

*Amicus Curiae Brief*

presented pursuant to  
Article 44 of the Rules of Procedure of the  
Inter-American Court of Human Rights

by the

International Human Rights Center

of

Loyola Law School, Los Angeles

in the case of

***Request for an advisory opinion on the Climate Emergency  
and Human Rights submitted to the Inter-American Court of  
Human Rights by the Republic of Colombia and the Republic  
of Chile***

*Submitted on October 16, 2023 by Prof. Cesare Romano*

A handwritten signature in black ink, appearing to read "Cesare Romano".

I.	Interest of Amici .....	3
II.	Executive Summary .....	3
III.	The Climate Emergency Poses a Unique Threat to the Caribbean Region .....	6
IV.	The Effect of Climate Change Inaction on Caribbean Women’s Human Rights Found in Regional Treaties .....	8
	a. Extreme Weather Events Increase Gender Based Violence .....	8
	b. The Climate Emergency Intensifies Women’s Struggle to Find Adequate Livelihoods to Support Themselves and Their Families.....	12
	c. Women are Persecuted for Sharing Information and Reporting on Human Actions Causing Climate Change.....	17
	d. Women Face a Disproportionate Burden When There is Water Scarcity .....	20
	e. Women Face a Heightened Risk of Harm When They are Displaced or Forced to Migrate	23
V.	International Practice Regarding Climate Change as Human Rights .....	27
VI.	Conclusion .....	28

## I. Interest of Amici

1. Pursuant to Article 44 of the Rules of Procedure of the Inter-American Court of Human Rights (hereinafter the “Court” or “IACtHR”), the International Human Rights Center of Loyola Law School Los Angeles respectfully submits this *amicus curiae* brief for consideration by the Court in relation to the *Request for an Advisory Opinion on the Climate Emergency and Human Rights submitted to the Inter-American Court of Human Rights by the Republic of Colombia and the Republic of Chile*.<sup>1</sup> The brief was prepared by Cailin Ruff (JD 2024) and Stavroula Kyriazis (JD 2024) under the supervision of the Director of the International Human Rights Center, Professor Cesare Romano. Sapphire Alexander, Founder of Caribbean Feminist in Trinidad and Tobago,<sup>2</sup> Dainalyn Swaby, Founder of the Global Yaadie Podcast in Jamaica,<sup>3</sup> Derval Barzey, Founder of The Climate Conscious Podcast in Trinidad & Tobago,<sup>4</sup> Ayesha Constable, Founding Director of GirlsCARE in Jamaica,<sup>5</sup> Judith Wedderburn, a gender and development practitioner and recently retired Director of Friedrich Ebert Stiftung in Jamaica and the Eastern Caribbean,<sup>6</sup> and Christianne Zakour, a climate change specialist in Trinidad and Tobago,<sup>7</sup> contributed to the preparation of this brief.

2. The International Human Rights Center of Loyola Law School Los Angeles was founded in 2012 to achieve universal respect, protection, and fulfillment of human rights for everyone and engages both in advocacy and litigation before global and regional international human rights bodies.<sup>8</sup>

## II. Executive Summary

3. Climate change poses a unique threat to women. It exacerbates the social, economic, cultural, and legal hurdles they face every day — higher than those faced by men. This is especially true in the Caribbean, a region that is responsible for a low contribution to global greenhouse gases but also one of the most vulnerable to climate-related disasters.<sup>9</sup>

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<sup>1</sup> Article 44 states that “[a]ny person or institution seeking to act as *amicus curiae* may submit a brief to the Tribunal, together with its annexes, by any of the means established in Article 28(1) of these Rules of Procedure, in the working language of the case and bearing the names and signatures of its authors.” Rules of Procedure of the Inter-American Court of Human Rights, LXXXV Regular Period of Sessions, November 16 to 28, 2009.

<sup>2</sup> *Caribbean Feminist*, Linktree, [accessed 25 Sept. 2023] <https://linktr.ee/caribbeanfeminist>.

<sup>3</sup> *Global Yaadie*, Spotify for Podcasters, [accessed 25 Sept. 2023] <https://podcasters.spotify.com/pod/show/global-yaadie>.

<sup>4</sup> *The Climate Conscious Podcast*, The Climate Conscious Podcast, [accessed 27 Sept. 2023] <https://theclimateconscious.com/#:~:text=The%20Climate%20Conscious%20Podcast%20amplifies,resilient%2C%20sustainable%20development%20through%20dialogue>.

<sup>5</sup> *Homepage*, Girls Care Jamaica, [accessed 31 Oct. 2022] <https://girlscareja.org>.

<sup>6</sup> *Judith Wedderburn*, CANARI, [accessed 27 Sept. 2023] <https://canari.org/judith-wedderburn/>.

<sup>7</sup> *Christianne Zakour*, Climate Diplomacy, [accessed 27 Sept. 2023] <https://climate-diplomacy.org/christianne-zakour>.

<sup>8</sup> *International Human Rights Center*, Loyola Law School, [accessed 27 Sept. 2023] <http://www.lls.edu/academics/centers/internationalhumanrightscenter/>.

<sup>9</sup> For the purposes of this brief, the term “Caribbean region” indicates the States and territories of the region that are bordered by the Caribbean waters (i.e. Belize, Saint Lucia, Trinidad and Tobago, and Grenada). For the case studies in this brief, we specifically discuss Dominica, Puerto Rico, Jamaica, Guyana, and Haiti.

4. As States consider what steps they need to take to address the climate change emergency, it is clear that any disaster risk-reduction plan must be gender-responsive. Indeed, the climate emergency presents several gender-specific challenges to women with regard to: *gender-based violence, livelihood, information gathering, water scarcity, and migration*.

5. **Gender-based violence.** Climate change exacerbates gender-based violence. Global data shows that sexual and gender-based violence against women increases when there is an extreme weather event. States' failure to take action against climate change to prevent this impact violates women's right to life, right to equal protection, right to physical, mental, and moral integrity, and right to be free from gendered violence.

6. **Livelihood.** The climate emergency also exacerbates economic disparity between men and women. Before and after an extreme weather event, women usually have less access to tools that would make them more resilient. States' failure to take action against climate change to prevent this impact violates women's right to equal protection, right to work, right to just, equitable, and satisfactory working conditions, and right to social security.

7. **Information Gathering and Sharing.** Female environmental activists, especially indigenous women, are particularly vulnerable to environmental-related violence, compared to their male counterparts. They are not only targeted for protesting, but also for using their voices as women. States' failure to take action against climate change to prevent this impact violates women's right to freedom of thought and expression, right to freedom of association, right to access environmental information, right to generation and dissemination of environmental information, right to access justice in environmental matters, and the rights of human rights defenders in environmental matters.

8. **Water Scarcity.** Women face unique health and psychological challenges when water is scarce because they are primarily responsible for taking care of others and maintaining the household. Women and girls, especially those that are pregnant or breastfeeding, also experience increased health risks. States' failure to take action against climate change to prevent this impact violates women's right to economic, social, cultural, and environmental rights, right to health, and right to a healthy environment.

9. **Migration.** Gender considerations shape a woman's decision to migrate and her migration experience in the face of a climate emergency. Social and cultural norms limit women's opportunities to migrate and increase their risks to violence and other human rights violations. States' failure to take action against climate change to prevent this impact violates women's right to food, right to education, right to equal protection, right to be free from violence, right to be free from slavery, right to personal liberty, right to life, right to freedom of movement, and the rights of children, the elderly, and the handicapped.

10. The aim of this brief is to assist the Court in their analysis of the questions raised by Colombia and Chile. It is based on our knowledge of international human rights law, coupled with our partners' thorough knowledge of the way women are affected by climate change in the specific countries in the Caribbean region. The brief starts by explaining how and why climate change poses a unique threat to the Caribbean region. Next, it describes how climate change affects women

in the Caribbean differently than men, focusing on the gender-specific harms they face. Lastly, the brief provides an overview of international practices and pending litigation incorporating women in climate mitigation strategies in order to encourage the Court to make a gender conscious finding.

11. As to the normative basis of our findings, besides the American Convention on Human Rights (“American Convention”),<sup>10</sup> we also took into consideration the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (“Convention of Belém do Pará”),<sup>11</sup> the Charter of the Organization of American States as amended by the Protocol of Buenos Aires (“OAS Charter”),<sup>12</sup> the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (“Protocol of San Salvador”),<sup>13</sup> and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (“Escazú Agreement”).<sup>14</sup>

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<sup>10</sup> American Convention on Human Right, 18 July 1978 [hereinafter American Convention]. State Parties and date of ratification/accession: Argentina, August 14, 1984; Barbados, November 5, 1981; Bolivia, June 20, 1979; Brazil, July 9, 1992; Chile, August 10, 1990; Colombia, May 28, 1973; Costa Rica, March 2, 1970; Dominica, June 3, 1993; Dominican Republic, January 21, 1978; Ecuador, December 8, 1977; El Salvador, June 20, 1978; Grenada, July 14, 1978; Guatemala, April 27, 1978; Haiti, September 14, 1977; Honduras, September 5, 1977; Jamaica, July 19, 1978; Mexico, March 2, 1981; Nicaragua, September 25, 1979; Panama, May 8, 1978; Paraguay, August 18, 1989; Peru, July 12, 1978; Suriname, November 12, 1987; Trinidad and Tobago, April 3, 1991-May 28, 1999; Uruguay, March 26, 1985; and Venezuela, June 27, 1977.

<sup>11</sup> Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, 9 June 1994 [hereinafter Convention of Belém do Pará]. State Parties and date of ratification/accession: Antigua & Barbuda, August 12, 1998; Argentina, April 9, 1996; Bahamas, May 3, 1995; Barbados, February 8, 1995; Belize, November 25, 1996; Bolivia, October 26, 1994; Brazil, November 16, 1995; Chile, October 24, 1996; Colombia, October 3, 1996; Costa Rica, July 5, 1995; Dominica, June 30, 1995; Dominican Republic, January 10, 1996; Ecuador, June 30, 1995; El Salvador, November 13, 1995; Grenada, November 29, 2000; Guatemala, January 4, 1995; Guyana, January 8, 1996; Haiti, April 7, 1997; Honduras, July 4, 1995; Jamaica, November 11, 2005; Mexico, June 19, 1998; Nicaragua, October 6, 1995; Panama, April 2, 1996; Paraguay, September 29, 1995; Peru, April 2, 1996; St. Kitts & Nevis, March 17, 1995; St. Lucia, March 8, 1995; Suriname, February 19, 2002; Trinidad & Tobago, January 4, 1996; Uruguay, January 4, 1996; and Venezuela, January 16, 1995.

<sup>12</sup> Charter of the Organization of American States as amended by the Protocol of Buenos Aires, 27 February 1967 [hereinafter OAS Charter]. State Parties and date of ratification/accession: Antigua and Barbuda, December 3, 1981; Argentina, July 10, 1967; Bahamas, March 1, 1982; Barbados, March 16, 1970; Bolivia, February 20, 1970; Brazil, April 3, 1968; Chile, April 12, 1971; Colombia, December 27, 1969; Costa Rica, April 30, 1968; Dominica, May 22, 1979; Dominican Republic, October 31, 1967; Ecuador, August 20, 1970; El Salvador, June 18, 1968; Grenada, May 13, 1975; Guatemala, December 18, 1967; Haiti, March 26, 1970; Honduras, February 17, 1970; Jamaica, February 16, 1970; Mexico, March 14, 1968; Nicaragua, July 27, 1968; Panama, January 29, 1969; Paraguay, December 19, 1967; Peru, January 9, 1970; Saint Lucia, May 22, 1979; Saint Vincent and the Grenadines, December 3, 1981; St. Kitts and Nevis, March 12, 1984; Suriname, June 1, 1977; Trinidad and Tobago, May 20, 1968; United States, April 23, 1968; Uruguay April 4, 1974; and Venezuela, September 26, 1968.

