

3. Regional and Other International Organisations

Regional and sub-regional human rights institutions offer additional sources of information, analysis and jurisprudence on human rights and climate change, as well as additional venues for advocacy. They will also be closely attuned to the particular circumstances of countries in their region or sub-region. While NHRIs located in a region or sub-region will probably be familiar with the activities of its human rights institutions, there is often much that can be learned from institutions active in other regions.

4.1 Africa

4.1.1 African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights was established further to article 30 of the African Charter on Human and Peoples' Rights "to promote human and peoples' rights and ensure their protection in Africa". Article 45 of the Charter enumerates the functions of the Commission to be:

- the promotion of human and peoples' rights;
- the protection of human and peoples' rights;
- interpretation of the provisions of the Charter; and
- any other task assigned to it by the OAU Assembly.

The Commission is composed of eleven members serving in their personal and independent capacity. Its Secretariat, which is also the Headquarters of the Commission, is located in Banjul, The Gambia. National human rights institutions established by States party to the African Charter can have affiliate status with the Commission.¹ Twenty-two NHRIs are currently affiliated.² NHRIs affiliated to the Commission are entitled to attend and participate in the Commission's public sessions.

Since 2009 the Commission has adopted occasional resolutions referring to climate change.³ In 2009, it recognised the relationship between climate change and human rights. In a series of resolutions on the topic,⁴ the Commission has tasked its Working

¹ See. <https://www.achpr.org/nhris>. Rules of Procedure of the African Commission on Human and Peoples' Rights of 2020, rule 71, <https://www.achpr.org/legalinstruments/detail?id=72>. Resolution on the Granting of Affiliate Status to National Human Rights Institutions and specialized human rights institutions in Africa - ACHPR/Res. 370 (LX) 2017, <https://www.acdhrs.org/wp-content/uploads/2017/07/Resolution-on-the-Granting-of-Affiliate-Status-to-National-Human-Rights-Institutions-and-specialized-human-rights-institutions-in-Africa.pdf>

² <https://www.achpr.org/nhris>

³ 153 Resolution on Climate Change and Human Rights and the Need to Study its Impact in Africa - ACHPR/Res.153(XLVI)09 at <https://www.achpr.org/sessions/resolutions?id=291>; 271 Resolution on Climate Change in Africa - ACHPR/Res.271(LV)2014 at <https://www.achpr.org/sessions/resolutions?id=318>; and 342 Resolution on Climate Change and Human Rights in Africa - ACHPR/Res.342(LVIII)2016 at <https://www.achpr.org/sessions/resolutions?id=381>

⁴ 342 Resolution on Climate Change and Human Rights in Africa - ACHPR/Res.342(LVIII)2016 at <https://www.achpr.org/sessions/resolutions?id=381>

Group on Economic and Social Rights, in collaboration with the Working Group on Extractive Industries, Environment and Human Rights Violations, to undertake a “study on the impact of climate change on human rights in Africa”. The study is in preparation. At the Commission’s 69th session in 2021, it adopted a resolution on Climate Change and Forced Displacement in Africa.⁵

In May 2017, the Commission adopted State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment.⁶ The Guidelines are for State reporting under Article 62 of the African Charter. Although they do not deal directly with climate change, they are of interest for their elaboration of the content of article 24 of the Charter, which provides “[a]ll peoples shall have the right to a general satisfactory environment favorable to their development” and is clearly relevant to climate change.⁷

4.1.2 African Court on Human and Peoples Rights (AfCHPR)

The African Court on Human and Peoples Rights⁸ was established by the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights. Under Article 3 of the Protocol, the Court has jurisdiction to deal with all cases and disputes submitted to it regarding the interpretation and application of the African Charter on Human and Peoples’ Rights, the Protocol and any other relevant human rights instrument ratified by the concerned States.

The Court can only deal with cases submitted by non-governmental organisations and individuals against Countries that have ratified the Protocol and deposited the Article 34(6) Declaration accepting the competence of the Court in cases involving individuals and Non-Governmental Organisations. The case must involve allegations of human rights and those alleged violations must have taken place in the State concerned after it ratified the Protocol unless the alleged violations are on-going.

