Honduras, and Nicaragua suffered the most, with over 964,000 hectares of crops damaged. Honduras alone incurred over $2 billion in GDP damage from these hurricanes.

Latin America is anticipated to experience a considerable increase in mean annual temperature, accompanied by a significant rise in the frequency of extreme heat events in the coming decades. Projections indicate a surge in extremely hot days in major South American cities, increasing heatwave exposure for vulnerable populations. Furthermore, the changing climate not only intensifies heat-related risks but also influences the spread of infectious diseases, such as Vibrio pathogens in coastal waters and increased malaria and dengue transmission.

Likewise, climate change has far-reaching implications for food security, exacerbating existing challenges and intertwining with other ongoing crises. Elevated temperatures directly threaten crop yields, shortening growth seasons globally, particularly impacting maize, winter wheat, and spring wheat. This risk to crop yields compounds the effects of extreme weather, straining supply chains, intensifying socioeconomic pressures, and increasing the transmission of infectious diseases. In Latin America, where a predominantly rural population relies on agriculture, susceptibility to losses and damages can trigger migration and displacement. Additionally, Latin America grapples with a host of challenges, including structural racism, intersecting inequalities, extractivism, and pervasive violence, all of which are linked to significant population movements. The region's vulnerability is further intensified by climate change, which not only exacerbates existing problems but also heightens the risk of environmental degradation.

In this context, climate change is acknowledged by scholars, activists, and non-governmental organisations as a significant threat to the realisation of numerous human rights. Specifically, the Latin American and Caribbean (LAC) region is highly vulnerable to the impacts of climate change and bear a disproportionate responsibility for the crisis compared to countries in the Global North. In addressing this issue, ACT Alliance, supported by professionals with expertise in the LAC region and in human rights, seeks to deepen its understanding of the intricate relationship between human rights and climate change, to further advance the creation and implementation of human rights-based approaches (HRBA) for climate actions.

1.2 Nature of the research assignment

This document, Rights-Based Approaches to Climate Change: A Brief Review, is the result of an in-depth literature review that investigates the intersection of climate change and human rights in the Latin American and Caribbean (LAC) region, offering a comprehensive exploration of both the immediate and long-term impacts of climate change in the realisation of human rights.

The proposed Framework for Action Against Climate Change in Latin America with a Rights-Based Approach is a crucial and powerful tool for potential initiatives such as localized community projects, strategic partnerships, and advocacy efforts. The aim is to redirect focus towards individuals and communities, channelling endeavours towards the pursuit of climate justice. It is

informed by a literature review encompassing recent and pertinent contributions from scholars, organisations, and activists dedicated to advancing climate justice with a human rights-based approach.

The thorough exploration extends to different initiatives in the two regions, encompassing Peru, Honduras, and Argentina in the LAC region. In these locations, ACT Alliance has dedicated efforts to collaborate and advance the realisation of human rights amidst the challenges posed by climate change.

1.2.1 Objectives of the study

The primary objective of this study is to provide a comprehensive understanding of the context within the Latin American and Caribbean (LAC) region in relation to climate change and its impact on the realisation of human rights. The investigation seeks to illuminate the intricate dynamics and interconnectedness between climate change phenomena and the threats or challenges posed to the fulfilment of fundamental human rights in these geographical areas. By delving into this complex interplay, the study aims to contribute valuable insights that can inform discussions, policies, and actions addressing the intersection of climate change and human rights within the LAC region.

Furthermore, the study encompasses the gathering of qualitative data from various projects situated in both regions. This data includes the objectives, practices, and methods employed in the field to mitigate risks and address vulnerabilities in the context of climate change. This comprehensive approach facilitates the exploration of gaps and challenges associated with implementing a human rights-based approach (HRBA) while also pinpointing commendable practices. The insights gained from this investigation aim to foster a deeper understanding and facilitate the effective implementation of HRBA in ongoing and future climate-related initiatives by ACT Alliance and its members.

1.2.2 Research approach

As stated, a comprehensive approach to research was adopted, combining academic research and institutional document analysis to construct a thematic outline encompassing the key components of a human rights-based approach to climate change. The investigation is structured with an introduction defining and detailing the principles of a rights-based approach (RBA), followed by an examination of the foundations and rationale for RBA in the context of climate change, specifically exploring relevant human rights instruments. Subsequently, the study delves into the application of RBA in climate change adaptation, covering initiatives, national plans, local case studies, and challenges in implementation. The research also addresses aspects of Loss, Damage, and Migration with RBA, presenting insights into climate-induced migration, RBA's role in addressing loss and damage, and its integration into international migration frameworks. It concludes by identifying action entry points, emphasizing the integration of policy and legal reforms.

In developing the HRBA proposed, a literature review was conducted, shedding light on the most relevant and urgent issues concerning the realisation of human rights. As a result, six core elements were identified as foundational for advancing the agenda on human rights for climate

justice. These include programmatic activities on climate justice and human rights; actions to foster participation and inclusion in environmental governance; capacity-building for adaptation and resilience; integral approaches for reparation; recognition of collective rights; and international cooperation and financing. Each element presents a set of initiatives and strategies aimed at ensuring equity, justice, and protection of the rights of individuals and communities affected by climate change, with a particular focus on marginalised groups and vulnerable populations in the LAC region.

1.2.3 Data collection, data analysis and presentation

Building upon the insights derived from the extensive literature review and the conceptual framework outlined in the proposed HRBA, designed a thematic questionnaire to capture the fundamental elements integral to such a human rights-based approach. This questionnaire served as a comprehensive guide for conducting semi-structured interviews with key stakeholders overseeing diverse projects in both regions. The primary objective of these interviews was to gain an in-depth understanding of the extent to which each project, along with the individuals and organisations shaping them, integrates the principles of HRBA. The semi-structured format allowed for flexibility and depth in responses, enabling a nuanced exploration of how human rights considerations are woven into the fabric of each initiative.

The interviews were strategically structured to delve into various components of HRBA principles for the identification of good practices, recognition of existing gaps, and exploration of potential areas for improvement. By engaging with stakeholders directly involved in these projects, including officials and representatives from the organisations steering them, the authors sought to unravel the practical manifestations of HRBA within their initiatives. This qualitative exploration was used to identify valuable insights that could inform the ongoing discourse on integrating human rights considerations into climate-related projects, fostering a more robust and ethically sound approach to addressing the complex intersection of climate change and human rights in diverse contexts.

1.2.4 Ethical considerations

In preparation for the interviews, meticulous steps were taken to uphold ethical standards and foster an environment of open dialogue. Prior to each interview, explicit informed consent was obtained from all participants to conduct the interview, providing a clear and detailed explanation of the research objectives, procedures, and the intended use of the gathered data. Emphasis was placed on ensuring confidentiality, assuring participants that the information shared during these discussions would be safeguarded and utilized exclusively for advancing the human rights agenda in the context of climate justice in the region.

To further enhance the privacy and comfort of participants, interviews were conducted in private virtual settings. This not only facilitated sincere conversations but also allowed for a more profound exploration of the participants' projects and internal procedures. A participant from Honduras expressed appreciation for this approach at the conclusion of the interview, highlighting the depth of understanding achieved.

The engagement was marked by a commitment to cultural sensitivity, acknowledging the richness of differences and recognising that diverse perceptions, aspirations, and values contribute significantly to the advancement of human rights. This approach underscored the importance of treating all participants as equals, fostering an atmosphere where their unique perspectives could thrive and collectively contribute to the broader discourse on climate justice and human rights.

1.3 Human rights-based approach (HRBA) for climate action: key concepts

To effectively address the complex crises triggered or intensified by climate change, there is a crucial need for a comprehensive programming framework firmly grounded in human rights principles. Such a framework should prioritize and promote the rights of individuals and communities amid the escalating impacts of climate change. This practical approach must operate across various levels, incorporating mechanisms that protect and ensure the realisation of human rights at local, regional, and international scales, all while considering the unique context of the region. Articulated through a holistic methodology, a human rights-based approach (HRBA) not only empowers communities with resilience and capacity building but also fosters inclusivity and participation based on democratic principles, particularly for the least represented. Additionally, policies and actions aligned with an HRBA, spanning humanitarian responses, adaptation, and reparation for losses and damage, possess the potential to drive transformative social change addressing issues like gender equity and climate justice.

The proposed framework encompasses a foundation grounded in rights-based climate justice and is structured around four key pillars of action. Firstly, it emphasizes fostering inclusion and participation of marginalised groups, such as women, youth, Indigenous and rural communities, peasants, disabled people, and African descents, in environmental governance. Secondly, it focuses on transparent adaptation and resilience actions and policies, integrating capacity-building strategies to reduce vulnerability. Thirdly, it highlights the promotion and enhancement of integral approaches for reparation, recognising the transformative role of comprehensive reparation after loss and damage scenarios. Lastly, it underscores the importance of recognising collective rights, including self-determination, collective (traditional) knowledge, and historical and cultural identities. These pillars are interconnected through an overall platform for international cooperation and climate financing. The framework operates based on principles of rights-based reparation, redistribution, and equity; rights-based decision-making; rights-based protection and safety; and community-based solutions, striving to address climate challenges comprehensively and inclusively.

PHOTO: Ibin Hillert/LWF.

2. INTRODUCTION

Climate change poses significant threats to both human and non-human life, making it one of the most pressing challenges of our time. Its impacts are far-reaching and extend to various aspects of human rights, such as health, housing, (clean) water, and (nutritious) food.[1] Moreover, climate change acts as a multiplier of threats, disproportionately impacting countries and populations already facing disadvantages.[2] Factors like geographic location, poverty, gender, age, Indigenous or minority status, national or social origin, birth, social situation, and disability can further worsen the impact of climate change. Vulnerable and marginalised groups – including children, women, adolescents, Indigenous communities, and displaced people; as well as people in danger of being displaced and/or unable to move; including certain groups of migrants – are particularly susceptible to the adverse effects of climate change. They experience physical, social, economic, and psychological hardships[3] and lack the necessary resources to adapt and mitigate these effects.

Climate change impact is far from uniform; instead, it accentuates profound inequities. Structural factors like poverty, historical and ongoing colonialism, and other forms of marginalisation compound the challenges encountered by low-income countries.[4] Notably, the disproportionate burden of climate-related risks is most pronounced in these nations which not only experience heightened exposure to climate-related hazards but also bear the least responsibility for the climate crisis. In this sense, the enduring effects of climate-related hazards have multifaceted consequences that demand careful consideration.

For example, Latin America is anticipated to undergo a significant rise in mean annual temperature, accompanied by a striking increase in the frequency of extreme heat events in the coming decades. Projections indicate that the frequency of extremely hot days in South America's major cities will surge by five to 10 times between the late twentieth century and mid twenty-first century, based on the Representative Concentration Pathway 4.5 climate scenario.[5] Rapidly rising temperatures in recent years have significantly increased heatwave exposure for vulnerable populations, particularly adults over 65 and children under one year of age. Heat-related deaths surged by 68 percent between 2000-04 and 2017–21, a toll further exacerbated by the concurrent challenges posed by the COVID-19 pandemic. Moreover, the changing climate is not only intensifying heat-related risks but also influencing the spread of infectious diseases. Coastal waters are becoming more conducive to the transmission of Vibrio pathogens and the months suitable for malaria transmission have increased significantly in highland areas of the Americas and Africa. Additionally, the likelihood of dengue transmission rose by 12 percent over the period from 1951-60 to 2012–21.[6]

The Latin American region is already witnessing the tangible health impacts of climate change. Scientific evidence underscores how climate change is intensifying the transmission of diseases and pests, contributing to heightened morbidity, mortality, and disabilities resulting from extreme weather events.[7] For instance, a 2017 study covering 32 locations in Mexico, Brazil, and Chile foresees a mid-century balance between decreases in cold-related mortality and increases in heat-related mortality under various climate-change scenarios. However, by the end of the twenty-first century, a substantial net increase in temperature-related excess mortality is projected, intensifying public health threats. The aging demographic in Latin America, where the proportion of individuals aged 65 and older is expected to rise more rapidly than the global average, further exacerbates these challenges.[8]

Adding to these challenges is the stark disparity in access to and quality of healthcare across Latin America, further amplifying the risks associated with climate change. Public health researchers emphasize that individuals living in poverty and belonging to minority groups often confront barriers to accessing quality healthcare, depriving them of the opportunity to prevent, treat, cure, and rehabilitate climate-related health conditions.[9] For instance, countries like Peru, Ecuador, and Brazil face critical deficiencies in handwashing facilities in healthcare centres, homes, and schools. The vulnerability of informal workers, constituting half of the total workforce in Central and South America and over 70 percent in Peru, is heightened as they lack reimbursements and cannot afford to stay home during disease outbreaks. Compounding these challenges, health systems in the Latin America region are severely underfunded, with some countries allocating only four percent of their gross domestic product (GDP) to healthcare.[10]

For these reasons, addressing extreme heat is imperative, yet the responses in place fall short. Despite the established cooling and health benefits associated with urban greenspaces, only 27 percent of global urban centres achieved a moderate level of green areas in 2021.[11] As one of the most urbanized regions globally, Latin America harbours a significant population susceptible to urban heat exposure.[12] Furthermore, the number of households with air conditioning increased by 66 percent from 2000 to 2020 worldwide, representing a maladaptive response that worsens the energy crisis while exacerbating urban heat, air pollution, and greenhouse gas emissions.[13]

Likewise, climate change, through interconnected pathways, is profoundly affecting every dimension of food security, exacerbating the challenges posed by other ongoing crises. Elevated temperatures directly jeopardize crop yields, with maize growth seasons being, on average, nine days shorter in 2020 and winter wheat and spring wheat growth seasons six days shorter globally compared to 1981–2010. This threat to crop yields compounds the escalating impact of extreme weather on supply chains, socioeconomic pressures, and the transmission of infectious diseases, undermining the pillars of food security – availability, access, stability, and utilization.

According to the Intergovernmental Panel on Climate Change (IPCC), various temperature increases are expected to have complex and localized negative impacts on smallholders, subsistence farmers, and fishing communities. In lower latitudes, even slight temperature increases are projected to decrease crop productivity, heightening the risk of hunger.[14] Recent analysis indicates that extreme heat in 2020 was linked to 98 million more people reporting moderate to severe food insecurity across 103 countries compared to the annual average in 1981–2010.[15]

A 2°C temperature rise could lead to sea-level increases exceeding one metre, putting crop production at risk and thereby affecting global food security and the right to food.[16] Critical ecosystems like the Arctic Sea ice and coral reefs face significant risks, impacting the fundamental rights to food and an adequate standard of living. For instance, communities directly dependent on coral reefs for their livelihoods and sustenance would be adversely affected, jeopardizing the standard of living for at least 30 million people and undermining the rights of up to 500 million people.[17] Particularly vulnerable are low-latitude, low-income countries in Latin America, Africa, and Asia, heavily reliant on wild capture and aquaculture fisheries.[18] In sum, food insecurity has become a global issue over the past six years. This heightened food insecurity, in turn, serves as a catalyst for democratic breakdown and conflicts.[19]

In addition to its direct impact on individuals, climate change also poses a risk to environmental rights and the rights connected to environmental degradation,[20] such as the right to health, food, water, and shelter. It is not only the consequences of climate change that affect human rights as the measures taken to address it can potentially cause further harm to the natural environment and to communities.[21] Moreover, the existing climate law and policy can overlook historical injustices and persistent socioeconomic inequalities, which can exacerbate the violation of human rights.[22]

Climate actions that overlook human rights can result in direct and indirect negative impacts, including conflicts or violations of human rights. For instance, mitigation policies and climate projects like reforestation, dams, renewable energy installations, and biofuel plantations inevitably causes changes in land use and competition between food and biofuel crops, all of which threaten the realisation of rights such as housing, livelihood, access to water and food, and participation in cultural life.[23] Thus, to address climate change effectively, it is crucial to involve local communities in the decision-making process and ensure that human rights are respected throughout the development implementation of climate actions.

Despite the great threats and challenges that climate change poses to the realisation of human rights, the recognition of the human dimension of climate change is a relatively recent development.

Initially, climate change was seen primarily as an environmental issue, and discussions within the international community revolved around that perspective. However, the unprecedented impact on human beings has not been fully appreciated. For instance, as conditions become increasingly harsh, entirely countries – such as island states – may become uninhabitable due to rising sea levels and extreme weather events. It is estimated that as many as 850 million people could be displaced throughout this century due to climate change effects.[24]

In this context, the potential role that human rights law, principles, and institutions could play in the climate change response is gaining recognition, albeit slowly. Within the United Nations Framework Convention on Climate Change (UNFCCC), explicit human rights arguments have not yet gained significant traction in climate change negotiations. To date, only a modest number of human rights proposals have been put forward in climate negotiations, with a notable exception being a proposal suggesting the inclusion of human rights protection as a new criterion or guiding principle for adaptation measures. Although Resolution 10/4 from the Human Rights Council in 2009 garnered consensus support from 88 UN member states, encouraging greater involvement by human rights expert bodies in the UNFCCC process, broader human rights considerations have not been prominently featured in the negotiations.[25]

Despite these obstacles, the utilization of human rights as a ground has become a means for transnational Indigenous groups to pursue self-determination and advocate for reform across various legal systems, international organisations, and bureaucracies. This strategy is based on the understanding that state legal systems may not adequately address rights claims. By invoking human rights, Indigenous peoples can present their claims to the broader public on a universal human level, setting aside the particularities of their Indigenous identity. This approach allows them to communicate with generic publics, emphasizing that their lives and livelihoods are under threat from climate change.[26]

This is particularly significant in the LAC region, as highlighted by The World Bank's "Indigenous Latin America in the Twenty-First Century" report, which underscores the substantial presence of Indigenous communities, totalling approximately 42 million individuals. Concentrated mainly in Mexico, Guatemala, Peru, and Bolivia, these communities represent around 80 percent of the regional Indigenous population. Indigenous peoples face formidable challenges, with 43 percent living in poverty and 24 percent in extreme poverty, rates significantly higher than those for non-Indigenous populations. Their lack of formal land recognition and barriers to accessing essential services, infrastructure, and economic opportunities leave them disproportionately vulnerable to the adverse impacts of climate change, natural disasters, and health crises like COVID-19. These factors exacerbate existing inequalities and vulnerabilities among Indigenous populations in the region.[27]

Petitions and advocacy based on human rights principles appeal for the moral and ethical dimensions of climate change experiences. Advocacy serves as a tool for communication, visibility, connection, and positive actions on behalf of marginalised and/or invisibilized groups, urging the public, media, scientists, and policymakers to expand their understanding of climate change beyond scientific conclusions and predictions. It calls for a recognition of climate change as a multifaceted issue that includes moral and ethical demands, Indigenous rights, aspirations for self-determination, and the potential physical impacts on Indigenous ways of life.[28]

2.1 Rights-based approach (RBA): Definition and principles

A human rights-based approach (HRBA), ¬aligned with international human rights standards,¬ provides a conceptual framework that seeks to create a comprehensive and inclusive approach that prioritizes human rights in all phases of policy development and implementation.[29] HRBA emphasizes the realisation of human rights as the primary goal in policy and programme formulation and recognises the need to identify and address rights holders and their entitlements, as well as the entities that are responsible for fulfilling these rights.[30] Focusing on the obligations, inequalities, and vulnerabilities, HRBA ensures that development plans, policies, and programmes adhere to the principles of human rights and realise their corresponding obligations under international law, such as the Universal Declaration of Human Rights and other relevant treaties.

Hence, integrating a human rights-based approach (HRBA) into national climate change laws and plans is crucial for addressing persistent socioeconomic inequalities and discriminatory practices. A HRBA, grounded in international law, provides legitimacy, imposes legal obligations, ensures accountability, and highlights the shortcomings of climate law and policy in addressing socioeconomic inequalities.[31] International bodies like the Inter-American Court of Human Rights (IACtHR) emphasize the importance of protecting and improving the environment for the full realisation of human rights.[32]

In that sense, several constitutional courts in Latin America, such as those in Colombia, Brazil, and Paraguay, recognise the environment as a fundamental condition for society's survival and development, demanding a balance with other societal interests.[33] Likewise, domestic courts in Argentina, Colombia, Chile, Peru, and Ecuador have established a link between environmental pollution and the violation of fundamental rights, effectively incorporating environmental concerns into human rights.[34]

In the context of climate change, efforts to ensure mitigation and adaptation must be aligned to international human rights standards. Climate actions ought to be adequate, coherent, and in line with principles of equality and non-discrimination. Thus, states have the obligation to ensure procedural rights such as access to information, participation, and justice. The integration of human rights is a legal and ethical imperative, as climate action should not violate people's rights. Instead, human rights-based solutions can enhance effectiveness and lead to greater benefits for all sectors of society.[35] For these purposes, according to the Economic Commission for Latin America and the Caribbean (ECLAC in English and CEPAL in Spanish) (2019) states must:

1. Mitigate climate change and prevent its harmful consequences on human rights.

2. Ensure that all people have the necessary capacities to adapt to climate change.

3. Ensure accountability and effective remedies for human rights violations caused by climate change.

4. Mobilize maximum available resources for sustainable and human rights-based development.

5. Cooperate internationally to address the effects of climate change.
6. Ensure equity in climate action.
7. Ensure that everyone benefits from science and its applications.
8. Protect human rights from violations by businesses.
9. Guarantee equality and non-discrimination.
10. Ensure meaningful and informed participation.

Relevant literature and guidance from organisations like the World Health Organization and the UN High Commissioner for Human Rights exposes key attributes necessary for an approach that aligns climate action with human rights.[36] These attributes can be summarized as follows:

- The principle of equality and non-discrimination: this requires states to ensure that resources, facilities, and services are accessible to all individuals, especially those who are disadvantaged.
- The principle of availability, accessibility, acceptability, and quality (AAAQ framework): emphasizes the need for adequate facilities to offer sufficient and geographically, physically, and economically accessible goods and services that are culturally appropriate, gender-sensitive, medically and environmentally ethical, and of good quality.
- The principle of participation and transparency: this entails making sure that all rights-holders, especially those in vulnerable circumstances, are actively involved in decision-making processes and, ensuring that all rights-holders have access to information.
- Lastly, the principle of accountability: this involves monitoring conduct, performance, and outcomes, clarifying responsibilities of institutions, and establishing mechanisms for individuals and communities to understand and evaluate progress. Monitoring should involve the use of indicators and benchmarks to assess progress.