<sup>13</sup> Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 17 November 1988 [hereinafter Protocol of San Salvador]. State Parties and date of ratification/accession: Argentina, June 30, 2003; Bolivia, July 12, 2006; Brazil, August 8, 1996; Chile, March 23, 2022; Columbia, October 22, 1997; Costa Rica, September 29, 1999; Ecuador, February 10, 1993; El Salvador, May 4, 1995; Guatemala, May 30, 2000; Honduras, September 14, 2011; Mexico, May 8, 1996; Nicaragua, December 15, 2009; Panama, October 28, 1992; Paraguay, May 28, 1997; Peru, May 17, 1995; Suriname, February 28, 1990; Uruguay, November 21, 1995; and Venezuela, July 13, 2020.

<sup>14</sup> Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, 4 March 2018 [hereinafter Escazú Agreement]. State Parties and date of ratification/accession: Antigua and Barbuda, March 4, 2020; Argentina, January 22, 2021; Belize, March 7, 2023; Bolivia, September 26, 2019; Chile, June 13, 2022; Ecuador, May 21, 2020; Grenada, March 20, 2023; Guyana, April 18, 2019; Mexico, January 22, 2021; Nicaragua, March 9, 2020; Panama, March 10, 2020; St. Kitts and Nevis,

12. Ultimately, strategies that address climate change responses must take into account the economic, social, legal, and cultural drivers of vulnerability that exacerbate the impact of climate change on women. Omitting that would seriously imperil the fundamental rights of women protected in the Inter-American system.

### III. The Climate Emergency Poses a Unique Threat to the Caribbean Region

13. United Nations Secretary-General António Guterres has described the emergency of rising global temperatures as a ticking time bomb and declared that “humanity has opened the gates to hell.”<sup>15</sup> This is because human actions have altered our planet’s climate, resulting in a rise in average global temperatures, so far, between 1.1 and 1.2°C.<sup>16</sup> The increased temperatures have had drastic impact on the planet’s stability: ice sheets are melting causing sea levels to rise; habitats are shifting; heat waves are more intense and last for longer periods; droughts are becoming more common and resulting in more wildfires; rainfall and storms have increased in intensity.<sup>17</sup>

14. The scientific consensus is that the drastic increase in average global temperatures over the last forty years is caused by human actions, enhancing the release of excessive quantities of greenhouse gases, including carbon dioxide, methane and nitrous oxide in the atmosphere.<sup>18</sup> These gases are produced by a large array of activities. Most of them are the byproduct of the burning of fossil fuels for energy and transportation, as well as from agriculture, forestry, and land use.<sup>19</sup> If this continues at the current pace, and drastic countermeasures are not taken soon, the average global temperature is projected to rise above 1.5°C-2.0°C by 2050, causing more severe heatwaves, increasing water scarcity, and endangering humans and biodiversity.<sup>20</sup>

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September 26, 2019; St. Lucia, December 1, 2020; St. Vincent and the Grenadines, September 16, 2019; and Uruguay, September 26, 2019.

<sup>15</sup> António Guterres, *Secretary-General Calls on States to Tackle Climate Change ‘Time Bomb’ through New Solidarity Pact, Acceleration Agenda, at Launch of Intergovernmental Panel Report*, United Nations, (20 Mar. 2023) <https://press.un.org/en/2023/sgsm21730.doc.htm>; See also, *Humanity Has Opened the ‘Gates to Hell’ Warns Guterres as Climate Coalition Demands Action*, United Nations News, (20 Sept. 2023) <https://news.un.org/en/story/2023/09/1141082>.

<sup>16</sup> *The Climate Emergency*, UN Environment Programme, [accessed 19 Aug. 2023] <https://www.unep.org/climate-emergency#:~:text=The%20science%20is%20clear.,1.1%20and%201.2%20C%20B0C>.

<sup>17</sup> Luann Dahlman and Rebecca Lindsey, *Climate Change: Global Temperature*, National Oceanic and Atmospheric Administration, [accessed 27 Sept. 2023] (The combined land and ocean temperature has increased at an average rate of 0.14 degrees Fahrenheit (0.08 degrees Celsius) per decade since 1880. However, the average rate of increase since 1981 has been more than twice as fast, at a rate of 0.32 °F (0.18 °C) per decade) <https://www.climate.gov/news-features/understanding-climate/climate-change-global-temperature>; See also, *The Effects of Climate Change*, NASA, [accessed 1 Sept. 2023] <https://climate.nasa.gov/effects/#:~:text=We%20already%20see%20effects%20scientists.will%20also%20increase%20and%20intensify>.

<sup>18</sup> *Causes of Climate Change*, U.S. Environmental Protection Agency, [accessed 25 Apr. 2023] [www.epa.gov/climatechange-science/causes-climate-change](http://www.epa.gov/climatechange-science/causes-climate-change).

<sup>19</sup> Our World in Data, *A Global Breakdown of Greenhouse Gas Emissions by Sector*, Visual Capitalist, [accessed 2 Feb. 2022] [www.visualcapitalist.com/cp/a-global-breakdown-of-greenhouse-gas-emissions-by-sector/](http://www.visualcapitalist.com/cp/a-global-breakdown-of-greenhouse-gas-emissions-by-sector/).

<sup>20</sup> Josie Garthwaite, *Earth likely to cross critical climate thresholds even if emissions decline, Stanford study finds*, Stanford News, (30 Jan. 2023) <https://climate.nasa.gov/news/2865/a-degree-of-concern-why-global-temperatures-matter/>.

15. States do not contribute to greenhouse gases emissions equally. States that industrialized first started contributing to the problem much earlier than others. Currently, the 20 major economies are also the primary emitters.<sup>21</sup> Likewise, States do not experience the harms from climate change in the same way. Certain regions are experiencing more imminent threats and damage than others.

16. The Caribbean is one of the most vulnerable regions. It features many small islands and coastal low-lying areas, and, therefore, is particularly vulnerable to rising sea levels. Over the past three decades, sea levels in the region have risen approximately 2 to 4 cm per decade, “a trend which presents risks to the region’s freshwater resources and to its largely coastal population dependent on tourism and agriculture.”<sup>22</sup>

17. In addition to the risk of losing land to the sea, the region is also susceptible to extreme weather events, such as hurricanes and tropical storms, that will continue to become more intense and more frequent. In the Atlantic, the “hurricane season” typically lasts from June 1 to November 30, with peaks in September.<sup>23</sup> Tropical cyclones develop when favorable conditions occur, such as “a decrease in vertical wind shear,” “a weakening of easterly trade winds,” and “sea surface temperatures greater than 26°C.”<sup>24</sup> Climate change has made these favorable conditions more prominent, leading to an increase in the frequency and severity of these storms and floods.<sup>25</sup>

18. Lastly, the Caribbean has already seen an increase in temperatures of 0.2°C in the past three decades, “the highest rate on record” according to the World Meteorological Organization.<sup>26</sup> This change has resulted in heat waves way above the average temperature for longer periods.<sup>27</sup> It also

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<sup>21</sup> United Nations, *Facts and Figures*, United Nations Act Now, [accessed 16 Sept. 2023] (Noting the 20 major economies account for 78% of global greenhouse gas emissions) <https://www.un.org/en/actnow/facts-and-figures>.

<sup>22</sup> *Climate Change Poses a Serious Threat to All Caribbean Nations Despite Their Low Contribution to Global Greenhouse Gas (GHG) Emissions*, Inter-American Development Bank - Office of Evaluation and Oversight, [accessed 1 Sept. 2023] <https://www.iadb.org/en/ove/climate-change-caribbean-small-island-states>; See also, Missouri Sherman-Peter, *The Legacy of Slavery in the Caribbean and the Journey Towards Justice*, United Nations Chronicle (24 Mar. 2022) (It is important to note that “[t]he legacy of the social and economic institution of slavery is to be found everywhere within these societies and is particularly dominant in the Caribbean . . . Most Caribbean societies possess large or majority populations of African descendants. The many legacies of over 300 years of slavery weighing on popular culture and consciousness persist as ferociously debilitating factors. The scourge of racism based on white supremacy, for example, remains virulent in the region.”) <https://www.un.org/en/un-chronicle/legacy-slavery-caribbean-and-journey-towards-justice>.

<sup>23</sup> S.R. Dye, P.r. Buckley, J.K. Pinnegar, *Impacts of Climate Change on Settlements and Infrastructure in the Coastal and Marine Environments of Caribbean Small Island Developing States (SIDS)*, Caribbean Marine Climate Change Report Card: Science Review 2017, at p. 4, (2017) [https://assets.publishing.service.gov.uk/media/5a829d98e5274a2e87dc2191/1\\_Physical\\_environment.pdf](https://assets.publishing.service.gov.uk/media/5a829d98e5274a2e87dc2191/1_Physical_environment.pdf).

<sup>24</sup> *Id.*

<sup>25</sup> Elena Shao, *How Is Climate Change Affecting Floods?*, The New York Times, (10 July 2023) <https://www.nytimes.com/article/flooding-climate-change.html#:~:text=Warmer%20temperatures%20increase%20evaporation%2C%20putting,while%20the%20magnitude%20gets%20higher>.

<sup>26</sup> *Climate Change Vicious Cycle Spirals in Latin America and Caribbean*, World Meteorological Organization, (5 July 2023) <https://public.wmo.int/en/media/press-release/climate-change-vicious-cycle-spirals-latin-america-and-caribbean#:~:text=Temperatures%20over%20the%20past%2030,and%20the%20Caribbean%202022%20report>.

<sup>27</sup> Melissa Wong, *Caribbean Region Continues to Experience Heat Stress*, Loop Caribbean News, (2 Aug. 2023) <https://caribbean.loopnews.com/content/caribbean-region-continues-experience-heat-stress>.

leads to higher evaporation rates, resulting in additional water and food insecurity, and stronger storms.<sup>28</sup>

19. All of this is leading to increased instability in the region.<sup>29</sup> If States do not act quickly to curb emissions and the global temperature continues to rise, the environmental harms felt in the Caribbean will be catastrophic.

#### IV. The Effect of Climate Change Inaction on Caribbean Women’s Human Rights Found in Regional Treaties

20. As the United Nations recognized in 2020, “[t]he climate crisis is not gender neutral.”<sup>30</sup> Women are at a much higher risk from the impacts of climate change than men, and are 14 times more likely than men to die during a disaster.<sup>31</sup> Women are less climate resilient than men because of the gender stereotypes and inequalities imposed on women and their cultural, societal, economic, political, and legal status.<sup>32</sup>

21. While climate change is disproportionately affecting women globally, women in the Caribbean face specific harms that are directly caused by climate change and violate their human rights. Specifically, there are five issues where the climate emergency disproportionately affects women and girls in the Caribbean. These include gender-based violence, livelihood, information gathering, water scarcity, and migration.