Under Article 4 of the Protocol, the Court may, at the request of a Member State of the African Union, any of the organs of the African Union, or any African organization recognized by the African Union, provide an opinion on any legal matter relating to the Charter or any other relevant human rights instruments, provided that the subject

417 Resolution on the human rights impacts of extreme weather in Eastern and Southern Africa due to climate change - ACHPR / Res. 417 (LXIV) 2019, 14 May 2019

<https://www.achpr.org/sessions/resolutions?id=441>

457 Resolution on the Renewal of the Mandate of the Working Group on Economic, Social and Cultural Rights in Africa and Appointment of its Chairperson and Members - ACHPR/Res. 457 (LXVI) 2020, 7 August 2020 <https://www.achpr.org/sessions/resolutions?id=488>

⁵ 491 Resolution on Climate Change and Forced Displacement in Africa - ACHPR/Res. 491 (LXIX)2021, 5 Dec 2021, <https://www.achpr.org/sessions/resolutions?id=523>

⁶ <https://www.achpr.org/presspublic/publication?id=75>

⁷ *Idem*, *Explanatory Note to the State Reporting Guidelines on the Contents of the Rights and Obligations under Articles 21 and 24 of the African Charter*. In its article 18, the Additional Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) provides:

(1) Women shall have the right to live in a healthy and sustainable environment.

<https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

⁸ <https://www.african-court.org/wpafc/>

matter of the opinion is not related to a matter being examined by the African Commission on Human and Peoples' Rights.

4.2 Asia

4.2.1 Association of South East Asian Nations (ASEAN) Intergovernmental Commission on Human Rights

The ASEAN Human Rights Declaration⁹ and the ASEAN Intergovernmental Commission on Human Rights¹⁰ provide entry points to address the relationship between human rights and climate change in the member states of ASEAN.¹¹ In addition to a broad range of civil and political rights, economic, social and cultural rights and the right to development mirroring those articulated in UN instruments, the Declaration recognizes a right to a safe, clean and sustainable environment in article 28.

28. Every person has the right to an adequate standard of living for himself or herself and his or her family including:

f. The right to a safe, clean and sustainable environment.

Article 35 on the right to development stipulates that, "The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations."

The ASEAN Intergovernmental Commission on Human Rights has considered climate change at numerous workshops,¹² and its five-year workplan for 2021-2025 envisaged a consultation on human rights and climate change in 2021 and initiatives to share

⁹ [https://www.asean.org/wp-content/uploads/images/resources/ASEAN%20Publication/2013%20\(7.%20Jul\)%20-%20ASEAN%20Human%20Rights%20Declaration%20\(AHRD\)%20and%20Its%20Translation.pdf](https://www.asean.org/wp-content/uploads/images/resources/ASEAN%20Publication/2013%20(7.%20Jul)%20-%20ASEAN%20Human%20Rights%20Declaration%20(AHRD)%20and%20Its%20Translation.pdf) or <https://asean.org/asean-human-rights-declaration/>

¹⁰ <https://aichr.org/>

¹¹ Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam.

¹² Report of the ASEAN Intergovernmental Commission on Human Rights Workshop on Human Rights, Environment and Climate Change, 13-15 September 2014, Yangon, Myanmar at https://aichr.org/wp-content/uploads/2018/10/Report_-_AICHR_Workshop_on_Human_Rights_Environment_and_Climate_Change_September_2014.pdf; Workshop on the Implementation of Human Rights Obligations Relating to the Environment and Climate Change, 26 – 27 September 2015 Mandalay, Myanmar at https://aichr.org/wp-content/uploads/2018/10/Report_-_AICHR_Workshop_on_the_Implementation_of_Human_Rights_Obligations_Relating_to_the_Environment_and_Climate_Change_September_2015.pdf; AICHR Workshop on Human Rights, Environment, and Climate Change, 8-10 June 2021 at <https://aichr.org/wp-content/uploads/2021/08/FINAL-AICHR-Annual-Report-2021-adopted-at-the-Special-Meeting-1-2021-26-July-2021.docx.pdf>, p.9. See also: Report of the ASEAN Intergovernmental Commission on Human Rights Workshop on Rights-Based Approach to Regional Management Strategy for an Effective Environmental Impact Assessment, 29-30 October 2017 Yangon, Myanmar, at https://aichr.org/wp-content/uploads/2019/04/Report-AICHR-3rd-Environment-Workshop_Yangon_2017.pdf

best practices in addressing human rights issues on mitigating the impact of climate change.¹³