A human rights-based approach (HRBA) is necessary to address socioeconomic inequalities and combat discriminatory practices and unjust distributions of power. It requires an analysis of the extent to which these inequalities are taken into account in climate-related measures.[37] Furthermore, states ought to adopt and implement legal and institutional frameworks to protect individuals from environmental harm that interferes with or may interfere with the enjoyment of human rights. Thus, all strategies to address climate change, by means of mitigation, adaptation, and/or loss and damage, must integrate a human rights approach.[38]

PHOTO: Daniel Gutiérrez Govino.

3. Foundations and rationale for RBA in climate change

Despite progress in procedural environmental rights, encompassing access to information and participation, the obstruction posed by structural racism, unequal distributions of power, and cultural norms often hinder the inclusion and participation of people and communities in climate actions,[39] all of which may contribute to violations of human rights. Thus, understanding the climate crisis from an intersectional perspective is vital as it acknowledges the intertwined character of human rights' violations and environmental issues within systems of oppression and opportunity. This is particularly important for individuals whose ways of life are intimately tied to the natural world.

For example, gender stereotypes frequently impede women and girls from effectively engaging and seeking justice in environmental matters. Climate insecurity intensifies women's vulnerability to climate hazards and violence during conflicts[40] and heightens risks of sexual violence for girls fetching water due to extended travel in drought conditions.[41] Similarly, Indigenous communities might face exclusion from funding opportunities and adaptation plans and often find political barriers to self-governance and social emancipation in the context of the climate crisis.[42] This interrelation underscores that empowering women and Indigenous communities is inseparable from advocating for environmental rights.[43]

At both local and national levels, communities, Indigenous populations, and environmental advocates have played a pivotal role in pushing for legal norms that acknowledge the intricate connections between climate change and infringement upon the rights of both current and future generations.[44] Concurrently, women's organisations have been diligently working to secure legal acknowledgment of the intricate links between environmental and women's rights.

3.1 Rationale for RBA in climate change

Climate change poses substantial risks to the realisation of human rights protected by various international conventions. These include the International Convention on the Elimination of all Forms of Discrimination Against Women, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of the Child, and the International Convention on the Rights of Persons with Disabilities. The adverse impacts outlined in the report jeopardize several rights, including the right to life, adequate food, housing, health, water, and cultural rights.[45]

Likewise, ecosystem damage further compounds these negative impacts, directly affecting the enjoyment of human rights. The risk of harm is particularly pronounced for already marginalised or vulnerable populations, including displaced people, Afro-descendant communities, women, children, persons with disabilities, Indigenous peoples, and those living in rural areas. Climate change and the measures taken to address it can have a significant impact on the enjoyment of various human rights. Instances of human rights violations have already arisen within the context of climate action, as evidenced by cases within the UN Framework Convention on Climate Change, like the Clean Development Mechanism and the Reduced Emissions from Deforestation and Forest Degradation (REDD+).[46]

For instance, in the construction of the Barro Blanco Dam in Panama, a project falling under the Clean Development Mechanism umbrella, civil society organisations have raised concerns that the Indigenous community was not adequately engaged in consultation so that their right to be informed and give prior consent was not respected.[47] Similarly, the case of Future Generations in Colombia, where 25 young individuals guided by the national NGO Dejusticia brought forward a "tutela" that underscored the intricate connections between deforestation, climate change, and the infringement upon the rights of both current and future generations.[48]

International bodies like the Inter-American Court of Human Rights (IACtHR) have stressed the importance of protecting and improving the environment for the full realisation of human rights.[49] References to HRBA in the law are essential for enabling state institutions, stakeholders, and communities to effectively respond to climate change challenges. Without integrating the principles of HRBA, the actions directed by these laws may not effectively improve the realisation of human rights.[50]

The human rights approach possesses a unique appeal that the environmental law perspective lacks. It directs focus towards the individuals affected, bestowing a human dimension upon the issue. Additionally, considering the potentially severe impact on human well-being, tackling the multifaceted challenges of climate change necessitates the adoption of holistic frameworks.

A sole legal framework cannot adequately address the intricacies involved. In this way, rather than replacing an eco-centric approach, a human rights framework functions in tandem with it, working harmoniously to address the complex landscape of climate change.[51]

Incorporating HRBA principles into national climate change laws and National Adaptation Plans (NAPs) is crucial to facilitate legal interpretations that address discriminatory practices and inequalities, as well as to ensure the protection of vulnerable communities.[52] The integration of a human rights-based approach offers distinct advantages due to its grounding in international law, offering legitimacy through countries' agreement to adhere to these laws, establishing legal obligations and accountability mechanisms, and ensuring coherence across various policy sectors. Furthermore, human rights principles and standards expose gaps in climate law and policy, particularly in addressing ongoing socioeconomic disparities.[53]

3.2 Relevant human rights instruments for climate change

The most relevant document and instrument for the realisation of human rights is of course the Universal Declaration of Human Rights. However, since these were promulgated in 1948, climate change matters are not factored into the document. It is then more effective to work backwards, by looking for mentions of human rights throughout recent declarations and conventions that cover climate change and related topics such as migration and food safety.

The United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, and the Paris Agreement establish provisions for public education, awareness, and participation in studying and addressing climate change. These measures, referred to as Acción para el Empoderamiento Climático (Climate Empowerment Action), prioritize six key areas: education, training, awareness-raising, public access to information, public participation, and international cooperation. In Latin America and the Caribbean, 21 countries have designated focal points, and the Lima Ministerial Declaration on Education and Awareness has been approved to encourage participation and access to information regarding climate change in the region.[54]

Countries in Latin America and the Caribbean have actively promoted the integration of human rights perspectives into the UNFCCC and the Paris Agreement. Through the Independent Association of Latin America and the Caribbean (AILAC) and the Alliance of Small Island States (AOSIS), these countries have advocated for human rights considerations, both in general terms and in specific areas such as the Warsaw International Mechanism for Loss and Damage. Additionally, Peru, along with France and the UNFCCC Secretariat, launched the NAZCA Global Climate Action portal, which records climate commitments made by countries, regions, cities, companies, investors, and other actors aiming to strengthen the call to action.[55]

The establishment of the Special Rapporteur on human rights obligations concerning the enjoyment of a safe, clean, healthy, and sustainable environment by the Human Rights Council in 2012 marked a pivotal step in addressing environmental rights within the realm of human rights discourse. Through activities such as country visits, research initiatives, and stakeholder engagement, the Special Rapporteur aims to underscore the intrinsic connection between a healthy environment and the fulfilment of human rights worldwide, thereby contributing to the pursuit of a more sustainable and just future. [56]

Initiatives like the Framework Principles on Human Rights and the Environment created by John Knox, the first Special Rapporteur, advocate for the international recognition of the right to a healthy environment, marking a significant step in the evolving landscape of environmental rights within human rights frameworks. This is discussed in further detail later in this section.

In 2013–14, the UN Independent Expert (or Special Rapporteur) on human rights and the environment conducted an extensive research endeavour aimed at delineating the human rights obligations associated with ensuring a safe, clean, healthy, and sustainable environment, culminating in 14 mapping reports. These reports meticulously catalogued pertinent pronouncements from various sources, including UN human rights treaties; overseeing bodies such as the Human Rights Council; regional human rights systems; and international environmental agreements. The summaries, organised by report, elucidate both the human rights imperilled by climate change and the corresponding human rights obligations identified by the sources, thereby facilitating broad comprehension. As the report makes clear, these summaries highlight specific mentions of climate change within the reviewed sources, with broader statements on environmental harm necessitating reference to the Independent Expert's report and the 14 mapping reports. [57]

Different Special Procedures by the United Nations have also addressed the issue of climate change and environmental degradation. These include the Special Rapporteur on extreme poverty and human rights,[58] the Special Rapporteur on the human rights of migrants[59], the Special Rapporteur on adequate housing,[60] the Special Rapporteur on the rights of Indigenous peoples,[61] the Special Rapporteur on cultural rights,[62] the Special Rapporteur on the human rights to safe drinking water and sanitation,[63] the Special Rapporteur on the right to food[64] and the Special Rapporteur on the human rights of internally displaced persons[65] (please refer to the bibliography for the links to access these documents). Their reports and activities have shed light on the impact of climate change on human rights and provided recommendations for effective climate change mitigation and adaptation strategies.[66]

In summary, these Special Rapporteurs and Independent Experts appointed by the Human Rights Council have addressed extensively the multifaceted impacts of climate change on human rights and the corresponding obligations of states to mitigate these effects. Magdalena Sepúlveda Carmona, the Independent Expert on Extreme Poverty, highlighted the grave threats posed by extreme weather events resulting from climate change to the lives and dignity of those living in extreme poverty, emphasizing their reliance on natural resources for survival.

- Chaloka Beyani, the Special Rapporteur on internally displaced persons, underscored the impact of climate change on the right to adequate housing and water, particularly in low-lying island environments like the Maldives.

- Catarina de Albuquerque, the Special Rapporteur on the right to water and sanitation, endorsed findings linking climate change to obstacles in realising these rights, emphasizing the adverse effects of climate change on water resources, quality, and availability.

- Raquel Rolnik, the Special Rapporteur on adequate housing, connected climate change-induced extreme weather events to risks for adequate housing, especially for vulnerable groups.

- Olivier de Schutter, the Special Rapporteur on the right to food, outlined the severe impact of climate change on agricultural production and food security, noting the potential risks of hunger for millions.

- Anand Grover, the Special Rapporteur on the right to health, highlighted the decline in access to clean water and disrupted natural ecosystems due to global warming, exacerbating health inequalities.

Additionally, various Special Rapporteurs stressed the obligations of states to mitigate climate change impacts, including transitioning to sustainable agricultural practices, integrating human rights standards into climate strategies, and ensuring the meaningful participation of affected communities in decision-making processes. These concerted efforts underscore the imperative of addressing climate change as a human rights issue and implementing comprehensive measures to safeguard vulnerable populations.[67]

John H. Knox, UN Special Rapporteur on human rights and the environment, elaborated the Framework Principles on Human Rights and the Environment. These principles, presented to the UN Human Rights Council in March 2018, delineate the fundamental obligations of states under human rights law concerning a safe, clean, healthy, and sustainable environment. Supported by input from various individuals and organisations worldwide, each principle is accompanied by commentary clarifying its meaning, drawing on both binding decisions from human rights tribunals and interpretations from human rights bodies. While not universally accepted, the coherence of these interpretations signifies a trend towards greater uniformity in applying human rights law to environmental issues, reinforced by state practice and international environmental instruments. Named "Framework Principles" for their robust foundation, they serve as a basis for understanding and implementing human rights obligations related to the environment while acknowledging the ongoing evolution of this relationship.[68]

The Inter-American human rights system has also recognised the link between human rights and the environment, including climate change. Environmental issues have been incorporated into important multilateral human rights treaties in the Americas, and the creation of the Special Rapporteur on economic, social, cultural, and environmental rights by the Inter-American Commission on Human Rights (IACHR)[69] as well as the Inter-American Human Rights System (IAHRS)[70] has further strengthened this connection.

In Latin America, human rights-based climate cases often rely on international obligations from treaties, such as the United Nations Framework Convention on Climate Change, the Paris Agreement, and international human rights instruments. Additionally, there has been an expansion of constitutional jurisprudence in Latin America, which has played a significant role in environmental protection.[71]

As a result, domestic courts are now taking into account various ecological jurisprudence in the region, particularly drawing inspiration from jurisdictions that have developed innovative interpretations, such as Colombia. In this line, national courts have shown to be open to international law, including international human rights standards, leading to successful climate litigation. This is facilitated by doctrines like the 'block of constitutionality,' which encompasses

international human rights law and can be invoked by parties and judges in legal cases. Additionally, the principle of 'conventionality control' obliges state agents, including judges, to apply international human rights law even when it conflicts with national norms.[72] These developments have generated ripple effects as judges have even succeeded to interpret scientific data within the framework of constitutional rights. For instance, in the Páramos case in Colombia, the Constitutional Court assessed the importance of high-altitude ecosystems as carbon sinks, despite the primary focus of the plaintiffs on other ecosystem services.[73]

Given that constitutional law serves as the primary framework for human rights within the region, various actors have effectively harnessed legal avenues to litigate cases involving climate change. This success can be attributed to the fact that citizens in Latin America depend heavily on safeguarding pivotal ecosystems – and that constitutions in Latin America, except Haiti, Uruguay and Surinam already recognise the human right to a healthy environment as a fundamental condition for survival and development.[74] Some constitutions even acknowledge the rights of nature, although the scope and formulation of these rights vary across countries.

Another important attainment is the Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), which was adopted on March 4, 2018 by 24 countries, with the support of the Economic Commission for Latin America and the Caribbean (ECLAC). The Agreement aims to ensure the full and effective implementation of access rights to environmental information, public participation in environmental decision-making processes, and access to justice in environmental matters.[75]

The Escazú Agreement is an essential human rights instrument for climate action, that enables improved environmental management and protection in areas such as natural resource governance, biodiversity conservation, soil erosion, and disaster risk reduction. The Agreement serves as a basis for the full exercise of substantive rights, such as the right to a healthy environment, the right to life, health, or food in the context of climate change; it focuses on people and groups in vulnerable situations, aspiring to leave no one behind.[76] Of crucial importance is that the agreement places significant emphasis on the protection and promotion of human rights defenders in environmental matters, including those defending against climate change.

Likewise, the term "human rights defender," established in 1998 with the Declaration on Human Rights Defenders, emphasizes the right of every individual or collective entity to promote and work towards the protection and realisation of human rights and fundamental freedoms. According to Article 1 of the declaration, anyone engaging in peaceful actions in support of human rights is considered a human rights defender. This recognition underscores the crucial role played by individuals, groups, and institutions in safeguarding human rights, particularly in the face of widespread and systematic violations and the acknowledgment of the right of all peoples to exercise full sovereignty over their wealth and natural resources.[77]

PHOTO: Sean Hawkey/ACT.

4. RBA in climate change adaptation

4.1 Adaptation initiatives with RBA

Resistance movements and collective actions in Latin America have played a crucial role in shaping environmental legislation and policies to oppose extractive industries, megaprojects and classical (colonial) conservationist measures[78] that endanger human and environmental rights. Indigenous communities have been at the forefront of such movements, defending land and natural resources.

For instance, in Brazil, the 1988 Constitution recognised the rights of Indigenous peoples to their lands and territories, as well as the preservation of an ecologically balanced environment. Similarly, Colombia's 1991 Constitution acknowledged the nation's multiethnic and multicultural nature and granted Indigenous communities' autonomy over their lands and territories. Likewise, Ecuador established the Ministry of the Environment, implemented a system of protected natural areas, and recognised collective rights of Indigenous peoples. [79]

Slightly different, in Mexico there has prevailed an institutional stability in its environmental policy organisation, particularly in the context of conservation efforts and establishing cooperation with peasant communities in forest areas. The country has prioritized the creation of scientific-technical research centres. Led by the national council on science and technology and regional universities, they play a significant role in leading and supporting conservation processes. Environmental policies in Mexico have also shown a greater preference to integrate policies that foster productivity within systems, while recognising the interdependencies between institutions for conservation and the environment.[80]

4.2 RBA in national adaptation plans

Climate change laws and national adaptation plans (NAPs) serve as the foundation for translating climate adaptation planning into action. The adoption of national climate change laws and NAPs has become the primary measure for assessing countries' progress in adaptation. Parties to the convention agreed in 2010 to develop national NAPs, which are key instruments for vulnerability reduction to current and future climate change-related risks, according to the United Nations Framework Convention on Climate Change (UNFCCC).[81]

For instance, Brazil and Colombia, two countries that are experiencing high vulnerability to the impacts of heat, extreme weather events, and climate-sensitive infectious diseases on health, have legally recognised the right to health, enacted national climate laws, and submitted their national adaptation plans to UNFCCC NAP Central. [82]

Colombia's national adaptation plan acknowledges the importance of considering vulnerable population groups, such as gender, age, and disability perspectives, in its Objective 1. However, this specific objective is not reiterated across the other objectives, potentially diminishing the focus on incorporating intersectional perspectives. Furthermore, the NAP does not address discrimination in healthcare provision explicitly, lacking mechanisms to address this issue.[83]

Moreover, while the Climate Change Law (CCL) in Colombia does not explicitly reference the Availability, Accessibility, Acceptability, and Quality (AAAQ) framework, the NAP does highlight the

need for coordinated action among local, state, and national levels in epidemiological surveillance systems and capacity-building among health professionals and community members. However, it does not address further aspects related to the availability, accessibility, or acceptability of healthcare services.[84]

Colombia's Climate Change Law likewise establishes a National Climate Change Information System, but it does not specify mechanisms to ensure transparent and accessible information for all populations. There is a possibility that the system may limit certain information to decision-makers only. Similarly, although the NAP emphasizes transparent decision-making processes, it does not outline mechanisms for making information available to marginalised population groups.[85]

Regarding monitoring and evaluation, the CCL and NAP acknowledge the importance of these processes but lack provisions to include marginalised populations or collect multidimensional data. The NAP mandates monitoring vulnerability and climate risk indicators, as well as the outcomes of adaptation measures to reduce climate impacts on health, but it does not deploy disaggregated indicators.

There are gaps and limitations in Colombia's climate change legislation and national adaptation plan regarding the explicit inclusion of vulnerable groups, healthcare provision, transparent information sharing, monitoring and evaluation processes, and mechanisms for accountability. This situation shifts the responsibility of participation on civil society, neglecting the fact that the state should actively promote and enable participation by providing information, resources, and power. Without the government's commitment to making participation tools available, effective civil society engagement in climate actions may be hindered.[86]

Brazil's national adaptation plan consists of one general strategy and 11 sectoral strategies, including Brazil-Health-NAP (Brazil-H-NAP), which specifically focuses on health. Brazil-H-NAP contributes to the management of the country's Unified Health System by providing inputs for defining objectives, goals, and actions.[87]

Regarding the principles for a HRBA, the Brazil National Climate Change Policy (NCCP) does not explicitly mention non-discrimination, although it recognises the specific needs of populations based on their socioeconomic contexts. For instance, guideline no. 6 highlights vulnerable social groups, but it limits differentiated attention to specific areas and populations, such as rural areas, wetlands, forests, Indigenous peoples, and homeless individuals. This approach fails to address health disparities that extend beyond these boundaries, and the plan does not include mechanisms to address discrimination in healthcare services.[88]

Similarly, although the AAAQ framework is not mentioned in Brazil-NAP, Brazil-Health-NAP (Brazil-H-NAP) emphasizes the need for public health infrastructure to withstand and operate under extreme weather conditions. It also focuses on training and building capacity for health professionals in climate change-related issues. Yet, Brazil-H-NAP does not outline actions to ensure availability, accessibility, or acceptability of healthcare services.[89]

Brazil-H-NAP encourages community participation in the formulation of adaptation policies, particularly in deciding the priority of public health policies. However, in some activities,

community engagement is limited to institutional actors, restricting opportunities for marginalised communities to participate in decision-making processes.

Finally, Brazil-NCCP and Brazil-H-NAP emphasize the dissemination of information. The plans highlight the importance of building climate policies based on the provision of information and calls for mechanisms to promote informed and active involvement of vulnerable populations in policies to increase their resilience.[90] The NAP also mandates monitoring as a climate policy instrument, although it is primarily focused on capturing meteorological data. In contrast, Brazil-H-NAP addresses monitoring to a greater extent, considering aspects such as the quality of information, the value of traditional knowledge, and multidimensional surveillance.[91]

4.3 Local RBA effectiveness case studies

Human rights have served as the foundation for mobilization strategies, enabling the connection between the demands of the people and citizens for a sustainable environment and state and supranational institutions. This has facilitated the formation of collective action networks at various levels, from local to transnational.[92]

For instance, Colombia's long history of environmental mobilization has prompted a strategic use of pro-human rights socio-legal activism to drive institutional participation and response. Through large-scale socio-environmental mobilization, significant progress has been made in shaping relevant case law and advancing the recognition of rights of nature. At the same time, this approach has been instrumental in advocating for protective legislation for strategic ecosystems and the defence of common goods, including protected natural areas (PNAs).[93]

Taking another approach, through successful climate litigation, the Instituto de Estudos Amazônicos in Brazil took legal action against the federal government to address deforestation in the Brazilian Amazon. The lawsuit invoked the constitutional right to a healthy environment for present and future generations and called for the recognition of a fundamental right to a stable climate as outlined in the Brazilian Constitution, emphasizing compliance with the Climate Change National Policy Act.[94]

4.4 Challenges in implementing RBA

Historically, the economic development of Latin America has largely depended on the extraction of natural resources, dating back to the era of colonialism.[95] The complex of extractive industries includes techniques like fracking, mining, and monocrops (including intensive reforestation), all of which pose risks to unexploited territories, including protected areas, Indigenous lands, and fragile ecosystems, and all of which have negative impacts on human rights and local communities.

Despite the environmental, social, and economic tragedies associated with this practice and the criticisms of it, extractivism gets characterized as with overriding importance, seen as essential for economic transformation and orchestrated by the state.[96] As a result, Latin American governments often defend extractives practices to maintain political legitimacy through the redistribution of resource wealth for poverty alleviation. The extractive industry's lobbying capacity, industry connections with state officials, and skilled legal representation present challenges for the environmental movement in advocating for sustainable outcomes.[97]

This reliance on extractivism has significant implications for the rule of law. Tensions between extraction and environmental protection persist in the region's jurisprudence, as constitutions prioritize state ownership and sovereignty over natural resources, often favouring exploitation over environmental concerns.[98] Likewise, obligations arising from agreements with extractive sector investors further hinder the adoption of post-extractive economic reforms in the region. The existing institutional framework, including bilateral investment treaties and agreements with international financial institutions, protects investors' interests while restricting states' ability to enforce international human rights and environmental obligations.[99]

In Latin America, the developmentalist vision of import substitution and agrarian reform laws contributed to the colonization of the Amazon, often disregarding Indigenous communities' presence and rights.[100] Eventually, the struggle over resources transformed into a struggle over biodiversity as companies in the seed, petrochemical, and pharmaceutical sectors became increasingly interested in plant genetic resources and codes for developing new products, especially during the late 1970s and early 1980s.[101] Conflicts with foreign investors over foreign-owned mining and oil enclaves have persisted over the years.[102]

This situation is aggravated by hyper-presidentialist states that are common in the region, where limited electoral control over political actors exacerbates the challenges.[103] Such governments often appeal to special measures to attract investment while suspending civil and political rights. Rather than reevaluating the extractive model, the response has been to establish an extractive rentier state, relying on the passive income that extractives generate.[104] Additionally, cases of political instability and conflict hinder possible positive actions and exacerbates violations to human rights. Colombia is such an example. Despite legal advancements, the internal armed conflict hindered the implementation of environmental policies.

