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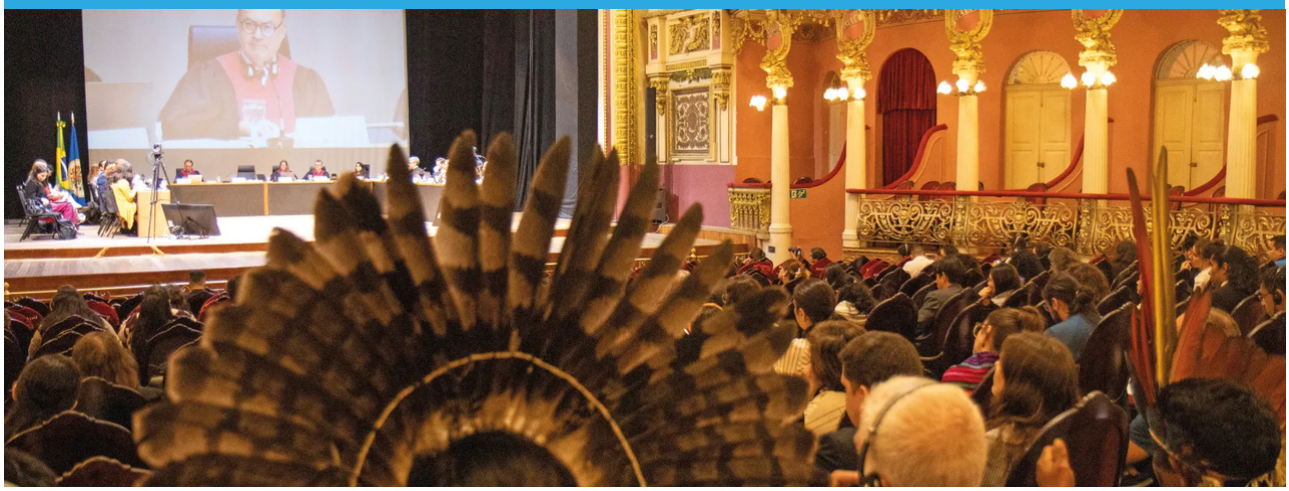
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Octobre 2025



IACtHR, Advisory Opinion 32/25, 29 May 2025

In the Face of the Climate Emergency: Sketching a Human Rights-Based Roadmap Framing Human (Im)Mobilities

Human Rights – Climate Emergency – State Obligations – Human Mobilities – Migration – Displacement – Relocation – Immobilities – Substantive Rights – Procedural Rights – Vulnerabilities – Disasters – Information – Participation – Consent.

The Advisory Opinion 32/25 issued by the Inter-American Court of Human Rights on climate emergency and human rights is already recognised as a milestone in climate litigation. Although the decision has a broader scope, the Court notably addresses climate mobilities, which are the main focus of this commentary. In this advisory opinion, the Court first emphasises that States have obligations to prevent climate-induced mobilities. In the event that such mobilities do occur, the Court recognises a series of other obligations to regulate it, regardless of its form: migration, displacement (internal or international), relocation or immobility. In detailing these obligations, the Court draws up a draft roadmap based on human rights for States to regulate climate-related (im)mobilities. Although incomplete, it nevertheless constitutes an innovative turning point in the handling of these issues.

Zoé Briard

A. Opinion

On 3 July 2025, the Inter-American Court of Human Rights (hereinafter, the Court or the IACHR) issued its Advisory Opinion 32/25, adopted on 29 May 2025, on the climate emergency and human rights. This decision was much awaited and has already been widely discussed. Among the many issues addressed, the Court discusses the links between climate change and climate-related human mobilities,[1] the impacts of such mobilities on human rights, and the corresponding obligations of States.

In this presentation of the opinion, I will first discuss its procedure and structure (1). Next, I will review some of the major jurisprudential developments in this opinion (2). Finally, I will focus more specifically on the part of the opinion dealing with climate-related mobilities (3).

1. Procedure and Structure of the Opinion

On 9 January 2023, the Republics of Chile and Colombia (hereinafter, Chile and Colombia or the applicants) submitted a request for an advisory opinion on the climate emergency and human rights to the Court. This document raised 20 questions relating to the obligations of States under the American Convention on Human Rights (hereinafter, the Convention) and, in some cases, the Additional Protocol to the American Convention on Human Rights dealing with economic, social and cultural rights (hereinafter, the Protocol of San Salvador) (para 27). Alongside the Additional Protocol, the petitioners invoked numerous other instruments.[2]

Similarly, the Court's developments are based on and inspired by various legal sources, treaties, case law, soft law instruments and written observations. With 263 written observations (para 8) received from more than 600 entities worldwide and 180 delegations heard during the relevant public hearings, spread over five days between April and May 2024 in Barbados and Brazil (para 10), this consultative process is the most participatory in the history of the Court (as indicated in IACHR press release 48/2025).

As formulated by Chile and Colombia, the questions asked to the Court concerned the interpretation of general obligations—their observance, guarantee and normative adequacy—and respect for human rights—both substantive and procedural—that could be affected by the climate emergency (para 27). These questions concerned, among other things, the scope of the duty of care, the right of access to information and climate mobilities.

The Court reformulated the 20 questions of the applicants into three more general questions (paras 27–28). The first aims to clarify the extent of States' obligations to respect, guarantee and take the necessary measures to give effect to **substantive rights** in the face of the impacts or threats generated or exacerbated by the climate emergency. The second question addresses the same obligations, but this time in relation to **procedural rights**. The third question does not focus on a category of rights, but on certain holders of those rights: **groups in situations of vulnerability** in the context of the climate emergency (para 28). By "vulnerable groups," the Court refers in particular to children, environmental defenders, indigenous peoples, Afro-descendant communities and peasants (para 28).