##### a. Extreme Weather Events Increase Gender Based Violence

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<sup>28</sup> *What You Need to Know About Food Security and Climate Change*, The World Bank, (17 Oct. 2022) <https://www.worldbank.org/en/news/feature/2022/10/17/what-you-need-to-know-about-food-security-and-climate-change>.

<sup>29</sup> *Climate Change 2023 Synthesis Report*, IPCC, 2023: Sections. In: *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, at pp. 35-115, p. 46 doi: 10.59327/IPCC/AR6-9789291691647 (Evidence of observed changes in extremes such as heatwaves, heavy precipitation, droughts, and tropical cyclones, and, in particular, their attribution to human influence, has further strengthened since AR5. Human influence has *likely* increased the chance of compound extreme events since the 1950s, including increases in the frequency of concurrent heatwaves and droughts (*high confidence*)). [https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC\\_AR6\\_SYR\\_LongerReport.pdf](https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_LongerReport.pdf).

<sup>30</sup> *Explainer: How Gender Inequality and Climate Change Are Interconnected*, UN Women – Headquarters, (28 Feb. 2022) [www.unwomen.org/en/news-stories/explainer/2022/02/explainer-how-gender-inequality-and-climate-change-are-interconnected](http://www.unwomen.org/en/news-stories/explainer/2022/02/explainer-how-gender-inequality-and-climate-change-are-interconnected).

<sup>31</sup> *Turning Promises Into Action: Gender Equality in the 2030 Agenda for Sustainable Development*, UN Women, [accessed 25 Sept. 2023] <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2018/SDG-report-Fact-sheet-Latin-America-and-the-Caribbean-en.pdf>; See general, *Disasters Affect Us All, Differently*, UN Women, [accessed 20 Aug. 2023] <https://caribbean.unwomen.org/en/stories/news/2022/03/disasters-affect-us-all-differently>; *Climate Change Exacerbates Violence Against Women and Girls*, United Nations Human Rights, Office of the High Commissioner, (12 July 2022) [www.ohchr.org/en/stories/2022/07/climate-change-exacerbates-violence-against-women-and-girls](http://www.ohchr.org/en/stories/2022/07/climate-change-exacerbates-violence-against-women-and-girls).

<sup>32</sup> *Id.*



22. Climate change exacerbates gender-based violence (GBV). Data shows that GBV increases when there is an extreme weather event.<sup>33</sup> This is especially true in the Caribbean, where women face the highest rate of intimate partner violence in the world.<sup>34</sup> Numerous factors contribute to an increase in GBV after a climate disaster.

23. The first is that women are more likely to be displaced than men after a climate disaster. In fact, 80% of those who are displaced after a climate emergency are women.<sup>35</sup> In 2017, after Hurricane Maria, women, elderly persons, and children made up the majority of those living in recovery shelters in Dominica.<sup>36</sup> The reason more women generally live in shelters is addressed in section (b) below.

24. Therefore, in the aftermath of natural disasters, women are disproportionately forced to stay in overcrowded emergency shelters, possibly for longer periods. Often, they end up with strangers and possibly GBV perpetrators.<sup>37</sup> After Hurricane Maria in 2017, GBV surged in Puerto Rico.<sup>38</sup> One reason is that government authorities failed to provide GBV prevention measures in the shelters.<sup>39</sup> Widely accepted practices for mitigating GBV risks, such as “screening entrants to evaluate whether there are perpetrators, providing lighting, gender-segregated toilets and showers with locks, and separate quarters for separated and unaccompanied minors” were not implemented.<sup>40</sup> In one case, a mother and daughter had their restraining orders expire while they were at the shelter.<sup>41</sup> “They became fearful for their lives as aggressors and gang members affiliated with their aggressors began to harass them.”<sup>42</sup>

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<sup>33</sup>Bharat H. Desai and Moumita Mandal, *Role of climate change in exacerbating sexual and gender-based violence against women: A new challenge for international law*, Environmental Policy and Law, vol. 51, no. 3, 2021, at pp. 137–157, (15 July 2021) <https://doi.org/10.3233/epl-210055>.

<sup>34</sup> *Caribbean Women Count: VAWG Data Hub*, UN Women, [accessed 27 July 2023] (In the Caribbean, 39-55% of women experience interpersonal partner violence in their lifetime Among women in the Caribbean, women who experience some form of intimate-partner violence include: 55% in Guyana, 48% in Suriname, 44% in Trinidad and Tobago, and 39% in Grenada and Jamaica) <https://caribbeanwomenscount.unwomen.org/>; See general, *Study of the impacts of climate change on the women and men in the Caribbean: Pilot programme for climate resilience countries*, Inter-American Development Bank, (Dec. 2020) (One in four women has experienced physical violence by a male partner) <https://publications.iadb.org/en/study-impacts-climate-change-women-and-men-caribbean-pilot-programme-climate-resilience-countries>; Siddharth Chatterjee, *Challenges and Achievements of Women in the Caribbean in China*, United Nations, (8 June 2023) <https://china.un.org/en/235396-challenges-and-achievements-women-caribbean>.

<sup>35</sup> *Climate Change Exacerbates Violence Against Women and Girls*, United Nations Human Rights, Office of the High Commissioner, (12 July 2023) [www.ohchr.org/en/stories/2022/07/climate-change-exacerbates-violence-against-women-and-girls](http://www.ohchr.org/en/stories/2022/07/climate-change-exacerbates-violence-against-women-and-girls).

<sup>36</sup> Value for Women, *Study of the Impacts of Climate Change on the Women and Men of the Caribbean. Pilot Programme for Climate Resilience Countries*, Inter-American Development Bank, Publications. IABD, at p. 39, (Dec. 2020) <https://publications.iadb.org/publications/english/viewer/Study-of-the-Impacts-of-Climate-Change-on-the-Women-and-Men-in-the-Caribbean-Pilot-Programme-for-Climate-Resilience-Countries.pdf>.

<sup>37</sup> *Hurricane Maria’s Survivors: “Women’s Safety Was Not Prioritized” - Puerto Rico (the United States of America)*, Relief Web, Refugees International, (18 Sept. 2018) <https://reliefweb.int/report/puerto-rico-united-states-america/hurricane-mar-s-survivors-women-s-safety-was-not>; See also, *Climate Change Exacerbates Violence against Women and Girls*, supra note 35.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

25. Emergency response services were also unavailable after the hurricane. As one women’s right defender described it:

“The three hotlines used to report incidents went dead with the collapse of the island’s telecommunications system. Even weeks after the hurricane, the 911 call center, the Office of the Women’s Ombudsperson’s emergency line, and the line to the Center for Assistance to Rape Victims, were not fully restored. Additionally, key systems designed to prevent and respond to GBV collapsed. Police officers – including those assigned to the Special Unit for Domestic Violence – were detailed to other tasks such as directing traffic. Judicial tribunals responsible for handling cases of violence against women were closed. According to women’s activists . . . , police officers were often unwilling or unable to record new cases of GBV immediately following the hurricane.”<sup>43</sup>

26. Even women who do not end up in shelters face higher tensions in the home after an extreme weather event, leading to more arguments or quarrels and risk of GBV.<sup>44</sup> Moreover, in the wake of a storm, earthquake, or heat wave, intimate partner violence often increases and resources necessary to avoid these disputes become more scarce. In Jamaica, 83% of reported intimate partner violence incidents against women occurred after an argument or a quarrel.<sup>45</sup> Tragically, many of these victims fear that seeking legal support would result in consequences for them, ultimately resulting in under reporting of this violence.<sup>46</sup>

27. States’ failure to take preventative action against increased GBV caused by disasters — caused by or heightened by climate change — is a violation of several of their obligations under the Inter-American human rights regime.

28. First, under Article 1(1) of the American Convention, each State Party has an obligation to respect the rights in the document and to ensure the protection of the rights.<sup>47</sup> Further, under Article 24,<sup>48</sup> States have an obligation to guarantee equal rights under the law and an obligation to adopt “positive measures of promotion in favor of groups that have historically been discriminated

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<sup>43</sup> *Id.*

<sup>44</sup> *GBV in the Caribbean*, UN Women – Caribbean, [accessed on 27 July 2023] (This is in part due to the reality that much of the GBV occurs in the home after a woman is “disobedient” and women who experience abuse are often blamed for the abuse. They are abused for being disobedient to the man, not having meals prepared on time, questioning the man about money or girlfriends, going somewhere without the man’s permission or refusing to have sex. Most acts of physical and sexual violence by an intimate partner reflect a pattern of continuing abuse.) <https://caribbean.unwomen.org/en/caribbean-gender-portal/caribbean-gbv-law-portal/gbv-in-the-caribbean>.

<sup>45</sup> *The Role of Culture in Domestic Violence in the Caribbean*, National Sexual Violence Resource Center (26 April 2023) (“A study of Jamaican women conducted by UN Women found that 83% reported incidents of intimate partner violence preceding an argument or quarrel.”) <https://www.nsvrc.org/blogs/saam/role-culture-domestic-violence-caribbean>.

<sup>46</sup> *Id.* (“A study of Jamaican women found that these victims did not seek help for fear of consequences and blame.”)

<sup>47</sup> American Convention, Article 1(1), “The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.”

<sup>48</sup> American Convention, Article 24, “All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.”

against or marginalized due to the factors referred to in Article 1(1) of the American Convention.”<sup>49</sup> Women fall into this group. Thus, States must enact climate measures that protect women against harms that violate their rights.

29. This Court has well established the importance of the right to life under Article 4(1) of the American Convention.<sup>50</sup> These obligations together set a requirement for States “to adopt all appropriate measures to protect and preserve this right (positive obligation), in accordance with the duty to ensure the free and full exercise of the rights of all persons under its jurisdiction.”<sup>51</sup>

30. Article 5(1)<sup>52</sup> in relation to Article 1 and Article 4 of the American Convention sets an obligation for States to protect women’s physical, mental, and moral integrity. This obligation requires States to take action against inhumane treatment of people, which includes a duty to prevent situations that place women’s personal liberties at risk.<sup>53</sup> States are not following this obligation when women are forced to stay in shelters that heighten their risk of GBV and sexual violence.

31. Women’s right to be free from GBV is well recognized in international law.<sup>54</sup> Upholding the right to health and prohibiting torture and discrimination is essential for the enjoyment of other human rights and fundamental freedoms.<sup>55</sup> The Convention of Belém do Pará has strengthened the obligation to protect women against GBV. Specifically, under Article 3, women have “the right to be free from violence in both the public and private sphere.”<sup>56</sup> As such, women have a right to be free of the risk of physical, sexual, and psychological violence when staying in the public shelters after they have lost housing due to a climate emergency. Moreover, States have an obligation under Article 8(d) “to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counseling services for all

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<sup>49</sup> Advisory Opinion OC-27/21 of May 5, 2021. Series A No. 27, at para. 157.

<sup>50</sup> American Convention, Article 4(1), “Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.”; *See also*, Lemoth Morris et al. (Miskito Divers) v. Honduras, Preliminary Objections, Merits, Reparations, and Costs, at para. 54.

<sup>51</sup> *Id.*

<sup>52</sup> American Convention, Article 5(1), “Every person has the right to have his physical, mental, and moral integrity respected.”

<sup>53</sup> Case of the Miguel Castro Castro Prison v. Perú. Merits, Reparations and Costs, Judgment of November 25, 2006, Series C No. 160, at paras. 259, 276; *See also*, Case of Perozo et al. v. Venezuela Preliminary Objections, Merits, Reparations, and Costs, Judgment of January 28, 2009, at para. 291.