4.2.2 Pacific Islands Forum^{14 15}

The Pacific Islands Forum was active in the efforts to establish the Human Rights Council's Special Rapporteur on the promotion and protection of human rights in the context of climate change.¹⁶ It is developing a *2050 Strategy for the Blue Pacific Continent*, which aims to develop long-term approaches to critical challenges such as climate change, sustainable development and security.¹⁷

4.3 Europe

4.3.1 Council of Europe

The Council of Europe system for the protection of human rights is a complex system.¹⁸ This section will look briefly at the European Court of Human Rights (ECtHR),¹⁹ the European Committee on Social Rights (ECSR)²⁰ and the Steering Committee for Human Rights. The ECtHR and the ECSR have developed a substantial body of jurisprudence on the relationship of human rights to environmental protection. Although the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (ECHR)²¹ and the *European Social Charter* (ESC)²² do not expressly guarantee a right to a healthy environment, their provisions have been interpreted to indirectly offer protection with regards to environmental matters through the case-law of the ECtHR and the ECSR.²³ The ECtHR and the ECSR have emphasized the evolutive nature the Convention and the Charter as living instruments.

4.3.1.1. European Court of Human Rights

¹³ Five-Year Work Plan of the AICHR 2021-2025 at <https://aichr.org/wp-content/uploads/2020/10/AICHR-FYWP-2021-2025-approved-at-53rd-AMM-for-web.pdf>. It is, however, noteworthy that ASEAN's detailed State of Climate Change Report published in October 2021 makes no reference to human rights; at <https://asean.org/wp-content/uploads/2021/10/ASCCR-e-publication-Final-12-Oct-2021.pdf>.

¹⁴ <https://www.forumsec.org/>

¹⁵ <https://www.forumsec.org/security/>

¹⁶ <https://www.ciel.org/news/ministers-of-the-pacific-islands-forum-join-the-growing-chorus-calling-for-a-new-un-special-rapporteur-on-human-rights-and-climate-change/>

¹⁷ <https://www.forumsec.org/2050strategy/>

¹⁸ To get a high-level sense of its complexity, see the entries under the rubric "Human Rights" at <https://www.coe.int/en/web/portal/home>.

¹⁹ <https://www.echr.coe.int/Pages/home.aspx?p=home>

²⁰ <https://www.coe.int/en/web/european-social-charter/european-committee-of-social-rights>

²¹ <https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c=>

²² The European Social Charter at <https://www.coe.int/en/web/european-social-charter>.

²³ Council of Europe, Manual on Human Rights and the Environment (3rd edition), 2022 at <https://rm.coe.int/manual-environment-3rd-edition/1680a56197>. See also: European Court of Human Rights, Factsheet on Environment and the European Convention on Human Rights prepared by the Press Unit (most recent version is dated May 2022) at https://www.echr.coe.int/Documents/FS_Environment_ENG.pdf; <https://www.coe.int/en/web/impact-convention-human-rights/human-rights-and-the-environment>; and <https://www.coe.int/en/web/portal/human-rights-environment>

The European Court of Human Rights (ECtHR) has identified that issues related to the environment may violate an individual's right to life (Article 2), the prohibition of torture (Article 3), the right to a fair trial and to have access to a court (Article 6), the right to respect of private and family life as well as the home (Article 8), the freedom of expression (Article 10), the freedom of assembly and association (Article 11), and the right to an effective remedy (Article 13) and the right to the peaceful enjoyment of one's possessions (Article 1 of Protocol No. 1). The Registry of the ECtHR has prepared and regularly updates a very helpful *Guide to the case-law of the European Court of Human Rights on the Environment*.²⁴