The Court's opinion is divided into two distinct parts (paras 30–32). In a very didactic and factual manner, the first part sets out the causes and concrete effects of climate change, the international response and the legal developments adopted to address the situation (paras 42–216). In order to

establish the facts necessary to support its legal analysis, the Court acknowledges that it relies in particular on the reports of the Intergovernmental Panel on Climate Change (hereinafter, the IPCC), which constitute the best available source of scientific guidance on climate change (para 33). The second part presents the answers to the three questions as reformulated by the Court (paras 217–629).

2. An Overview of Some Major Developments in Case Law in the Opinion

This subsection addresses several of the notable lessons from this opinion that I believe are necessary to mention in order to provide an overview of the decision. This is particularly important, as some of these lessons are intertwined with the sections on climate-related (im)mobilities.

As its title suggests, and in accordance with the request made by Chile and Colombia, the opinion examines the concept of **climate emergency** (paras 181–216). According to the Court, this concept fits into a broader context of a triple global crisis combining climate change, global pollution and biodiversity loss, which the Court had already stated in its judgment of 4 July 2024, *Pueblo Indígena U'wa Indigenous People and its members v. Colombia. Merits, Reparations and Costs* (para 304). In accordance with the terms of the request for an advisory opinion, the Court decided to focus on climate change (para 42) and confirmed the existence of a climate emergency (para 183) on the basis of the best available science (para 182) as well as the urgent need for effective action, the seriousness of the impacts and the complexity of the responses required (para 184).

In view of this climate emergency and based on the advisory opinion of the International Tribunal for the Law of the Sea (hereinafter, ITLOS) on the obligations of states on climate change and international law of 21 May 2024, the Court found that compliance with the obligation of prevention in relation to climate damage is subject to the **standard of enhanced due diligence** to prevent foreseeable damage from climate change (paras 231–237). The Court acknowledges that this standard, in the context of the climate emergency, only constitutes a human rights obligation if it takes into account the specific risk to the rights threatened and the degree of vulnerability of the holders of those rights (paras 235–236). The Court also recognises **Nature and its components as subjects of rights** (paras 279–286). Considering this recognition necessary in order to protect ecosystems in the face of the triple planetary crisis (para 279), the Court has taken an innovative post-anthropocentric step forward (see Auz, see also Amor Vásquez and Amor-Jürgenssen). In line with this, the Court adds that **the prohibition to generate massive and irreversible damage to the environment** is a ***jus cogens* norm** (para 294).

In 2017, the Court recognised the existence of a human right to a healthy environment in its Advisory Opinion 23/17, also requested by Colombia (paras 47, 96 and 126). In this new opinion, the Court goes one step further by recognising a "**human right to a healthy climate as an independent right**" (para 300). The latter protects, in particular, the collective interests of present and future generations as well as nature itself (paras 302–311) and also the possibility for each person to develop in a climate system free of dangerous anthropogenic interference (para 303) (see Herencia-Carrasco and Pamplona). The Court highlights that all States of the Organisation of American States (hereinafter, OAS) have an obligation to prevent climate damage on the basis of the right to a healthy environment (para 325) and that the +1.5 °C warming threshold must be understood as a minimum starting point, rather than the finishing line (para 326). The Court also acknowledges that, based on the principles of common but differentiated responsibilities and intergenerational and intragenerational equity, the magnitude of each State's mitigation target must be determined on the basis of (i) its current and historical cumulative contribution to climate change, (ii) its capacity to contribute to mitigation measures and, finally, (iii) its actual circumstances (para 327).

In this advisory opinion, the Court does not focus solely on substantive rights. The Court affirms that procedural rights are an essential condition for ensuring the legitimacy and effectiveness of decisions

taken to address the climate emergency (para 458). Among these rights, the Court addresses the **right to science** and the **recognition of local knowledge** (paras 471–487), **access to information** (paras 488–529), **political participation** (paras 530–539), **access to justice** (paras 540–560) and the **right to defend human rights** (paras 561–587). In this last section, the Court also recognises a **duty to protect environmental defenders** (paras 562, 575–576, 581–587).

Before moving on to the rest of this commentary, which focuses more specifically on the lessons of the opinion on climate mobilities, I will mention this analysis by Juan Auz. According to him, the **duty to cooperate** is central to the Court's reasoning: it is considered here as a part of the comprehensive standard of reinforced due diligence. In doing so, the Court is shifting from fragmented national responses to more coordinated international efforts. Indeed, the Court emphasises that States' obligations relating to the climate system are obligations of conduct. In doing so, the Court avoids prescriptive formulas, as has already been done in other judgments, notably *Urgenda v. the State of the Netherlands* and *Verein KlimaSeniorinnen Schweiz and others v. Switzerland*. On the contrary, the Court emphasises here that States must act in good faith, based on science, equity and human rights, and therefore chooses to incorporate principles based on justice into its legal reasoning.

3. Climate Mobilities in the Spotlight

The last of the questions asked by Chile and Colombia in their request for an advisory opinion concerned climate-related mobilities. Noting that one of the impacts of the climate emergency is to exacerbate the factors leading to human mobilities, including migration and forced displacement of persons, the following question was asked: What obligations and principles should guide the individual and coordinated measures that the States of the region should adopt to deal with involuntary human mobility, exacerbated by the climate emergency (Request for an advisory opinion)?

As explained above, the initial questions were reworded by the Court and no longer directly mention climate-related mobilities in their new form. However, the Court addressed mobilities on several occasions, both in the first part of the opinion, which presents the current climate situation, and in the second part, which provides answers to the three questions as reworded by the Court.

- **Link Between Climate Change and Human Mobilities**

The Court begins by noting that rising sea levels will lead to forced displacement (para 76) and that climate disasters can also cause displacement and migration (para 95). It also cites migration as one of the impacts of climate change (para 97). Adding that each additional gigaton of greenhouse gases and each degree of global temperature increase will exponentially multiply the number of people exposed to displacement (para 195). These consequences demonstrate, among other things, the extreme severity of climate impacts and are taken into account by the Court in defining the climate emergency (para 195).