<sup>54</sup> Universal Declaration of Human Rights, G.A. Res. 217A (III) (1948), arts. 5, 7, 25; Human Rights Council, Violence against Women, its Causes and Consequences: Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, UN Doc. A/HRC/41/42 (2019), at paras. 26–57; Committee on the Elimination of Discrimination against Women, General Recommendation No. 19, UN Doc. A/47/38 (1993), at paras. 6–7.

<sup>55</sup> Clarisa Bencomo, Emily Battistini, and Terry McGovern, *Gender-Based Violence is a Human Rights Violation: Are Donors Responding Adequately? What a Decade of Donor Interventions in Colombia, Kenya, and Uganda Reveals*, 24 Health and Human Rights Journal 29, 31 (Dec. 2022), <https://www.hhrjournal.org/2022/11/gender-based-violence-is-a-human-rights-violation-are-donors-responding-adequately-what-a-decade-of-donor-interventions-in-colombia-kenya-and-uganda-reveals/>.

<sup>56</sup> Convention of Belém do Pará, Article 3, “Every woman has the right to be free from violence in both the public and private spheres.”

family members where appropriate, and care and custody of the affected children.”<sup>57</sup> By not providing adequate gender specific shelters that offer a safe place for women suffering from the effects of climate change, States are in violation of their obligations to women’s rights.

*b. The Climate Emergency Intensifies Women’s Struggle to Find Adequate Livelihoods to Support Themselves and Their Families*

32. The climate emergency exacerbates economic inequality between men and women.<sup>58</sup> This is especially true in the Caribbean and Latin America, where there are 32% more women aged 25-34 living in extreme poverty than men.<sup>59</sup> Likewise, the region has one of the widest gender gaps in the world between men and women in the employment sector.<sup>60</sup> Single-woman led households also tend to be the poorest households and have the most dependents in the Caribbean.<sup>61</sup> These economic disparities are worsened after an extreme weather event.

33. Women have less access to preventative measures and recovery after an extreme weather event. Single women tend to live in homes of low-construction quality and in the most disaster-prone areas because housing is cheaper, which exponentially increases the dangers they face and makes

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<sup>57</sup> Convention of Belém do Pará, Article 8, “The States Parties agree to undertake progressively specific measures, including programs:

- a. to promote awareness and observance of the right of women to be free from violence, and the right of women to have their human rights respected and protected;
- b. to modify social and cultural patterns of conduct of men and women, including the development of formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence against women;
- c. to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women;
- d. to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counseling services for all family members where appropriate, and care and custody of the affected children;
- e. to promote and support governmental and private sector education designed to raise the awareness of the public with respect to the problems of and remedies for violence against women;
- f. to provide women who are subjected to violence access to effective readjustment and training programs to enable them to fully participate in public, private and social life;
- g. to encourage the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women;
- h. to ensure research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes; and
- i. to foster international cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.”

<sup>58</sup> *Turning Promises into Action*, *supra* note 31.

<sup>59</sup> *Id.*

<sup>60</sup> *What is the Labor Market Like for Women in Latin America and the Caribbean?*, Inter-American Development Bank, [accessed 7 Sept. 2023] (This is because women hold lower paying or lower skilled jobs, face higher levels of underemployment, and make up a large part of the invisible economy, and hold less supervisory and management positions compared to men.) <https://publications.iadb.org/publications/english/viewer/What-is-The-Labor-Market-like-for-Women-in-Latin-America-and-the-Caribbean.pdf>.

<sup>61</sup> *Id.*

it harder for emergency vehicles to reach them.<sup>62</sup> Likewise, emergency radios and satellite telephones that could warn of impending disasters are largely unaffordable.<sup>63</sup> Homeowners insurance to hasten recovery is also not an option for many.<sup>64</sup> Therefore, women's limited access to preventative and recovery tools leaves them with little capacity to recover from a weather event.<sup>65</sup>

34. Recovery from a storm is not the only reason for this disparity. Due to social and cultural norms, the majority of women in the Caribbean also work in the invisible or informal labor market.<sup>66</sup> They tend to work 2.8 hours for every hour of unpaid work that men perform, which is higher than the global average.<sup>67</sup> After an extreme weather event, informal workers are primarily affected because the reduction in an economic activity leaves them without any networks or possibilities to replace the overall daily income. Ultimately, they are left to face the consequences of unemployment and poverty.<sup>68</sup> Unlike their male counterparts in the region, who are more likely to have formal jobs and access to social security protections to support themselves after an environmental disaster, women must use whatever is left over from their daily essentials like food, clean water, shelter, and medicine. Moreover, as a coping mechanism for loss of livelihood, women are more likely to engage in transactional sex.<sup>69</sup>

35. Women working in the informal sector also tend to be less financially literate than their male counterparts.<sup>70</sup> Therefore, they generally have less access to credit and loans than men and are more hindered from participating in the formal social and banking requirements for registration using paper-based identification documents, in-person registration, or processing or maintenance

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<sup>62</sup> Gabrielle Thongs and Levi Gahman, *Why Caribbean Hurricanes Are Worse for Women and the Poor*, YES! Magazine, (26 Nov. 2019) [www.yesmagazine.org/social-justice/2017/09/21/why-caribbean-hurricanes-are-worse-for-women-and-the-poor](https://www.yesmagazine.org/social-justice/2017/09/21/why-caribbean-hurricanes-are-worse-for-women-and-the-poor).

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Economic justice remains a historical debt for women in Latin America and the Caribbean*, Care International, (10 Mar. 2023) <https://www.care-international.org/news/economic-justice-remains-historical-debt-women-latin-america-and-caribbean>.

<sup>67</sup> *Implications of gender roles in natural resource governance in Latin America and the Caribbean*, CEPAL, (18 Jan. 2021) <https://www.cepal.org/en/insights/implications-gender-roles-natural-resource-governance-latin-america-and-caribbean>.

<sup>68</sup> *The economic impact of COVID-19 on women in Latin America and the Caribbean*, UN Women, Relief Web, at p. 12, (13 Nov. 2020) <https://reliefweb.int/report/world/economic-impact-covid-19-women-latin-america-and-caribbean>; See also, *The Status of Women and Men Report: Innovating Financing Climate Change and Disaster Reduction in the Caribbean*, UN Women, at p. 16, (May 2022) (Because a good amount of women are not in the formal business sector, women remain invisible in data collected regarding employment figures and are not captured in the financial systems tracked by Caribbean countries.) [https://caribbean.unwomen.org/sites/default/files/2022-05/Status%20of%20Women%20and%20Men%20Report\\_InnovFinancing\\_CC\\_DRR%2020220529%20interactiveF.pdf](https://caribbean.unwomen.org/sites/default/files/2022-05/Status%20of%20Women%20and%20Men%20Report_InnovFinancing_CC_DRR%2020220529%20interactiveF.pdf).

<sup>69</sup> Kizzann Sammy, *The Status of Women and Men Report: Innovating Financing Climate Change and Disaster Reduction in the Caribbean*, UN Women, at p. 16, (2022) <https://caribbean.unwomen.org/en/digital-library/publications/2022/05/the-status-of-women-and-men-report-innovating-financing-climate-change-and-drr-in-the-caribbean#view>.

<sup>70</sup> *Ibid.* at p. 3.



fees.<sup>71</sup> This is another reason why women rely more heavily on their savings, remittances, or take on more jobs to support themselves, after extreme weather events than men.<sup>72</sup>

36. However, taking on more jobs is difficult for women because they tend to be the primary care givers in Caribbean homes.<sup>73</sup> When children cannot go to school, or elderly people need more assistance due to a natural disaster, women do not have the capacity to do another job.<sup>74</sup> In fact, in the Caribbean, the poorest women allocate more time to unpaid care and domestic work than the richest.<sup>75</sup> When disasters hit, the overload of unpaid care, often a woman's burden, increases her inability to evacuate during natural disasters.<sup>76</sup>

37. In the Caribbean, women who are in the formal business sector are 44% more likely to lose their jobs than men.<sup>77</sup> This is because Caribbean women make up a predominant part of employment sectors worst hit by natural hazards, such as tourism, and where there are low employment prospects after an extreme weather event.<sup>78</sup>

38. Land ownership also plays a role. Unequal access to ownership and control of natural resources creates a gender gap in natural resource governance.<sup>79</sup> In 2017, women in Jamaica only owned 30.2% of land, women in Saint Lucia owned 29.7% of land, and women in Haiti owned 25.3% of land.<sup>80</sup>

39. Women in the agricultural sector also experience major losses that are gender-specific. Many report insufficient consideration of the resilience and recovery of female farmers.<sup>81</sup> A study showed that "Dominica's gender unequal access to land, credit and other productive assets [was] expected to impede women's ability to recover after a disaster."<sup>82</sup> After Hurricane Maria, female farmers also reported difficulty in getting seeds that would sprout quicker than their normal crops.<sup>83</sup>

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<sup>71</sup> *Id.*

<sup>72</sup> *The economic impact of COVID-19 on women in Latin America and the Caribbean*, *supra* note 68.

<sup>73</sup> The Climate Studies Group Mona and The University of the West Indies, *The State of the Caribbean Climate*, The Caribbean Development Bank, at p. 112, (April 2020) <https://www.caribank.org/publications-and-resources/resource-library/publications/state-caribbean-climate>.

<sup>74</sup> *Id.*

<sup>75</sup> *Turning Promises into Action*, *supra* note 31.

<sup>76</sup> *Id.*

<sup>77</sup> Jacobus de Hoop, et al., *Promoting Women's Employment in Latin America and the Caribbean*, World Bank Blogs, (27 July 2022) <https://blogs.worldbank.org/latinamerica/promoting-womens-employment-latin-america-and-caribbean>.

<sup>78</sup> *Empowering Women in Caribbean Tourism*, 'Future Tourism Project' of the UN Development Programme, Tourism Watch, (2 Apr. 2022) <https://www.tourism-watch.de/en/article/focus/empowering-women-caribbean-tourism/>; *See also*, Serhan Cevik and Manuk Ghazanchyan, *Perfect storm*, IMF Working Papers, vol. 20, no. 243 (13 Nov. 2020) <https://doi.org/10.5089/9781513559575.001>.

<sup>79</sup> *Implications of gender roles*, *supra* note 67.

<sup>80</sup> *Value for Women*, *supra* note 36, at pp. 75-92.

<sup>81</sup> *Crisis update: Restoring dignity and livelihoods after storms in the Caribbean*, UN Women, Relief Web (15 Aug. 2018) <https://reliefweb.int/report/antigua-and-barbuda/crisis-update-restoring-dignity-and-livelihoods-after-storms-caribbean>.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

40. States' failure to take action against climate change to prevent these impacts violates States' obligations under the American Convention, OAS Charter, and the Protocol of San Salvador.

41. Again, under Article 24,<sup>84</sup> in conjunction with Article 1(1) of the American Convention, States have a duty to promote structures that protect against discrimination of marginalized communities in relation to all rights recognized within the American Convention.<sup>85</sup> Further, under Article 26, States have an obligation to protect economic, social, and cultural rights set forth in the OAS Charter.<sup>86</sup> As such, under Articles 45 and 46 of the OAS Charter,<sup>87</sup> States have a positive obligation to create equity and protection within workspaces and economic opportunities. Article 45 specifically recognizes the right to work includes "a system of fair wages, that ensure life, health, and a decent standard of living for worker and [her] family."<sup>88</sup> Additionally, Article 46 articulates that it is necessary for States "to harmonize the social legislation of the developing countries, especially in the labor and social security fields, so that the rights of the workers shall be equally protected, and they agree to make the greatest efforts possible to achieve this goal."<sup>89</sup> When States do not ensure women access to equal work opportunities and economic security in the aftermath of climate disasters, they fail to meet these obligations.