Furthermore, land tenure issues and violence against environmental defenders remain pressing concerns across the region, with insufficient and inconsistent state responses,[105] Indigenous territories are particularly affected, facing systematic human rights violations, appropriation of natural resources, and violations of the right to prior consultation and Indigenous peoples' rights. Likewise, defenders advocating for water and natural resources face immense risks, including violence, judicial harassment, arbitrary arrests, and the destruction of community structures.[106]

Although the Inter-American system has introduced jurisprudential innovations to protect the environment, the effectiveness of environmental rights depends on how they are initially embedded in constitutions and subsequently applied in environmental judicial disputes. Thus, there is a risk that even if the Inter-American Human Rights System (IAHRS) were to impose specific climate-related policy choices, some states in the region might resist their legitimacy, as seen in past cases.

For instance, in countries without national government guidelines on stakeholder participation, private companies often dominate the consultation process with little involvement from local communities. In such cases, stakeholder participation is often used as a rhetorical tool to legitimize company activities without meaningful involvement of local communities.[107] For example, former Brazilian President Dilma Rousseff challenged the IACHR's decision to suspend the Belo Monte mega-dam, citing its importance in achieving constitutional objectives such as human dignity,

national development, poverty eradication, and reducing inequalities. This political challenge adds complexity to the legal issues faced in climate litigation, including determining attribution and causation and developing methodologies for reparations in low-emitting countries.

In this context, prominent non-governmental organisations (NGOs) play a significant role in leading and driving climate litigation in the region. However, climate litigation can represent a significant amount of different resources for affected communities, making it very difficult to afford. This can result in climate litigation being perceived as an elitist endeavour that lacks meaningful participation from marginalised members of society.[108]

Moreover, although institutions like the Inter-American human rights system recognise the connection between human rights and the environment, including climate change, there are still challenges in classifying certain cases as "human rights" cases – even when there are significant constitutional rights aspects. This raises concerns about the classification rationale used by legal databases and its implications for scholarship on human rights, which are based on these classificatory systems.[109] Human rights frameworks often struggle to accommodate claims of difference, group rights, or self-determination due to their tendency to adopt anti-relativist and individualistic definitions within universalized notions of human rights.[110]

In more recent years, the pressure for natural resources and violations to human rights has been exacerbated by the urgence for energy transition – coming particularly from the Global North – and which has led to a rise in deforestation and illegal mining, both by large companies and illegal actors.[111] For instance, the dismantling strategies implemented by certain governments, such as Jair Bolsonaro's administration in Brazil, have granted concessions to mega-mining and agro-industrial projects in environmentally significant regions, leading to severe human and environmental rights violations.[112]

In this context, companies operating in land-consuming sectors such as mining, agribusiness, oil, gas, coal, and dam construction have become powerful actors in the globalization process and pose significant risks to human rights defenders. Attacks on defenders are prevalent, with a quarter of documented cases between 2015 and 2016 attributed to companies based in Canada, China, and the United States.[113] Yet, the complex structures of these globalized companies create barriers to transparency and accountability, making it challenging to address human rights violations. Furthermore, the criminal justice system is often weaponized against those opposing megaprojects, with companies initiating false accusations and invoking anti-terrorism laws. This leads to arbitrary detentions, imprisonments, and violations of due process.[114]

Despite increasing international mobilization and efforts to denounce violence against environmental defenders, the destruction of ecosystems and the dispossession of land continue to escalate. Even more, the existing global governance framework, including agreements like the European Green Deal and COP26 commitments which to some level embody the concept of just transitions, often exhibit contradictions and fail to effectively address the activities of extractive state companies or externalize environmental damage and human rights impacts.[115]

5. Loss and damage

Loss and damage, defined as the negative effects of climate change that people are unable to cope with or adapt to, can have various impacts on human rights. These include civil and political rights, economic, social, and cultural rights, as well as collective rights. The implications of climate impacts for the enjoyment of human rights have been studied, highlighting the threats posed to the right to life, liberty, property, work, education, social security, health, food, housing, and a healthy environment, among others. Recognizing the link between loss and damage and the fulfilment of fundamental human rights provides a normative basis for adopting a HRBA to address this issue.

The loss and damage caused by climate change encompass a wide range of adverse effects, including both sudden extreme events and gradual, long-term changes such as sea level rise and biodiversity loss. The magnitude and nature of losses resulting from disasters are contingent upon the type and intensity of the event. Various regions worldwide are increasingly vulnerable to recurring disasters, each with its own set of risks and impacts. For example, according to the latest Intergovernmental Panel on Climate Change (IPCC),[116] the following risks are identified with at least a medium level of confidence in specific regions:

Small Islands:

- Loss of terrestrial, marine, and coastal biodiversity, leading to a decline in ecosystem services.
- Loss of lives, assets, and disruptions to food security and economy due to infrastructure and settlement destruction.
- Economic decline and livelihood failure in sectors such as fisheries, agriculture, and tourism, exacerbated by biodiversity loss in traditional agroecosystems.
- Decreased habitability of both reef and non-reef islands, resulting in increased displacement.
- Heightened risk to water security across nearly all small islands.

Central and South America:

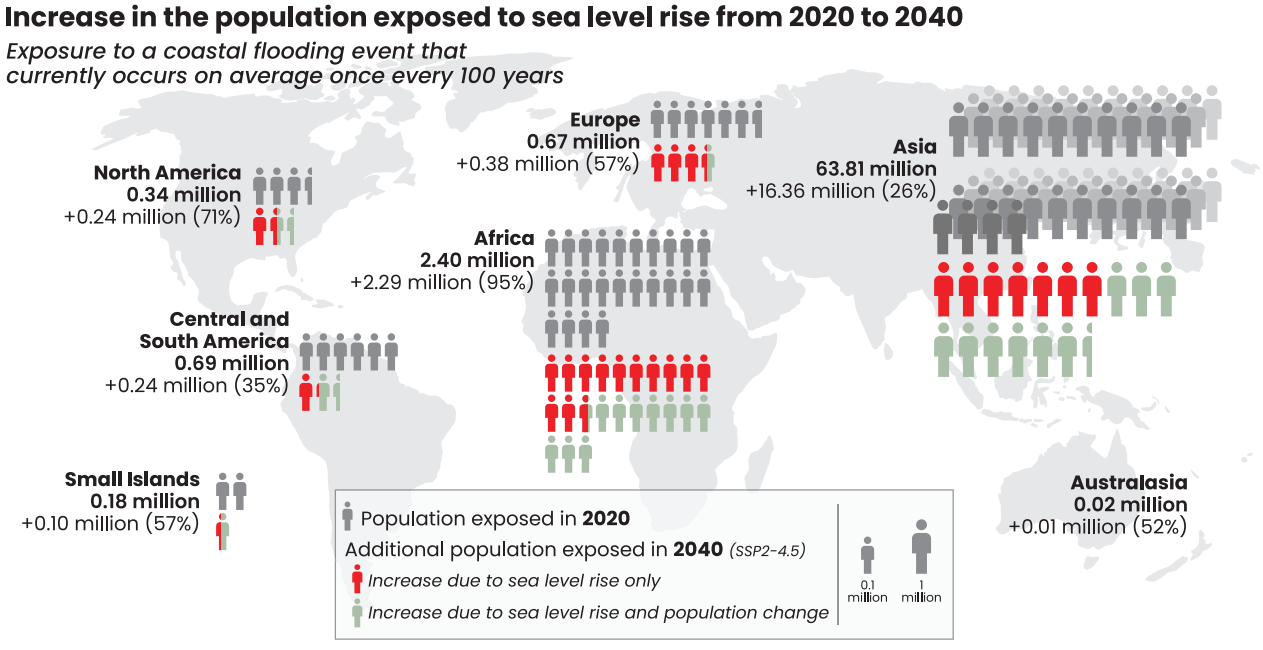
- Water security risks.
- Increased prevalence of severe health issues, including vector-borne diseases, due to rising epidemics.
- Degradation of coral reef ecosystems due to coral bleaching events.

- Threats to food security resulting from frequent and extreme droughts.
- Damages to life and infrastructure due to floods, landslides, sea level rise, storm surges, and coastal erosion.

North America:

- Climate-induced mental health challenges; increased human mortality and morbidity linked to rising average temperatures, extreme weather events, and compounded climate hazards.
- Risks associated with the degradation of marine, coastal, and terrestrial ecosystems, including loss of biodiversity, function, and protective services.
- Threats to freshwater resources, leading to ecosystem consequences, reduced surface water availability for agriculture and other human uses, and deteriorating water quality.
- Risks to food and nutritional security due to changes in agriculture, livestock, hunting, fisheries, and aquaculture productivity and accessibility.
- Risks to well-being, livelihoods, and economic activities arising from cascading and compounded climate hazards, including threats to coastal cities, settlements, and infrastructure from sea level rise.

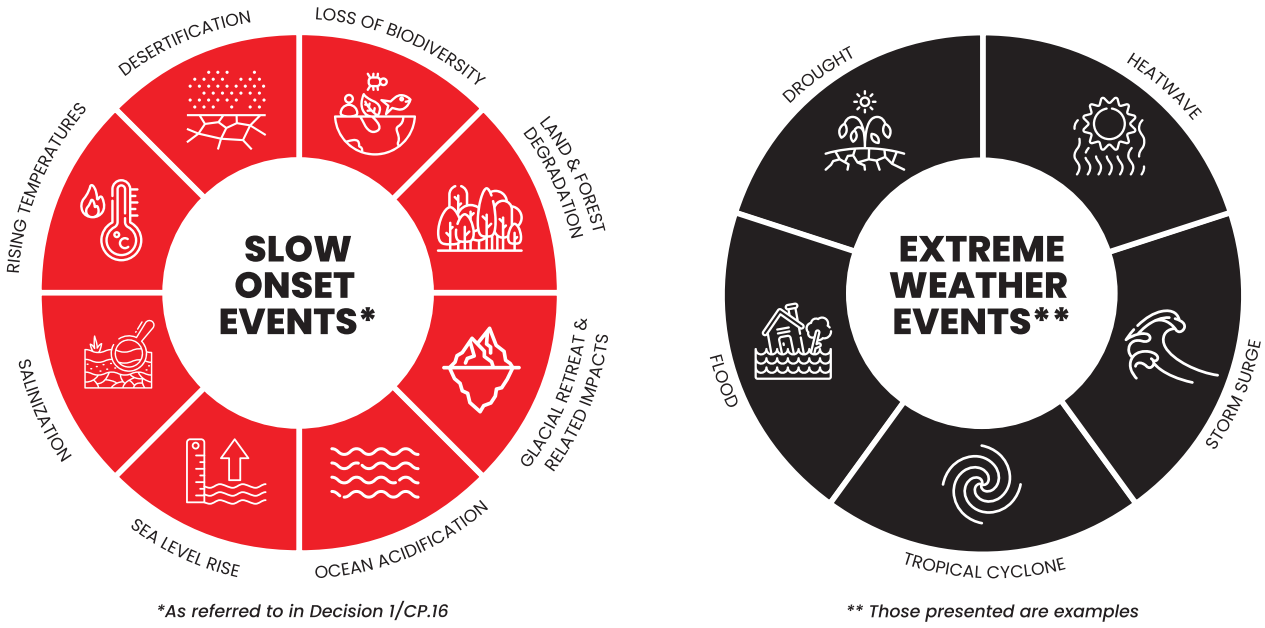
Figure 1. Every region faces more severe and/or frequent compound and cascading climate risks



Source: IPCC Full Report 2023.

The impacts of climate change extend beyond mere physical manifestations, profoundly influencing human systems. To comprehend loss and damage, it is imperative to evaluate both the tangible effects and the susceptibility of human systems to these impacts, while also considering the perceptions and valuations of individuals and society. Moreover, losses and damages can often cascade following a climate event, where one event triggers a chain reaction of subsequent impacts. Climate change engenders both slow onset events, which evolve gradually over time due to various factors, and extreme weather events, characterized by their rarity and severity at specific times and locations. These events, as defined by the UNFCCC and IPCC, encompass a broad spectrum of phenomena, each contributing to loss and damage in distinct ways.[117]

Figure 2. OVERVIEW
Examples Of Slow Onset Events And Extreme Weather Events



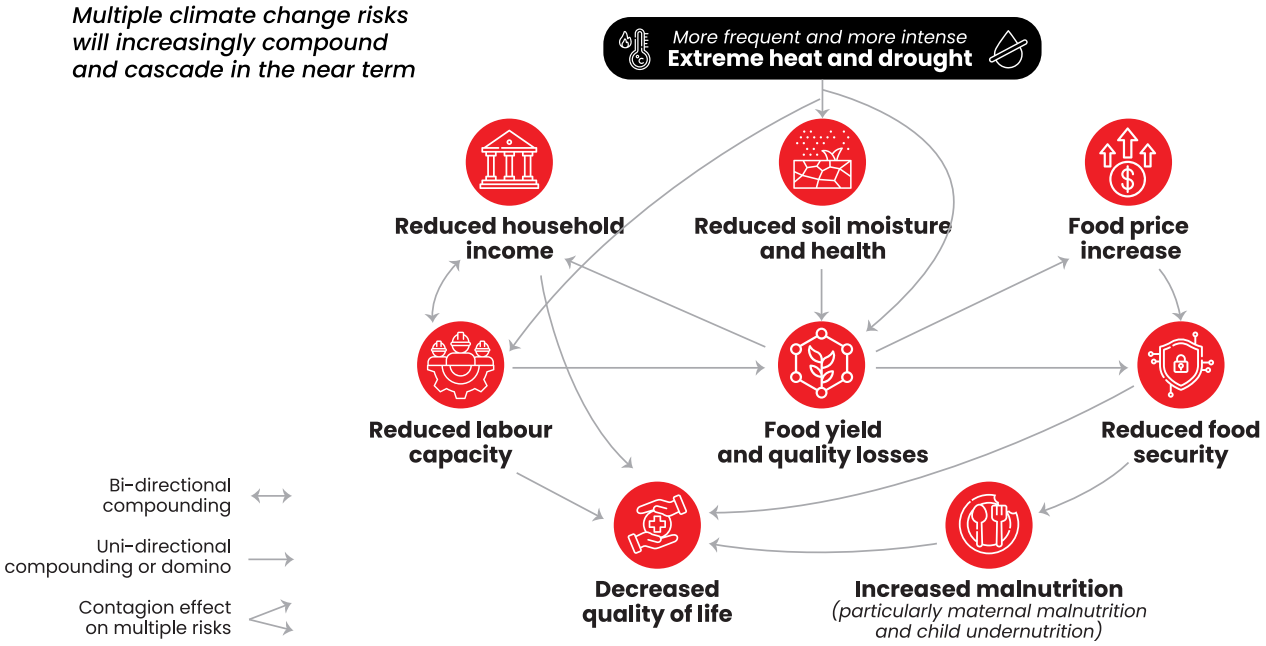
*As referred to in Decision 1/CP.16

** Those presented are examples

Source: Loss and Damage Online Guide, WIM.

Losses can display various characteristics, necessitating a comprehensive approach that includes both mitigation and adaptation measures. Losses can be divided into non-economic and economic categories, with non-economic losses often involving items not typically traded in markets. These losses may hold both economic and non-economic significance, resulting in various types of losses following a destructive event. Additionally, losses may trigger spillover effects, leading to additional losses that may differ in nature. Furthermore, losses can be classified based on their direct or indirect association with a destructive event, distinguishing between losses directly caused by the event and those indirectly influenced by it.

Figure 3. Example of complex risk, where impacts from climate extreme events have cascading effects on food, nutrition, livelihoods and well-being of smallholder farmers



Source: IPCC Full Report 2023.

Non-economic losses encompass aspects of loss and damage that go beyond conventional economic measurements, contrasting with economic losses that involve the measurable depletion of resources and services typically valued in market exchanges. Unlike economic losses, which are quantifiable and included in national accounting systems, non-economic losses lack market valuation due to the absence of tangible market transactions, making their evaluation more intricate. These losses encompass a broad spectrum of intangible or less tangible impacts on human well-being and societal welfare, including but not limited to factors such as loss of life, health, displacement, cultural heritage, biodiversity, and ecosystem services.[118]

Table 1. Examples of economic and non-economic loss and damage

Economic losses	***Non-economic losses***
Loss of wages	Loss of life
Loss of crops	Reduction in biodiversity
Reduction in tourism revenue	Destruction of items of cultural significance
Loss of economic revenue from coastal activity due to inundation	Loss of sovereignty due to inundation

Source: IPCC Full Report 2023.

Importantly, items affected by loss events may possess both economic and non-economic value, resulting in simultaneous economic and non-economic losses upon their destruction. For example, the salinization of agricultural land leads not only to the economic loss of crops but also to the non-economic loss of Indigenous knowledge associated with land stewardship. Non-economic losses can arise as direct consequences of climate events, such as the loss of life during extreme weather events, or as indirect consequences resulting from systemic changes triggered by these events, such as diminished health due to malnutrition resulting from food shortages and increased food prices. Although non-economic losses are inherently challenging to quantify, their significance in shaping human welfare and societal resilience cannot be overstated.[119]

5.1 Relevant instruments for addressing loss and damage

In 2013, the establishment of the Warsaw International Mechanism on Loss and Damage (WIM) formally recognised Loss and Damage, with Article 8 of the Paris Agreement in 2015 providing a legal foundation for the WIM. Enhanced understanding of both economic and non-economic losses and damages reveals gaps in current financial, governance, and institutional structures, particularly in vulnerable developing nations.[120]

In this line, the Paris Agreement[121] outlines these key provisions regarding loss and damage associated with climate change:

- Recognition of the importance of averting, minimizing, and addressing loss and damage linked to climate change effects, including extreme weather events and slow onset events, while emphasizing the role of sustainable development in reducing such risks.

- Establishment of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, under the authority and guidance of the Conference of the Parties (COP), with provisions for its enhancement and strengthening as deemed necessary. (In the way that COP operates for the UNFCCC, the CMA operates for the parties to the Paris Agreement.)

- Emphasis on enhancing understanding, action, and support for addressing loss and damage cooperatively and facilitatively through the Warsaw International Mechanism, covering areas such as early warning systems, emergency preparedness, slow onset events, comprehensive risk assessment, and management, among others.

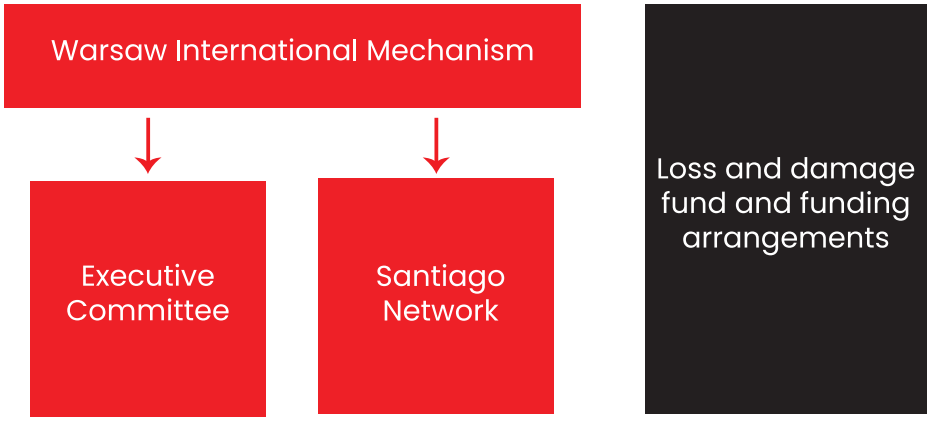
- Collaboration of the Warsaw International Mechanism with existing bodies, expert groups, and relevant organisations both within and outside the Agreement to address loss and damage effectively.

The Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts (Loss and Damage Mechanism), established under the UNFCCC and the Paris Agreement, is a pivotal instrument for addressing loss and damage, particularly in vulnerable developing nations. Operating within the Convention framework, it undertakes several key functions aimed at advancing comprehensive risk management strategies to mitigate loss and damage. Firstly, it

fosters knowledge and comprehension by addressing expertise gaps, facilitating data collection and sharing, and offering insights into best practices and lessons learned. Secondly, it promotes dialogue, coordination, and collaboration among relevant stakeholders, both within and outside the Convention, to encourage cooperation across various initiatives and endeavours. Lastly, it facilitates action and support by providing technical guidance, facilitating financial and technological assistance, and mobilizing expertise to bolster existing approaches and devise new strategies to tackle loss and damage arising from climate change impacts.[122]

While the Warsaw International Mechanism (WIM) lacks explicit human rights language in COP decisions and technical work, its Executive Committee's activities indirectly engage with the human rights aspects of loss and damage. Notably, the Task Force on Displacement (TFD) within the WIM has advanced policy integration efforts, with COP24 endorsing the TFD's recommendations on displacement. These recommendations underscore the importance of incorporating human rights obligations and international standards into laws and policies concerning displacement, reflecting a significant step towards addressing the human rights implications of loss and damage within the framework of the WIM.[123]

Figure 4. Loss and Damage Under the UNFCCC Process



Source: Online guide for loss and damage, UNFCCC.