The Court highlights that not all populations face these risks equally. Increasingly confronted with difficulties related to access to water and food, as well as the reduction of habitable land, people living in small island states in the Caribbean and South Pacific face a growing risk of having to relocate (paras 102–103), while **some Caribbean territories could become virtually uninhabitable** (para 116). The Court explains that these **impacts** are **particularly severe in Latin America and the Caribbean** (para 104).

With regard to timing, the Court recognises that these **consequences are already noticeable** today and that as extreme weather events intensify, large-scale displacement is becoming more pronounced (para 103). The Court notes in this regard that in 2021, it was estimated that 17.1 million people in Latin America were displaced due to climate change, representing 2.6% of the region's

population (para 103). The Court also points out that between 2012 and 2022, it is estimated that nearly 5.3 million people were internally displaced as a result of natural disasters in the Caribbean, and that projections tend to predict that this figure will increase (para 116).

The rest of the Court's findings on climate-related mobilities can be found in the section of the opinion responding to the question on substantive rights, including the right to privacy and freedom of residence and movement.

- **The Right to Private and Family Life (paras 403–405)**

With regard to the right to privacy (as guaranteed by Articles 11.2 and 17.1 of the Convention and Article 15 of the Protocol of San Salvador), the Court recognises that the impact of climate change on housing and property may constitute a violation of the right to private and family life (para 403). In doing so, the Court refers in particular to the decision of the United Nations Human Rights Committee (hereinafter, the HRC) in the case of *Daniel Billy and Others v. Australia*. It then adds that violations of the right to freedom of residence, due to migration and involuntary displacement, may undermine the unity of the family group (para 403).

"In order to prevent and mitigate the effects of the climate emergency on the right to private and family life, States have an obligation to: (i) ensure that climate policies related to human mobility caused by climate disasters or progressive environmental degradation include effective mechanisms to guarantee family unity or, where appropriate, family reunification; (ii) create records and databases to track families separated by climate displacement, facilitating reunification and access to the required social support services; (iii) design and implement emergency protocols to register and protect unaccompanied children during climate-related disasters and subsequent displacement processes, ensuring prompt reunification with their families; (iv) design and implement community programs in resettlement[3] sites that offer physical and mental health support services, legal guidance, and social assistance for families affected by climate disasters; v) establish and implement protocols to protect access to and use of personal data provided by families to national authorities or international agencies during the displacement process, and (vi) collaborate with other States to establish bilateral and regional agreements that protect the right to family unity of persons displaced by climate disasters or progressive environmental degradation" (para 404).

"Furthermore, the Court considers that, in view of the essential value of housing and property for the development of private life, States have an obligation to: (i) ensure that housing allocated to families relocated due to climate change has sufficient space and adequate access to basic services required to preserve the well-being and privacy of the family group, and (ii) ensure that such housing is located near educational and medical centres and other services necessary for the subsistence and cohesion of the family group" (para 405).

- **Freedom of Residence and Movement (paras 414–434)**

The Court then focuses on freedom of residence and movement (as guaranteed by Article 22 of the Convention). Citing the annual report A/HRC/10/61 of the United Nations High Commissioner for Human Rights of 15 January 2009, the Court recalls that climate change promotes human mobilities in **four distinct scenarios**: (i) **disasters** related to weather events such as hurricanes and floods; (ii) **gradual environmental degradation** and slow-onset disasters, such as desertification, coastal subsidence, and the potential total submersion of low-lying island states; (iii) **increased disaster risks**, which entail the resettlement of people away from high-risk areas, and (iv) **violence** and social unrest attributable to factors related to climate change (para 415).

With regard to freedom of movement, the Court emphasises that climate change generates various forms of affectations. Firstly, the Court recognises that disasters can cause **direct and/or**

indirect migration or involuntary displacement, i.e. when disasters compound preexisting **situations of vulnerability** and factors of displacement such as conflict, violence, poverty, food insecurity or inequality (para 416). Secondly, the Court explains that migration and forced displacement can be caused by other impacts of climate change such as the loss of fertile land, droughts, instability in water cycles, crop failure, sea level rise or drastic increases in temperatures, leading to food insecurity, water scarcity or physical insecurity in one's usual place of residence, lack of employment or income, and disruption of livelihoods (para 417). Thirdly, the Court recognises that the impacts of climate change can also affect a section of the population that is already in a situation of forced displacement, in which case it exacerbates the risks to which these people are exposed and pushes them into further displacement or then prolonged and continuous displacement (para 418).

Finally, based on Resolution No. 2/24 on human mobility induced by climate change (p. 6) of the Inter-American Commission on Human Rights (hereinafter, the Commission), the Court also notes that, in some cases, the impacts of climate change have led to the "**immobility**" of individuals or communities living in areas affected by or exposed to the risks of climatic events. Either because they are unable to adapt or migrate, in which case their immobility is involuntary. Or because they do not wish to migrate or be displaced for cultural, traditional, economic or social reasons, among others, in which case their immobility is voluntary (para 419).

Based on the written observations submitted by the United Nations Refugee Agency (hereinafter, the UNHCR), the Court confirms that most people in situations of mobility in the context of climate change are **internally displaced persons**. However, there are also cases of cross-border migration for climate reasons. The Court adds that it has already recognised, in its judgments *Valle Jaramillo et al. v. Colombia* (para 139) and *The Village of Los Josefinos Massacre v. Guatemala* (para 77), that due to the complexity of the phenomenon of internal displacement and the wide range of human rights affected or put at risk, as well as the particular circumstances of vulnerability and lack of protection in which displaced persons generally find themselves, their situation can be understood as a *de facto* condition of lack of protection. This heightened vulnerability is reinforced by their rural origin and particularly affects women who are heads of households (para 420).

With regard to the duration of displacement, and again based on the written observations of the UNHCR, the Court emphasises that displacement often involves abandoning one's home and finding oneself in a situation of displacement for several months or years, whether such movements are internal or international (para 421).