Although the ECtHR has not addressed climate change to date, as of March 2022 it has three pending cases and a pending application that will require it to rule on the applicability of provisions of the ECHR to government responses to climate change. In *Duarte Agostinho and Others v. Portugal and 32 Other States*,²⁵ the applicants, four children and two young adults, allege breach of the ECHR by the failure of the 33 defendant States to comply with their commitments under the Paris Convention to limit climate change. The case raises issues under article 1 (jurisdiction), 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 8 (right to respect for private and family life), 14 (prohibition of discrimination) and 34 (individual applications) of the ECHR, and under Article 1 (protection of property) of Protocol No. 1 to the Convention. In *Verein Klima Seniorinnen Schweiz and Others v. Switzerland*²⁶ the application raises issues under articles 2 (right to life), 6 (right to a fair trial – access to a court), 8 (right to respect for private and family life) and 13 (right to an effective remedy) of the ECHR. There are also questions of standing related to the victim status of the applicants, who are an association under Swiss law for the prevention of climate change and four elderly women. In *Greenpeace Nordic and Others v. Norway*²⁷ the applicants, two NGOs and six individuals, allege that by issuing new licenses for oil and gas exploration in the Barents Sea, the Norwegian government has violated their rights under Articles 2 (right to life), 8 (right to respect for private and family life), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the ECHR. In a fourth application to the ECtHR, *Mex M. v. Austria*,²⁸ an Austrian citizen with a temperature-dependent form of multiple sclerosis has alleged that through inaction on the climate crisis, the Austrian government has violated his rights under articles 2 (right to life) and 8 (respect for private and family life) of the ECHR and has failed to provide an effective remedy in violation of article 13 (right to an effective remedy).

There is no information available about when the ECtHR will decide these cases, but it is reasonable to expect that its decisions in these cases will make an important contribution to clarifying the relationship between human rights and climate change in international human rights law. The European Network of National Human Rights

²⁴ The most recent edition is dated 31 December 2021, at:

https://www.echr.coe.int/Documents/Guide_Environment_ENG.pdf.

²⁵ <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2239371/20%22%2C%22itemid%22:%5B%22002-13055%22%5D%7D>

²⁶ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22002-13212%22%5D%7D>. On 29 April 2022, the Chamber of the Court to which the case Verein KlimaSeniorinnen Schweiz and others v. Switzerland had been allocated relinquished jurisdiction in favour of the Grand Chamber of the Court, <https://hudoc.echr.coe.int/eng-press#%7B%22itemid%22:%5B%22003-7322460-9989782%22%7D%7D>.

²⁷ <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-214943%22%5D%7D>

²⁸ <http://climatecasechart.com/climate-change-litigation/non-us-case/mex-m-v-austria/>

Institutions has made a third-party intervention in the *Verein Klima Seniorinnen Schweiz and Others v. Switzerland* case.²⁹

4.3.1.2. European Committee on Social Rights (ECSR)

The ECSR had determined that failure by States to avoid or reduce deterioration of the environment may amount to non-compliance with their obligations to fulfil particular social rights under the Charter. Such rights include, *inter alia*, the right to just conditions of work (Article 2), the right to safe and healthy working conditions (Article 3), the right to protection of health (Article 11), and the right to housing (Article 31). Article 11 of the Charter recognises that “everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable”. The Committee has interpreted the right to health as including the right to a “healthy environment” and therefore requires States, when submitting their periodic reports, to identify measures taken with a view to ensuring such an environment for individuals.³⁰

4.3.1.3. Steering Committee for Human Rights (CDDH)

Through its Drafting Group on Human Rights and Environment,³¹ the Council of Europe’s Steering Committee for Human Rights (CDDH)³² is working on a draft Committee of Ministers’ recommendation on human rights and the environment, which will address climate change and other environmental challenges. The European Network of National Human Rights Institutions (ENNHRI) has made a contribution to the CDDH in connection with the draft recommendation calling for a new binding instrument recognising the right to a healthy environment.³³