The Santiago network, established during COP25/CMA.2 as a result of the second review part of the Warsaw International Mechanism (WIM), is designed to mobilize technical assistance from relevant organisations, bodies, networks, and experts to address loss and damage, particularly in developing countries highly susceptible to climate change impacts. Its functions, outlined in Decision 19/CMA.3, include contributing to the effective implementation of the WIM, identifying and communicating technical assistance needs, facilitating collaboration and coordination among stakeholders, and disseminating knowledge on comprehensive risk management approaches. The network also aims to facilitate access to support, including finance, technology, and capacity building, both within and outside the Convention and the Paris Agreement, to address loss and damage associated with climate change impacts.[124]

The Sendai Framework for Disaster Risk Reduction 2015–2030 is another comprehensive approach applicable to all forms of disasters, regardless of their scale, frequency, or nature. Its primary objective is to steer disaster risk management efforts across various developmental

levels, sectors, and intersectoral domains with the goal of significantly reducing disaster risk and losses, including human lives, livelihoods, and assets. Central to the Framework is the emphasis on proactive measures to prevent new disaster risks and mitigate existing ones through integrated strategies spanning multiple domains. These strategies encompass reducing exposure to hazards, enhancing preparedness for response and recovery, and ultimately building resilience. Specific targets outlined in the Framework include reducing global mortality, the number of affected individuals, and economic losses and damages to infrastructure by 2030, alongside initiatives to enhance international cooperation, early warning systems, and access to risk information. Guided by principles of shared responsibility, policy coherence, and human rights protection, the Framework underscores the importance of understanding disaster risk, bolstering governance, investing in risk reduction, and strengthening preparedness and recovery efforts.[125]

5.2 RBA in loss and damage

Despite these efforts, the existing international approach of addressing loss and damage from climate change does not give sufficient consideration to human rights, resulting in ineffective policies that do not adequately safeguard affected communities. Integrating human rights into climate governance frameworks is essential to address the human rights implications of loss and damage. A human rights-based approach (HRBA) can amplify the voices of those most impacted by loss and damage, particularly marginalised groups, offering stronger protection for the rights of those affected. By prioritizing the human rights of affected individuals, a HRBA has the potential to significantly improve the international response to climate change loss and damage within the normative framework of human rights law.[126]

International human rights bodies have increasingly emphasized the importance of considering human rights in response to loss and damage. Reports from the Office of the High Commissioner for Human Rights (OHCHR) have addressed human rights, climate change, and cross-border displacement, leading to various UN Human Rights Council (UNHRC) resolutions on the issue.[127] Similarly, the OHCHR and the UN Special Rapporteur on the right to food have recommended improving institutional arrangements and finance for addressing loss and damage, considering its long-term impact on development, human rights promotion, and the availability of development assistance. The Paris Agreement also mandates strengthening the response to climate change in the context of sustainable development, including the reduction of risk and loss and damage. [128]

Implementing a human rights-based approach (HRBA) to loss and damage under the climate change regime would involve monitoring and evaluating climate actions based on human rights standards, recognising affected individuals as active participants in decision-making, assessing the capacity of rights-holders and duty-bearers, providing capacity-building and transparency, and ensuring actions are informed by recommendations from human rights bodies. International human rights institutions would play a crucial role in implementing a HRBA to loss and damage, while the degree of support from states wouls vary based on their priorities and the enforcement of relevant international and regional human rights treaties.[129]

5.3 Climate justice and reparations

The pursuit of climate justice is driven by crucial intergenerational and global imperatives. As highlighted in the latest IPCC assessment, the weight of the climate crisis and the ability of

nations and communities to confront its devastating impacts are heavily influenced by legacies of systemic racism, colonialism, and imperialism.[130] In that sense, climate change, besides posing a threat to the realisation of human rights, is fundamentally a matter of justice and ethics.

Economic prosperity in today's affluent nations has been largely constructed upon the exploitation and subjugation of people and natural assets in the Global South. Consequently, the Global North bears a substantial ecological and climate debt, accounting for a disproportionate share of global emissions and excesses since 1850. Despite the established principle of "common but differentiated responsibilities and respective capabilities" in climate governance frameworks, Global North countries have persistently evaded their obligations, failing to meet their climate finance commitments. Critically, the prevailing structure of international climate finance has been criticized as perpetuating neocolonialism, ensnaring Global South nations in debt cycles that impede their resilience against climate adversities.[131]

At COP28 in Dubai, global leaders called for a reparative mechanism for industry to compensate the world's most vulnerable communities, who bear the brunt of anthropogenic climate change. Whether termed "climate reparations," "loss and damage," or "climate justice," these demands aim to address the climate imbalance threatening global well-being.[132] Demands for addressing loss and damage have been vociferously articulated by the Small-Island Developing States and low-income nations in collaboration with civil society, albeit fiercely contested by major emitters in the Global North. The pursuit of accountability for climate-induced loss and damage converges with the imperative for "climate reparations," rooted in Black radical thought and decolonial movements, emphasizing both monetary restitution and symbolic gestures of contrition and commitment to prevent future harm.[133]

This underscores the importance of discussing reparations. Reparations in this context involve acknowledging the significant societal harm, accepting responsibility for wrongdoing, and implementing measures to address and rectify widespread injustices and harms. Applied to climate change, reparations entail identifying the entities – both countries and private corporations – whose greenhouse gas emissions have contributed most to the crisis. It requires countries and the international community to acknowledge the harms they have caused and take concrete actions to rectify the severe damage disproportionately affecting low-income countries due to climate change.[134]

Reparations, understood as efforts to rectify societal harm through acknowledgment of wrongdoing and restitution, are crucial for addressing the disproportionate impact of climate change on low-income countries. This concept of reparatory justice requires identifying the entities, including countries and private corporations, that are primarily responsible for greenhouse gas emissions and compelling them to acknowledge their contributions and take concrete steps to rectify the damage.

PHOTO: Sean Hawkey/ACT.

6. Migration

Climate change is exacerbating conditions that render vast areas of the Earth uninhabitable for humans, leading to unprecedented levels of migration. For instance, the rise in extreme weather events and depletion of resources is accelerating forced migration, posing a grave threat to fundamental human rights. Consequently, climate change is increasingly acknowledged as a critical driver of displacement, intensifying existing factors like conflict, poverty, and inequality.

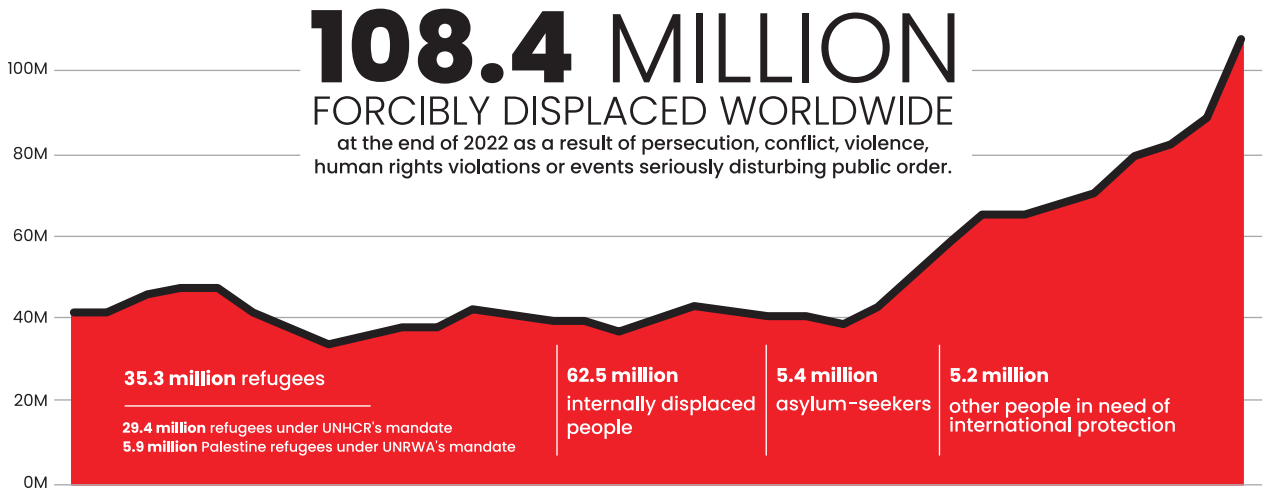
Migration has long served as a coping strategy for individuals encountering environmental hazards, yet climate change introduces novel dynamics. Three pivotal factors distinguish the present era and the foreseeable future: the global scale of environmental change, the shift from sporadic to widespread impacts, and the central role of human agency in shaping these changes. By 2050, as the global population peaks, urban areas, with significant environmental footprints vulnerable to rising sea levels, will host the majority, while rural regions may grapple with escalating hazards like floods, droughts, or gradual climate shifts, challenging livelihoods. In response to these unprecedented environmental shifts, migration may serve as both an initial adjustment and as a last resort for survival.[135]

In this sense, the growing number of individuals displaced directly or indirectly by the effects of climate change underscores the urgent need to address the substantial legal protection gap concerning this modern category of "refugees".[136] Discussion on environmentally induced migration revolve around three primary dimensions: definitions, measurability, and policy orientation. Ambiguity arises from the interchangeable use of terms like environmental migrants, environmental refugees, and environmentally forced migrants. The contentious debate centres on whether environmentally induced migrants should be classified as refugees, challenging established definitions.[137]

Those who have become refugees and internally displaced persons (IDPs) due to other reasons face significantly higher risk and vulnerability to the consequences of climate change. Globally, nearly two-thirds of new asylum seekers and refugees in 2022 originated from 15 countries highly vulnerable to the impacts of climate change, while almost 60 percent of internally displaced persons due to conflict now reside in countries highly vulnerable to the consequences of climate

change.[138] According to the UNHCR, over 40 percent of refugees are hosted in countries highly vulnerable to climate impacts, along with over 70 percent of conflict-displaced individuals.[139] In the Americas region, home to over 22 million refugees, displaced persons, and stateless individuals, nations are increasingly exposed to the adverse effects of climate change, necessitating the inclusion of this issue in national climate adaptation plans.[140]

Figure 5. Forced Displacement



Source: Global Trends Report 2022, UNHCR

The Americas are facing a crisis of forced displacement unlike any seen before in terms of its complexity and scale. As of August 2022, it was estimated that by the end of the year, around 18 percent of the individuals assisted by UNHCR worldwide – equivalent to more than 20.6 million people – would be displaced in the Americas. By the close of 2022, the region hosted a total of six million individuals in need of international protection, consisting of 800,600 refugees and 5.2 million others. This marks a 17 percent increase from the previous year, largely attributed to revised estimates in Colombia and Peru, in addition to the majority who are primarily Venezuelans. Colombia, with 2.5 million individuals, along with Peru and Ecuador, hosted the largest refugee and protection-seeking populations in the region with 976,400 and 555,400 individuals respectively A study by the World Bank predicts that by 2050, people displaced within their own countries due to the gradual onset of climate change effects – such as water scarcity, crop loss, and sea-level rise – will reach between 9.4 and 17.1 million in Latin America (up to 2.6 percent of the total population of the region).[141]

The durability of solutions for refugees and IDPs is increasingly threatened by severe climate impacts, rendering areas designated for return unsustainable or, for local integration, challenging. In the Americas, many displaced individuals have settled in areas considered risky, often because they are unfamiliar with their new environment and the potential threats it poses, especially in urban areas.[142] Additionally, environmental impacts on host countries and insufficient attention to climate concerns may strain host communities' willingness to integrate displaced individuals, potentially fuelling tensions.[143] Therefore, adopting climate-sensitive approaches to durable solutions, particularly in climate hotspots, is vital to mitigate resource competition and environmental degradation and to protect the human rights of IDPs.

6.1 Climate mobility overview

Climate change is increasingly acknowledged as a significant catalyst for displacement, exacerbating existing factors like conflict, poverty, and inequality. As climate-related phenomena escalate, including extreme weather and resource scarcity, they fuel the emergence of environmental migrants, posing threats to various human rights. Reluctance to broaden refugee definitions underscores the necessity for a comprehensive reassessment in addressing the specific challenges posed by climate-induced migration.[144]

While adaptation involves adjusting to the impacts of climate change to minimize harm and build resilience, the concept of loss and damage acknowledges that, despite mitigation and adaptation efforts, some adverse effects are unavoidable, leading to irreversible harm. This includes the loss of homes, cultural heritage, and entire communities, prompting displacement be considered as a form of loss and damage. As climate change intensifies, the connection between loss and damage and migration in the absence of alternatives is expected to become more pronounced, underscoring the urgency of addressing both the root causes of climate change as well as the needs and the rights of affected and displaced communities.

The IPCC's latest report, for instance, states that displacement, defined as the involuntary movement of individuals or communities, often occurs due to factors such as armed conflict, civil unrest, or natural disasters. Migration, on the other hand, encompasses the movement of people, whether within a state or across international borders, including various categories such as refugees, displaced persons, economic migrants, and those relocating for family reunification purposes. It also acknowledges that actions like migration, relocation, and resettlement may or may not align with traditional notions of adaptation. However, voluntary, safe, and orderly migration can serve as an effective means of reducing risks associated with both climatic and non-climatic stressors.[145]

Climate mobility is a broad term describing the multiplicities of ways in which human mobility is associated with climate change, as well as its embedding in ongoing patterns and histories of movement, and the material and political conditions under which it takes place. It is now rather well-accepted in the field of climate mobility studies that, despite difficulties in establishing a direct or exclusive causal relationship between climate and mobility, climate mobility can represent a significant injustice and human rights challenge.[146] Importantly, "climate mobility" encompasses various forms of population movements, including voluntary migration, forced displacement, and planned relocations to safer areas, as recommended by the United Nations Framework Convention on Climate Change (UNFCCC). While migration can serve as an adaptive response to climatic impacts, a lack of resources or agency can lead to instances of forced displacement, as well as people being trapped in their places of origin, both of which exacerbate socioeconomic and environmental vulnerabilities.[147]

Displacement, as a distinct facet within the spectrum of human mobility, signifies a profound form of loss and damage, comprising both economic (jobs, assets) and essential non-economic elements such as security, dignity, and agency. This loss is particularly pronounced in scenarios of forced displacement resulting from extreme weather events or gradual environmental degradation. While economic losses like property damage, are obvious, the indirect yet substantial

non-economic losses, including compromised health and disrupted social networks, compound the overall impact of displacement. Even where relocation is undertaken voluntarily, such actions can lead to loss and damage, and this is exacerbated if communities are coerced into relocation against their will.[148]

In this line, Kleiman (2023) suggest that when examining climate-induced displacement, it's imperative to distinguish between sudden-onset disasters and slow-onset environmental degradation. Sudden-onset disasters like floods and hurricanes prompt immediate large-scale displacement, often resulting in internal displacement. Conversely, slow-onset degradation such as sea-level rise and temperature increases presents more intricate migration drivers, with affected individuals potentially migrating as an adaptation strategy rather than due to immediate compulsion.

Although people have a variety of motives for migrating, data from the Internal Displacement Monitoring Centre reveals that, in 2020 alone, 30.7 million people were displaced by disasters, a figure expected to rise due to the trajectory of climate change and its impacts. Furthermore, forecasts from the World Bank suggest that by 2050, the number of climate migrants from Latin America, sub-Saharan Africa, and Southeast Asia could surge by 143 million. This increase is primarily attributed to the escalating severity of extreme weather events, which exacerbate existing migration catalysts such as internal conflicts. The current trajectory of climate change mitigation is projected to drive the planet by 1.5°C to 2°C above pre-industrial temperatures by 2030–2052, prompting warnings from the Intergovernmental Panel on Climate Change (IPCC) regarding heightened displacement due to climate-related consequences.[149]

This trend is particularly concerning in the Pacific Islands and coastal areas where territory is becoming increasingly uninhabitable. For instance, the community of El Bosque, located on a peninsula in the state of Tabasco, on the shores of the Gulf of Mexico, has lost dozens of houses, swallowed by the rising sea level over the years, one of the most visible consequences of climate change due to human activities. "The sea has taken away houses, schools, buildings. We used to have one km of coastline, but the sea began by eating away at the coast, the trees, a bit of mangrove, then the pines, and in 2019 it started reaching the rows of houses," Guadalupe Cobos, a member of the El Bosque community, over the phone.[150]

The community of El Bosque is far from being the only one vulnerable to climate change in the Mexican state of Tabasco. Tabasco has half of its territory located between zero and five meters above sea level, a topography that exposes it the rise in sea levels, a notable impact of climate change. Professor Lilia Gama from the University of Tabasco assessed the region's vulnerability to sea level rise. "In the Gulf of Mexico, many areas are vulnerable to coastal erosion: there are sandy coastlines where parts of the coastal dunes have disappeared," she explains. Moreover, as a vast plain, Tabasco is exposed to "very dramatic hydrometeorological events." According to Lilia Gama's calculations, "We have over 100 small communities that could be affected by sea level rise by the end of the century. Currently, there are about six or seven communities experiencing coastal erosion, losing territory annually," the researcher notes.[151]

Similarly, in many areas of the 44 municipalities with access to the sea in Puerto Rico, scientists affirm that erosion has ceased to be normal and now represents a problem. Beaches are rapidly

disappearing and not recovering. The proximity to the sea has caused salt corrosion to wear down entire homes. The loss of beach in some neighbourhoods began around 1989 but has worsened recently. The same has happened in the rest of the archipelago. This is highly alarmin as around 60 percent of the population in Puerto Rico lives in the coasts.[152]

The loss of territory due to phenomena like sea-level rise or land degradation poses a significant threat, compelling communities to abandon ancestral lands and jeopardizing cultural heritage and Indigenous knowledge. Such losses extend beyond the physical realm, eroding sovereignty, community identity, and social cohesion.[153] This is evident in the case of Tabasco as well. Forced to leave their territory due to the advance of the sea, the residents of El Bosque finally received state assistance to be relocated 12 km away on the plain. The agreement was signed two days before a hearing at the Inter-American Commission on Human Rights (CIDH). However, for Guadalupe, a member of a family of fishers, moving away from the sea means abandoning an ancestral way of life. "What are we going to do in the city? We fish, our livelihood is here," Guadalupe told RFI, expressing concern about the future before issuing a warning: "We need everyone to know what climate change is".[154]

The complexity of understanding loss and damage within human mobility is compounded by the difficulties of populations whose identity is intricately linked to a specific place. Delving into the intricate dynamics of climate-induced migration in the frequently overlooked Melanesian nation of Vanuatu[155] reveals a strong preference for in-situ adaptation strategies over relocation as the primary response to climate challenges. Local communities prioritize the preservation of cultural and livelihood ties, stressing the importance of policies that align with their preferences and priorities. Insights from ni-Vanuatu climate activists and stakeholders highlight a reluctance to prioritize migration as the primary solution, advocating instead for thorough exploration of alternative adaptation options before considering relocation. This perspective resonates with broader Pacific Islander views, where migration is seen as a last resort. Recognizing and honouring these community perspectives underscores the significance of prioritizing preventive measures, such as in-situ adaptation, within climate migration policy frameworks. Vanuatu's government's focus on resilience-building projects, as evidenced by initiatives aimed at enhancing community capacity to withstand climate impacts, demonstrates a commitment to safeguarding local ways of life and cultural heritage. This emphasis on adaptation efforts underscores the community's determination to address climate challenges while preserving their intrinsic values and identity.[156]

Non-coastal areas can also be dramatically affected. Drought-induced displacement and food insecurity have profoundly impacted livelihoods worldwide, where traditional coping mechanisms have faltered in the face of escalating climate shocks. In 2022, various regions endured their longest and most severe droughts on record, leading to a staggering 2.1 million displacements globally. This crisis spanned continents, affecting communities from Africa to Asia and beyond. The widespread drought has heightened humanitarian needs and posed enduring challenges for affected populations globally, being linked to both internal displacement and cross-border migration.[157] Displaced pastoralists, struggling to recover their herds may be compelled to seek alternative livelihoods, raising concerns about resource competition and violence. Concurrent localized conflicts, often linked to agricultural and land-use practices, have further exacerbated displacement trends worldwide.[158]

Extensive areas in Latin America are currently affected by interannual climatic variability, including the duration of rainy seasons and the occurrence of extreme events such as droughts and floods. For instance, in 2023, the phenomena of El Niño and rising temperatures led to increased rainfall, floods, and landslides in Ecuador, Peru, and Mexico. The limited studies conducted in the region to specifically assess the impact of climate change on agriculture have revealed expected reductions in crop productivity. Similar effects should be anticipated in the vast regions dedicated to livestock production, as these systems rely on a delicate balance of nutrients, available water, stocking rates, and pastures.[159] In Central America, climate change is impacting agricultural production in the "Dry corridor," compelling small-scale farmers to flee droughts and storms, resettling in urban areas with limited job opportunities where they are more vulnerable to gang violence, extortion, and flooding.[160]

Most of the Latin American population lives in rural areas and depends on rural livelihoods,[161] making it particularly susceptible to losses and damages, triggering migration flows. For instance, the agricultural sector in Latin America has experienced significant fluctuations due to variations in economic conditions and national policies, along with extreme weather events. These conditions have had a profound impact on the structure of agricultural production, leading to both a notable reduction in the proportion of small farmers and to substantial migration to impoverished metropolitan areas. Even for larger commercial farmers, the vulnerability of the sector has increased due to unstable and often inconsistent agricultural policies.[162]

The complexities become apparent in our examinations of Argentina, Honduras, and Peru, where prolonged periods of drought have led to considerable declines in agricultural productivity, potentially triggering migration from rural regions to urban centres. In Latin America and the Caribbean, migration patterns are shaped by both historical legacies and contemporary challenges, particularly those stemming from climate change. Despite the region's historical immigration influx, notably from Europe during the 19th and 20th centuries, recent decades have seen significant rural-to-urban migration dynamics, further fuelling urbanization trends. Despite assumptions that this transition was largely completed by the 1970s, many countries still harbour sizable rural populations susceptible to the adverse effects of climate change. Forecasts for the upcoming years indicate a sustained migration trajectory, with an anticipated 10 to 15 percent of rural inhabitants projected to relocate to urban settings in countries such as Bolivia, Peru, Mexico, Brazil, and various Central American nations.[163]

While internal migration linked to the effects of climate change is more prominent in South America, it is important to note that international migration has also been on the rise, particularly from Central American countries such as Guatemala, Honduras and El Salvador.[164]

In this context, the concept of loss and damage caused by climate change is closely connected to migration, as it contributes to the displacement of populations. Climate change-induced events, such as extreme weather phenomena, rising sea levels, and gradual changes like prolonged droughts, can lead to the destruction of infrastructure, loss of livelihoods, and diminished access to vital resources. These adverse effects often render areas uninhabitable, compelling communities to seek safer and more sustainable living conditions elsewhere. Additionally, some communities may find themselves "trapped," unable to relocate due to resource constraints, despite facing heightened vulnerability and increased exposure to future disasters.