In its Advisory Opinion 23/17 (para 66), the Court had already recognised that environmental impacts could undermine the right to peace, in that displacement caused by environmental degradation frequently leads to violent conflicts between displaced persons and those living in the territory where the displaced persons arrive (para 421). "In view of the situation described above, the Court emphasises, as a starting point, that States are obligated to adopt measures to prevent, in line with the standard of **enhanced due diligence**, migration and forced displacement resulting directly and indirectly from disasters and other impacts of climate change. Therefore, the Court highlights the importance of designing and implementing appropriate measures to ensure the protection of sectors and population groups exposed to disasters and other impacts of climate change. Such measures, related to the protection of income sources, food and water security, adequate housing, etc., must be part of public policies related to progress toward sustainable development, mitigation goals and strategies and **adaptation** goals and plans" (para 422).

The Court also writes that the "protection of the rights to life, personal integrity, health, private and family life, a healthy environment, property, housing, work and social security, water, food, culture and education is essential in order to prevent forced mobility or displacement that may be caused directly or indirectly by the impacts of climate change" (para 423). However, the Court also recognises that the measures adopted by the State to protect human rights may prove **insufficient** to prevent the

conditions that drive migration or forced displacement in the context of the climate emergency. For this reason, States must also develop regulatory, public policy, institutional, and budgetary instruments in order to respond to the needs of people in situations of involuntary mobility. These policies and instruments must also **take into account the possible intersection of factors that may increase the vulnerability** of those affected before, during and after mobilities (para 424).

In accordance with the Basic Principles and Guidelines on Development-Based Evictions and Displacement, adopted on 5 February 2007, in Annex 1 to the report by Miloon Kothari, Special Rapporteur on adequate housing, the Court emphasises that the right to resettlement includes "the right to alternative land of better or equal quality and housing that must satisfy the following criteria: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education" (Principle No. 16). According to the same document, the Court recalls that procedures to protect this right apply to all groups regardless of whether they hold title to the dwelling or property (para 426).

The Court emphasises that, in the specific case of the relocation or displacement of indigenous peoples with no possibility of return due to climate disasters, environmental degradation and/or slow-onset climate phenomena, these persons must have access to land of similar quality and legal status to that which they previously occupied, enabling them to meet their needs and guarantee their future development. When indigenous peoples prefer to receive compensation in kind or in cash, such compensation must be granted to them with the appropriate guarantees (para 427).

The Court adds that the State must refrain from any behaviour that could expose persons in a situation of mobility to considerable risks that threaten their life, physical integrity or dignity. To this end, it is essential to design and implement strategies to prevent potential risks in the transit routes, establish temporary shelters and safe relocation areas, monitor and prevent human trafficking, and train the personnel responsible for assisting and protecting displaced persons to prevent abuse of authority and other human rights violations (para 428). "In this context, States must also ensure that displaced persons receive, without discrimination, adequate humanitarian attention and access to essential services such as food, water and basic sanitation, basic medical and health care, and education" (para 428). Such care must be accessible, available and of high quality, with mechanisms for priority assistance for persons in situations of vulnerability. The State must adopt the necessary measures to ensure respect for the family unit in human mobility processes, guarantee safe conditions for mobilisation and adequate standards for accommodation, and protect rights to property and possessions left behind in displacement processes (para 428).

Relocations should only take place in exceptional circumstances when they are **unavoidable** and necessary due to the unliveable nature of maintaining human settlements in areas prone to danger and in order to preserve the life, integrity and health of the populations concerned. States have an obligation to establish an appropriate legal framework governing planned relocation processes, in accordance with international and regional human rights standards. This framework must define the corresponding institutional responsibilities and establish adequate mechanisms to ensure comprehensive reparations for those affected. Similarly, States have an obligation to guarantee the right of persons to return voluntarily to their place of origin whenever possible and provided that their lives, dignity and health are preserved. States must also provide displaced persons, whether they are relocated or return to their place of origin, with mechanisms enabling them to recover the land, housing, property and other possessions they had to abandon (para 429).

The Court also emphasises that the effective protection of the human rights of persons in situations of mobilities requires **active cooperation between the various States** (para 430). The Court highlights that it is the responsibility of the international community to consult and operationalise **international funds** which, in accordance with the principles of equity, solidarity and common but differentiated

responsibilities, enable the most vulnerable countries to cope with human mobilities generated by climate change (para 431).

“In line with the aforementioned considerations, the Court emphasises that, in order to protect, respect and guarantee the right to freedom of movement and residence, States must promote effective cooperation between local, national and regional stakeholders involved in the design and implementation of policies on climate-related mobility. In particular, States must cooperate to: (i) strengthen bilateral and regional mechanisms and strategies to protect the human rights of people displaced by climate change; (ii) guarantee consular protection and humanitarian assistance to displaced persons caught up in crises in transit and destination countries; (iii) designate contact points for the families of missing migrants to access information, while protecting their privacy; (iv) recover, identify and repatriate the remains of deceased migrants, respecting the wishes of their families; (v) guarantee security and facilitate safe and regular cross-border mobility; (vi) establish technical assistance agreements to improve border management, including search, rescue and emergency response, and (vii) implement frameworks and agreements to ensure that the return and readmission of climate-displaced persons is carried out safely, with dignity and with respect for international human rights law” (para 432).

“The Court considers that States must establish an appropriate regulatory framework that provides effective legal and/or administrative mechanisms at the domestic level to guarantee the legal and humanitarian protection of persons displaced across international borders due to the impacts of climate change. States must implement effective mechanisms to ensure humanitarian protection for these persons by establishing appropriate migration categories such as **humanitarian visas, temporary residence permits, and/or protection under refugee status or similar status**, which can provide them with protection against *refoulement*. The Court points out that the measures indicated must be implemented without prejudice to the long-term solutions to be adopted within the framework of cooperation and the responsible and coordinated management of human mobility at the international level” (para 433).