42. States' obligations are further affirmed in the Protocol of San Salvador. Article 1,<sup>90</sup> in conjunction with Article 3,<sup>91</sup> requires States to take positive measures to protect the rights

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<sup>84</sup> American Convention, Article 24.

<sup>85</sup> American Convention, Article 1.

<sup>86</sup> American Convention, Article 26, "The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires."

<sup>87</sup> OAS Charter, Article 45(a)-(b), "The Member States, convinced that man can only achieve the full realization of his aspirations within a just social order, along with economic development and true peace, agree to dedicate every effort to the application of the following principles and mechanisms: a) All human beings, without distinction as to race, sex, nationality, creed, or social condition, have a right to material well-being and to their spiritual development, under circumstances of liberty, dignity, equality of opportunity, and economic security; b) Work is a right and a social duty, it gives dignity to the one who performs it, and it should be performed under conditions, including a system of fair wages, that ensure life, health, and a decent standard of living for the worker and his family, both during his working years and in his old age, or when any circumstance deprives him of the possibility of working."; OAS Charter, Article 46, "The Member States recognize that, in order to facilitate the process of Latin American regional integration, it is necessary to harmonize the social legislation of the developing countries, especially in the labor and social security fields, so that the rights of the workers shall be equally protected, and they agree to make the greatest efforts possible to achieve this goal."

<sup>88</sup> OAS Charter, Article 45; *See also*, The Work, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights, OEA/Ser.L/V/II.143 Doc. 59, at para. 87 (3 November 2011).

<sup>89</sup> OAS Charter, Article 46; *See also*, The Work, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights, OEA/Ser.L/V/II.143 Doc. 59, at para. 87 (3 November 2011).

<sup>90</sup> Protocol of San Salvador, Article 1, "The States Parties to this Additional Protocol to the American Convention on Human Rights undertake to adopt the necessary measures, both domestically and through international cooperation, especially economic and technical, to the extent allowed by their available resources, and taking into account their degree of development, for the purpose of achieving progressively and pursuant to their internal legislations, the full observance of the rights recognized in this Protocol."

<sup>91</sup> Protocol of San Salvador, Article 3, "The State Parties to this Protocol undertake to guarantee the exercise of the rights set forth herein without discrimination of any kind for reasons related to race, colour, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition."

recognized in the protocol without discriminating against marginalized groups. As such, States have a duty under Article 6 (right to work)<sup>92</sup> and Article 7 (right to just, equitable, and satisfactory conditions of work)<sup>93</sup> to protect women's right to work, and to work in appropriate conditions. Further, States have an obligation to protect women's right to social security under Article 9.<sup>94</sup> As such, States must provide conditions where women have equal opportunities to work and equal opportunities to economic security in order to ensure they are resilient in the climate emergency. Currently, States fall short of this obligation by not creating infrastructure that provides women additional job security when work is limited due to disasters caused by climate change (or otherwise).

43. Additionally, States have an obligation to enforce women's right to equality by encouraging men to take on more of the home responsibilities. Climate change might cause many women to have increased dependents who might prevent them from fully enjoying their right to work.<sup>95</sup> States should increase access to child support and other types of support for dependents so that women can fully enjoy their right to work and economic freedoms.<sup>96</sup>

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<sup>92</sup> Protocol of San Salvador, Article 6, "1. Everyone has the right to work, which includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity. 2. The State Parties undertake to adopt measures that will make the right to work fully effective, especially with regard to the achievement of full employment, vocational guidance, and the development of technical and vocational training projects, in particular those directed to the disabled. The States Parties also undertake to implement and strengthen programs that help to ensure suitable family care, so that women may enjoy a real opportunity to exercise the right to work."

<sup>93</sup> Protocol of San Salvador, Article 7, "The States Parties to this Protocol recognize that the right to work to which the foregoing article refers presupposes that everyone shall enjoy that right under just, equitable, and satisfactory conditions, which the States Parties undertake to guarantee in their internal legislation, particularly with respect to: a. Remuneration which guarantees, as a minimum, to all workers dignified and decent living conditions for them and their families and fair and equal wages for equal work, without distinction; b. The right of every worker to follow his vocation and to devote himself to the activity that best fulfils his expectations and to change employment in accordance with the pertinent national regulations; c. The right of every worker to promotion or upward mobility in his employment, for which purpose account shall be taken of his qualifications, competence, integrity and seniority; d. Stability of employment, subject to the nature of each industry and occupation and the causes for just separation. In cases of unjustified dismissal, the worker shall have the right to indemnity or to reinstatement on the job or any other benefits provided by domestic legislation; e. Safety and hygiene at work; f. The prohibition of night work or unhealthy or dangerous working conditions and, in general, of all work which jeopardizes health, safety, or morals, for persons under 18 years of age. As regards minors under the age of 16, the work day shall be subordinated to the provisions regarding compulsory education and in no case shall work constitute an impediment to school attendance or a limitation on benefiting from education received; g. A reasonable limitation of working hours, both daily and weekly. The days shall be shorter in the case of dangerous or unhealthy work or of night work; h. Rest, leisure and paid vacations as well as remuneration for national holidays."

<sup>94</sup> Protocol of San Salvador, Article 9, "1. Everyone shall have the right to social security protecting him from the consequences of old age and of disability which prevents him, physically or mentally, from securing the means for a dignified and decent existence. In the event of the death of a beneficiary, social security benefits shall be applied to his dependents. 2. In the case of persons who are employed, the right to social security shall cover at least medical care and an allowance or retirement benefit in the case of work accidents or occupational disease and, in the case of women, paid maternity leave before and after childbirth."

<sup>95</sup> Inter-American Commission on Human Rights, *The Work, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights*, OEA/Ser.L/V/II.143 Doc. 59, at paras. 128-129, (3 Nov. 2011).

<sup>96</sup> *Ibid.* at para. 137.



c. *Women are Persecuted for Sharing Information and Reporting on Human Actions Causing Climate Change*

44. Female environmental defenders are in greater danger of violence and murder than their male colleagues are.<sup>97</sup> This is not because of the economic or regional issues, or characteristics of the advocate, but because women use their voice.<sup>98</sup> Trying to enter public and political spaces for debate turns women into targets for violence.<sup>99</sup> Women who take part in defending environmental human rights, such as the forceful taking of land to exploit for resources or fossil fuel extraction, are often met with violence aimed at silencing them.<sup>100</sup> According to the Association for Women's Rights in Development, in 2017, "roughly half of all female activists globally were murdered for defending community land and environmental rights."<sup>101</sup>

45. Guyana offers a leading example of women being attacked for sharing information. There, many women are turning to activism to protect indigenous land from fossil fuel extraction.<sup>102</sup> Threats against Guyana-based organizations speaking out against the government have intensified in the context of the country's increased oil and gas production.<sup>103</sup> In 2015, ExxonMobil discovered oil deposits approximately 190 kilometers off the coast of Guyana.<sup>104</sup> Although Guyana is estimated to gain \$1.63 billion USD in profit from oil exports and royalties in 2023,<sup>105</sup> many locals have yet to benefit from the windfall, and are rather more concerned about the detrimental

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<sup>97</sup> *Tackling Violence Against Women and Girls in the Context of Climate Change*, UN Women and IUCN (Mar. 2022) <https://www.unwomen.org/sites/default/files/2022-03/Tackling-violence-against-women-and-girls-in-the-context-of-climate-change-en.pdf>.

<sup>98</sup> Dalena Tran, et al., *Gendered geographies of violence: A multiple case study analysis of Murdered Women Environmental Defenders*, *Journal of Political Ecology*, vol. 27, no. 1, at p. 1190 (2020) ("[W]omen activists are often delegitimized based on their gender. Trying to enter public, political spaces for debate turns them into targets for multiple forms of violence. Murder is the most visible of these in environmental conflicts . . . but all threats to women defenders are difficult to document owing to intersecting marginalities and stakeholder interest in covering up abuses, as well as the fact that literature on violence in environmental conflicts does not separate data by gender.") <https://doi.org/10.2458/v27i1.23760>.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.* ("Silencing such a prominent activist is . . . part of a pattern of global violent repression against defenders in ecological distribution conflicts.")

<sup>101</sup> Nana Darkoa Sekyiamah, et al., *Remembering women killed fighting for human rights in 2017*, *The Guardian*, (29 Nov. 2017) <https://www.theguardian.com/global-development/2017/nov/29/remembering-women-killed-fighting-for-human-rights-in-2017>.

<sup>102</sup> Janine Mendes-Franco, *Concerns in Guyana about threats against women activists*, *Advox Global Voices*, (17 Aug. 2023) ("Activists in Guyana, which was recently discovered to hold a wealth of oil reserves, are currently experiencing such threats, which have intensified over the last five months. Most appear to be primarily targeted at women, who have been on the receiving end of death threats and other forms of intimidation for speaking out against mining, fossil fuel extraction and sexual violence.") <https://advox.globalvoices.org/2023/08/17/concerns-in-guyana-about-threats-against-women-activists/>.

<sup>103</sup> *Id.*

<sup>104</sup> Dánica Coto, *Oil boom transforms Guyana, promoting a scramble for spoils*, *Associated Press News*, (5 May 2023) <https://apnews.com/article/guyana-oil-discovery-money-14c23a72c6d7c13675493ede42ed1000>.

<sup>105</sup> Neil Marks, *Guyana projects state oil revenue to hit \$1.63 billion this year*, *Reuters*, (17 Jan. 2023) <https://www.reuters.com/business/energy/guyana-projects-state-oil-revenue-hit-163-billion-this-year-2023-01-17/>; *See also*, Gram Slattery, *Insight: Oil money is flooding into Guyana. Who will benefit?*, *Reuters*, (29 Aug. 2022) ("By 2027, Exxon and its partners, New York-based Hess and China National Offshore Oil Corp (0883.HK), aim to pump 1.2 million barrels per day from Guyana's seabed, making the country by far the world's largest producer per capita.") <https://www.reuters.com/business/energy/africa/oil-money-is-flooding-into-guyana-who-will-benefit-2022-08-25/>.

environmental impact this will have on the country.<sup>106</sup> These oil and gas development projects are posing serious risks to the environment of Guyana, from marine life and coastal reefs to increased air pollution.<sup>107</sup>

46. Women environmental defenders have been subject to sexual violence, received death threats, or have been otherwise intimidated for speaking out against mining and fossil fuel extraction.<sup>108</sup> In the spring of 2023, Guyanese journalists, NGOs, environmental activists, and human rights defenders experienced “verbal attacks, denigrating comments, erroneous accusations, name calling and threats” from “senior members of government, individuals who appear to be paid or unpaid advisers, social media personalities, columnists, and anonymous Facebook page operators.”<sup>109</sup>

47. In particular, there was a noticeable increase in death threats against Red Thread, the oldest women's organization in Guyana that has now begun advocating for climate justice against Exxon and full and effective implementation of the Escazú Agreement.<sup>110</sup> On July 31, 2023, Red Thread published a statement after receiving threatening emails affirming:

“We also condemn all threats and all attempts to silence Caribbean people who report or protest sexual violence and all other forms of extractive violence that menace the region. The struggle of the women of Red Thread to defend women, indigenous people and the environment is a Caribbean struggle, not just a national one. Sexual violence and gender-based violence is rampant across the region ... We remind our governments that we are watching how you respond to those whose fearless defence against sexual violence and extractive violence to our land.”<sup>111</sup>

48. Sadly, such conduct is not new in Guyana. In 2017, Alicia Foster, a senior environmental officer with Guyana's Environmental Protection Agency, was murdered and the government failed to prosecute her killers.<sup>112</sup> Her family is adamant that it was because of her work in trying to shut down a business that did not have a proper EPA permit.<sup>113</sup> Foster was a representative on the Board of the Guyana Geology and Mines Commission and the National Water Council. She coordinated activities on the monitoring and closure of Omai Gold Mines Limited, and she had done a considerable amount of work in the forestry and mining sectors.<sup>114</sup> Two months before her murder, Foster “had been threatened while investigating an alleged violation by a business entity, but police

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<sup>106</sup> *Id.* (“But managed poorly, development experts and diplomats warn, those funds will stoke Guyana's overheated, race-based politics, while adding the nation to a long list of petrostates whose people have remained poor despite vast resource wealth.”).