It's noteworthy that the most evident impacts of environmental change driving migration are observed in dryland regions. Drylands are likely to experience increased hunger and vulnerability due to environmental shifts, such as land degradation, fluctuating rainfall patterns, chronic water scarcity, and more frequent droughts. Climate change-induced higher temperatures can exacerbate water scarcity and reduce crop yields, affecting vital food production systems like livestock farming and fisheries, particularly in the least developed countries. This climate variability is anticipated to influence food prices and stability, leading to heightened poverty and food insecurity. Projections suggest that by 2050, over 143 million internal migrants could be displaced across sub-Saharan Africa, South Asia, and Latin America due to the impacts of climate change.[165]

The concept of planned relocation encompasses two kinds of measures:

1. Reactive measures, where communities are resettled following a disaster to facilitate recovery and reduce vulnerability to future events; as well as

2. Proactive initiatives aimed at pre-emptively moving populations away from areas at high risk of hazards.

These planned movements are not only intended to ensure the physical safety of those affected but also to address broader socioeconomic and environmental considerations. By offering durable solutions through planned relocations, governments and humanitarian agencies aim to enhance resilience, promote sustainable development, and safeguard the rights and dignity of displaced populations in the face of evolving environmental challenges.[166]

At the same time, climate-induced relocation carries risk factors, including landlessness, joblessness, homelessness, and food insecurity, which can leave displaced individuals economically vulnerable and socially disconnected. To mitigate these risks, governments should prioritize securing appropriate land, allowing sufficient time for planning, allocating funds for adaptation measures, and adhering to human rights principles. If relocation becomes unavoidable, it should be voluntary and inclusive, only considered as a last resort option.[167] Additionally, RBA must be taken into consideration for the implementation of such measures.

6.2 RBA in international migration frameworks

While most climate-displaced individuals remain within their own countries, there are circumstances where they are forced to cross international borders. Yet, those displaced by climate change are largely excluded from the conventional "refugee" designation under international law, leaving them with dangerously limited legal protection options. Efforts to tackle this issue and develop solutions commensurate with its scale at the international level remain distressingly slow and inadequate.[168]

The concept of environmental refugees, introduced in the 1970s, has faced criticism due to a lack of scientific rigour and a universally accepted definition. Despite efforts to establish a distinct refugee category for those displaced by environmental factors, widespread acceptance remains elusive. The International Organization for Migration (IOM) proposed a working definition of environmentally induced migration, but consensus has not been attained.[169]

Some legal scholars argue that the 1951 Refugee Convention is inadequately equipped to tackle contemporary challenges like climate change. It does not explicitly encompass environmental factors as grounds for protection but is rather focused on persecution and conflict-driven displacement in the aftermath of World War II, thus overlooking environmental considerations. It wasn't until the late 20th century that climate issues gained international recognition, signalling the imperative for updated legal frameworks.[170]

The term "refugee" carries specific legal interpretations under international human rights laws, providing protection to individuals who are fleeing conflicts or persecution and preventing their expulsion or return to dangerous situations. More explicitly, the 1951 Convention Relating to the Status of Refugees defines refugee "as a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail him – or herself of the protection of that country, or to return there, for fear of persecution".[171] However, discerning the eligibility of individuals as refugees entails complex assessments, given that existing international legal frameworks have not adequately addressed climate-induced displacement as grounds for seeking asylum or refugee status, unlike in situations involving conflict or other forms of endangerment.[172]

While some regional conventions address refugee issues, they do not specifically address environmental displacement. In contrast, the Cartagena Declaration extends refugee status to individuals fleeing events severely disturbing public order, potentially including environmental factors.[173] Nevertheless, climate migrants lack explicit international recognition, leaving their human rights vulnerable to violation. In this context, the Center for Justice and International Law (CEJIL), as one of the civil organisations that requested a hearing from the Inter-American Commission on Human Rights (CIDH) on this matter, seeks to address this issue. During the hearing, United Nations High Commissioner for Refugees representative Isabel Márquez recommended that populations crossing borders due to climate-related reasons be recognised as refugees, granting them the right to settle in another country and protection from expulsion.[174]

The 1969 Organization of African Unity (OAU) Convention and the 1984 Cartagena Declaration are regional agreements for defining refugees, encompassing situations where individuals flee due to significant disruption in public order. While the 1969 OAU Convention extends protection to those affected by events disrupting public order, the Cartagena Declaration advises considering as refugees those fleeing threats to life, security, or freedom due to similar disruptions (UNHCR, 2020a). Individuals displaced due to climate change or disasters may qualify for refugee status under the 1951 Convention, seeking protection from persecution or disruptions in public order as outlined in these regional instruments. When applying the 1951 Convention to climate change and disaster-induced displacement, specific elements must be considered. These include assessing the well-founded fear of persecution, considering community impacts, conducting forward-looking evaluations, establishing causal links to vulnerabilities, recognising interactions with conflict, and evaluating the feasibility of internal relocation as an alternative.

Conventions for internally-displaced persons (IDPs) have been more inclusive of climate-related displacement. For instance, the Guiding Principles on Internal Displacement ("Guiding Principles") developed by the Office for the Coordination of Humanitarian Affairs (OCHA) represent a

compilation of existing state obligations towards IDPs. Although these guidelines are not legally binding, they emphasise that IDPs are entitled to the same rights and freedoms as other members of the population. Moreover, they resonate with the UNDHR in affirming that people have an inherent right to liberty, security and life, and are vested in human rights law. IDPs have the right to request humanitarian assistance, and "certain national authorities are required to render such assistance".[175] However, these instruments call for protection on a national and domestic level, centring IDP protection into national law, as it is essential to maintaining national prosperity and stability. Matters of climate change will require appropriate conventions defining regional/international cooperation regarding climate displacement.

Discussions around refugees as a legal term remain challenging. For instance, there is a contradiction in the fact that refugees depend on international organisations and nation states while at the same time being excluded from decision-making on support and immigration legislation, so that some refugees may remain stateless. This exclusion is a common occurrence globally, despite evolving narratives and causes of forced migration. Thus, in addition to drawing on regional and national refugee protection instruments, the use of International Refugee Law (IRL), expanding the reach of broader provisions in International Human Rights Law (IHRL) has gained prominence in protecting the human rights of cross-border migrants in climate change scenarios. An example of this is the prohibition of non-refoulement.[176]

Even though the term ***climate displaced*** has not been officially defined as yet,[177] parts of different declarations and frameworks can be synthesized, even if they do not make direct references to climate change, to evaluate the rights currently in place and what can be advocated for. While the 1951 Refugee Convention and its 1967 Protocol (collectively, "the Convention") are the foremost documents in defining a refugee, as mentioned, these were developed prior to modern modalities including climate change.[178] Thus, the significance of international human rights law (IHRL) becomes paramount, delineating obligations that states must uphold. Through ratifying international treaties, states commit to respecting, protecting, and fulfilling human rights under international law. This entails refraining from interfering with human rights enjoyment, safeguarding individuals against violations, and taking affirmative action to enable rights realisation.[179]

Resolutions from entities like the Office of the United Nations High Commissioner for Human Rights (OHCHR) highlight the widespread impact of climate-induced migration on human rights. OHCHR reports dating back to 2009 have emphasized the connection between climate change, migration, and human rights, laying out the duties of states in guaranteeing the rights of climate-induced migrants. These responsibilities include mitigating population movements through climate measures; protecting vulnerable populations; ensuring freedom of movement; facilitating return migration; enabling informed participation; safeguarding rights in planned relocations; providing access to justice; and promoting international cooperation. Reports issued under the Human Rights Council's jurisdiction in 2018 further emphasize states' obligations regarding human rights protection for cross-border migrants affected by climate impacts, particularly concerning return migration in areas where climate-related disasters pose threats to human rights.[180]

Reports from the Human Rights Council's Special Procedures, particularly those issued by the Special Rapporteur on the human rights of internally displaced persons (IDPs) and the Special

Rapporteur on the human rights of migrants, have contributed significantly to the discourse on climate-induced migration. The Special Rapporteur on IDPs has increasingly focused on (forced) population movements in the context of climate change, highlighting how climate impacts erode human rights and precipitate displacement. Notable reports include the Special Rapporteur's 2011 annual report to the UN General Assembly which included for the first time a thematic section on "Climate change and internal displacement";[181] and the 2020 thematic report on the "Human rights of internally displaced persons in the context of slow-onset adverse effects of climate change",[182] which advocates for a rights-based approach and outlines state and international community obligations concerning gradual climatic processes.[183]

Similarly, the Special Rapporteur on the human rights of migrants first raised the issue of climate change and its impacts on migration in his 2012 annual report,[184] through it deepening the understanding of climate-induced migration, addressing terminology, identifying affected regions and populations, and highlighting gaps in human rights policies. The mandate then followed this up with a dedicated thematic report in 2022 on "The impact of climate change on the human rights of migrants",[185] examining complex drivers of cross-border migration in the context of climate change and focusing especially on the rights of vulnerable migrants, including women, children, Indigenous communities, and minorities disproportionately impacted by climate change.

The establishment of the mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change in 2021 signals expanded attention to climate-induced migration within the Human Rights Council's Special Procedures, particularly focusing on the legal protection of individuals displaced across international borders.[186] The mandate has issued one report so far on climate-induced displacement, i.e. "Providing legal options to protect the human rights of persons displaced across international borders due to climate change" (2023).[187] The newly appointed Special Rapporteur has emphasized "the importance of intersectionality for the promotion and protection of human rights in the context of climate change and [of mapping] out a number of relevant recommendations from Special Rapporteurs and Treaty Bodies" in this context.[188]

In addition, the UNHCR and OHCHR have proposed a comprehensive set of recommendations to protect the human rights of individuals displaced by climate change (UNHCR, 2022). These recommendations include prioritizing people-centred climate action with a human-rights based approach to ensure the dignity, safety, and rights of affected populations; as well as applying existing refugee and human rights instruments to provide international protection for cross-border displacement triggered by climate change and disasters. Additionally, the UNHCR calls for the establishment of regular pathways to facilitate climate change adaptation and prevent displacement, along with increased support for measures to avert, minimize, and address displacement, particularly in the most climate vulnerable countries and communities. Other recommendations include ensuring that climate action reaches unstable and remote areas; upholding human rights through informed, voluntary participation in relocation schemes; scaling up adaptation financing and support in areas where displaced people seek refuge or intend to return; accelerating efforts to meet Paris Agreement goals to mitigate greenhouse gas emissions; addressing data gaps through the collection of disaggregated data while respecting privacy rights; and fostering international cooperation to safeguard the rights of all individuals displaced by climate change.[189]

The Global Compact for Safe, Orderly and Regular Migration (GCM) adopted in 2018 reaffirms the importance of international cooperation and directly recognises cross-border climate-induced migration.[190] The GCM is the first inter-governmentally negotiated UN agreement on a common approach to managing international migration. It contains 23 objectives covering a wide array of aspects of migration with related possible actions that states are encouraged to draw from when implementing their national migration policies. While not legally binding, the GCM's guiding principles, objectives and actions are rooted in established obligations and principles, underpinned by the Universal Declaration of Human Rights, the 2030 Agenda for Sustainable Development, and international law.

With regard to climate-induced migration, the GCM explicitly refers to the UNFCCC, the Paris Agreement, the Sendai Framework and the 2030 Agenda, as well as the Nansen Protection Agenda and the work of the Platform on Disaster Displacement for relevant guidance. Objectives 2, 5, 21 and 23 of the GCM are of particular importance in relation to the impacts of climate change. Objective 2 calls for states to minimize the adverse drivers and structural factors that compel people to leave their country of origin, including climate change-related drivers linked to slow- and sudden-onset events, contained in a specific sub-section on "[n]atural disasters, the adverse effects of climate change, and environmental degradation," which draws in part on recommendations from the 2015 Protection Agenda proposed by the Nansen Initiative (now the Platform on Disaster Displacement).[191] Objective 5 calls for enhancing the availability and flexibility of pathways for regular migration, including practices for admission and stay based on "compassionate, humanitarian or other considerations". This explicitly includes climate-affected migrants in both sudden- and slow-onset scenarios, and provision of planned relocation and additional visa options for those who cannot return because of the effects of climate change. Objective 21 focuses on voluntary return, including the commitment to respect the prohibition of returning migrants to situations of irreparable harm, which is also relevant for migrants crossing international borders due to the impacts of climate change. Objective 23 invokes the need to strengthen international cooperation for the achievement of all objectives.[192]

Implementation of the GCM is reviewed at the global level every four years at the International Migration Review Forum (IMRF), interspersed with regional reviews, also every four years, two years prior to the IMRF. In the Voluntary National Reports (VNRs) prepared for the regional reviews, only 21 states (of 78 states that issued a VNR) made explicit reference to climate-related issues.[193] However, the progress declaration issued at the first IMRF in 2022 acknowledged that, "[e]fforts to mitigate and adapt to the adverse effects of climate change have been insufficient, including in climate finance," and contained a commitment by states to, "strengthen our efforts to enhance and diversify the availability of pathways for safe, orderly and regular migration, including in response to demographic and labour market realities, and for migrants in vulnerable situations, as well as those affected by disasters, climate change and environmental degradation".[194]

The Global Compact on Refugees (GCR) is a framework for more predictable and equitable responsibility-sharing, affirmed by the UN General Assembly in 2018 following consultations led by UNHCR with member states and other stakeholders. It contains four core objectives, namely:

1. Easing pressures on host countries.

2. Enhancing refugee self-reliance.

3. Expanding access to third-country solutions.

4. Supporting conditions in countries of origin for return in safety and dignity.[195]

While the GCR itself does not address climate-induced displacement with the same specificity as the GCM, it does note that "averting and addressing large-scale refugee situations is also a serious concern for the entire international community and requires early efforts to address their causes and triggers, as well as improved cooperation among political, humanitarian, development and peace actors".[196] The GCR text carefully avoids the term "climate change", noting instead that, "[w]hile not in themselves causes of refugee movements, climate, environmental degradation and natural disasters increasingly interact with the drivers of refugee movements".[197]

More concrete and containing specific guidance for states developing their normative frameworks for climate-induced displacement, is UNHCR's 2020 "Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters." The document aims to support the development of jurisprudence to enhance the protection of people displaced in the context of climate change by detailing the applicability of existing frameworks. These frameworks include the 1951 Refugee Convention, regional instruments such as the OAU Convention and the Cartagena Declaration, and broader protections under international human rights law, such as articles 6 (right to life) and 7 (prohibition of torture and cruel, inhuman or degrading treatment or punishment) of the International Covenant on Civil and Political Rights. Recent cases using these instruments, such as the Teitiota case against New Zealand, are being referenced.[198] As such, the paper is an important milestone for consolidating legal protections in the area of climate-induced displacement.

Taken together, these documents contain important building blocks for a HRBA to human mobility in the context of climate change, as they include both specific references to human rights and related frameworks which have codified states' legal obligations (see, for example, the GCM's guiding principles);[199] and concrete suggestions for additional discretionary measures to develop tailored legal and policy responses.

Likewise, the Sendai Framework addresses human mobility in disaster risk reduction efforts, proposing strategies to address displacement risks and enhance preparedness for displacement. It outlines two approaches: reducing the risk of displacement through prevention measures; and ensuring effective response and preparedness for displacement situations. The framework identifies three key groups: those at risk of displacement, displaced persons, and migrants, emphasizing the need to protect and support vulnerable populations. It highlights four main priorities: comprehensive understanding of disaster risk, strengthening governance and management structures, investing in policies and programmes for human mobility, and enhancing disaster preparedness and response capabilities through community engagement and governmental support.[200]

The conventions that together provide some basic measure of protection for climate displacement are the UDHR in combination with the International Covenant on Economic, Social, and Cultural

Rights ("ICESCR") and The International Convention on Civil and Political Rights ("ICCPR").[201] The IECSR protects a guarantee of adequate food and housing while the ICCPR includes the right to freedom of movement. It is often, though not always, the case that these are the primary rights that are endangered by climate displacement.

There has been additional effort by the International Law Commission (ILC) to develop a relevant normative framework through the Draft Articles on the Protection of Persons in the Event of Disasters,[202] which were presented to the UN General Assembly in 2016 with a recommendation that a convention be elaborated based on them.[203] The Draft Articles attempt to lay the groundwork for an effective response to disasters, detailing both the rights and obligations of affected states and other international actors and providing a broad definition of disasters.[204] They would be relevant not only for internal displacement per se, but also for the actions of international actors in responding to such cases.[205] There have been several rounds of comments to discuss the Draft Articles. Most recently, a working group of the Sixth Committee convened for this in October 2023 during the United Nations General Assembly's 78th session and will meet again at the 79th session.[206]

For consideration next are the national policies in the LAC region that address the link between climate change and migration. Four examples are the climate policies in Costa Rica, Guatemala, Honduras, and Mexico, addressing the impacts of climate change on migration and the need to respect the human rights of migrants affected by this phenomenon. The National Climate Change Action Plan of Guatemala emphasizes this need to respect the rights of migrants when implementing measures to address climate change. Similarly, Costa Rica's National Policy on Climate Change Adaptation, Honduras' National Climate Change Strategy, and Mexico's Special Climate Change Programme 2009–2012 analyse the consequences of global warming on migration.[207]

These policies highlight that climate change will also affect populations forced to relocate within or migrate outside their countries, leading to humanitarian concerns. Mexico's programme acknowledges that the effects of climate change increase vulnerabilities associated with climate-induced migration. Honduras attributes increasingly frequent relocations and emigration, both within and outside the country, to climate change, warning of the potential for unprecedented migration processes and the resulting demand for humanitarian assistance and protection of basic needs. Honduras promotes appropriate and timely handling of temporary or permanent displacements of human populations due to climate-related causes. It advocates for the establishment and strengthening of a legal and institutional framework to address the specific conditions of climate-induced migration based on human rights principles and within the framework of climate change adaptation strategies.[208]

Regarding planned relocation, the Guidance on protecting people from disasters and environmental change through planned relocation (2015) by UNHCR and the Institute for the Study of International Migration at Georgetown University is a fundamental reference. The guidance entails a systematic procedure orchestrated by state authorities to move individuals or communities within national borders in response to environmental hazards, particularly those arising from climate change. This strategy involves multiple phases, including scientific assessment, participatory planning, physical relocation, and post-relocation support, with

the goal of integrating relocated persons into safer environments. By proactively addressing displacement risks, planned relocation aims to safeguard the well-being and livelihoods of affected populations while minimizing vulnerabilities. Context-specific factors, such as ecosystem changes and governance structures, shape the implementation of these efforts, which must adhere to fundamental principles ensuring the protection of rights, dignity, and agency for all involved parties. These principles encompass legal justification, financial support, informed participation, and the preservation of individual and collective rights throughout the relocation process, emphasizing the importance of family unity, social cohesion, and equality in rights and opportunities for relocated persons.[209] From a participation standpoint, the model of planned relocation developed and employed in Fiji[210] deserves mention for its inclusive and community-based approach.

A recent assessment pointed out that while the numbers of planned relocations will probably increase, they have been shown to be very expensive, and "success" has been extremely difficult to measure. Defining affected communities, effectively assessing their needs over time, as well as mobilising sufficient funding and designing effective and rights-based governance structures around planned relocations all remain major challenges.[211] These issues should be further investigated in the context of rights-based approaches.

Overall, when climate change impacts are associated with a place approaching uninhabitability – and people move, even if only temporarily – human rights and justice frameworks may offer the means to help address human suffering and inequities. Indeed, there is wide agreement that justice and rights enjoyment should be prioritized if climate change impacts mean that habitable places become uninhabitable among those who cannot easily afford to move and for whom an uninhabitable place holds either economic or other significance.[212]

Additionally, when addressing avenues for protecting individuals facing climate-induced displacement, the distinction between humanitarian and rights-based approaches holds significant importance. This differentiation profoundly shapes the distribution of responsibility in tackling the consequences of climate change, partly framed by the principle of Common but Differentiated Responsibilities and Respective Capabilities as outlined in the United Nations Framework Convention on Climate Change (UNFCCC). Recognizing the varying degrees of responsibility among states for both causing and experiencing the impacts of climate change, the UNFCCC emphasizes justice in adaptation and mitigation efforts concerning climate change. [213]

Humanitarian aid typically offers immediate, short-term solutions and is often perceived as an urgent response to crises. However, in the context of climate change, aid provided by states responsible for causing climate change to those experiencing its effects should not be solely viewed as altruistic, but rather as a necessary obligation stemming from their culpability in imposing environmental consequences. While humanitarian aid remains crucial in emergencies, relying solely on this approach fails to hold responsible states accountable for addressing the impacts of climate change. Conversely, a rights-based approach recognises the intrinsic link between safeguarding individuals from climate impacts and ensuring human rights realisation. States are mandated to prevent and address climate impacts, mitigate climate change, and ensure individuals' capacity to adapt to the crisis. By integrating human rights into climate change mitigation efforts, a rights-based approach fosters accountability and effective remedy,

thereby upholding justice-based differentiated responsibility in addressing climate-induced displacement.[214]

6.2.1 Regional framework for human mobility in the context of climate change

The Brazil Declaration,[215] was an agreement between 28 countries and three territories in Latin America and the Caribbean, developed with support from UNHCR, to "strengthen the international protection of refugees, displaced and stateless persons" in the region, building on the Cartagena Declaration of 1984, and adopted on the latter's 30th anniversary. The Declaration is significant for "[r]ecognis[ing] the challenges posed by climate change and natural disasters, as well as by the displacement of persons across borders that these phenomena may cause in the region" and calling for further research on this issue.[216] It also takes a HRBA throughout most of the document. It urges for the participation of refugees in composing repatriation programmes, calls for dignified treatment of refugees in accordance with human rights and promotes "the adoption of comprehensive public policies and their inclusion in national development plans that address the needs of refugees".[217] A study commissioned to support the implementation of the associated Brazil Plan of Action found that, "the response by these regions [LAC] to disaster displacement is among the most highly-developed of any part of the world.