- **Procedural Rights (para 425)**

The Court highlights that all measures mentioned to meet the needs of persons in situations of involuntary mobility related to climate change must also ensure the full validity of procedural rights, in accordance with the standards set out in the remainder of this opinion (para 425).

“Measures aimed at protecting the rights of individuals and communities at risk or displaced due to climate change must include mechanisms for access to information and participation in defining the nature and level of risk they face, possible risk mitigation measures, safe evacuation routes, directions to local assistance facilities, accompaniment by the authorities and the conditions under which this should occur, 711 together with refuge, return or resettlement plans, as appropriate. The information provided must also take into account the challenges of access associated with illiteracy, disability, language barriers, distance, and the lack of information and communication technologies. In order to proceed with relocation or return, it will be **necessary to obtain the agreement of the populations concerned** so as to ensure their procedural rights. In addition, the authorities must give reasonable advanced notice of the planned date for the relocation or return of the concerned groups. The State must also provide awareness-raising mechanisms aimed at the relevant authorities, communities, and population groups at risk of experiencing climate-related displacement processes” (para 425).

- **Cultural Rights (para 449)**

The Court also recognises that extreme weather events and sea level rise threaten the right to participate in cultural life, notably due to involuntary displacement (para 449).

- **Vulnerable Groups: Children, Women, Older Persons and Persons with Disabilities (paras 434 and 614)**

Finally, the Court concludes the section of the opinion relating to the substantive right to freedom of movement by referring to the vulnerable group of children. In this regard, “the Court recalls that migrant and displaced children are among the groups most vulnerable to the adverse effects of climate change, which can harm their physical and mental health and their access to education. In view of this, the Court considers that in addition to the obligations regarding migrant children set forth in Advisory Opinion OC-21/14, States have the duty to cooperate in designing and implementing national and regional policies and strategies to protect the rights of children in climate-related mobility processes. Such policies should take into account, where relevant, the Guiding Principles on Children in the Context of Climate-Related Displacement” by the IOM (para 434).

In the part of the opinion addressing this third question, the Court adds that in the context of the climate emergency, natural disasters, both sudden and slow-onset, environmental degradation and forced displacement may affect certain groups of people, such as women, older persons and persons with disabilities, in different ways (para 614).

B. Discussion

With Advisory Opinion 32/25, the Court outlines a human rights-based roadmap framing human mobilities in the face of the climate emergency. In a context where climate-related mobilities are already a reality (paras 103, 116 and 420), this opinion is the first to address this issue in a cross-cutting manner.

According to Gagliardi and Odriozola, this cross-cutting nature means that rights related to human mobilities cannot be reduced to those specifically detailed in the sections of the opinion dealing with this subject. On the contrary, these rights must include all aspects and duties mentioned in the opinion that relate, directly or indirectly, to the right to remain, migrate or return.

>As such, this advisory opinion is non-binding and its implementation depends on the willingness of States. However, advisory opinions can notably have concrete consequences in future appeals before the same Court, through their voluntary implementation or their use by national courts (see Namanya, see also Arévalo Ramírez and Rousset Siri). Other international bodies could also refer to it to support their arguments. Since 28 October 2025, this has been done. In its case of *Greenpeace Nordic and Others v. Norway*, the European Court of Human Rights “refers to the observations of the Inter-American Court of Human Rights in its Advisory Opinion OC-32/25” (para 322).[4] This promising reference confirms that this opinion could lead to the creation of new binding obligations or, at the very least, strengthen the legal basis for protecting people in situations of climate-induced mobility. In both cases, this opinion could create new opportunities to hold States accountable in this context (see the Centre for Gender and Refugee Studies—hereinafter CGRS—, see also Serna Mosquera and Chiemi).

In this discussion, we will return to several points that we believe are important to detail or put into context. The objective of the opinion on climate-induced mobilities, i.e. to prevent it as much as possible and to regulate it when it does occur, is first detailed (1). It then focuses more specifically on certain forms of mobilities: immobility (2), planned relocation (3), and international displacement (4). Finally, it addresses the causes of climate-induced mobilities and the issue of vulnerabilities in this context (5).

1. Climate-Induced Mobilities: Prevent Where Possible, Manage Where Necessary

As mentioned in the first part of this commentary, the Court establishes numerous obligations for States to prevent and regulate climate-related mobilities. Following the structure of the opinion, the links between climate change and human mobilities are addressed first (paras 76, 95, 102–104, 116 and 195). In this context, the Court then returns to the obligations aimed at preventing violations and protecting the right to private and family life (paras 403–405) and then protecting freedom of residence and movement (paras 414–434). In this section, the Court emphasises that the measures taken by States in this context must also ensure the procedural rights of persons in situations of mobilities (para 425). In the approach adopted by the Court, this last point is fundamental in that it ensures the legitimacy and effectiveness of decisions taken to address the climate emergency (para 458). The Court then recalls that migrants and displaced children are among the most vulnerable groups and that the measures must take this into account (para 434). The Court also refers to the risks that forced displacement poses to cultural rights (para 449). Finally, the Court adds that these situations may affect women, older persons and persons with disabilities in different ways (para 614).

Another way of analysing the obligations enshrined in this judgment is in terms of the temporality of mobilities. The Court deals with mobilities in a comprehensive manner, regulating it before it occurs, during its occurrence and in the long term if necessary. In this sense, the Court reaffirms, on the basis of its case law, "the **right of a person to enter and remain in their country, as well as the right not to be forcibly displaced** within a State Party and not be forcibly removed from the territory of the State in which they are legally present" (para 414). The Court highlights that States have an obligation to adopt measures to prevent and mitigate forced migration and displacement directly or indirectly related to disasters and other impacts of climate change (para 422). The Court also recognises that "States must refrain from adopting policies or measures that destroy or dispossess people of their homes or property affected by climate disasters without adequate compensation or resettlement" (para 412). However, the Court admits that these measures may prove **insufficient** and that, for this reason, States must also have regulatory, public policy, institutional and budgetary instruments in place to regulate such mobilities (para 424). These policies must also provide, as a last resort, a form of organised mobilities in order to adapt to these inevitable situations, namely relocation (para 429). In doing so, as Riemer and Scheid point out, the Court is bringing about a **paradigm shift**: climate-induced displacement, previously treated as a humanitarian concern, is now seen as establishing binding human rights obligations that must be addressed in terms of both prevention and management.