<sup>107</sup> *Environmental concerns: How flaring of gas, oil spills, and environmental pollution contribute to climate change problems*, Oil & Gas Governance Network, [accessed 27 Sept. 2023] <https://www.oggn.org/environmental-concerns-how-flaring-of-gas-oil-spills-and-environmental-pollution-contribute-to-climate-change-problems/#:~:text=But%20more%20consequential%20are%20the,to%20the%20people%20of%20Guyana>.

<sup>108</sup> Mendes-Franco, *supra* note 102.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Hands off Red Thread! Touch one! Touch All!*, Stabroek News, (7 Aug. 2023) <https://www.stabroeknews.com/2023/08/07/features/in-the-diaspora/hands-off-red-thread-touch-one-touch-all/>.

<sup>112</sup> Michael Jordan, *The Execution of Alicia Foster*, Kaieteur News Online, (20 Aug. 2017) <https://www.kaieteurnews.com/2017/08/20/the-execution-of-alicia-foster-2/>.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

apparently drew a blank while following that lead.”<sup>115</sup> Nothing has been done to investigate the crime.<sup>116</sup>

49. States’ willingness to prioritize profitable oil deals over health and safety pushes many women to activism against the destruction of their homes and health.<sup>117</sup> They are then met with threats, attacks and even murder. However, all too often these cases are going unnoticed, are underreported, and if reported, the perpetrators are not punished.<sup>118</sup>

50. States’ failure to prevent these threats against female activists and lack of support for women sharing information violates their obligations under the American Convention and the Escazú Agreement.

51. Article 13 (freedom of thought and expression)<sup>119</sup> and Article 16 (freedom of association),<sup>120</sup> in conjunction with Article 1(1),<sup>121</sup> of the American Convention are violated when States do not properly respond to the threats and attacks against women in general, and environmental activists in specific. The right to freedom of thought and expression includes the right to disseminate information through various mediums and to have access to information.<sup>122</sup> Additionally, the right to freedom of association includes a positive obligation on States to prevent attacks and protect

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<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> Antonia Juhasz, *Exxon’s oil drilling gamble off Guyana coast ‘poses major environmental risk,’* The Guardian, (17 Aug. 2021) (“But experts claim that Exxon in Guyana appears to be taking advantage of an unprepared government in one of the lowest-income nations in South America, allowing the company to skirt necessary oversight. Worse, they also believe the company’s safety plans are inadequate and dangerous.”) <https://www.theguardian.com/environment/2021/aug/17/exxon-oil-drilling-guyana-disaster-risk>; See also, Coto, *supra* note 104.

<sup>118</sup> *Climate Change Exacerbates Violence*, *supra* note 35.

<sup>119</sup> American Convention, Article 13, “1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice. 2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure: a. respect for the rights or reputations of others; or b. the protection of national security, public order, or public health or morals. 3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions. 4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence. 5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.”

<sup>120</sup> American Convention, Article 16, “1. Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes. 2. The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others. 3. The provisions of this article do not bar the imposition of legal restrictions, including even deprivation of the exercise of the right of association, on members of the armed forces and the police.”

<sup>121</sup> American Convention, Article 1(1).

<sup>122</sup> Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Merits, Reparations, and Costs, Judgement of October 6, 2021, at paras. 80-83.

individuals exercising this right and to investigate any violations.<sup>123</sup> As such, States that do not protect climate activists, particularly female, or fail to investigate instances of female climate activists being threatened, attacked, or murdered, falls short of their obligations under Article 13 and 14 in relation to Article 1 of the Convention.

52. Article 26 of the American Convention protects “the economic, social, cultural and environmental rights (ESCER) derived from the OAS Charter.”<sup>124</sup> The “rules of interpretation established in Article 29 of the Convention are relevant for its understanding.”<sup>125</sup> The Inter-American Court has affirmed that indigenous communities have a right to cultural identity as a basic human right.<sup>126</sup> Indigenous peoples’ rights additionally include the same right to freedom of expression of their culture.<sup>127</sup> As such, States have an obligation to protect indigenous community members who speak out against the destruction of their land. When States prioritize oil deals that result in harm to indigenous land, States fall short of their obligations.

53. Fifteen States have ratified the Escazú Agreement, which protects access to environmental information and public participation in environmental matters.<sup>128</sup> Article 5 (access to environmental information),<sup>129</sup> Article 6 (generation and dissemination of environmental information),<sup>130</sup> and Article 8 (access to justice in environmental matters)<sup>131</sup> establish a positive obligation for States to guarantee safe access to environmental information and that people disseminating and digesting this information have redress for environmental matters. Additionally, under Article 9 (human rights defenders in environmental matters) States have a positive obligation to protect climate activists “from threats, restriction and insecurity.”<sup>132</sup> When States fail to support female activist who share information about climate change and do not investigate threats or violent acts against them, they are in violation of these obligations.

*d. Women Face a Disproportionate Burden When There is Water Scarcity*

54. Climate change and extreme weather events decrease access to clean and safe water.<sup>133</sup> In the Caribbean, hurricanes are the leading cause of natural disasters, which often disrupt clean water supplies.<sup>134</sup> In September 2018:

“Hurricane María knocked down the aging power grid in Puerto Rico and disabled water systems across the island. In the weeks following the storm, millions of people were left

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<sup>123</sup> Case of the Cantoral-Huamaní and García-Santa Cruz v. Peru, Preliminary Objection, Merits, Reparations and Costs, Judgement of July 10, 2007, at para. 144.

<sup>124</sup> OAS Charter, *supra* note 87; *See also*, Cantoral-Huamaní, *supra* note 123 at paras. 80-119.

<sup>125</sup> *Id.*

<sup>126</sup> *Ibid.* at para. 125.

<sup>127</sup> *Ibid.* at para. 98.

<sup>128</sup> Escazú Agreement, *supra* note 15.

<sup>129</sup> Escazú Agreement, Article 5.

<sup>130</sup> *Ibid.*, Article 6.

<sup>131</sup> *Ibid.*, Article 8.

<sup>132</sup> *Ibid.*, Article 9.

<sup>133</sup> *Hurricane Maria put a disproportionate burden on women*, Oxfamamerica, (17 Sept. 2018) <https://www.oxfamamerica.org/explore/stories/hurricane-maria-put-a-disproportionate-burden-on-women/>.

<sup>134</sup> Sebastian Acevedo, *Gone with the Wind: Assessing Hurricane Costs in the Caribbean*, International Monetary Fund, WP/16/199, (Oct. 2016) <https://www.imf.org/external/pubs/ft/wp/2016/wp16199.pdf>.

without power and reliable access to potable water. In many communities, especially in the central highlands, it was months before the water came back.”<sup>135</sup>

55. Decreased access to clean and safe water caused by climate change puts a greater burden on women than men. In 80% of the world’s households without access to water on premises, women and girls are responsible for water collection.<sup>136</sup> That limits their ability to focus on other responsibilities, like working.<sup>137</sup> After Hurricane Maria, reports from Puerto Rico found that:

“Because women are usually managers of the household —responsible for taking care of people and domestic systems— they were the ones who shouldered most of the burdens of managing water needs. Men did indeed feel the pinch —especially around finding and transporting water— but they were typically not the ones carrying the full physical and emotional weight of managing all the household demands.”<sup>138</sup>

56. Moreover, women face different health risks than men when water is scarce. Even in post-disaster settings, women are expected to perform household labor, so when water supplies are contaminated,<sup>139</sup> women are disproportionately exposed to illness.<sup>140</sup> Skin conditions related to washing clothes by hand,<sup>141</sup> urinary infections related to limited water consumption, infrequent showering, and insufficient laundering are more prevalent.<sup>142</sup> Women experience persistent and acute pain in the back, shoulder, and knee, as well as muscle spasms—all related to increased physical work, especially carrying water or washing clothes by hand.<sup>143</sup> Water scarcity also makes it harder for women to maintain sanitation and hygiene, endangering their sexual and reproductive health.<sup>144</sup> Pregnant women are particularly vulnerable because they are more prone to water-related illnesses.<sup>145</sup> And water insecurity is a barrier to women who are breastfeeding and negatively affects how infants are fed.<sup>146</sup>

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<sup>135</sup> *Hurricane Maria*, *supra* note 133; *See also*, Alexa Dietrich and Adriana Garriga-López, *Small-Scale Food Production and the Impact of Water Shortages in Puerto Rico after Hurricane Maria*, Natural Hazards Center - University of Colorado Boulder, (2018) <https://hazards.colorado.edu/quick-response-report/small-scale-food-production-and-the-impact-of-water-shortages-in-puerto-rico-after-hurricane-maria>.

<sup>136</sup> *Turning Promises into Action*, *supra* note 31.

<sup>137</sup> *Id.*

<sup>138</sup> *Hurricane Maria*, *supra* note 133.

<sup>139</sup> Water was contaminated with sewage, E. coli, salmonella, cholera, yellow fever, and hepatitis A, among others.

<sup>140</sup> Things and Gahman, *supra* note 62.

<sup>141</sup> These include: dermatitis, allergies, rashes, and itching.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.* (This is especially true about: arthritis, osteoporosis, fibromyalgia, and serious back conditions.).

<sup>144</sup> *The role of water, sanitation, and hygiene in sexual and reproductive health rights*, Wash Matters Water Aid, (27 June 2022) <https://washmatters.wateraid.org/publications/the-role-of-water-sanitation-and-hygiene-in-sexual-and-reproductive-health-rights>.

<sup>145</sup> *Climate Change and the Health of Pregnant, Breastfeeding, and Postpartum Women*, United States Environmental Protection Agency, [accessed 11 Oct. 2023] <https://www.epa.gov/climateimpacts/climate-change-and-health-pregnant-breastfeeding-and-postpartum-women>.

<sup>146</sup> Susan Scutti, *Water insecurity can disrupt exclusive breastfeeding*, National Institute of Health, (May/June 2021) <https://www.fic.nih.gov/News/GlobalHealthMatters/may-june-2021/Pages/breastfeeding-lmics-water-insecurity.aspx>.