Particularly in the field of immigration law and policy, there are numerous positive examples of national and regional approaches by States that recognise and respond to some part of these dynamics".[218] It nevertheless recommended a more concerted regional response, as well as the development of more precise and targeted national measures.[219] The decade since the adoption of the Brazil Declaration has seen positive developments in these regards. For example, several additional countries in the region have addressed cross-border movement in the context of climate change and disasters though their respective migration legislation, creating entry visas or stay permits, generally under the humanitarian category, for persons displaced due to disasters.[220] In addition, the Inter-American Commission on Human Rights (IACHR) recently adopted two important resolutions, namely Resolution 04/19 (in 2019) on Inter-American Principles on the Human Rights of all Migrants, Refugees, Stateless Persons and Victims of Human Trafficking, which recognises that "migration movements require differentiated and individualized forms of protection that cater to people at all stages of international displacement, including persons migrating for humanitarian, economic, or environmental reason"; and, in 2021, Resolution 03/21 on Climate Emergency: Scope of Inter-American Human Rights Obligations, which called on States to guarantee the human rights – such as protection against non-refoulement – of persons who move for reasons directly or indirectly associated with climate change, pending determination of their status.[221]

Additionally, significant norms and declarations regarding climate-induced migration have emerged from regional human rights mechanisms, particularly in the Global South. Notably, the Inter-American Human Rights System has acknowledged climate-induced migration in various reports and decisions, with the Inter-American Court of Human Rights emphasizing the vulnerability of climate-displaced individuals in Advisory Opinion OC–23/17. This opinion underscored environmental degradation as a key driver of immobility, advocating for the right to be free from forced displacement due to climate and environmental changes. It also highlighted the connection between climate-induced migration and human security, recognising the potential

for conflicts within host communities. Furthermore, the Inter-American Commission on Human Rights adopted Resolution no. 3/2021, recognising climate-induced migrants as a vulnerable group and outlining states' obligations to safeguard their rights, including access to medical care and justice.[222]

Both the Inter-American Court of Human Rights (I/A Court HR) and the Inter-American Commission on Human Rights (IACHR) have tackled the extraterritorial dimensions of human rights obligations related to climate change. Advisory Opinion OC–23/17 and Resolution no. 3/2021 delineate various human rights duties stemming from extraterritoriality, including the responsibility to prevent transboundary losses and damages from emissions, mitigate activities disrupting the climate system, and collaborate to avert a global temperature rise threatening human life.[223] Climate litigation in the Global South often highlights the struggle against the ongoing climate crisis from marginalised perspectives, amplifying the voices of affected communities.

Although rights-based climate litigation has yet to fully incorporate climate-induced migration scenarios, the cases examined by Serraglio (2024), demonstrate the potential for litigation to integrate provisions from international human rights law, climate policies, legal frameworks, and international protection mechanisms to address the specific needs of affected populations. There is a discernible evolution in cases, progressing from solely focusing on international protection like asylum and refugee status to encompassing population movements as part of broader climate change impacts, and more recently, directly addressing climate-induced migration. This trend reflects an increasing emphasis on rights-based climate litigation to safeguard and address the needs of affected populations, particularly in the Global South, fostering the development of effective legal responses.[224]

Additionally, in Latin America, several regional and sub-regional frameworks and documents have been established to address the complex challenges of migration, environmental displacement, and disaster response. The Common Market of the South (MERCOSUR) Residence Agreement, originating in 2002, serves as a cornerstone for facilitating the free movement of individuals within member states. Although not explicitly mentioning environmentally displaced persons, this agreement holds potential to be adapted to accommodate such movements, aligning with strategies proposed in the European Union's approach to climate change adaptation. The Union of South American Nations (UNASUR) focuses on disaster prevention, climate change, and migration cooperation, with aspirations to establish a unified South American citizenship. Through high-level dialogues, both MERCOSUR and UNASUR have emphasized the importance of regional cooperation in safeguarding the rights of migrants, particularly in times of humanitarian crises. Furthermore, initiatives like the Conferencia Suramericana sobre Migraciones (South American Conference on Migration) and the South American Network for Environmental Migrations (RESAMA) have expanded their mandates to include migration, environment, and climate change, providing essential platforms for coordination and policy development in the region. Alongside regional action plans such as the Mexico Plan of Action and the Brazil Plan of Action, there is a growing recognition of the need for a regional agreement specifically addressing environmental displacement, aiming to establish minimum standards of protection and promote coordinated responses across Latin American nations. However, authors agree that "efforts towards a regional agreement on migration in South America should be extended to recognise and protect those displaced for environmental reasons".[225]

PHOTO: Sean Hawkey/ACT.

7. Other RBA responses

The climate emergency represents a dual crisis of humanitarian and health, marked by extreme weather events, heat stress, declining air and water quality, food insecurity, and changes in vector distribution, posing a threat to global populations. Climate risks, exacerbated by planetary warming, are becoming more complex, frequent, and unpredictable, amplifying existing vulnerabilities and inequalities within communities. This complexity triggers emergencies that cascade across various systems and sectors, placing millions at immediate risk of famine and death. Moreover, climate change not only heightens the likelihood and severity of these threats but also complicates their containment, significantly impacting critical infrastructure and supply chains essential for humanitarian responses.[226] Given this scenario, prompt, equitable, and transformative responses and measures are imperative to preserve lives amid the escalating climate crisis. These actions should incorporate a human rights-based approach to guarantee the safeguarding and advancement of human rights and justice.

7.1 Humanitarian responses

The Global Humanitarian Overview (GHO) projects that 274 million individuals will require humanitarian assistance and protection in 2022, marking a significant increase from the already elevated figure of 235 million in the previous year, the highest in decades. This surge is attributed to the substantial impact of the Covid-19 pandemic which, in 2021, intensified food insecurity for 811 million people and pushed an additional 20 million into extreme poverty. The pandemic has especially strained health systems, particularly in low-income countries where almost half of all deaths result from communicable diseases, maternal, perinatal, and nutritional conditions.[227]

According to the Global Humanitarian Overview 2022, Latin America and the Caribbean have witnessed a substantial rise in the number of people requiring assistance, surging from 9.6

million individuals in 2018 to 26.4 million in 2021. This increase is attributed to the heightened occurrence and intensity of sudden-onset disasters; recurrent climate shocks; the severe impacts of the ongoing COVID-19 pandemic (with the region being the most severely affected, constituting 18.5 percent of global cases and 30.3 percent of global deaths while accounting for only 8.4 percent of the world's population); and challenging socioeconomic conditions, leaving 287 million people in poverty or extreme poverty.[228]

The anticipated rise in the frequency of extreme events leading to disasters and subsequent humanitarian action will vary by region and type. Overall, a modest increase of about 20 percent is expected over the next two decades, which is less than the annual variation in humanitarian funding. However, when considering the potential impact of increased intensity, estimated humanitarian spending on cyclones may see a substantial 67 percent increase (assuming a 15 percent intensity rise); with an additional 0.5 percent increase on floods (due to increased water storage capacity of warmer air). If factors like heightened vulnerability to disasters are taken into account, these figures could escalate further. Examining how disasters may intersect with economic and political processes to trigger complex crises, cost estimates could reach into the billions.[229]

Humanitarian responses to climate change span a spectrum of actions. For instance, there are activities acknowledging that, despite mitigation efforts, many people will still face exposure to climate-related risks. The emphasis is to enhance their resilience and reduce vulnerability, often encapsulated in terms such as "adaptation," "resilience building," Disaster Risk Reduction (DRR), and preparedness.[230] Disaster Risk Management is central to humanitarian emergency response, encompassing life-saving measures enacted during or immediately following a disaster. The effectiveness and timeliness of assistance and protection hinge on emergency preparedness, emphasizing the need to enhance the humanitarian community's capacity to identify potential crises and swiftly deploy an efficient response as situations unfold.[231]Additionally, activities like income generation or healthcare provision aim to enhance overall resilience, enabling communities to withstand various risks. Further along the spectrum, there are targeted efforts to strengthen defences against specific shocks, such as flood defence projects or the introduction of drought-resistant crops.[232]

Despite the variety of responses required in the face of multiple crises, humanitarian funding is predominantly directed toward immediate crisis response rather than prioritizing resilience, Disaster Risk Reduction (DRR), and preparedness activities integral to an overarching climate disaster strategy. Some argue that, given resource constraints, emphasis should be on "lifesaving" responses in humanitarian funding, sidelining other crucial activities. However, the transitory nature of most humanitarian funding poses challenges for implementing resilience and DRR efforts, which typically unfold over longer timeframes.[233]

There's a notable shortfall in directing funds to local organisations and frontline responders, despite the consensus on the vital role these entities play in addressing the threat of climate change.[234] While humanitarian needs escalate, global funding covers only 52 percent of the unprecedented demand, with appeals for increased funding in 2020 facing setbacks due to governments reallocating priorities amid the economic repercussions of the COVID-19 pandemic, resulting in international humanitarian assistance plateauing at $30.9 billion.[235]

7.2 Preparedness

Reducing risk and vulnerability alone will not suffice to protect everyone from the diverse impacts of climate change. Numerous individuals will still endure direct disaster effects and require support to cope. Moving further along the spectrum, efforts to save lives and safeguard livelihoods in disaster situations become essential. These actions involve preparedness activities before an event; response activities immediately before, during, and after an event; encompassing diverse measures such as evacuation; and preserving economic assets during early phases of a drought. The terminology used for these activities varies, leading to confusion and sometimes perceived competition for funding. However, experts emphasize that these approaches are not mutually exclusive and should be employed in tandem to comprehensively address the challenges posed by climate-related crises, avoiding gaps in support.[236]

Given the escalating humanitarian crises, there has been a heightened emphasis on a specific aspect of preparedness: early warning and anticipatory action. Early warning systems, employed for years in disaster management, have proven instrumental in preventing casualties by enabling pre-emptive measures. However, instances of decision-makers disregarding warnings, delaying action until emergencies unfold, underscore the need for improved strategies. In response, humanitarian organisations are investing in anticipatory systems, where early-warning mechanisms are coupled with pre-determined financing for agreed-upon activities.[237]

Anticipatory action, encompassing emergency warning and preparedness for multi hazard events, is crucial to mitigating the impacts and enhancing the management of complex emergencies. However, its implementation has faced various barriers, including inadequate coordination between national responses and local communities; a predominant focus on sector-specific rather than systemic adaptation; unpredictable and challenging funding mechanisms; and gaps in the current understanding of how climate-related risks impact health systems.[238]

"Preparedness" is a medium-term planning activity involving the development and testing of disaster management plans, implementation of early warning systems, resource stockpiling, agency coordination, and ensuring effective evacuation plans. These responses occur during or just before a hazard, involving real-time disaster response, assessment, coordination, and relief efforts. However, while these elements are crucial for effective disaster risk reduction, they may not inherently bring about long-term development. An alternative "structural" perspective emphasizes integrating agency and behavioural change with concurrent changes to economic and political structures for disaster risk reduction.[239]

In addressing this issue, "rehabilitation," for example, prioritizes recovery while considering long-term planning objectives. To achieve more comprehensive and enduring positive outcomes, it is essential for disaster management organisations to be flexible, capable of learning, adapting to changing conditions, and adjusting their governance structure as necessary. The establishment of strong relationships with stakeholders, fostering their commitment, is a key factor in successfully attaining goals. Actions to reduce general social vulnerability are deemed necessary, and the synergy between disaster risk reduction and structural reform presents a significant opportunity for long-term effectiveness. Understanding both best practices and limitations of disaster risk reduction should facilitate evaluating climate change hazards in terms of their impact on risk and deep-rooted vulnerability.[240]

Additionally, community-based approaches involving training initiatives often conducted in schools and with the support of community disaster-management committees, have yielded positive evaluations when implemented by agencies. To achieve success, such activities must be collaboratively designed with the community, require continuous support for long-term sustainability, and benefit from integration with local and national government preparedness planning. Conversely, short-term, standalone projects are less likely to be successful. Existing evidence suggests that early warning and early action offer value for money and are more cost-effective than responsive action. However, it's important to note that these findings are often based on predictive models, relying on assumptions about people's behaviour and pricing rather than on empirical data.[241]

7.3 Useful tool: The Indigenous Navigator

The Indigenous Navigator stands as a comprehensive framework and toolkit crafted by and for Indigenous Peoples, designed to methodically track the acknowledgment and enforcement of their rights. The tool provides access to high-quality data used for monitoring human rights and sustainable development across various scales: local, national, regional, and international.

Through these tools, Indigenous communities can autonomously generate precise data about their circumstances, fostering a heightened consciousness about their rights while concurrently enhancing their understanding and visibility.[242] One of its goals is to monitor the implementation of UNDRIP, the United Nations Declaration on the. Rights of Indigenous Peoples.

The initiative is active in: Bangladesh, Cambodia, Nepal, Philippines, Bolivia, Colombia, Peru, Suriname, Cameroon, Kenya, Tanzania, Japan, Brazil, Argentina, Finland, Norway, and Sweden.

The tools included in the Indigenous Navigator are:

- A database and matrix that show how UNDRIP articles link to other international human rights and labour standard instruments, making it possible to track provisions of the UNDRIP to these instruments.

- Two comprehensive questionnaires converting indicators into questions that Indigenous communities can use to amass human rights-related information and data, both on a quantitative and qualitative scale.

- Indigenous Navigator Index: "serves to rank countries' performance with regard to recognising and implementing Indigenous peoples' rights."

Indicators framework: These can be used to measure aspects of the sustainable development goals and commitments made during the 2014 World Conference on Indigenous Peoples. The indicators also allow for the detection of gaps in implementation, exercising accountability and strategizing further implementation.[243]

PHOTO: Rodrigo Viellas/CESE.

8. Action entry points

The human rights legal framework provides criteria for guiding negotiations and decision-making processes in climate change policy matters. Active and informed participation, particularly from disadvantaged or vulnerable groups, not only offers crucial inputs to decision-making but also contributes to the legitimacy and sustainability of outcomes. Employing ex-ante human rights impact assessments within environmental assessments can aid decision-makers in identifying potential winners and losers, aligning with the "do no harm" principle. Regardless of the specific outcomes, the human rights legal framework emphasizes the need for effective and accessible redress mechanisms to compensate individuals whose human rights may have been overlooked or traded-off during negotiations or policy-making processes.[244]

Alternative institutional frameworks are emerging from resistance movements, based on community organisation and structure. Grassroots initiatives and community movements play a crucial role in raising awareness, advocating for change, and denouncing injustices in these conflicts. For instance, conflicts over water involve not only disputes over territory and resources but also challenge the social, political, cultural, and spiritual implications of how space is organised. These conflicts question traditional notions of democracy, citizenship, and development. To understand these conflicts, it is important to listen to the voices and perspectives that emerge from the affected territories and to incorporate suppressed and marginalised knowledge, drawing on "epistemologies of the South".[245] In practice, this is being followed by the ACT Alliance projects interviewed, and should be a norm across all projects in the Latin America region. It has also shown success across several surveyed projects.

Similarly, women, who bear the brunt of violations of the right to water, play a crucial role in resisting and fighting against extractive projects. Their active involvement in these initiatives, rooted in diverse experiences and strong community bonds, has brought visibility to their own demands and crafted new narratives about the care of life and the environment, particularly

in contexts dominated by patriarchy. In addition to leading opposition and condemnation of corporate projects, women play a vital role in the management and protection of water resources in territories. Despite their valuable contributions, they face discrimination and significant challenges as advocates fighting against an unsustainable development model and patriarchy.[246]

Examples include the "Guardians of the Lagoons" in Cajamarca, Peru, who monitor and protect lagoons from mining projects; and the Commission of the Guardians of the Atrato in Colombia, which has legal recognition as the entity responsible for protecting the Atrato River. Likewise, in Cajamarca, Peru, women have played a vital role in defending water through peaceful actions such as marches, vigils, and advocacy, fostering new forms of community collaboration.[247] To address specific risks faced by women,[248] a gender-specific approach is crucial in both risk analysis and in the identification of protection measures, involving awareness campaigns and training for public servants, particularly those in contact with women defenders.

Moreover, defending against activities such as fossil fuel extraction, logging, and land appropriation, especially in the context of large-scale mining, agribusiness, or dams, has been demonstrated as a form of climate mitigation. To enhance support for climate, environment, and land defenders, it is recommended that defenders publicly align themselves with climate issues across various communication platforms. Given that the activities of environmental protectors contribute to climate change mitigation, explicit protection should be extended to land and environmental defenders by bodies such as the UNFCCC and the Human Rights Council (HRC).[249]

Different forms of resistance represent a reclaiming of living spaces and social territories, redefining democracy and fostering collective and diverse alternatives to protect communities and common goods. These processes involve the construction of new political identities and participation methods. Community organisation, often based on self-management and collective responses, showcases alternative practices that address social needs beyond the limitations of legal, state, or market frameworks.[250] In that sense, the principle of participation is fundamental to human rights, representing both a key norm and a distinct human right. From a human rights perspective, the significance of participation extends both to the process and to the conclusion, that can yield positive outcomes in climate actions.[251]

Effective education and information campaigns are essential for communities to implement preventive measures and reduce their vulnerability to disease vectors. That states should seek assistance from the international community to address the spread of diseases is likewise valid. The increase in periods of drought and rainfall, coupled with more frequent extreme weather events and ecosystem changes, contributes to the expansion of vector habitats. Consequently, diseases spread, posing a threat to health and life, with individuals from low-resource areas facing the highest risk.[252]

In addition, critical insights into climate-related vulnerabilities necessitate region-specific analyses to identify the most at-risk subpopulations. Unfortunately, the majority of existing studies on temperature and mortality have concentrated on high-income countries or included only a limited number of cities in the Global South. The critical review undertaken for the purpose of this report has identified knowledge gaps in addressing climate change-related risks in the LAC region, highlighting the need for improved data collection, analysis, and policy development.

Heterogeneity in data quality and availability, particularly in Central America, pose challenges despite the region's susceptibility to various risks. Notably, precipitation influences multiple risks, emphasizing the importance of developing reliable and high-resolution precipitation models.[253]

This gap underscores a broader deficiency in research on climate and health in low- and middle-income countries, hindering effective efforts to safeguard health in regions most susceptible to the impacts of climate change. To address this shortfall, there is an urgent need for comprehensive regional analyses that can inform targeted policies, emergency response plans, and climate adaptation strategies tailored to the specific challenges faced by diverse communities worldwide.[254] Thus, enhanced risk management capacity should prioritize sustained collection of quality data, analysis, and policy formulation. Active research, especially testing and evaluating adaptation measures, is crucial for supporting adaptive responses and policies.[255]

Likewise, effective responses to the cascading impacts of crises necessitate transdisciplinary collaborations and the active involvement of local communities in tailoring adaptation and mitigation efforts. Interdisciplinary research, particularly in the context of climate change, holds potential for ensuring that vulnerable populations actively participate in shaping national adaptation responses and upholding socioeconomic rights obligations. This approach contributes to the qualitative dimension of "equity" in international burden sharing and enhances transparency and performance monitoring in donor activities, contingent on the evolving nature of positive extra-territorial human rights obligations under international law.[256]

Equally important is the transversality within and between institutions. Effectively addressing the humanitarian challenge posed by climate change necessitates collaboration across organisational boundaries. Combining development, disaster risk reduction, preparedness, and response activities is essential to tackle the multifaceted nature and scale of the threat. To achieve this, building effective working relationships with actors beyond the conventional realm of disaster management is crucial. Engaging with academia, civil society, and the private sector is essential for a comprehensive response. The nature of these relationships may vary based on the context, and in many instances, humanitarian actors will play a supporting role rather than taking the lead.[257]

When it comes to humanitarian settings, there is a pressing need for enhanced political solutions and a paradigm shift in approach, focusing particularly on the implementation of anticipatory action. Anticipatory action, employed by the United Nations and its partners, involves short-term interventions based on early hazard warnings to alleviate the most severe consequences of emergencies. This strategy aims to soften the impact of crises, reduce suffering, and maximize the long-term benefits of funding. The Food and Agriculture Organization (FAO) has compiled data indicating the effectiveness of anticipatory action, showing that pre-crisis investments led to improved food security in countries like Sudan and Mongolia. Notably, a one-dollar investment grew to seven dollars in value, mitigating the risk of famine amid escalating climate change and conflict. The potential for even stronger outcomes exists with the additional implementation of the climate charter, championed by USAID.[258]

Literature indicates that enhancing household resilience in humanitarian settings may be more effectively achieved through the sustained provision of essential welfare services (e.g., health,

social protection, education) rather than income-based approaches. Moreover, the emphasis on processes over outcomes is crucial, with community-driven initiatives fostering relationships and resilience being pivotal.[259] Recognizing the significance of anticipatory and preparedness measures, particularly those incorporating a gender lens, is underscored to strengthen community resilience against future shocks, aligning human rights and humanitarian action with broader global climate adaptation endeavours.[260]

The rise in infectious disease outbreaks, coupled with ongoing environmental degradation, presents challenges to disease control efforts, affecting both affected populations and humanitarian workers living in high-risk climate areas. Adaptation within the humanitarian sector is imperative, necessitating flexible responses that acknowledge high levels of uncertainty in operating environments while concurrently striving to minimize environmental footprints.[261]

In essence, while there isn't a universal guide for human rights, the key elements suggested by McInerney-Lankford et al. (2011) encompass various crucial aspects in conducting a human rights impact assessment: (a) explicitly integrating internationally recognised human rights as the assessment's subject; (b) identifying indicators consistent with relevant international human rights standards; (c) concentrating on marginalised individuals and responsible actors, going beyond state entities, to assess the impact on human rights enjoyment and obligation fulfilment; (d) aiming to enhance the capacities of relevant national stakeholders, referred to as "rights holders" and "duty bearers" in human rights terminology; (e) ensuring the assessment process aligns with "good process" principles, both as a general policy and in adherence to established principles in international human rights law applicable to the concerned country; and (f) seeking the involvement of human rights mechanisms and actors, such as national human rights institutions, to the extent possible, considering their mandated functions and capacities.[262]

8.1 Policy and legal reform integration

The following segment aims to inform ACT Alliance advocacy across the board, from local to regional governance. It is mainly informed by the literature review and the needs flagged by project officers across the survey. As mentioned previously in this report, results have shown that ACT Alliance can take an important role when it comes to strengthening the advocacy efforts of individual projects and organisations as well as stepping in on a regional level. The following paragraphs denote socio-legal avenues that can apprise and support precisely this advocacy.