As highlighted in the request for an advisory opinion, the Court addresses both the individual obligations of States and their coordinated obligations. These measures are manifold and do not only concern situations of international mobility. They also include mobilities taking place on other territories and are justified by the principles of equity, solidarity and common but differentiated responsibilities (paras 253, 430–432, 434).

2. Immobility, Another Form of Climate Mobility

In 2010, the Cancún Agreements, adopted at COP16, recognised three forms of climate mobilities: migration, displacement and planned relocation (para 14, f). Generally speaking, migration differs from displacement in that the former, unlike the latter, is voluntary. However, the boundary between these two forms of mobilities is often blurred in practice. Since 2010, immobility, whether voluntary or involuntary, has generally been considered a fourth form of climate mobilities (see van de Geest *et al.*). By mentioning each of these four forms in Advisory Opinion 32/25, the Court recognises the **diversity of realities** behind "climate mobilities."

While at first glance it may seem surprising to describe its antonym as “mobility,” there is in fact a continuum between immobility and mobility. As the Court explains, it is possible that people who could be in a situation of mobility due to climate change are not, either because they cannot, referring to the concept of “**trapped populations**,” or because they do not wish to (para 419).

On this subject, as mentioned above, the Court makes an interesting connection, the only one in the opinion to this document, and refers to the definition of immobility adopted by **Resolution No. 2/24 of the Commission** (p. 6). The latter is a principal and autonomous organ of the OAS. Its mandate is to promote and protect human rights in the Americas. In this context, the Commission issues resolutions aimed at providing recommendations to States on a given subject. The resolution in question concerns the rights of persons in situations of mobility due to the effects of climate change.

The Court does not provide for specific legal obligations governing cases of immobility. However, according to the CGRS, it seems clear that the general obligations to prevent displacement and to protect persons facing climate risks also apply to persons in situations of immobility. One question remains: How should these general obligations be applied in cases of voluntary immobility? The Court recognises that the agreement of the persons concerned must be obtained in order to implement a planned relocation process (para 425), but it remains silent on **the possibility of a refusal** to be relocated. Such a situation raises new questions, as pointed out by Courtoy: “Should people be allowed to choose to continue pursuing an increasingly dangerous way of life, even at the expense of their safety? To what extent can one live with risk? And how can the law accommodate this?”

In its Resolution No. 2/24, the Commission goes further than the Court on the issue of voluntary immobility. In particular, it recognises that States have a primary obligation to fulfil their duties of prevention, mitigation and adaptation in order to guarantee the right of these groups to choose their place of residence (para 21). States must also respect the factors on which people base their choice to remain in their place of origin or habitual residence and guarantee the habitability of these places (para 22). Finally, when exposure to the risk of climate-related events is high and cannot be mitigated or adapted, to the point of endangering the right to life, personal integrity and freedom of individuals or communities, States have an obligation to create the conditions necessary to ensure safe and dignified migration and, as a last resort, to establish planned relocation programmes (para 23).

3. The Court’s Teachings on Planned Relocation: Clarifications that Raise New Questions

The Court addresses planned relocation on numerous occasions. In this subsection, we will only address certain points that we believe require further elaboration.

The Court confirms the obligation to have an appropriate legal framework governing planned relocation processes, in accordance with international and regional human rights standards (para 429). However, at present, very few States have an appropriate legal framework in place. A few exceptions are the Republic of Fiji, the Solomon Islands and Uruguay. Once these standards are adopted, they must still be respected and a comprehensive approach to planned relocation must be in place. The Court’s approach is very interesting in this regard, as it also prescribes obligations to establish temporary shelters and to design and implement measures to prevent risks that may arise on transit routes (para 428). In doing so, the Court recognises that the obligations of States do not begin at the moment of the decision to relocate or when choosing the destination. When the future beneficiaries of relocation are in a situation of displacement, the State also has obligations towards these persons.

The Court also emphasises that in order to **respect the procedural rights** of the populations concerned, their **consent** must be obtained (para 425). This last point is widely acknowledged in the

literature (see McAdam and Ferris) and the principle seems clear when stated as follows. However, the practice may prove somewhat more complex in that the populations concerned rarely, if ever, form a homogeneous whole. What then happens if a single person opposes the relocation process? Or, less anecdotally, **what proportion of beneficiaries** should give their consent in order for it to be recognised? Would this decision be taken individually or at group level? Furthermore, could this agreement be conditional on certain requirements being met? Finally, if one or more beneficiaries were to refuse relocation, these individuals would find themselves in a situation of *de facto* voluntary immobility. In this case, the questions raised above would also arise. The same doubts will emerge with regard to the selection of the destination site(s) for the relocation process or, more generally, in the event of the return and readmission of persons in a situation of immobility.
The Court also recognises that relocations should only be carried out when they are unavoidable and necessary due to the uninhabitability of the area and in order to preserve the life, integrity and health of the populations concerned (para 429). With this position, the Court aligns itself with the generally accepted interpretation that these processes constitute a **measure of last resort**, but does not directly answer the following question: How can we determine what constitutes “last resort”? What knowledge should be taken into account in this context? Certain developments in the Court’s reasoning seem to provide some answers here. In particular, the Court acknowledges that everyone has the right to access the benefits of measures based on the **best available science** as well as **local, traditional and indigenous knowledge** (paras 477–478). The Court also states that in order to ensure respect for procedural rights, measures taken in this context must include mechanisms for access to information and participation regarding the level of risk faced by these persons, potential risk mitigation measures and alternatives to risk (para 425). Other points remain unclear. For example, what would happen if, as Ferris and Bower had already raised, the beneficiaries of the potential relocation project disagreed with the risk analysis carried out or if these persons did not trust their decision-makers?