57. As it becomes more difficult to wash food, cook, and clean up after a meal, women’s ability to fulfill their roles as food providers is impaired.<sup>147</sup> One report found that “[w]hen men worked outside the home, but women did not, women felt the weight of this responsibility especially keenly.” One woman said, “My husband brings the money. My job is to look after the house.” Another woman noted that “[t]he only thing men think they need to keep clean is the car. It needs to be shiny and beautiful.” Another said, “[m]en care, but women do the cleaning.”<sup>148</sup>

58. Women in rural areas are particularly vulnerable in crises and are less likely to receive immediate attention and recovery response from government agencies than people in urban areas.<sup>149</sup> This is evident in the Wapixana community in Guyana, which has been suffering water and food insecurities due to drought.<sup>150</sup> Like many places, the indigenous women are the primary caregivers of the family and responsible for the water and food. Due to droughts, they are less likely to have the necessary resources to maintain agriculture necessary for essential food,<sup>151</sup> which leaves them reliant on men to go into the towns, approximately 150 kilometers away, to obtain food from a store. If men return without food, women as the caregivers are left vulnerable and unable to provide.<sup>152</sup>

59. States’ failure to take action to address the disproportionate burden on women caused by climate change-induced water scarcity is a violation of their obligations under the American Convention, the Convention of Belém do Pará, and the Protocol of San Salvador.

60. Again, Article 26 of the American Convention, in conjunction with Articles 1(1) and 24, requires States to respect and guarantee economic, social, cultural, and environmental rights.<sup>153</sup> Additionally, the Convention of Belém do Pará creates a duty on States to protect women’s right “to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments,” which includes their rights not to be subject to violence.<sup>154</sup> These obligations together place an important duty on States to make sure the protection of economic, social, cultural, and environmental rights are done with a gender-based lens to avoid women experiencing discrimination based on their gender.<sup>155</sup> The Inter-American Court has noted “that the right to equality and non-discrimination has two aspects: a negative one,

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<sup>147</sup> *The Weight of Water*, *supra* note 142 at 14.

<sup>148</sup> *Id.*

<sup>149</sup> Dietrich and Garriga-López, *supra* note 135.

<sup>150</sup> *Guyana’s National Drought Mitigation and Adaption Plan*, United Nations Convention to Combat Desertification (UNCCD) Drought Initiative, at pp. 13-14, (July 2020); We note Wapixana specifically after speaking with a female indigenous member who shared firsthand experience of how the drought is heightening food and water insecurity and how lack of economic security is causing them to struggle to obtain daily essentials.

<sup>151</sup> Donessa L. David, *Detecting agricultural drought risks: A case study of the rice crop (Oryza sativa) and the TAMSAT-ALERT system in Guyana*, Royal Meteorological Society, vol. 30, no. 5, (24 Sept. 2023) (Guyana has experienced droughts over the years associated with the El Niño Southern Oscillation which causes significant loss in agriculture.).

<sup>152</sup> *Guyana’s National Drought Mitigation and Adaption Plan*, United Nations Convention to Combat Desertification (UNCCD) Drought Initiative (July 2020) at pp. 80-81 [https://www.unccd.int/sites/default/files/country\\_profile\\_documents/NDMAP%20Final%20Version\\_2\\_July%2023.pdf](https://www.unccd.int/sites/default/files/country_profile_documents/NDMAP%20Final%20Version_2_July%2023.pdf).

<sup>153</sup> Advisory Opinion OC-27/21, *supra* note 49 at para. 163.

<sup>154</sup> Convention of Belém do Pará, Article 4.

<sup>155</sup> Advisory Opinion OC-27/21, *supra* note 49 at para. 164.

concerning the prohibition of arbitrary differences in treatment, and a positive one, involving the State obligation to create conditions of real equality for groups that have a history of discrimination.”<sup>156</sup> By not favoring the creation of conditions where women are not the primary home worker and not the primary person at risk of harm from contaminated waters, States of the Caribbean are falling short of their obligations under both the American Convention and the Convention of Belém do Pará.

70. The Inter-American Court has specifically noted that “gender stereotypes involving domestic chores and caregiving stand as a barrier to the exercise of women’s rights.”<sup>157</sup> Thus, States have an obligation to take measures to ensure, where possible, that there is a balance in domestic work between men and women to ensure that women have access to the full enjoyment of their rights.<sup>158</sup> Additionally, the Court has noted that the duty of States to fight structural inequality requires them to take steps to reduce the amount of unpaid domestic work, which prevents women from achieving their full rights.<sup>159</sup>

71. If women were not burdened with the majority of household labor, their rights under Articles 10 (right to health) and 11 (right to a healthy environment) of the Protocol of San Salvador would be less at risk.<sup>160</sup> When States in the Caribbean do not have in place plans to ensure delivery of potable water sources after a weather related disaster, they leave women more susceptible to a violation of their rights; they force them to perform the majority of household tasks in a risky situation in contaminated water. When States in the Caribbean do not create climate adaptation interventions through a gender-based lens, they fall short of protecting women from fully realizing their right to the enjoyment of the highest level of physical, mental, and social well-being. Additionally, for the same reasons, States in the Caribbean fall short of protecting women from fully realizing their right to the protection, preservation, and improvement of the environment.

*e. Women Face a Heightened Risk of Harm When They are Displaced or Forced to Migrate*

72. Although migration prompted by climate change is a global challenge, the Caribbean is experiencing some of the highest rates of climate-induced migration.<sup>161</sup> During a single month in

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<sup>156</sup> *Ibid.* at para. 169.

<sup>157</sup> *Ibid.* at para. 176 (“This Court has pointed to gender stereotypes as one of the causes of gender-based violence against women, emphasizing that such stereotypes are associated with preconceived notions about the personal attributes, characteristics or roles that correspond or should correspond to either men or women. For example, it has found that the subordination of women can be associated with practices based on persistent socially dominant gender stereotypes, a situation that is exacerbated when the stereotypes are reflected, implicitly or explicitly, in policies and practices, and particularly, in reasoning and language. The creation and use of stereotypes becomes one of the causes and consequences of gender-based violence against women.”).

<sup>158</sup> *Ibid.* at para. 178.

<sup>159</sup> *Ibid.* at para. 188.

<sup>160</sup> Protocol of San Salvador, Articles 10 and 11.

<sup>161</sup> *Free Movement Agreements & Climate-Induced Migration: A Caribbean Case Study*, Platform on Disaster Displacement, [accessed 4 Aug. 2023] (“The Caribbean region is particularly at risk in regard to climate-induced migration. The ten countries and territories worldwide with the highest average annual internal displacement per capita are all small island developing states (SIDS), the top six of which are located in the Caribbean.”) <https://disasterdisplacement.org/portfolio-item/fma-caribbean/>; See also, Alejandro Trenchi and Jackson Mehm, *Addressing Climate Migration in the Caribbean*, Global Americans, (3 Mar. 2023) (“In fact, by 2050, the annual cost

2017, approximately 3 million people were displaced due to hurricanes in the region.<sup>162</sup> The spike in migration results from various climate impacts in the region, such as “sea level rise, intense tropical cyclones, storm surge, saltwater intrusion, droughts, changing precipitation patterns, and coral bleaching.”<sup>163</sup> These changes to the environment are causing food and water insecurities, as well as straining the local economy and infrastructures.<sup>164</sup> When people do not have access to clean and safe drinking water, food supplies, sufficient work, shelter to live in, and basic necessities, they turn to migration in hope of a better life. This is especially true in Haiti, which is ranked third in the world among the States feeling the most severe weather events.<sup>165</sup> The consequences of these weather events are exacerbated by deforestation and soil erosion.<sup>166</sup>

73. All migrants face vulnerabilities.<sup>167</sup> Yet, when women must migrate, they face a heightened risk. Women who have been displaced and forced to migrate are at a heightened risk of GBV for similar reasons as discussed in section (a). However, the heightened crime on migration routes makes women more susceptible to abuse and trafficking.<sup>168</sup> According to the 2019 Trafficking in Persons Report, traffickers in the Caribbean target migrant women, particularly from Jamaica, Guyana, and the Dominican Republic. Additionally, when resources are scarce, women are more likely to make sacrifices and limit their food portions to take care of others, leaving them without necessary food or water.<sup>169</sup>

74. Gender does not only affect the way women migrate but also whether they migrate in the first place. As mentioned, Caribbean women are responsible for domestic and care-taking roles more than men, which tie them to the house and prevent them from full time work. In the wake of

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of inaction for the Caribbean in hurricane damages, tourism losses, and infrastructure damages could reach USD \$22 billion. The Intergovernmental Panel on Climate Change has projected that without intervention, the impacts of climate change will likely render some small island nations uninhabitable this century. As a result, the disruptive nature of climate change will drive large-scale migration flows.”) <https://theglobalamericans.org/2023/03/addressing-climate-migration-in-the-caribbean/#:~:text=Recent%20studies%20have%20shown%20an,migration%20to%20the%20United%20States>.

<sup>162</sup> *Free Movement Agreements*, *supra* note 162.

<sup>163</sup> *Id.*

<sup>164</sup> Jamie Lutz and Erol Yayboke, *Haitian Migration: Food Insecurity, Fragility, and a Better Way Forward*, CSIS: Center for Strategic and International Studies, (22 Nov. 2021) <https://www.csis.org/analysis/haitian-migration-food-insecurity-fragility-and-better-way-forward>.

<sup>165</sup> *Id.*

<sup>166</sup> *Id.*

<sup>167</sup> Trenchi and Mehm, *supra* note 162, (“Migrants are particularly vulnerable to falling victim to crime when they move through illegal channels, have little access to legitimate employment, and lack legal status or social protections. Organized crime often subjects migrants to forced labor, criminal recruitment, sexual abuse, and other severe human rights violations. The absence of regular migratory pathways and poor state control over borders have further exacerbated this problem.”).

<sup>168</sup> *Gender, Migration, Environment and Climate Change*, IOM UN Migration, [accessed 5 Aug. 2023] (“Migrant women already on the move are often forced to return to their countries of origin or are at risk of becoming trapped and unprotected along their migration routes. They are also more exposed vulnerable to risks such as abuse, discrimination, exploitation, and Gender-Based Violence (GBV), including trafficking in persons, and face challenges in accessing sanitation, and sexual, and reproductive and mental health services.”) <https://environmentalmigration.iom.int/gender-migration-environment-and-climate-change>; *See also*, *Crisis update*, *supra* note 81, (“When crisis hits, women and girls are disproportionately exposed to risk. Their livelihoods are endangered, they face increased risk of rape, sexual exploitation and other forms of violence.”).

<sup>169</sup> *Crisis update*, *supra* note 81, (“They are also more likely to make sacrifices to protect their families, such as eating less food to ensure no one else is hungry.”).



disasters, there is typically a heightened need for care giving and no time for paid work.<sup>170</sup> This results in women being left behind with the responsibility of caring for the family and the household in the man's absence while men choose to migrate for "better livelihood opportunities."<sup>171</sup>

75. States' failure to take action against climate change to prevent or mitigate the particular difficulties women face when forced to migrate is a violation of their obligations under the American Convention, the Protocol of San Salvador, and the Convention of Belém do Pará.

76. As stated in the above sections, due to climate change and State inaction, people's right to food, water, education, and general resources are becoming more limited, triggering a violation of States' obligations under Article 12 (right to food)<sup>172</sup> and Article 13(1) (right to education) of the Protocol of San Salvador.<sup>173</sup> The lack of necessary resources and heightened exposure to violence places pressure on vulnerable groups to consider migrating.

