

SEPARATE OPINION OF JUDGE CHARLESWORTH

Precautionary principle — The relationship between the precautionary principle and the obligation of prevention — The temporal dimension of the two concepts — Scope of application of the precautionary principle.

The right to a clean and healthy environment — The content of the right — The significance of confirming independent climate change obligations under human rights law — The procedural implications of human rights obligations under climate change law.

Climate vulnerable groups — Indigenous peoples and their special relationship with the environment — The disproportionate burden placed by climate change on women, children and people with disability — Climate change-induced loss of cultural practices — Poverty and inequality as significant elements of climate vulnerability — States' legal obligations towards climate vulnerable groups — Principles of equality and non-discrimination.

1. The General Assembly called on the Court to express its opinion on a broad range of topics relating to climate change. Inevitably, the Court's responses are at times rather compressed. I have expressed my view on the Opinion's treatment of the relationship between obligations under customary law and the climate change treaties in a joint declaration with Judges Brant, Cleveland and Aurescu. In this separate opinion, I set out my views on some other issues that are dealt with rather briefly in the Opinion.

I. THE PRECAUTIONARY PRINCIPLE

2. The precautionary principle requires States to avoid activities that may threaten harm to the environment even if there is some scientific uncertainty about the direct or indirect effects of such activities. The Advisory Opinion confirms the precautionary principle as an important factor informing the due diligence that is required of States under the customary law obligation of prevention of significant harm to the environment. The Court's use of the phrase "precautionary approach or principle" may be rather cumbersome, but it does not affect the principle's scope or legal application.

3. However, the Opinion does not explain how the precautionary principle applies in the context of climate change, and how it fits into the fabric of States' climate change obligations, offering little detail on the relationship between the precautionary principle and the customary law obligation of prevention. The Opinion simply states that "the precautionary approach or principle, where applicable, guides States in the determination of the required standard of conduct in fulfilling their customary duty to prevent significant harm" (para. 294).

4. In my view, the relationship is more nuanced than framing the precautionary principle as just one element of the customary obligation of prevention. While both the obligation of prevention and the precautionary principle are informed by the same goal of avoiding harm, the two are not identical¹. Prevention focuses on "risk", while precaution focuses on "uncertainty"². The two

¹ See Leslie-Anne Duvic-Paoli, *The Prevention Principle in International Environmental Law*, Cambridge University Press (CUP), 2018 (hereinafter "Duvic-Paoli, *The Prevention Principle*"), pp. 263, 265 *et seq.*

² *Ibid.*; see also Arie Trouwborst, "Prevention, Precaution, Logic and Law — The Relationship between the Precautionary Principle and the Preventative Principle in International Law and Associated Questions", *Erasmus Law Review*, 2009, Vol. 2 Issue 2, p. 105 at 116.

concepts thus operate on a continuum and complement each other³. The Court's finding in paragraph 293 that "States should . . . not refrain from or delay taking actions of prevention in the face of scientific uncertainty" hints at this relationship but does not explore it.

5. The International Law Association's Declaration of Legal Principles Relating to Climate Change confirms such a complementary relationship. Article 7A of the Declaration addresses the obligation of prevention, while Article 7B discusses the precautionary principle. Article 7B.3 explicitly links the two concepts, noting that,

"where scientific knowledge about damage from climate change improves sufficiently, protective measures shall be continued by States pursuant to their obligation to prevent environmental damage, as described in . . . Article 7A.1 above"⁴.

6. This suggests that the spectrum on which the two principles are located has a temporal dimension as well: it is possible for a certain conduct to be initially governed by the precautionary principle, and subsequently, as greater scientific certainty is gathered in connection with the conduct in question, for the prevention obligation to apply⁵.

7. In the context of climate change, due to the high level of scientific certainty and consensus regarding the relevant scientific facts, it could be considered that most of the relevant conduct is covered by the prevention obligation. However, the precautionary principle retains a distinct scope of application where there is a greater level of uncertainty about scientific facts. In my view, the Opinion should have offered more guidance on these dynamics and on the practical consequences of applying the precautionary principle to the context of climate change. The Advisory Opinion of the International Tribunal for the Law of the Sea on climate change and international law offers a valuable model in this respect, in particular in setting out how the precautionary principle informs States' obligations to conduct an environmental impact assessment⁶.