Drawing on the Basic Principles and Guidelines on Development-Based Evictions and Displacement, the Court establishes certain conditions that the alternative land must meet and excludes restrictions on access to the project based on titles to the home or property (para 426). In doing so, the Court makes the obligations governing relocations with different causes common. Such a convergence between resettlements that take place in contexts of displacement, whether in the case of disasters and/or the consequences of climate change, during armed conflicts or in the context of development projects, has also been suggested by Cantor, who proposes a universal concept of relocation. Such assimilation opens the door to the applicability of other obligations that are normally relevant in the case of relocations taking place in other contexts.

In the specific case of the relocation or displacement of indigenous peoples, the Court emphasises that they must be offered access to land of similar quality and legal status to that previously occupied, which guarantees their needs and future development. If they prefer, indigenous peoples will also have the choice of receiving monetary or cash compensation (para 427). As Gagliardi and Odriozola point out, other groups could have been mentioned alongside indigenous peoples, including riparian populations and quilombos. It will probably be necessary to refer to previous decisions that equate these groups with indigenous peoples in order to guarantee them the rights recognised here.

Another point of tension in the implementation of relocation processes concerns their funding. When properly implemented, relocations are very costly processes (see Ferris and Bower), but who holds the responsibility for paying for them? Once again, the Court seems to offer a possible answer by stating that it is the responsibility of the international community to consult and operationalise international funds which, in accordance with the principles of equity, solidarity and common but differentiated responsibilities, enable the most vulnerable countries to cope with the human mobilities generated by climate change (para 431). It now remains to be seen whether this point will be followed up and, if so, what form these international funds will take.

4. The Case of International Displacement: Developments with a Hint of Something Missing

With regard to international displacement, the Court emphasises the shared responsibility of States (paras 431–432) and, consequently, the need for their cooperation (paras 404, 430–433). In particular, it prescribes the adoption of appropriate migration categories, such as **humanitarian visas, temporary residence permits**, and/or protection under refugee or other similar statuses, which can offer them protection against refoulement (para 433). In support of its argument, the Court cites, in particular, the Nansen Initiative's Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change, the Global Compact for Safe, Orderly and Regular Migration, and the Chile Declaration and Plan of Action 2024–2034.

In doing so, the Court reinforces the applicability of existing legal frameworks on refugee rights and human rights in the context of climate change-induced mobilities (see CGRS). It remains to be seen, however, whether national legal frameworks on asylum and refugee rights will be amended accordingly and, if so, whether they will refer to this advisory opinion (see Namanya). Another, perhaps more likely possibility would be an amendment to migration law, following the example of **the Australia-Tuvalu Falepili Union**, the bilateral treaty adopted in November 2023 establishing a special channel for human mobilities between these two countries.

Furthermore, as noted by several commentators on this decision (see CGRS, Felipe Pérez and Namanya) and contrary to Resolution No. 2/24 (paras 28–30), the Court does not put an end to the debate on how existing systems for refugees and human rights, and more specifically the 1951 Convention relating to the Status of Refugees and the Cartagena Declaration on Refugees, apply in such a case. As the CGRS points out, this is all the more regrettable given that the Cartagena Declaration (para III, 3) contains a broader definition of the term "refugee"[5] and that this instrument is of particular importance for the region. Consequently, according to the CGRS, the latter had the potential to provide a basis for such protection. Similarly, the Court could have reinforced the applicability of the Chile Declaration and Action Plan 2024–2034, in which the States of Latin America and the Caribbean make a political commitment to offer legal protection to persons displaced by climate change and disasters, including when such displacement is international. Instead, the Court mentions them only once in its opinion, in a footnote.

The Court also misses the opportunity to endorse the application of the principle of non-refoulement, which was also recognised by Resolution No. 2/24 (para 39) (see Namanya and Navarro). Instead, it is mentioned only once in the entire opinion (para 433) and the Court refers, in a footnote, to the *Teitiota* case. In its Findings on Communication No. 2728/2016, *Ioane Teitiota v. New Zealand* of 24 October 2019, the HRC had accepted in principle that, under Article 6 of the International Covenant on Civil and Political Rights, the obligation of non-refoulement may apply to persons whose right to life or freedom from cruel, inhuman or degrading treatment is threatened by the effects of climate change (for a commentary on this judgment, see Courtoy). However, the HRC did not rule on the point at which this obligation would apply, and the Court therefore does not provide us with any further information on this subject.

The Court's silence on this issue is all the more noteworthy given that, among the observations received by the Court, 30 directly responded to the question raised by Chile and Colombia on climate-induced displacement, and at least 50 of them acknowledge the need to protect individuals displaced across borders due to climate change (see CGRS). Thirty observations also called on the Court to recognise the application of the principle of non-refoulement in this context (see Navarro).

5. Causes and Vulnerabilities in Relation to Climate-Induced Displacement

The Court emphasises that not all countries face the same risks of human mobilities and that some are more vulnerable than others to these phenomena (paras 102–104). The Court goes on to add that, within a single State, not everyone will be affected by the risks of human mobilities in the same way. How can these differences in vulnerability be explained? Sometimes, disasters compound other impacts of climate change (para 417), situations of displacement (para 418), vulnerability, or preexisting factors of displacement such as conflict, violence, poverty, food insecurity, or inequality (para 416).

Certain groups of people are more likely to find themselves in a situation of climate-induced mobilities. Among them, the Court identifies children (para 434), women, older persons and persons with disabilities (para 614). More generally, environmental defenders, indigenous peoples, Afro-descendant communities and peasants are also recognised by the Court as vulnerable groups.

As Riemer and Scheid point out, by acknowledging these particular vulnerabilities experienced by certain people who will be more affected by climate mobilities, the Court is breaking new ground and moving away from more state-centric approaches, such as those followed by the European Court of Human Rights in the *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* judgment (for a commentary on this judgment, see Jalocha).