4.3.2. OSCE Office for Democratic Institutions and Human Rights

Although the OSCE provides a platform for political dialogue on risks associated with climate change, and various OSCE meetings and fora offer the venue for addressing climate change through the lens of a wide range of issues, such as disaster risk reduction, water diplomacy, energy, and sustainable cities,³⁴ its Office for Democratic

²⁹ ENNHRI, Written observations in application no. 53600/20, *Verein Klimaseniorinnen Schweiz et autres c. la Suisse* at <https://ennhri.org/wp-content/uploads/2021/09/Third-Party-Intervention-Klimaseniorinnen--website.pdf>. See also: ENNHRI, Climate Change and Human Rights in the European Context, May 2021, at http://ennhri.org/wp-content/uploads/2021/05/ENNHRI-Paper-Climate-Change-and-Human-Rights-in-the-European-Context_06.05.2020.pdf

ENNHRI, Third Party Interventions Before the European Court of Human Rights, October 2020, at <http://ennhri.org/wp-content/uploads/2020/10/Third-Party-Interventions-Before-the-European-Court-of-Human-Rights-Guide-for-NHRIs.pdf>

³⁰ *Marangopoulos Foundation for Human Rights (MFHR) v. Greece* (Decision on the Merits) (6 December 2006), ECSR Complaint No. 30/2005, para. 195 at <https://hudoc.esc.coe.int/eng/?i=cc-30-2005-dmerits-en>. Although this decision cites the UNFCCC and the Kyoto Protocol, it addresses harm to the right to health caused by air pollution rather than by climate change.

³¹ <https://www.coe.int/en/web/human-rights-intergovernmental-cooperation/environment-and-human-rights>

³² <https://www.coe.int/en/web/human-rights-intergovernmental-cooperation>

³³ ENNHRI contribution at the second meeting of the Steering Committee for Human Rights Drafting Group on Human Rights and Environment (CDDH-ENV), undated, at: <https://ennhri.org/news-and-blog/cddh-env-contribution-right-to-healthy-environment/>.

³⁴ <https://www.osce.org/occea/446296>

Institutions and Human Rights has not addressed the relationship between human rights and climate change.

4.3.3. European Union

Under Article 191 of the Treaty on the Functioning of the European Union, combating climate change is an explicit objective of EU environmental policy.³⁵ The EU has implemented and formulated climate policies and strategies to tackle climate change. It is committed to ensuring the successful implementation of the Paris Agreement and implementing the EU's Emissions Trading System.

The *EU Charter of Fundamental Rights*³⁶ includes in Article 37 (Environmental protection) the principle that:

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

While the Charter lays down the duties of public authorities in relation to environmental integration in policymaking and implementation, it does not provide the basis for an individually justiciable right to environmental protection, or to an environment of any particular quality.³⁷

While there has been extensive climate-change-related litigation in connection with European Union measures,³⁸ the decision of the European Court of Justice in *Armando Ferrão Carvalho and Others v. The European Parliament and the Council*³⁹ is noteworthy for how it addressed the applicability of the *EU Charter of Fundamental Rights*. The plaintiffs brought an action in the EU General Court seeking to compel the EU to take more stringent greenhouse gas emissions reductions. They argued that by requiring an insufficient reduction in greenhouse gas emissions and thereby authorising an excessive volume of emissions, the challenged EU legislation infringed their fundamental rights enshrined in the Charter articles 2 (right to life), 3 (right to the integrity of the person), 24 (rights of the child), 15 (right to engage in work), 16 (freedom to conduct a business), 17 (right to property), 20 and 21 (right to equal treatment). The General Court of the European Union determined that the plaintiffs did not have standing to challenge the impugned EU legislation as they were not

³⁵ Article 191 (1)

Union policy on the environment shall contribute to pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment,
- protecting human health,
- prudent and rational utilisation of natural resources,
- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_2&format=PDF

³⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>

³⁷ European Union Agency for Fundamental Rights, *Applying the Charter of Fundamental Rights of the European Union in law and policymaking at national level: Guidance*, 2020, pp. 20-21. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-charter-guidance_en.pdf