II. CLIMATE CHANGE OBLIGATIONS AND HUMAN RIGHTS

A. The right to a clean and healthy environment

8. Is there a right to a clean and healthy environment in international law? Such a right is not set out explicitly in any of the United Nations human rights treaties. Participants put forward different views on the customary status of the right: many argued that the right has achieved customary status, while some participants considered that the right was, at best, in the process of formation. In its Opinion, the Court confirms the existence of a human right to a clean and healthy environment. The Court points to the widespread adoption and recognition of such a right, presenting it as "inherent in", a "precondition" to or "essential" for the effective enjoyment of other human rights (para. 393).

9. The Opinion does not discuss the content of the right to a clean and healthy environment. It is important to emphasize that the right has both substantive and procedural features as well as special

³ Duvic-Paoli, *The Prevention Principle*, pp. 273-275; see also Samantha Besson, *Due Diligence in International Law*, Brill Nijhoff, 2023, pp. 99-100.

⁴ International Law Association, resolution 2/2014, Declaration of legal principles relating to climate change, Article 7B. 3.

⁵ Duvic-Paoli, *The Prevention Principle*, pp. 273-275.

⁶ ITLOS, *Request for Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, Advisory Opinion, ITLOS Reports 2024, paras. 353 and 361.

obligations towards those in vulnerable situations, discussed further below⁷. It includes the right to a safe climate, clean air, a safe and sufficient supply of water, adequate sanitation, healthy and sustainably produced food, non-toxic environments in which to live, and healthy biodiversity and thriving ecosystems. The right further encompasses procedural rights such as access to environmental information, participation in environmental decision-making, and access to effective remedies, including protection from intimidation, reprisals and criminalization⁸. Notably, the Inter-American Court of Human Rights (IACHR) has clarified that the right to a healthy environment is distinct from the environmental aspect of the protection of other rights⁹. United Nations human rights treaty bodies have also offered useful expositions of the nature of the right¹⁰.

10. The Opinion confirms that States' obligations to protect human rights require taking measures to protect the climate system and other parts of the environment, including mitigation and adaptation measures (para. 403). It is significant that these duties are linked not only to States' obligations under the right to a clean and healthy environment but also that they stem from a wide array of human rights obligations.

11. This is consistent with international human rights law. In *Billy v. Australia*, the Human Rights Committee found that, by failing to implement adequate mitigation and adaptation measures to prevent climate change affecting the authors and the islands in the Torres Strait where they live, Australia had violated the authors' rights under Article 17 (the right to be free from arbitrary interference with private life, family and home) and Article 27 (the right of members of a minority to enjoy their own culture) of the International Covenant on Civil and Political Rights¹¹. Regional human rights courts and domestic courts have taken a similar approach. In *Verein KlimaSeniorinnen v. Switzerland*, the European Court of Human Rights found that Switzerland's failure to quantify its national greenhouse gas (GHG) emissions limitations and to meet its past GHG emissions reduction targets constituted a violation of Article 8 of the European Convention on Human Rights (ECHR), which protects the right to respect for private and family life¹². The IACHR's 2025 advisory opinion on the climate emergency and human rights endorsed the existence of independent climate change-related obligations under the Inter-American Convention on Human Rights¹³. And in *Urgenda v. Netherlands*, the Dutch Supreme Court held that, in order to comply

⁷ See Astrid Puentes Riaño (Special Rapporteur on the human right to a clean, healthy and sustainable environment), "Overview of the implementation of the human right to a clean, healthy and sustainable environment", UN doc. A/79/270, 2 August 2024; see IACHR, *Case of La Oroya Population v. Peru, Preliminary Objections, Merits, Reparations and Costs, judgment of 27 November 2023, Series C No. 511*, paras. 119-124.

⁸ Universal Declaration of Human Rights, Articles 8, 19 and 21; Rio Declaration, Principle 10; see also Joint Statement by the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities, "Human Rights and Climate Change", UN doc. HRI/2019/1, 16 September 2019 (hereinafter "Joint statement on human rights and climate change"), para. 8.

⁹ IACHR, *Advisory Opinion OC-32/25 of 29 May 2025, Series A No. 32*, para. 274.