Furthermore, drawing conclusions from this situation, the Court requires States to adopt an intersectional approach to the climate emergency. Indeed, it affirms that policies aimed at meeting the needs of people in situations of involuntary mobilities must take into account the possible intersection of factors that may exacerbate the vulnerability and situation of those affected before, during and after their mobilities (para 424). The Court also sets out several obligations that take into account these vulnerabilities or the particular risks affecting certain groups of people: children (para 434) or gender-diverse or LGBTQI+ persons (para 618). In this regard, the Court also recognises that, given the stigma and discrimination against the latter, they face higher risks of gender-based violence during and after climate-induced disasters. Consequently, States have an obligation to ensure safe places and inclusive and non-discriminatory health care in these contexts (para 618).

By recognising the existence of other indirect, social, political or environmental factors, in addition to disasters or other effects of climate change, which contribute to the occurrence of climate-induced displacement, the Court acknowledges that vulnerabilities to climate change are not immune to human influence and are subject to change. In this sense, as the CGRS points out, the Court does not consider displacement to be a response to isolated climatic events but to structural and cumulative risks. However, the Court does not go so far as to challenge the qualifier “natural” that accompanies “disaster.” Yet some argue that there is no such thing as a “natural” disaster and that it is inappropriate to label them as such. The fact is that, in almost every case, poor and marginalised people are much more affected by these disasters than other sections of the population. Describing them as “natural” therefore obscures their socially constructed nature, the human factors that transform these natural hazards into disasters (see Puttick, Bosher and Chmutina) and dissolves responsibilities.

C. Conclusion

Although some of the repercussions of this opinion will depend on the willingness of States to implement it, the Inter-American Court’s opinion “represents a step in the right direction” and a “model for cases in other regional human rights systems” (see Namanya). By addressing (im)mobilities in a cross-cutting manner and through the obligations it establishes in this regard, the Court has sketched a draft roadmap based on human rights for States to regulate (im)mobilities in the context of the

climate emergency. Although incomplete, this draft nevertheless represents an innovative turning point in the handling of these issues.

The Inter-American Court's opinion was issued a few weeks before that of the International Court of Justice on the obligations of States with regard to climate change. On 2 May 2025, the African Court on Human and Peoples' Rights was in turn asked for an advisory opinion on the obligations of States with regard to the climate change crisis. In this context, it is interesting to consider the potential synergies between these different jurisdictions. Focusing on climate mobilities, this special issue of *Cahiers de l'EDEM* attempts to tackle this task.

D. Further Reading

Read the judgment: IACtHR, Advisory Opinion AO-32/25, *Climate Emergency and Human Rights*, 29 May 2025.

Case Law:

- CIJ, Advisory Opinion of 23 July 2025, *Obligations of States in Respect of Climate Change*.
- ITLOS, Advisory Opinion, *Request for an Advisory Opinion submitted by the Commission on Small Island States on Climate Change and International Law*, No. 31, 21 May 2024.
- HRC, Findings on Communication No. 3624/2019, *Daniel Billy et al. v. Australia*, 29 September 2022.
- HRC, Views concerning communication No. 2728/2016, *Ioane Teitiota v. New Zealand*, 24 October 2019.
- IACtHR, Case of *the U'wa Indigenous People and its members v. Colombia. Merits, Reparations and Costs*, Series C, No. 530, 4 July 2024.
- IACtHR, Case of *the Village of Los Josefinos Massacre v. Guatemala*, Series C, No. 442, 3 November 2021.
- IACtHR, Case of *Valle Jaramillo et al. v. Colombia*, Series C, No. 192, 27 November 2008.
- IACtHR, Advisory Opinion OC-23/17, *The Environment and Human Rights*, 15 November 2017.
- IACtHR, Advisory Opinion OC-21/14, Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection, 19 August 2014.
- ECtHR, 25 October 2025, *Greenpeace Nordic and others v. Norway*, Appl. No. 34068/21.
- ECtHR, 9 April 2024 *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, Appl. No. 53600/20.
- Supreme Court of the Netherlands, *Urgenda Foundation v. The State of the Netherlands*, 20 December 2019.

Resolution:

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- Ferris, E. and Bower, E., "Planned Relocations: What We Know, Don't Know, and Need to Learn", *Researching Internal Displacement*, 2023, pp. 1–12.
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- Herencia-Carrasco, S. and Pamplona, D. A., "The Inter-American Court's Advisory Opinion on Climate Emergency and Human Rights: A Breakthrough for the Environment and Business & Human Rights", *AfroconomicsLAW*, 21 July 2025.
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[1] The Court refers to "human mobility" or "climate mobility" in the singular. However, in this commentary, the plural form of these terms will be preferred, as it better encompasses the diversity of realities behind them. On this subject: I. Boas *et al.*, "Climate Migration Myths", *Nature Climate Change*, Vol. 9, No. 12, 2019, pp. 901–903.

[2] The Paris Agreement, the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean, the Convention on

the Rights of the Child, the Stockholm Declaration and the Rio Declaration on Environment and Development.

[3] The Court uses “resettlement” and “relocation” as synonyms in the English version of its Opinion. However, in this commentary, the term “relocation” will be preferred, as it is the expression employed in the Cancún Agreements, adopted at COP16 in 2010. Moreover, it aligns with the French version of this commentary, which uses “relocalisation”. In the same vein, the Spanish and original version of the Opinion refers to “reubicación”.

[4] The International Court of Justice also cites it in its advisory opinion of 23 July 2025 on the obligations of States in relation to climate change, but only as an example of a regional human rights court decision relating to the adverse effects of climate change that has been addressed in decisions (para 385).

[5] According to this paragraph, “the definition or concept of a refugee to be recommended for use in the region is one which, in addition to containing the elements of the 1951 Convention and the 1967 Protocol, includes among refugees persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights *or other circumstances which have seriously disturbed public order*“(emphasis added).

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