³⁸ <http://climatecasechart.com/climate-change-litigation/non-us-principle-law/eu/>

³⁹ <https://curia.europa.eu/juris/liste.jsf?num=T-330/18&language=en> and <https://curia.europa.eu/juris/liste.jsf?num=C-565/19&language=en>

sufficiently and directly affected by it. On appeal the European Court of Justice upheld the determination that the plaintiffs did not have standing. It determined that article 47 of the Charter (right to an effective remedy and to a fair trial) did not remedy that lack of standing. As the case was decided on the question of standing, the ECJ made no finding of whether the challenged legislation infringed rights under the Charter of Fundamental Rights.

The [European Climate Law](#) writes into law the goal set out in the [European Green Deal](#) for Europe's economy and society to become [climate-neutral by 2050](#). The law, which entered into force 29 July 2021, also sets the intermediate target of reducing net greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels.⁴⁰

The Joint Research Centre (JRC) is the European Commission's science and knowledge service. The JRC employs scientists to carry out research in order to provide independent scientific advice and support to EU policy. JRC research in the area of climate change supports the EU's aim of addressing, mitigating, monitoring and adapting to the effects of climate change.⁴¹ The European Environment Agency (EEA) is an agency of the European Union, whose task is to provide sound, independent information on the environment, including climate change mitigation and adaptation. The EEA aims to support sustainable development by helping to achieve significant and measurable improvement in Europe's environment, through the provision of timely, targeted, relevant and reliable information to policymaking agents and the public.⁴²

4.4. The Americas

4.4.1. Inter-American Human Rights System

The Inter-American human rights system, consisting of the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights has been seized by issues of human rights and the environment and human rights and climate change on five occasions since 2005,⁴³ when Sheila Watt-Cloutier, an Inuk woman and Chair of the Inuit Circumpolar Conference filed a petition to the IACHR seeking relief from human rights violations resulting from the impacts of climate change caused by acts and omissions of the United States.⁴⁴ The Commission declined to process the petition, but subsequently allowed a special hearing in regard

⁴⁰ https://ec.europa.eu/clima/eu-action/european-green-deal/european-climate-law_en

⁴¹ https://joint-research-centre.ec.europa.eu/scientific-activities-z/climate-change_en

⁴² <https://www.eea.europa.eu/>

⁴³ <http://climatecasechart.com/climate-change-litigation/non-us-jurisdiction/inter-american-system-of-human-rights/>

⁴⁴ <http://climatecasechart.com/climate-change-litigation/non-us-case/petition-to-the-inter-american-commission-on-human-rights-seeking-relief-from-violations-resulting-from-global-warming-caused-by-acts-and-omissions-of-the-united-states/>

to the petition in 2007. Additional petitions addressing climate change have been made to the IACHR in 2013,⁴⁵ 2019⁴⁶ and 2021.⁴⁷ All three remain pending.

In December 2021, the IACHR adopted Resolution No. 3/2021 on the scope of inter-American human rights obligations relevant to the climate emergency.⁴⁸ “The purpose of th[e] resolution is to systematize the human rights obligations of States in the context of the climate crisis in order for them to make public policy decisions under a rights-based approach.” The format of the document is like a general comment of a UN human rights treaty body. NHRIs are specifically mentioned in the preamble.

In 1988 the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (the "Protocol of San Salvador") was adopted, and it entered into force in 1999.⁴⁹ It includes article 11 on the right to a healthy environment:

1. Everyone shall have the right to live in a healthy environment and to have access to basic public services.
2. The States Parties shall promote the protection, preservation, and improvement of the environment.

The Inter-American Convention on Protecting the Human Rights of Older Persons adopted in 2015 and in force in 2017 recognizes older persons' right to live in a healthy environment in article 25.⁵⁰

Older persons have the right to live in a healthy environment with access to basic public services. To that end, States Parties shall adopt appropriate measures to safeguard and promote the exercise of this right, inter alia:

- a. To foster the development of older persons to their full potential in harmony with nature;
- b. To ensure access for older persons, on an equal basis with others, to basic public drinking water and sanitation services, among others.