¹⁰ Committee on the Rights of the Child, General comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change, UN doc. CRC/C/GC/26, 22 August 2023, paras. 64-66; see also the Committee on the Elimination of Discrimination Against Women, General recommendation No. 39 (2022) on the rights of Indigenous women and girls, UN doc. CEDAW/C/GC/39, 31 October 2022, paras. 60-61; General recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change, UN doc. CEDAW/C/GC/37, 13 March 2018.

¹¹ HRC, *Daniel Billy and others v. Australia (Torres Strait Islanders Petition)*, CCPR/C/135/D/3624/2019.

¹² *Verein KlimaSeniorinnen Schweiz and others v. Switzerland, Grand Chamber, judgment of 9 April 2024*.

¹³ IACHR, *Advisory Opinion OC-32/25 of 29 May 2025, Series A No. 32*.

with its obligations under Articles 2 (the right to life) and 8 of the ECHR, the Netherlands was required to reduce its GHG emissions by at least 25 per cent by 2020¹⁴.

12. The confirmation of autonomous climate change mitigation obligations under human rights law may not necessarily significantly increase States' existing climate change mitigation obligations under international law in a substantive manner¹⁵. However, the application of human rights law in the context of climate change has important procedural implications, through broadening access to dispute settlement procedures and granting standing to rights holders who would otherwise not be able to enforce climate change obligations on the international level¹⁶.

B. The position of climate vulnerable groups

13. It is important to acknowledge, as the Court does (paras. 382-384), that the adverse effects of climate change are not evenly distributed. Certain sectors of the population face greater risks and burdens than others and are sometimes referred to as "climate vulnerable groups".

14. The Intergovernmental Panel on Climate Change (IPCC) defines vulnerability to climate change as "[t]he propensity or predisposition to be adversely affected. Vulnerability encompasses a variety of concepts and elements including sensitivity or susceptibility to harm and lack of capacity to cope and adapt"¹⁷. It is widely observed that the adverse effects of climate change are felt more intensely by people who are already marginalized because of their social, economic, political or cultural status, age or physical abilities¹⁸.

15. The 2025 advisory opinion of the IACHR on the climate emergency and human rights emphasized that climate change exacerbates inequality and poverty¹⁹. This is because climate change reduces access to food, safe drinking water, sanitation, housing, healthcare, education and other goods and services that are essential for a life of dignity.

16. Participants in the Advisory Opinion before this Court described how the situation of groups, such as Indigenous peoples, women, children and people with disability, are affected by climate change in distinct ways.

¹⁴ Supreme Court of the Netherlands, *Urgenda Foundation v. State of the Netherlands*, No.19/00135, 20 December 2019.

¹⁵ Benoit Mayer, *International Law Obligations on Climate Change Mitigation*, Oxford University Press, 2022, p. 130.

¹⁶ *Ibid.*

¹⁷ Michael Oppenheimer et al., 2014, "Emergent risks and key vulnerabilities", *Climate Change 2014: Impacts, Adaptation, and Vulnerability, Part A: Global and Sectoral Aspects*, Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, CUP, pp. 1039-1099, at 1048.

¹⁸ *Ibid.*, p. 1066; UNFCCC, Least Developed Countries Expert Group: "Considerations regarding vulnerable groups, communities and ecosystems in the context of the national adaptation plans" (December 2018); See also Human Rights Council, resolution 50/9, "Human rights and climate change", UN doc. A/HRC/RES/50/9, 14 July 2022, preamble.

¹⁹ IACHR, *Advisory Opinion OC-32/25 of 29 May 2025, Series A No. 32*, para. 623.

17. Indigenous peoples, who are recognized as having a special relationship with the natural environment²⁰, are particularly vulnerable to the adverse effects of climate change²¹. Participants described the loss of traditional harvesting sites and species as well as tangible Indigenous cultural heritage such as ancestral homes, burial grounds and other sacred sites from rising sea levels, landslides, cyclones and other natural disasters²². Intangible heritage is also threatened by climate change. Participants chronicled how forced migration caused by climate change has led to the loss of Indigenous knowledge, rituals and customs²³. The Court heard, for example, from a member of the Tebunginako Community on Abaiang atoll in Kiribati:

“People of Abaiang, including my village are connected to the sea and to the land. Imagine that in the past, in the old place, it was a big community with big land. Now since we relocated, we are scattered. Broken. In the past, all this was in the vast place. There was a bond between us because they live closely, now it is not the same. Now we all live far apart.”²⁴