For states to appropriately address climate change, environmental degradation, and natural disasters as drivers of migration, it is key to ensure that these factors do not impede the human rights of migrants and their families. Several recommendations that have not been explicitly mentioned yet in this regard that could promote good HRBA action are:

- Complementary protection mechanisms and temporary or flexible stay arrangements for those affected negatively by climate related displacement;

- Increasing the availability and flexibility of regular pathways for migration, including for people compelled to move by disasters, the adverse effects of climate change and environmental degradation;[263]

- Incorporating human rights due diligence and facilitating access to education, awareness programmes environmental information, and public participation in decision-making throughout policymaking; and

- Accentuating the need to safeguard the rights of environmental human rights defenders, including women, Indigenous individuals, and child environmental defenders.[264]

States, as parties to international conventions like the International Convention on the Elimination of all Forms of Discrimination Against Women; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention on the Rights of the Child; and the International Convention on the Rights of Persons with Disabilities; have explicit obligations, including extra-territorial responsibilities, to uphold, safeguard, and fulfil all human rights. The failure to implement measures preventing foreseeable human rights harm caused by climate change or to regulate activities contributing to such harm may be deemed a violation of a state's human rights obligations.[265]

Furthermore, it is imperative for states to regulate private actors, holding them accountable for both the domestic and extraterritorial harm they generate. States should cease providing financial incentives or investments in activities and infrastructure misaligned with low greenhouse gas emissions pathways, irrespective of whether undertaken by public or private entities. In the process of reducing emissions and adapting to climate impacts, States must address all forms of discrimination and inequality. This includes promoting substantive gender equality, safeguarding the rights of Indigenous peoples and persons with disabilities, and prioritizing the best interests of the child.[266]

In a distinct realm, courts are increasingly turning their attention to climate litigation, with notable cases such as the Nigerian Gas Flaring Case where the High Court of Nigeria ruled that gas flaring in the Niger Delta violated constitutional rights. Tort and administrative law cases have also had national-level impacts, such as the U.S. Supreme Court recognising carbon dioxide as an air pollutant, leading to regulations on automobile emissions. Australia and Germany have seen rulings connecting planning decisions to climate impacts, and there are ongoing legal battles, like the lawsuit in the U.S. against oil companies by Inuit peoples in Alaska.[267]

Likewise, environmental tribunals in Latin America have been actively involved in shaping norms for environmental protection, further solidifying the constitutional right to a healthy environment. This has allowed plaintiffs to invoke this right to safeguard specific ecosystems, such as the Amazon, by arguing that the degradation of these ecosystems contributes to climate change. The prevalence of the right to a healthy environment in domestic constitutions, the level of acceptance and prioritization of international law within domestic legal systems, and the availability of amparos or constitutional injunctions play significant roles in creating opportunities for environmental protection.[268]

Additionally, the public hearings of the Inter-American Commission on Human Rights have witnessed the expansion of collective action and the formation of regional networks, ethnic

organisations, citizen groups, and NGOs working in coordination with local organisations over the past two decades. These groups actively present their cases, demanding that states take responsibility for protecting their rights. Through participation in local environmental democracy, the interconnection between human rights and the protection of ecosystems has been established, ensuring the preservation of nature's goods and services for present and future generations. The capabilities resulting from collective action have led to institutional transformations throughout the region.[269]

However, while legal accountability mechanisms are the focus, administrative mechanisms, particularly environmental impact assessments (EIAs), play a crucial role. EIAs, informed by human rights concerns, align with international law principles and can be viewed as an application of the "do no harm" rule. Integrating human rights considerations into responses to climate change through EIAs draws from existing experiences, such as the IFC Guide to Human Rights Impact Assessment and the UNFCCC's Compendium of Methods and Tools. These resources offer established frameworks, eliminating the need for a technical or methodological reinvention.[270]

The increasing emphasis on individual rights in water issues, for example, detached from collective community water rights and obligations, challenges traditional water cultures rooted in agricultural rituals. This trend towards individualization weakens the communal organizing of water, replacing it with structures responding to state law and private rights. There's a danger of de-contextualizing and de-politicizing local rules and rights, reducing their perceived suitability, relevance, and fairness in specific cases, while freezing or fossilizing customary rights by incorporating them into a static state law, where local principles lose their functionality and capacity for renewal.[271] Formalization may also subject local rights frameworks to expert-dominated redefinition or assimilation, leading to marginalisation when legally recognised.[272] For this reason, it is imperative to incorporate collective rights through formal policies that grant autonomy. Instead of passively accepting formalization programmes, communities may strategically embrace, selectively modify, or advocate for legal acknowledgment of increased autonomy to facilitate their independent management.

Since progress in addressing climate change relies significantly on active private sector engagement, encompassing business leaders, investors, financial institutions, and corporations is of fundamental importance. For instance, the private sector plays a crucial role across the four pillars of the 2007 Bali Action Plan, namely mitigation, adaptation, financing, and technology transfer. Industries like fossil fuels, agribusiness, forestry, and manufacturing have faced criticism for environmental and social impacts, emphasizing fossil fuels over renewable energy.[273]

John Ruggie, the Special Representative of the UN Secretary-General on Business and Human Rights, has proposed a policy framework for transnational corporations (TNCs), asserting their responsibility to "respect" international human rights laws within their activities. States, in turn, have a duty to "protect" human rights by establishing regulatory regimes addressing TNCs' human rights implications and to "remedy" any violations. This framework, endorsed by the United Nations Human Rights Council, is being applied at the national level in several countries. Although the Special Representative has not extensively explored the links between human rights and climate change, further clarification on the human rights responsibilities of business help establish normative and operational connections between these two domains. Emphasizing "due

diligence" obligations associated with the responsibility to "respect" provides a practical entry point with existing practice and methodology development. Another avenue for consideration is practical accountability mechanisms, including judicial or administrative remedies, where existing experiences within TNCs and business entities can offer valuable insights.

Governments, as per Article 6 of the UNFCCC, have pledged to educate, empower, and engage all stakeholders to enhance understanding of the challenges and solutions related to climate change. Education holds transformative power, reinforcing other principles and fostering a deeper awareness of human rights and climate justice within cultures. Achieving climate stabilization requires radical lifestyle and behavioural changes, and education can equip future generations with the necessary skills and knowledge. Effective environmental education, whether in formal institutions or through public and virtual activities, can increase awareness of climate change at scientific, sociological, and political levels. Recognizing climate change in justice terms is a lifelong commitment that extends beyond schools and universities.[274]

To navigate away from the current climate injustice scenario and move towards a more equitable future, often termed "climate justice," it's essential to examine the ethical implications of climate change. This involves scrutinizing the role of those who benefit materially from overconsumption and colonial legacies, both of which contribute to the current state of climate injustice.[275] Justice in the context of climate change extends to various dimensions, encompassing relationships among present individuals (intragenerational); justice among states (international); among people from different states (global); and between community members or citizens (communitarian or nationalist). The concept of "intersectional" justice considers the interplay of multiple social identities (e.g., gender, race, age, class, health) that underlie inequality, vulnerability, and the ability to respond. Scholars have highlighted intersectional injustice, exemplified by higher pollution levels in poor and black neighbourhoods.[276]

In addressing harm, denied access, or procedural shortcomings, justice principles can guide the response to wrongs:

- Retributive forms, where the wrongdoer is punished (e.g., substantial fines for water pollution);
- Corrective forms, where the wrongdoer must reduce harm and compensate, if possible (e.g., reducing emissions and compensating for negative impacts from greenhouse gas emissions); or
- Restorative forms, where the wrongdoer contributes to problem-solving through reconciliation (e.g., a mutual reconciliation process without explicit compensation).

These principles have been extensively discussed in climate and biodiversity scholarship, negotiations, and court cases. Climate justice, for instance, can be approached through principles such as equal per capita responsibility, responsibility for cumulative or current harm, or reparations and compensation for historical responsibility.[277]

PHOTO: Sean Hawkey/ACT.

9. Findings and recommendations

9.1 Case studies of climate interventions in Latin America

9.1.1 Argentina

Project: Reforestation of native trees and community-level risk management and responses are part of the Climate Justice Axis in Argentina.

Informants: Fundación Protestante Hora de Obrar, Nicolás Rosenthal, Romario Dohmann, and Martina Grahl.

Project description, target population

The Fundación Protestante Hora de Obrar works within works within within a Climate Justice AXIS, incorporating risk management initiatives that have a comprehensive reach. These activities are mainly carried out in Argentina and, to a lesser extent, in Paraguay and Uruguay—primarily in the Argentine provinces of Buenos Aires, Entre Ríos, Misiones, Chaco, and Santa Fe. Additionally, reforestation activities are conducted in the Argentine provinces of Misiones and Chaco. The project demonstrates flexible, addressing, in some cases, impoverished neighborhoods on the outskirts of cities as well as rural communities, including small and medium-scale Creole farmers, as well as Indigenous communities such as the Mbya Guaraní in Misiones and the Qom in Chaco.

The efforts are directed toward both men and women. Nearly 400 Creole farming families are involved, with the average production unit covering about 20 hectares of land. This population has suffered the consequences of a three-year drought. This prolonged drought has caused a violation of their rights and led to fires in productive areas and forested zones. The project also focuses on the recovery of water sources in Indigenous villages, spanning approximately 20

communities. This involves rejuvenating land springs designated for human use or agriculture that have dwindled due to drought. Strategies include creating land or stone reservoirs with tree-lined protection strips to reclaim these spaces. Additionally, rainwater harvesting is implemented by storing water on rooftops.

Human rights enhanced by the project

In general, these actions aim to strengthen the rights of rural communities as a whole—including both Creole and Indigenous farmers—to a healthy environment, access to water, and sustainable food through reforestation efforts. The overall program, along with the specific initiatives mentioned, are part of this broader effort. In general terms, the institution promotes human rights and environmental stewardship through its founding statutes.

In the context of risk management, the project aims to accompany and prevent or mitigate the effects of catastrophes. For the Indigenous population involved in the reforestation project, the situation is described as more profound and complex, as they face violations of all their rights. The project provides support to ensure their rights to land, water, and shelter are protected.

The project works through dialogue with the culture of the indigenous communities, respecting their values without imposing Western or Christian values. When it comes to human rights violations or actions conflicting with their Indigenous cultures and values, a dialogue is established with the community. The understanding of human rights violations is approached differently from white culture. Reproductive and sexual rights are considered specific and diffuse. Furthermore, cultural and educational efforts incorporate bilingual materials without any assimilation objectives.

Participation and inclusion

The communities around churches serve as meeting points, and the project extends its reach to needy neighbourhoods on the outskirts of cities and rural areas, where the people are considered marginalised populations. Additionally, the project addresses the marginalised Indigenous population, recognising them as one of the most disadvantaged groups. The project establishes connections with Indigenous groups through caciques' (Indigenous leaders) advice and guidance.

The project collaborates with the indigenous Guarani culture, which has its own system of justice. Over the course of 15 years, they have built relationships, engaging anthropologists, and missions to address issues like gender-based violence. This process is a collective construction over many years, emphasizing dialogue, listening, and respecting the pace of the communities involved.

The organisations are faith-based and all programmes emphasize community work. Thus, the projects are fundamentally built on community participation and consultations are integral to the project. In the case of projects where Indigenous land and communities are involved, the different stages of the projects undergo consultation with councils of caciques, which includes 16 male and female chieftains. Every action is discussed with Indigenous leadership. Subsequently, participatory discussions take place within communities comprising 15 to 30 families, involving the entire community. Prioritization of actions, such as securing safe water, drainage, or electrical lighting, is then collectively debated.

Community members play a decisive role in determining the locations for reforestation, identifying areas of greater need, and selecting the types of tree species that are most suitable for those locations. Moreover, feedback mechanisms, including participatory evaluations at midterm and project completion, ensure that once regulations are established, the collective rights of marginalised and Indigenous communities are effectively fulfilled and respected in practice.

Communities actively participate in risk management decisions, prioritizing identified risks. The project incorporates workshops and training sessions, focusing on raising awareness on various issues. It particularly targets communities vulnerable to climate change, emphasizing their susceptibility to meteorological events such as wildfires. Workshops on risks are conducted in a participatory manner, allowing the community to identify the risks they perceive. Community mappings are also done collectively, and although there isn't a defined focus on working with women, inclusive perspectives are promoted. For instance, in Paraguay, there's a committee of rural women as part of a gender strengthening programme. When workshops on risk perception are conducted, women are encouraged to participate; often, they identify different risks than the rest of the community. For example, specific issues like lighting are raised as risks, as women feel unsafe in the darkness of the streets. Committees of women are thus strengthened through these efforts.

Despite challenges in linking community mapping processes with external actors, ongoing efforts involve communities in meetings and seek ways to establish connections with different actors and other stakeholders at local level. However, local municipalities tend to focus on civil defence rather than prevention and planning. Thus, advocacy spaces are crucial for ensuring the project's continuity.

The ***Pan para el mundo*** fund emphasizes the participation of women and youth in these consultations.

Adaptation and resilience

The reforestation project was approached as a sensitisation programme. Churches create instances of diaconate, engaging in service with the spirit of restoring rights, along with environmental and social restoration. This involves a collaborative effort with producers on the edge of a transitional area (deforested-reforested-agricultural). The project transitions to agroforestry for both self-consumption and commercial purposes, adapting to the challenges posed by drought. The prioritization of tree species is done in collaboration with the producers, considering trees that can benefit all sectors.

In the reforestation programme, efforts for Indigenous communities focus on improving access to water and housing, while for Creole producers, the emphasis is on enhancing access to fertile land and curbing rural-to-urban migration.

During extended drought periods in the Chaco region, collaborative efforts were initiated with diverse organisations to create a swift-response fund dedicated to the construction of wells and infrastructure for rainwater collection. In the case of wildfires, the risk management programme played a key role in fostering community collaboration with governmental systems and other institutions. Additionally, given the volunteer nature of firefighters in Argentina, the project

provided equipment and collaborated with emergency responders, actively contributing to emergency response efforts.

9.1.2 Honduras

Project: Comunidades resilientes en Potrerillos y San Antonio Cortés (Comunidades resilientes en Potrerillos y San Antonio Cortés).

Officials: William López, Edgardo Aristides

Project description, target population

This project is aimed at marginalised groups in two municipalities in Honduras, focusing on vulnerable agricultural producers, including men and women as well as unemployed youth. These individuals are given access to vocational technical training and initiatives to improve their conditions.

The main beneficiaries are small-scale producers who cultivate basic grains such as corn and beans in areas not exceeding 1.5 hectares. Many of them do not own land and either rent or borrow it. Their agriculture is subsistence-oriented, with assigned plots for basic food production, usually ranging from half a manzana to one manzana. Those with more than two manzanas are more focused on diversification. The project also addresses the effects of climate change, such as prolonged droughts and heavy rainfall, by implementing risk management measures to anticipate and mitigate these impacts.

The project has established a Peasant Promoters School. The methodology involves agricultural promoters who serve as democratically elected representatives of their communities. Currently, there are 24 promoters from 10 communities. The Promoters School, lasting a year, certifies individuals to become community-level references to guide other producers. Additionally, to address limited access to financial resources, especially for women, the project promotes the establishment of rural credit unions. These provide small resources to support planting activities, empowering women to engage in agricultural activities more effectively.

A significant challenge in the region is the extensive cultivation of sugarcane, often with poor practices such as burning the harvested cane. Violations of people's rights have occurred in these areas, prompting the organisation to advocate for audits to ensure the protection of rights during humanitarian assistance and resource distribution.

Human Rights enhanced by the project

The project is guided by an institutional commitment to addressing issues through a human rights-based approach. This approach is in linewith active citizenship. Additionally, the project establishes connections with local human rights offices to seek guidance on human rights matters. The project contributes to the strengthening of various human rights, including economic, social, cultural, and environmental rights, with the initiatives under the project aiming to enhance the economic well-being and social conditions of the targeted communities. They address cultural aspects and are mindful of environmental sustainability. The project also plays a role in reinforcing

civil rights. This could include aspects such as promoting civic engagement, ensuring access to justice, and safeguarding civil liberties.

Participation and inclusion

In the case of the Peasant Promoters School, the process is participatory, with communities selecting two representatives to the school. Additionally, the project ensures the participation and inclusion of perspectives from vulnerable and marginalised groups through various mechanisms. For instance, the project conducts baseline surveys to gather essential data. Also, by organizing focus groups at the community level, the project actively seeks the input and perspectives of individuals from diverse backgrounds, ensuring that the voices of vulnerable and marginalised groups are heard.

Furthermore, there is a record-keeping system in place to track individuals who actively participate in the project. This helps in monitoring the engagement of different community members, including those from vulnerable groups. The project incorporates linkages as part of its monitoring process. This likely involves establishing connections with local organisations, community leaders, and relevant stakeholders to ensure ongoing feedback and participation.

Forums for socialization are established to articulate criteria and delineate responsibilities at each stage, fostering agreements that can be duplicated. Promoters engaged in workshops serve as amplifiers within the community. Moreover, affiliations with youth and women networks are maintained, offering venues for social interaction to prevent biases and preferences. Endeavours are undertaken to secure the engagement of diverse groups. For instance, gender policies aim for active women's participation and leadership, along with sensitisation on new masculinities, acknowledging the need for transformation while respecting local idiosyncrasies.

Community participation has enhanced the effectiveness of the project in the vulnerable area of Campo Bejuco, which is prone to flooding. Recently, the community was significantly affected, with one of the access routes being disrupted, leaving them isolated. In response to this challenge, the local community took proactive measures to organise themselves. For instance, they established evacuation routes, and connections with external groups, such as the "Grupo Verde," which helped by lending a boat. The community also engaged with the Municipal Emergency Committees, demonstrating a link between local initiatives and broader governance structures.

Concerning community representation in political spheres, there are efforts to guarantee a substantial involvement of affected communities and individuals in decision-making processes related to reparations, environmental restoration, and justice initiatives. For instance, collaborative endeavours are initiated, and links are forged with municipal government which facilitate furnishing relevant data for their consideration.

Regarding community interventions, clear mechanisms are established to mandate and enable the consultation and free, prior, and informed consent of the respective communities before decisions affecting their collective rights are made. These mechanisms involve autonomous community councils, referred to as patronatos. The programme consistently engages leaders from these councils, alongside representatives from youth, women, and the church. Ongoing direct communication with these stakeholders is maintained to ensure active involvement and

facilitate the consultation process. At the community level, patronatos community councils and community organisations, which operate autonomously, play a crucial role in communication. In most communities, patronatos manage the local domain or property deeds. Locals often reach agreements to share land for cultivation, sometimes based on solidarity rather than monetary transactions.

For the various objectives of the project, the organisation incorporates a variety of sources and data types to understand the living conditions, challenges, and rights violations experienced by marginalised populations.

For instance, direct interaction with families is a key component, with 100 percent awareness of their conditions, reflecting organisational principles. Baseline surveys have been conducted to gather essential data. The organisation has led baseline processes to document land tenure, often involving collaboration with community leaders and municipal authorities. Municipalities and cadastres also contribute information. This approach ensures a comprehensive understanding of the challenges faced by marginalised populations, incorporating both quantitative data from surveys and qualitative insights from direct engagement with communities and local organisations.

Additionally, the project actively works on identifying the challenges posed by climate change in the region, specifically exploring how these challenges can be addressed through agriculture. For instance, community members are actively involved in local committees. These committees address issues such as food scarcity and pest infestations caused by climate-related changes. This involvement creates awareness and facilitates the design of new agricultural practices to overcome environmental challenges. In this way, the community, supported by the project, identifies different stages throughout the year to determine the most suitable times for planting, taking into account climate-related alerts. This ensures that agricultural activities are aligned with the changing environmental conditions.

For this purpose, the project collaborates with municipal emergency committees, utilizing a facilitator to coordinate efforts. While there are no local emergency committees at the community level, the project aims to establish these committees for monitoring rainfall and other climate-related conditions, to provide timely information and alerts. Recognizing the limited access to wireless networks, the project seeks to bridge information gaps by providing basic tools like radios to local committees. This ensures that communities can be alerted in a timely manner to potential hazards, such as landslides.

The project actively addresses the specific vulnerabilities of various marginalised groups, including people with disabilities. The organisation engages in a coordinated process of identification, collaborating closely with a local organisation, the Intercommunity Solidarity Center. They work together to identify individuals with disabilities, often involving community leaders in the process. Work on this aspect began less than a year ago, involving explanations and encouragement to motivate people with disabilities to join the project. Likewise, special efforts are being made to include returnees from migration through migration committees. The emphasis extends to prioritizing entrepreneurship and providing technical information tailored for young people. The organisation acknowledges the crucial role of supporting and empowering the younger population.

Similarly, the organisation has previously undertaken initiatives to enhance its collaboration with women. Many women are leading initiatives, and it is noted that in several communities, it is customary for women to have their plots of land for basic grains and gardens. The project acknowledges and supports women in leadership roles. Direct engagement is utilised for issues pertinent to women, such as addressing violence and ensuring access to production systems. In rural communities, marked by greater inequality compared to urban areas, women encounter substantial hurdles, including limited land tenure. The project actively works towards empowering women in agriculture, advocating for female promoters.

Thus, gender actions aim for active women's participation and leadership, along with sensitisation on new masculinities, acknowledging the need for transformation while respecting local idiosyncrasies. Moreover, the comprehensive curriculum, covering an array of topics including cultural sensitivity, gender, self-esteem, and diverse training, has produced positive outcomes. Notably, it has played a significant role in cultivating heightened respect for women within the communities.

These efforts demonstrate a commitment to addressing the unique needs and vulnerabilities of different marginalised groups, ensuring that the project's initiatives are inclusive and tailored to the specific challenges faced by women, people with disabilities, youth, and other marginalised communities.