Article 19 of the American Declaration on the Rights of Indigenous Peoples provides that indigenous peoples “have the right to live in harmony with nature and to a healthy,

⁴⁵ <http://climatecasechart.com/climate-change-litigation/non-us-case/petition-inter-american-commission-human-rights-seeking-relief-violations-rights-arctic-athabaskan-peoples-resulting-rapid-arctic-warming-melting-caused-emissions/>

⁴⁶ <http://climatecasechart.com/climate-change-litigation/non-us-case/hearing-on-climate-change-before-the-inter-american-commission-on-human-rights/>

⁴⁷ <http://climatecasechart.com/climate-change-litigation/non-us-case/petition-to-the-inter-american-commission-on-human-rights-seeking-to-redress-violations-of-the-rights-of-children-in-cite-soleil-haiti/>

⁴⁸ IACHR, Resolution No. 3/2021, Climate Emergency: Scope of Inter-American Human Rights Obligations, 31 December 2021 at: https://www.oas.org/en/iachr/decisions/pdf/2021/resolucion_3-21_ENG.pdf.

⁴⁹ OAS TS No. 69, at <http://www.oas.org/juridico/English/Treaties/a-52.html>.

⁵⁰ https://www.oas.org/en/sla/dil/inter_american_treaties_A-70_human_rights_older_persons.asp

safe, and sustainable environment, essential conditions for the full enjoyment of the right to life, to their spirituality, worldview and to collective well-being.”⁵¹

In 2017 the IACHR established the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights of the Inter-American Commission on Human Rights (IACHR).⁵²

The advisory opinion of the Inter-American Court of Human Rights (IACtHR) in response to a request by Colombia about state environmental obligations in the context of the protection of the rights to life and to personal integrity in articles 4(1) and 5(1) of the American Convention on Human Rights is a landmark that provides important guidance relevant to work on human rights and climate change in the Americas and beyond.⁵³ There, the Court determined that the “jurisdiction” under which parties to the American Convention are obligated to ensure to all persons the free and full exercise of rights is not limited to the national territory of a state party but contemplates circumstances in which the extraterritorial conduct of a State constitutes an exercise of its jurisdiction.⁵⁴ A state party is responsible not only for acts and omissions within its territory, but also for those within its territory that could have effects on the territory or inhabitants of another State.⁵⁵ This is especially important in the context of climate change. The American Convention also obliges state parties to act to prevent eventual human rights violations, and the obligation of prevention applies to damages that may occur within or outside the territory of the State of origin.⁵⁶ The Court concluded that, in order to respect and ensure the rights to life and integrity of the persons subject to their jurisdiction, States have the obligation to prevent significant environmental damage, within or outside their territory, and to that end must regulate, supervise and monitor activities within their jurisdiction that could produce significant environmental damage; conduct environmental impact assessments when there is a risk of significant environmental damage; prepare a contingency plan to establish safety measures and procedures to minimize the possibility of major environmental accidents; and mitigate any significant environmental damage that may have occurred.^{57 58}

⁵¹ American Declaration on the Rights of Indigenous Peoples, adopted at the third plenary session of the OAS General Assembly held on June 15, 2016, AG/RES. 2888 (XLVI-O/16) at <https://www.iitc.org/wp-content/uploads/American-Declaration-on-Rights-of-Indigenous-Peoples-En.pdf>.

⁵² <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/r/DESCA/default.asp>

⁵³ Advisory Opinion Oc-23/17 of November 15, 2017, Requested By The Republic Of Colombia, The Environment And Human Rights (State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity: Interpretation and Scope of Articles 4(1) and 5(1) in Relation to Articles 1(1) and 2 of the American Convention on Human Rights) at https://www.corteidh.or.cr/docs/opiniones/seriea_23_ing.pdf

⁵⁴ Advisory Opinion Oc-23/17 of November 15, 2017, at para. 78. This reasoning was adopted by the UN Committee on the Rights of the Child in its views on five communications related to climate change under the CRC Optional Protocol on a communications procedure. See above at footnotes 124-128.