18. Women form another important climate vulnerable group. In some societies, women play a prominent role in the agricultural sector and participants illustrated how the adverse effects of climate change increase the burdens on women²⁵. Kiribati presented a statement recording that,

“[i]n the past, before the first move in 1991, the village was big. All that is now underwater. Even the buildings. In the past, the wind and the waves went onto the land and destroyed the land and made the water salty. Once the water is salty, plants no longer grow. The women needed to come in further and further to fetch freshwater that was not salted. But we did this because everyone wanted to prevent relocation. We wanted to stay.”²⁶

19. In some States, materials vital to the traditional crafts that women engage in have become scarcer because of climate change, thus affecting women’s economic security and social engagement²⁷. The Court was told that, in some small island States, women hold traditional responsibilities to safeguard their communities. By exacerbating risks to human life, climate change has increased the demands on women to prepare for and respond to extreme weather events²⁸.

20. Some participants emphasized the marked effect of climate change on children. The vulnerability of children to the adverse effects of climate change is widely documented, with younger

²⁰ IACHR, *Advisory Opinion OC-23/17 of 15 November 2017, Series A No. 23*, para. 48; see also Melanesian Spearhead Group Written Statement, para. 48, citing “Expert Statement of Jamon Halvaksz”, para. 8 (Exhibit 33).

²¹ Hans-Otto Pörtner et al., 2022: Technical Summary, *Climate Change 2022: Impacts, Adaptation and Vulnerability*, Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, CUP, pp. 37–118, at 47.

²² E.g. Melanesian Spearhead Group Written Statement, paras. 18, 71; Solomon Islands Written Statement, para. 29.4.

²³ E.g. Tonga Written Statement, para. 260.

²⁴ Kiribati Written Statement, Annex 2 (Statement 12), “Statement of Mr. Kiaitonga Burera, Tebunginako Community, Abaiang”, paras. 11 and 13.

²⁵ CR 2024/35, p 137, para. 12 (Albania).

²⁶ Kiribati Written Statement, Annex 2 (Statement 12), “Statement of Mr. Kiaitonga Burera, Tebunginako Community, Abaiang”, para. 5.

²⁷ Cook Islands Written Statement, para. 129.

²⁸ E.g. Tonga Written Statement, para. 278; Kiribati Written Statement, para. 82.

children most at risk physically²⁹. This is because of children's "unique metabolism, physiology and developmental needs"³⁰. In some low-lying States, the ingress of sea water into freshwater systems due to climate change has made it impossible to grow fresh fruit and vegetables, leading to child malnutrition. An I-Kiribati public health official told the Court:

"We are not able to grow or cultivate fresh vegetables. Instead of that, people are relying on imported foods. Climate change is there, really, it's just exacerbating the effect of sugar consumptions with high obesity rate for instance. How can we grow vegetables or fruits? If the water is high, there's sea water intrusion everywhere so nothing can't really grow much. This pushes people to access unhealthy diets.

One of the major concerns for children's health is malnutrition. Kiribati has one of the highest rates of malnutrition in the region, and again, it all comes down to poor nutrition. Children are being fed suboptimal diets. We can't grow many vegetables; we can't do much. Instead, access to a unhealthy food is very easy."³¹

21. Further, the effects of climate change in some small island developing States are likely to lead to the closure of schools, affecting the educational future for children³². In Tonga, for example,

"[w]hen the school is affected by a serious weather event like a tropical cyclone, we normally have to close the school for a period of time, although how long this is will depend on the severity of the weather. We try to make sure we open the school again as quickly as possible but normally the school is closed for at least three days. Even when the school is reopened, some students aren't able to return to school immediately. This might be because their homes have been damaged or even because their families are scared about them leaving shelter to attend school."³³

The Court was informed that climate change had undermined the role of cultural practices in the Pacific³⁴. And in Melanesia, the climate change-induced loss of cultural practices has unmoored young people from their cultural heritage³⁵, deepening social and economic inequality among children and undermining their well-being³⁶. The potential of climate change to affect children throughout their lifetime is another element of their vulnerability³⁷.

²⁹ Office of the United Nations High Commissioner for Human Rights, "Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child", UN doc. A/HRC/35/13, 4 May 2017, para. 50.