Adaptation and resilience

In agricultural production, at the community and individual levels, the project emphasizes the use of seed varieties, especially for maize and beans, that are well-suited to the local environment. There is a focus on rescuing semillas criollas (ancestral seeds), as these often exhibit better adaptation to prolonged droughts. The shift away from transgenic seeds, which were found to be less functional, demonstrates a reappropriation of ancestral practices and the promotion of local seed varieties. Likewise, despite a prevailing use of chemical inputs, there is increasing awareness about their affects. An agricultural and livestock production mix is being encouraged, including diversification into poultry and pig farming.

The project supports families in cultivating and preserving local seed varieties. Techniques for seed management vary significantly, and the project helps communities redistribute seeds among different families. This approach ensures the continuity and accessibility of local seed varieties. The Peasants Promoters School, on integrated farms, helps producers understand the advantages of using local seeds, highlighting their resilience. The school encourages hands-on learning, where producers themselves construct knowledge about organic fertilizers and agricultural practices suited to local conditions.

While reparations are not a direct component of the project but fall under the realm of development, efforts are made to establish connections or initiate relevant procedures. Recognizing the uncertainties in crop yields due to climate change, the project establishes strategic grain reserves. This ensures food security during periods when harvests are not guaranteed. Additionally, the organisation contributes to various stakeholders by providing essential kits including food. In case of losses or damage due to catastrophes, the organisation contributes to the restoration of livelihoods by providing agricultural inputs such as seeds.

In the Peasant Promoters School, participants undergo a curriculum covering various topics, including cultural sensitivity, gender, self-esteem, and diverse training. The curriculum, validated by the organisation, is being implemented in other regions where the organisation has a presence, adapting to each community's needs based on producer and farmer experiences. After their training, participants are tasked with replication through awareness campaigns. This approach prioritizes knowledge transfer within and between communities, fostering horizontal development from farmer to farmer, using non-technical language to share knowledge. The emphasis on traditional knowledge, community involvement, and collective structures contributes to a more resilient and gender-inclusive approach to climate change adaptation.

9.1.3 Peru

Project: Adaptation of Andean communities to climate change in the Huarahuaramayo watershed (communities of Huara Huara, Lloqueta, Coñamuro, and Culli - districts of Ccatcca and Urcos in the province of Quispicanchi) – Kawsaypacha

Informant: Karin Kancha

Project description

As part of the project framework, a pivotal initiative is in progress to facilitate the adaptation of Andean communities in the province of Quispicanchi, specifically addressing the challenges posed by climate change in the Huarahuaramayo micro-watershed. These communities, marked by communal organisation, deep-rooted ancestral traditions, and elevated geographical altitudes, confront notable levels of poverty and extreme poverty.

In the high Andean region of Cusco, characterized by distinct rainy and dry seasons, the changing climate has disrupted traditional patterns. Delayed and concentrated rainfall leads to landslides, rockfalls, and soil erosion during the supposed wet season (December to March), while unusually strong and mild frosts affect the transformative capacity of crops during the dry season (April to September). Traditional dehydration methods for crops have been impacted by irregular precipitation too. Furthermore, strong winds and forest fires pose threats to high-altitude communities, particularly affecting natural grasslands. Since 2022, there has been a water deficit, with two consecutive years of rainfall deficiency, leading to a state of emergency.

The project is structured into three essential components to strengthen the resilience of these communities. Firstly, the focus is on the community management of natural resources, working closely with communal organisations and specialized committees. The implementation of communal-level measures, such as water harvesting through the construction of micro-dams, fences, and the cultivation of resistant local seeds, is organised through differentiated communal work parties based on the physical landscape of each area.

The second component centres on the livelihood management of familias campesinas (smallholders, subsistence agriculture) promoting the implementation of measures based on local ancestral knowledge. The recovery and improvement of traditional practices related to soil tillage, crop diversification, and food processing to prevent spoilage are encouraged. Intergenerational

training encompasses líderes campesinos (stallholders' leaders), families, grandparents, and youth, fostering the transmission of knowledge and techniques.

Lastly, the third component of the project aims to enhance governance capacity by establishing links between local and regional governments, public servants, and communities. Through spaces of consultation, such as the Regional Climate Change Council, the goal is to articulate planning projects in development plans, facilitating the allocation of budgetary allocations for knowledge exchange and the execution of projects that benefit these Andean communities in their adaptation to climate change.

Human Rights enhanced by the project

The project contributes to the strengthening of various human rights, including the right to food through measures promoting food security and sustainable farming practices, and the right to security by implementing actions to mitigate climate-related risks like wildfires and landslides. Additionally, the project protects and promotes collective rights such as the recognition of collective knowledge, valuing local and ancestral wisdom in decision-making processes. It also champions the recognition of interculturality, fostering respect and integration of diverse cultures and knowledge in both planning and execution.

While the project is grounded in rights based approaches, further connections with international human rights frameworks as a point of reference is needed. It is recommended to endow detailed information and sources pertaining to human rights documents, including treaties, frameworks, and reports to more strongly elaborate right based approaches through enhanced decision making

Participation and inclusion

The communities involved in the project exercise dominion over their entire communal territory, adhering to customary laws and practices, with specific regulations for rural communities and autonomous territory. Participation in communal assemblies and communal work is mandatory, and a family member represents the absent landowner during these gatherings. Crop choices are collectively decided through communal agreements, with potatoes taking precedence. The community also determines the planting dates, ensuring synchronized planting.

Regarding the assessment of risks, two studies are being conducted: an ethnographic study to identify past hazards and community responses, and a study on vulnerability to climate change that involves community participation. In technical meetings, experts share information on climate change scenarios, focusing on incidents such as forest and grassland fires that escalate from controlled burns. Local knowledge and perceptions are juxtaposed with technical explanations to enhance community understanding.

Once work areas are identified, communal tasks, known as faenas are approved in community assemblies. These activities involve the presence of a technical expert. Reflection workshops are also conducted in the field, where community leaders explain their practices, such as traditional soil tillage. Technicians validate these practices, fostering an exchange of technical and ancestral

knowledge. The use of ancient tools, adapted for contemporary needs, is acknowledged, particularly recognising that certain cultivation practices, like furrows, cannot be executed with modern agricultural machinery on hilly terrain.

In the high Andean lands, it is possible to find a wide genetic diversity of crops, each with a range of varieties, carefully maintained. These communities possess their own seed banks, and through the project's collaboration with the national agricultural institute (Instituto Nacional de Innovación Agraria) in Cusco's experimental station, they strategically cultivate crops across different areas, including communal plots. Unfortunately, some varieties have been lost due to pest attacks. During the harvest season, these communities engage in a fair of Indigenous communities, fostering seed exchange to preserve genetic variability for sustainable production, emphasizing the crucial need for seed diversity. As part of the project, a competition for the best climate change adaptation practices was organised, providing communities with seeds, and encouraging subsequent self-sufficiency. Vegetables are cultivated for both consumption and sale, and the project advocates for the prudent use of manure, discouraging the use of expensive agrochemicals.

The landholdings range from 500 to a thousand metres, with some smaller plots. There exists a sectoral rotation zone where mountains are designated for rotational cultivation, guided by ancestral knowledge to allow the land to rest, relying solely on rainwater. Landholdings in lower areas are cultivated annually. In lower lands, individuals decide what to plant, with hybrid varieties for crops like potatoes, while in higher altitudes, native varieties are preferred, including wheat, barley, beans, peas (introduced and adapted), native quinoa, and certain maize varieties for toasting.

When it comes to governmental interventions, there are clear mechanisms that require and allow for prior, informed, and free consent with the affected communities before making decisions that impact their collective rights, especially concerning land use and resource management. For large-scale projects, the government mandates prior consultation. For smaller projects, situational diagnostics are conducted, taking into account the community's customs and practices to understand their existing production methods and crop types. The acceptance of the community is crucial, and if they decide against it, the project does not proceed. There have been instances where projects were halted due to social pressure from the community and communal assemblies, highlighting the commitment to respecting the decisions and rights of the affected communities.

The project ensures that once regulations are established, the collective rights of the communities are effectively upheld and respected in practice. Workshops are conducted at the initiation of project formulation, allowing communities to actively participate in shaping and addressing their interests within the project. This collaborative approach ensures that the implementation aligns with the collective rights and priorities of communities, fostering a more effective and respectful adherence to established regulations.

The project incorporates cultural actions to enable affected communities to reconnect with their heritage, traditions, and language, fostering a sense of identity and belonging. The intercultural approach is evident in the ethnographic study, which seeks to understand the community to ensure the project's development is intercultural, respecting and revaluing the local culture. All

visual and written materials are in the community's language, with visual and auditory products presented in Quechua. Training materials, including infographics, are designed to be easily understandable, featuring illustrations in traditional attire, recreating the community's activities. Additionally, the project collaborates with the Ministry of Culture to further recognise and preserve cultural and material heritage. This multifaceted approach aims to strengthen the community's connection to its roots, traditions, and language, promoting a profound sense of identity and belonging.

The project actively promotes the participation of women in both training and implementation efforts. The migration of young men out of the community has posed challenges but, paradoxically, it has led to an increased engagement of women due to the abandonment of agricultural activities. These migrations are typically temporary in nature. Additionally, the project involves the inclusion of older individuals, leveraging their valuable knowledge and experience. The collaborative approach extends to both young people and children, ensuring a holistic engagement across different age groups.

The project has implemented specific initiatives designed to overcome barriers that may hinder the participation and leadership of marginalised and vulnerable groups in climate actions. One notable initiative involves the empowerment of women leaders within the communities. These women are provided with training, exchanges, and internships where they learn from the experiences of other women. Additionally, women actively participate in family workshops, engaging in knowledge exchange. Likewise, the project ensures that the participation of women, Indigenous peoples, and the marginalised extends beyond symbolic representation, actively empowering them to influence the outcomes. This empowerment is achieved through collaboration with local and regional governments, demonstrating that the knowledge and techniques within peasant communities are relevant and impactful.

Adaptation and resilience

In the context of recent periods of drought, families have enhanced and adapted water reservoirs called positas, incorporating accessories for gravity irrigation. The interplay between ancestral and contemporary knowledge is evident in the management of the water reservoirs or positas. The irrigation systems installed have allowed families to produce food even during dry seasons. Additionally, the introduction of flower cultivation and vegetables provides an additional source of income. Livestock management in the higher regions involve camelids, alpacas, llamas, limited cattle, sheep, and a significant number of guinea pigs. The municipality's encouragement has led to a substantial guinea pig population, both for local consumption and the market.

Implementing water capture initiatives, coupled with efficient irrigation systems and the reintroduction of native and medicinal herbs, as well as a variety of vegetables, serves a dual function by not only enhancing nutritional wellbeing but also diversifying income sources for individuals. Consequently, these measures empower communities to bolster their responsiveness and resilience in the face of climate shocks, particularly droughts.

The comprehensive strategies employed by the community, with the support of the project, foster adaptation and resilience. Initiatives such as water harvesting, micro-dam construction, and the cultivation of resistant local seeds enhance the sustainable management of natural resources,

providing a foundation for resilience. Likewise, the preservation of genetic diversity through community fairs ensures a robust agricultural foundation, contributing to long-term adaptation. Simultaneously, the diversification of livelihoods through ancestral knowledge fortifies families against climate-induced uncertainties.

Capacity building and intergenerational knowledge transfer, achieved through workshops and training sessions, empower leaders, families, grandparents, and youth to comprehend environmental issues, governance processes, and adaptive skills. In this sense, the targeted empowerment initiatives for women and marginalised groups create a more inclusive and dynamic community, bolstering its ability to adapt and thrive in the face of climatic shocks. Finally, by improving governance capacity and establishing collaborations with local and regional authorities, the community gains a stronger voice in decision-making processes, enhancing adaptive governance. In summary, the implemented measures contribute to the construction of a resilient community adept at navigating and responding effectively to the dynamic challenges presented by climate change.

9.2 Gaps, limitations, and opportunities for advancing the HRBA

The undertaken projects contribute to several human rights, encompassing the right to food, water, and a healthy environment. However, stakeholders do not have a full awareness of these implications. The language employed by these stakeholders to articulate challenges and delineate the development and implementation of their projects does not explicitly incorporate human rights terminology. Consequently, potential violations of human rights prevailing in the areas of operation may remain unidentified.

An illustration is the case of Comunidades resilientes en Potrerillos y San Antonio Cortés (Resilient Communities in Potrerillos and San Antonio Cortés), where informants briefly discussed the expansion of industrial agriculture, specifically sugarcane cultivation. This expansion, though not explicitly framed in terms of human rights, raises concerns related to potential land dispossession, water appropriation, and deforestation. The absence of explicit human rights terminology in the discourse of the informants poses a challenge in pinpointing and addressing these underlying rights-related issues within the project framework. Although the projects are rooted in institutional frameworks that incorporate human rights perspectives, there is uncertainty among informants when asked to identify specific international frameworks within human rights.

Similarly, while the project has made significant strides in addressing the needs of marginalised groups such as small-scale producers and unemployed youth, there is an opportunity to expand outreach to include other vulnerable populations within the communities, such as the elderly and people with disabilities. By broadening the scope of inclusion, the project can ensure that its initiatives reach a wider demographic and address the diverse needs of all community members. For instance, there is an opportunity to further strengthen women's participation and leadership in climate adaptation activities. This can be achieved through targeted capacity-building programmes, mentorship opportunities, and the creation of platforms for meaningful engagement in decision-making processes related to climate resilience.

Moreover, despite the intentions to target vulnerable populations, particularly those deemed vulnerable, there exists a potential ambiguity in accurately identifying these specific groups.

This is crucial because, despite the general vulnerability of populations in certain areas such as coastal or highland regions, subgroups like women, Afro-descendants, youth, children, individuals with disabilities, and refugees face distinct and heightened challenges. Notably, individuals with disabilities may remain unseen by project officials. The absence of comprehensive censuses and specific information may impede the accurate identification of the most vulnerable groups. For instance, during an interview in Honduras, when questioned about people with disabilities, the informant initially claimed their absence, yet later acknowledged instances of amputations resulting from accidents within the mining sector. This discrepancy underscores the challenges in pinpointing and addressing the vulnerabilities of specific groups due to limited census data and information.

A pressing challenge in the Latin America and Caribbean is the lack of formal recognition of Indigenous communities, their lands, territories, and rights. This absence of recognition perpetuates inequalities and marginalisation, as Indigenous peoples are denied access to essential services, infrastructure, and economic opportunities. Without formal recognition, they remain vulnerable to displacement, exploitation, and systemic discrimination. Moreover, the failure to acknowledge their rights hampers efforts to address their specific needs and challenges, exacerbating disparities and hindering their full participation in society. Thus, the failure to recognise Indigenous lands and rights poses a significant barrier to achieving equitable development and social inclusion in the region.

Additionally, challenges may emerge concerning cultural sensitivity and the preservation of traditional values within communities, particularly concerning women's rights. For instance, during interviews in Argentina, officials emphasized their commitment to respecting the communal traditions of Indigenous groups, asserting a non-imposing stance of external or Western viewpoints. Nevertheless, traditional organisational structures within Indigenous and rural communities may hinder women's involvement in decision-making processes and potentially restrain their rights to land. This inherent tension between respecting the internal values of communities and the overarching goal of promoting women's rights poses a complex challenge for project officials.

Reducing risk and vulnerability is insufficient to shield everyone from the varied impacts of climate change. Despite efforts, many individuals will still experience the direct effects of disasters and will need assistance to cope. Moving along the spectrum it becomes crucial to undertake actions aimed at saving lives and protecting livelihoods during and after such events. These actions encompass preparedness activities before an event, immediate responses during and after an event, and include measures like evacuation and safeguarding economic assets in the early stages of a drought. The challenge here lies in the diverse terminology used for these activities, leading to confusion and perceived competition for funding. The major gap in addressing climate-related crises is the failure to recognise that these approaches are not mutually exclusive but should be implemented together. Experts emphasize the necessity of employing both risk reduction strategies and disaster response measures in tandem to comprehensively tackle the challenges posed by climate-related crises and avoid gaps in support.

Another obstacle concerning preparedness and risk management lies in the restricted access to wireless networks in the region. However, this presents an opportunity to consider alternative

tools that are better suited to the remote and rural environment, such as local-community radios. By integrating these tools, communities can benefit from timely updates on climate-related alerts, agricultural practices, and project activities, thereby reducing vulnerability and enhancing community engagement and resilience.

9.3 Concrete recommendations on advancing and strengthening HRBA

To optimize the impact of projects grounded in human rights and vulnerability reduction, particularly for marginalised and more susceptible groups, it is imperative to explicitly prioritize these populations, such as women, children, the elderly, Afro-descendant communities, and migrants, during the design phase of climate initiatives. This entails incorporating specific measures to tackle the distinct challenges faced by these groups within the context of climate change. A comprehensive and inclusive needs assessment, actively engaging representatives from marginalised populations, should be conducted to consider their perspectives, experiences, and vulnerabilities. This ensures that the climate actions identified respond directly to the specific needs of these groups.

In this line, tailored interventions within climate initiatives can be developed to address the identified needs and vulnerabilities of marginalised populations. This may encompass customized programmes, awareness campaigns, or targeted support mechanisms designed to tackle the challenges faced by these groups. For instance, gender-specific approaches are crucial in risk analysis and protection measures. This prioritization ensures that climate initiatives are not only effective but also genuinely inclusive, promoting equitable outcomes. Customized programmes can be developed to address the unique needs of women farmers, as an example. These programmes may include providing access to gender-sensitive agricultural training, tools, and resources tailored to the specific challenges faced by women in agricultural production, such as limited access to land, credit, and extension services.

Providing detailed information and sources related to human rights documents, including treaties, frameworks, and reports, is a crucial step. This approach aims to enhance the comprehension of the significance and pertinence of human rights in the context of climate actions, cultivating a more extensive knowledge foundation for well-informed decision-making. Supporting both organisations and the affected population, this approach strives to augment legal knowledge the capacity to pursue justice. By offering a comprehensive understanding of human rights principles, project stakeholders can make informed decisions aligned with ethical and legal considerations, contributing to the overall success and sustainability of climate initiatives. The human rights legal framework plays a pivotal role in guiding climate change policy negotiations and decision-making processes.

Climate change actions are underpinned by several frameworks, treaties, and documents that integrate human rights considerations. The United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement establish provisions for public education, awareness, and participation, encapsulated as Climate Empowerment Action, focusing on education, training, awareness-raising, public access to information, public participation, and international cooperation.

Additionally, various United Nations Special Procedures have actively engaged with the challenges of climate change and environmental degradation. Notable among them are the Special Rapporteur on extreme poverty and human rights, the Special Rapporteur on the human rights of migrants, the Special Rapporteur on adequate housing, the Special Rapporteur on the rights of Indigenous peoples, the Special Rapporteur on cultural rights, the Special Rapporteur on the human rights to safe drinking water and sanitation, the Special Rapporteur on the right to food, and the Special Rapporteur on the human rights of internally displaced persons. Through their reports and initiatives, these Special Procedures have illuminated the intersection of climate change and human rights, offering valuable recommendations for effective strategies in both climate change mitigation and adaptation.

Similarly, the Inter-American human rights system has recognised and acted upon the nexus between human rights and the environment, with a specific focus on climate change. Environmental considerations have been integrated into key multilateral human rights treaties in the Americas. The establishment of the Special Rapporteur on economic, social, cultural, and environmental rights by the Inter-American Commission on Human Rights and the broader Inter-American Human Rights System has reinforced and deepened the understanding of the interconnectedness between human rights and environmental concerns in the region.

In Latin America, a crucial milestone is the Escazú Agreement, adopted by 24 countries, aiming to ensure access to environmental information, public participation, and justice in environmental matters. This agreement serves as a vital human rights instrument for climate action, emphasizing environmental management, protection, and substantive rights like the right to a healthy environment. Moreover, it emphasizes the protection of human rights defenders in environmental matters, including those combating climate change. Additionally, the Declaration on Human Rights Defenders recognises the role of individuals, groups, and institutions in safeguarding human rights. Latin American human rights-based climate cases often draw on international obligations from treaties and constitutional jurisprudence, highlighting the region's commitment to environmental protection and human rights (for more on this, please refer to the section: Relevant human rights instruments for climate change).

A recurrent theme across all projects is the pressing need for a robust advocacy component, especially at governmental and potentially-regional levels. This observation aligns with the recommendation to ACT Alliance to strengthen its advocacy efforts. The findings of each project aim to provide nuanced insights into the diversity, challenges, and successes embedded in climate resilience and adaptation initiatives within ACT Alliance. A full overview of the commonalities, differences and learning points will be summarized after the findings of each interview have been presented.

Stakeholders and ACT Alliance members have a potential role in strengthening advocacy at local and regional levels. The socio-legal avenues presented in the section "Action entry points", highlight the responsibilities of states, private actors, and legal mechanisms in addressing climate change impacts and safeguarding human rights. ACT Alliance's presence could further enhance and strengthen advocacy efforts, particularly in positively influencing policymaking in active regions. While the alliance already provides substantial support, there's a potential for increased collaboration in navigating complex advocacy landscapes. One way to strengthen the impact

of ACT Alliance is through installing community practices that develop resilience and human capital in a sustainable manner. This involves consistent and focused work in tandem with the communities.

For instance, an opportunity for advocacy emerges from the urgent need to address the lack of formal recognition of Indigenous communities, their lands, territories, and rights in Latin America and the Caribbean, as well as the importance of incorporating Indigenous knowledge. By advocating for the recognition of Indigenous rights, advocates can not only promote the inclusion of Indigenous peoples in decision-making processes but also ensure the preservation and application of their invaluable traditional knowledge. This dual approach highlights how formal recognition is crucial for safeguarding Indigenous communities from displacement, exploitation, and discrimination while also acknowledging their unique expertise in environmental conservation, sustainable agriculture, and resilience to climate change.

Acknowledging the opportunities of advocacy in the current context, ACT Alliance can strengthen its support by engaging with government counterparts. This involves facilitating dialogue, addressing systemic issues, and advocating for policies that better serve the needs of marginalised and Indigenous communities. By leveraging ACT Alliance's existing support and engaging in strategic conversations with government entities, the advocacy agenda can be furthered and strengthened. (For more on this, please refer to the section: Action entry points).

PHOTO: Albin Hillert/LWF.

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Published 2025

www.actalliance.org

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