⁵⁵ Idem, para. 94.

⁵⁶ Idem, para. 133.

⁵⁷ Idem, para. 242 and pp. 93-94.

⁵⁸ United Nations Economic Commission for Latin America and the Caribbean, Climate Change and Human Rights: Contributions by and for Latin America and the Caribbean, 2019, pp. 51-52 at https://repositorio.cepal.org/bitstream/handle/11362/44971/1/S1900999_en.pdf

The Comisión Nacional de los Derechos Humanos of Mexico submitted an amicus brief to the IACtHR in connection with its elaboration of the advisory opinion on human rights and the environment.⁵⁹

The United Nations Economic Commission for Latin America and the Caribbean (ECLAC) and OHCHR have prepared detailed guidance for stakeholders on contributions by and for Latin America and the Caribbean on climate change and human rights. It includes information that is not easily accessible elsewhere, such as express references to human rights in Paris Agreement nationally determined contributions, references to climate change in the constitutions, and references to human rights in climate legislation of Latin American and Caribbean countries.⁶⁰

4.5 Other International Organisations

4.5.1 Commonwealth Forum of National Human Rights Institutions

The Commonwealth Forum of National Human Rights Institutions is a member-led network of national human rights institutions, ombudsmen, and public defenders that protects, promotes and advances human rights of the 2.4 billion Commonwealth citizens in countries from the Americas and Europe, to Africa, Asia, and the Pacific.⁶¹ Membership of the Commonwealth Forum is open to any national human rights institution or other national accountability mechanisms with a human rights mandate within the Commonwealth.

At the Commonwealth Forum's meeting in St. Julian's, Malta on 25 November 2015, the members Commonwealth Forum adopted the St Julian Declaration on Climate Justice.⁶² The Declaration sets out a range of commitments of Commonwealth NHRIs to address human rights and climate change.

4.5.2 Climate Vulnerable Forum (CVF)

The Climate Vulnerable Forum is an international partnership of 55 countries highly vulnerable to global warming. The Forum serves as a South-South cooperation platform for participating governments to act together to deal with global climate

⁵⁹ At https://www.cndh.org.mx/sites/all/doc/OtrosDocumentos/Doc_2017_028.pdf and https://www.corteidh.or.cr/sitios/observaciones/colombiaoc23/38_cndh_mex.pdf and CNDH press release 158/2015 of 4 July 2015 at <https://cdhcm.org.mx/wp-content/uploads/2015/07/boletin1582015.pdf>. See also: https://corteidh.or.cr/amicus_curiae.cfm.

⁶⁰ United Nations Economic Commission for Latin America and the Caribbean, Climate Change and Human Rights: Contributions by and for Latin America and the Caribbean, 2019 at https://repositorio.cepal.org/bitstream/handle/11362/44971/1/S1900999_en.pdf and https://repositorio.cepal.org/bitstream/handle/11362/44970/4/S1901157_es.pdf. See also: OAS, Climate Change A Comparative Overview of the Rights Based Approach in the Americas, 2016 at http://www.oas.org/en/sedi/dsd/docs/climate_change.pdf and OAS and ParlAmericas, A Comparative Overview of Legislative and Executive Responses in the Americas, 2017 at <https://www.parlAmericas.org/uploads/documents/A-Comparative-Overview-of-Legislative-and-Executive-Responses-in-the-Americas.pdf>.

⁶¹ <https://cfnhri.org/>

⁶² <https://cfnhri.org/resources/st-julians-declaration-on-climate-justice/> The Scottish Human Rights Commission played an important role in the elaboration of the St Julian Declaration on Climate Justice.

change.⁶³ The CVF played a leading role in the establishment of the Human Rights Council's Special Rapporteur on the promotion and protection of human rights in the context of climate change.⁶⁴

⁶³ <https://thecvf.org/about/>

⁶⁴ <https://thecvf.org/activities/program/cvfmanifestocop26> and https://thecvf.org/wp-content/uploads/2021/10/Press_release_on_special_rapporteur_121021_Formatted.pdf