³⁰ *Ibid.*, para. 4.

³¹ Kiribati Written Statement, Annex 2 (Statement 9), "Statement of Dr Alfred Tonganibeira, Office in Charge of Public Health", paras. 8, 10.

³² Solomon Islands Written Statement, para. 29.3; Tonga Written Statement, para. 280 and Annex 2, "Statement of Patelisio Fe'ao of Ha'ato'u, Ha'apai", para. 10.

³³ Tonga Written Statement, Annex 2 "Statement of Patelisio Fe'ao of Ha'ato'u, Ha'apai", para. 10.

³⁴ E.g. Melanesian Spearhead Group Written Statement, Exhibit 27, "Statement of the Women of Yakel Village", para. 7.

³⁵ Melanesian Spearhead Group Written Statement, para. 18.

³⁶ *Ibid.*, para. 50.

³⁷ Committee on the Rights of the Child, "View: Communications No. 104/2019", 22 September 2021 (hereinafter "*Sacchi et al. v. Argentina*"), UN doc. CRC/C/88/D/104/2019, para. 10.13.

22. People with disability constitute another group particularly affected by the adverse effects of climate change, including climate extremes³⁸. An immediate challenge is dealing with forced displacement in the context of climate change³⁹. The Court heard, for example, that people with disability in Tuvalu face considerable difficulties in dealing with the frequent inundations and flooding caused by climate change⁴⁰. Getting to safe areas is made more difficult by the fact that multistorey buildings in Tuvalu do not have disabled access⁴¹.

23. In the cases of children and people with disability, climate vulnerability may be caused in part by biological or physical factors. But in many cases, vulnerability is determined by existing social and economic structures and patterns of discrimination, poverty and stigma⁴², creating “differential access to the social and environmental resources required for adaptation”⁴³. The risks of harm are particularly high for sectors of the population that are already vulnerable or marginalized, not least because pre-existing inequalities and discrimination mean that these groups have reduced access to decision-making and resources⁴⁴. For its part, the IACHR has identified poverty and inequality as the most significant elements of climate vulnerability⁴⁵. In some societies, women have unequal rights to property combined with exclusion from decision-making and reduced access to information, which further exacerbates their susceptibility to the effects of climate change⁴⁶.

24. Many people experience intersecting forms of discrimination⁴⁷. The IPCC has observed that “[t]he intersection of gender with race, class, ethnicity, sexuality, Indigenous identity, age, disability, income, migrant status and geographical location often compounds vulnerability to climate change impacts (very high confidence), exacerbates inequity and creates further injustice (high confidence)”⁴⁸. The IACHR has explained that an intersectional approach requires States to do more

³⁸ Joern Birkmann et al., 2022: “Poverty, Livelihoods and Sustainable Development”, *Climate Change 2022: Impacts, Adaptation and Vulnerability*, Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, CUP, pp. 1171-1274, at 1217.

³⁹ UNHCR, “Disability, Displacement and Climate Change”, April 2021, access: <https://www.unhcr.org/media/disability-displacement-and-climate-change>.

⁴⁰ Tuvalu Written Statement, para. 43.

⁴¹ *Ibid.*

⁴² Office of the United Nations High Commissioner for Human Rights, “Analytical study on the promotion and protection of the rights of persons with disabilities in the context of climate change”, UN doc. A/HRC/44/30, 22 April 2020, para. 58.

⁴³ *Ibid.*

⁴⁴ Joint statement on human rights and climate change, para. 3; Michael Oppenheimer et al., 2014, “Emergent risks and key vulnerabilities”, *Climate Change 2014: Impacts, Adaptation, and Vulnerability, Part A: Global and Sectoral Aspects*, Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, CUP, pp. 1039-1099, at 1067.

⁴⁵ IACHR, *Advisory Opinion OC-32/25 of 29 May 2025, Series A No. 32*, para. 594.

⁴⁶ Committee on the Elimination of Discrimination against Women, *General Recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change*, UN doc. CEDAW/C/GC/37, 13 March 2018, para. 2.

⁴⁷ Christopher B. Field et al., 2014: Technical summary, *Climate Change 2014: Impacts, Adaptation, and Vulnerability, Part A: Global and Sectoral Aspects*, Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, CUP, pp. 35-94, at 50.

⁴⁸ Hans-Otto Pörtner et al., 2022: Technical Summary, *Climate Change 2022: Impacts, Adaptation and Vulnerability*, Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, CUP, pp. 37-118, at 53.

than refrain from violating human rights; States must also take positive measures to respond to the particular protection needs of vulnerable groups⁴⁹.

25. In terms of legal responses to the situation of climate vulnerable groups, parties to the United Nations Framework Convention on Climate Change have recognized the importance of gender-responsive action when it comes to climate change. In the Gender Action Plan approved at COP 23, under the Lima Work Programme on Gender, States parties agreed that “[g]ender-responsive climate policy requires further strengthening in all activities concerning adaptation, mitigation and related means of implementation (finance, technology development and transfer, and capacity-building) as well as decision-making on the implementation of climate policies”⁵⁰.

26. With respect to the particular impact of climate change on children and the obligations of States under the Convention on the Rights of the Child to afford children special safeguards and legal protection, the Committee on the Rights of the Child has affirmed that “States have heightened obligations to protect children from foreseeable harm”⁵¹. In the context of people with disability, the Office of the United Nations High Commissioner for Human Rights has urged that “[t]he adverse effects of climate change on the effective enjoyment of the rights of persons with disabilities require urgent, rights-based, disability-inclusive climate action”⁵². It has observed that,

“[t]aking into account the requirements of persons with disabilities is critical for effective climate action and to prevent climate change from exacerbating inequalities. A disability-inclusive approach will empower persons with disabilities as agents of change, prevent discrimination against them and make climate action more effective.”⁵³

27. As the Court’s Advisory Opinion notes (para. 383), United Nations human rights bodies have emphasized the need to uphold the principles of equality and non-discrimination at all stages in formulating responses to climate change. This means that these principles “should be understood to apply at all stages of climate change and disaster prevention, mitigation, response, recovery and adaptation”⁵⁴.

⁴⁹ IACHR, *Advisory Opinion OC-32/25 of 29 May 2025, Series A No. 32*, para. 592; see also Human Rights Council, “Scene-Setting Report: Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change”, UN doc. A/HRC/56/46, 24 July 2024, para. 76.

⁵⁰ UNFCCC, “Establishment of a gender action plan”, Decision 3/CP.23, 2017, UN doc. FCCC/CP/2017/11/Add. 1.

⁵¹ *Sacchi et al. v. Argentina*, para. 10.13.

⁵² Office of the United Nations High Commissioner for Human Rights, “Analytical study on the promotion and protection of the rights of persons with disabilities in the context of climate change”, UN doc. A/HRC/44/30, 22 April 2020, para. 60.

⁵³ *Ibid.*, para. 58; see also IACHR, *Advisory Opinion OC-32/25 of 29 May 2025, Series A No. 32*, para. 617.

⁵⁴ Committee on the Elimination of Discrimination against Women, *General Recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change*, UN doc. CEDAW/C/GC/37, 13 March 2018, para. 14.

28. States' obligations to apply the treaty and customary principles of equality and non-discrimination entail that heightened attention must be paid to the situation of climate vulnerable groups⁵⁵. The Human Rights Council has indeed called upon States

“to adopt a comprehensive, integrated, gender-responsive, age-inclusive and disability inclusive approach to climate change adaptation and mitigation policies, consistent with the United Nations Framework Convention on Climate Change and the objective and principles thereof, to address efficiently the economic, cultural and social impact and human rights challenges that climate change presents, for the full and effective enjoyment of human rights for all”⁵⁶.

29. In light of all these considerations, in my view, States have a particular obligation to protect the human rights of vulnerable groups. This requires close attention to the potentially discriminatory effects of measures taken to respond to climate change.

(Signed) Hilary CHARLESWORTH.

⁵⁵ Committee on the Rights of the Child, General Comment No. 26 (2023) on Children's Rights and the Environment, With a Special Focus on Climate Change, UN doc. CRC/C/G/26, 22 August 2023; IACHR, *Advisory Opinion OC-23/17 of 15 November 2017, Series A No. 23*, para. 67.

⁵⁶ Human Rights Council, resolution 50/9, “Human rights and climate change”, UN doc. A/HRC/RES/50/9, 14 July 2022, para. 7.