77. Article 24 (right to equal protection)<sup>174</sup> of the American Convention, in conjunction with Article 1(1) (obligation to respect rights),<sup>175</sup> is interpreted not only to include a duty to ensure equal protection in law, but also to ensure equal protection of marginalized groups that have historically been discriminated against.<sup>176</sup> Women are a marginalized group that has specific protections, in particular a protection against violence under Article 3 (freedom from violence) of the Convention of Belém do Pará.<sup>177</sup> Additionally, under Article 16 (rights of children),<sup>178</sup> Article 17 (protection of the elderly),<sup>179</sup> and Article 18 (protection of the handicapped) of the Protocol of

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<sup>170</sup> *Gender, Migration, Environment and Climate Change*, *supra* note 169, ("While women and girls often take disproportionate amount of unpaid care work in the household and communities, their burden of reproductive work is likely to increase in the aftermath of disasters. The burden of unpaid care work on most women, including migrant women, will become increasingly time-consuming leading to less time to engage in recognized or paid work, participate in community decision-making processes, gain knowledge on adaptation strategies or invest in new resilient livelihoods.").

<sup>171</sup> *Id.* ("As climate change destroys existing livelihoods, women are more exposed to the risk of being left behind and trapped in dangerous environments while also expected to taking care of family and household responsibilities, when men migrate to seek better livelihood opportunities.").

<sup>172</sup> Protocol of San Salvador, Article 12, "1. Everyone has the right to adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development. 2. In order to promote the exercise of this right and eradicate malnutrition, the States Parties undertake to improve methods of production, supply and distribution of food, and to this end, agree to promote greater international cooperation in support of the relevant national policies."

<sup>173</sup> Protocol of San Salvador, Article 13(1), "Everyone has the right to education."

<sup>174</sup> American Convention, Article 24.

<sup>175</sup> American Convention, Article 1.

<sup>176</sup> Advisory Opinion OC-27/21, *supra* note 49 at paras. 156-157.

<sup>177</sup> Convention of Belém do Pará, Article 3.

<sup>178</sup> Protocol of San Salvador, Article 16, "Every child, whatever his parentage, has the right to the protection that his status as a minor requires from his family, society and the State. Every child has the right to grow under the protection and responsibility of his parents; save in exceptional, judicially-recognized circumstances, a child of young age ought not to be separated from his mother. Every child has the right to free and compulsory education, at least in the elementary phase, and to continue his training at higher levels of the educational system."

<sup>179</sup> Protocol of San Salvador, Article 17, "Everyone has the right to special protection in old age. With this in view the States Parties agree to take progressively the necessary steps to make this right a reality and, particularly, to: a. Provide suitable facilities, as well as food and specialized medical care, for elderly individuals who lack them and are unable to provide them for themselves; b. Undertake work programs specifically designed to give the elderly the opportunity

San Salvador,<sup>180</sup> other vulnerable marginalized groups have heightened protections. Considering women are more often responsible for caring for these other marginalized groups, their rights need heightened attention to remain protected. States' obligation under Article 24, in conjunction with Article 1(1), requires States to protect their rights under the various legal instruments.<sup>181</sup> Thus, States must create laws and opportunities that protect women against being disadvantaged by climate change.

78. Articles 22(1) (right to move freely within a State)<sup>182</sup> and 17(1) (family's right to be protected)<sup>183</sup> of the American Convention, in relation to Article 1(1)<sup>184</sup> (obligation to respect rights) are violated when a State fails to protect people's rights. The Inter-American Court found that States have an obligation to protect people's rights so they are not "forced to leave the territory of the State in which a person legally resides."<sup>185</sup> States that are not creating climate resilient infrastructure, or protection against GBV that occurs after an extreme weather event, which is ultimately resulting in women feeling forced to migrate to seek safer spaces, are in violation of these obligations.<sup>186</sup>

79. For women that do migrate, States have an obligation under Articles 5(1) (right to physical, mental, and moral integrity),<sup>187</sup> 6(1) (freedom from slavery),<sup>188</sup> and 7(1) (right to personal liberty),<sup>189</sup> in relation to Article 4(1) (right to life),<sup>190</sup> of the American Convention to prevent women from being subject to sex trafficking and sexual violence. This Court has emphasized the importance of creating an immigration policy that prioritizes children and their parents due to heightened risk when migrating.<sup>191</sup> The need for heightened protections is in part due to the high

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to engage in a productive activity suited to their abilities and consistent with their vocations or desires; c. Foster the establishment of social organizations aimed at improving the quality of life for the elderly."

<sup>180</sup> Protocol of San Salvador, Article 18, "Everyone affected by a diminution of his physical or mental capacities is entitled to receive special attention designed to help him achieve the greatest possible development of his personality. The States Parties agree to adopt such measures as may be necessary for this purpose and, especially, to: a. Undertake programs specifically aimed at providing the handicapped with the resources and environment needed for attaining this goal, including work programs consistent with their possibilities and freely accepted by them or their legal representatives, as the case may be; b. Provide special training to the families of the handicapped in order to help them solve the problems of coexistence and convert them into active agents in the physical, mental and emotional development of the latter; c. Include the consideration of solutions to specific requirements arising from needs of this group as a priority component of their urban development plans; d. Encourage the establishment of social groups in which the handicapped can be helped to enjoy a fuller life."

<sup>181</sup> Advisory Opinion OC-29/22 of May 30, 2022, at para. 24.

<sup>182</sup> American Convention, Article 22(1), "Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law."

<sup>183</sup> American Convention, Article 17(1), "The family is the natural and fundamental group unit of society and is entitled to protection by society and the state."

<sup>184</sup> American Convention, Article 1(1).

<sup>185</sup> V.R.P. and V.P.C.m et al. v. Nicaragua, Preliminary Objections, Merits, Reparations, and Costs, at para. 308.

<sup>186</sup> *Id.* at para. 309.

<sup>187</sup> American Convention, Article 5(1).

<sup>188</sup> American Convention, Article 6(1), "No one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women."

<sup>189</sup> American Convention, Article 7, "Every person has the right to personal liberty and security."

<sup>190</sup> American Convention, Article 4(1), "Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life."

<sup>191</sup> Advisory Opinion OC-21/14 of August 19, 2014, at para. 70.

risk of trafficking vulnerable minors for sexual purposes.<sup>192</sup> The risk unaccompanied minors face is similar to the risk of women migrating alone.<sup>193</sup> Thus, women and girls who are forced to migrate due to climate disasters are at an extreme risk of sexual exploitation through trafficking. By not enacting policies that protect female migrants against these heightened risks, States are in violation of their obligations to women's rights.

## V. International Practice Regarding Climate Change as Human Rights

80. There are numerous international legal documents that connect gender equality and climate change.

- The Paris Agreement to the United Nations Framework Convention on Climate Change mentions the need to create gender-responsive climate strategies.<sup>194</sup> The preamble states that “[p]arties should, when taking action to address climate change, respect, promote and consider their respective obligations on . . . the right to development, as well as gender equality, empowerment of women and intergenerational equity.”<sup>195</sup>
- The UNESCO Declaration of Ethical Principles in relation to Climate Change emphasized the importance of including gender perspectives within State's climate policies, as well as gender equality and empowerment.<sup>196</sup>
- CEDAW has issued a statement expressing concern about the absence of a gender perspective in the United Nations Framework Convention on Climate Change (UNFCCC) and other global and national policies and initiatives on climate change.<sup>197</sup>
- The Stockholm Convention on Persistent Organic Pollutants recognizes the need to consider the specific dangers pollutants have on women in the preamble, Article 7, and Article 10.<sup>198</sup>
- The Convention on Biological Diversity recognizes the need to incorporate women in climate strategies and the commitment to empowering women.<sup>199</sup>

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<sup>192</sup> *Ibid.* at para. 90.

<sup>193</sup> Sima Bahous, *Statement: Crisis drive an increase in human trafficking – Here's how we stop it*, UN Women, (26 July 2022) (“Women and girls represent 65 per cent of all trafficking victims globally. More than 90 per cent of detected female victims are trafficked for the purpose of sexual exploitation.”) <https://www.unwomen.org/en/news-stories/statement/2022/07/statement-crises-drive-an-increase-in-human-trafficking-heres-how-we-stop-it>.

<sup>194</sup> Paris Agreement to the United Nations Framework Convention on Climate Change, T.I.A.S. No. 16-1104, at Preamble, Article 7, 11, (12 Dec. 2015).

<sup>195</sup> *Ibid.* at Preamble, p. 2.

<sup>196</sup> UNESCO, General Conference, 39<sup>th</sup> Session, Paris, 39 C/RESOLUTIONS, at Preamble, Article 4, 10, (14 Nov. 2017).

<sup>197</sup> CEDAW, *Statement of the CEDAW Committee on Gender and Climate Change*, 44<sup>th</sup> Session, New York, (20 July – 7 Aug. 2009), [https://www2.ohchr.org/english/bodies/cedaw/docs/Gender\\_and\\_climate\\_change.pdf](https://www2.ohchr.org/english/bodies/cedaw/docs/Gender_and_climate_change.pdf).

<sup>198</sup> Stockholm Convention on Persistent Organic Pollutants (POPS), UN Environment, at Preamble, Article 7, 10, (Revised 2019) <https://chm.pops.int/TheConvention/Overview/TextoftheConvention/tabid/2232/Default.aspx>.

<sup>199</sup> Convention on Biological Diversity, Rio de Janeiro, Brazil, at Preamble, (Revised 2019).

- The Convention to Combat Desertification recognizes the important role women play in regions affected by desertification.<sup>200</sup>
- The Beijing Declaration and Platform for Action called on countries to recognize and support the utilization of a gender perspective in environmental policies and programs.<sup>201</sup>
- The Worldwide Summit on Sustainable Development recognized that achieving gender equality requires the consideration of women in climate mitigation strategies.<sup>202</sup>
- The Commission on the Status of Women called on Governments to pursue gender equality and integrate a gender-sensitive approach into their environmental management and disaster reduction plans.<sup>203</sup>

81. Women-centered climate litigation is also slowly growing.

- *Maria Khan et al v Federation of Pakistan et al*, Writ Petition 8960/2019, Lahore High Court.<sup>204</sup> In February 2019, a group of women filed a lawsuit against the Pakistani government for failing to act on climate change, thereby violating their fundamental rights to a clean, healthy environment and a climate capable of sustaining human life. They also argued that the government was discriminating against them based on their sex and has violated their right to equal protection under the law by systematically refusing to address climate change and its disproportionate impacts on women. The case is currently under review.
- *Association of Swiss Senior Women for Climate Protection v. Federal Department of the Environment Transport, Energy and Communications (DETEC) and Others*, “*Verein KlimaSeniorinnen Schweiz v. Bundesrat*,” 53600/20, ECHR, 2020.<sup>205</sup> In 2020, a group of women over 75 years old brought a case against Switzerland in the European Court of Human Rights accusing the government of violating their right to life and health because of inadequate climate change mitigation targets and implementation measures.

## VI. Conclusion

82. As Chile and Colombia’s request to the Inter-American Court of Human Rights acknowledged, the detrimental effects of climate change on human rights can no longer be ignored. This is

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<sup>200</sup> United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, Paris, at Preamble, (14 Oct. 1994).

<sup>201</sup> United Nations, *Beijing Declaration and Platform of Action*, adopted at the Fourth World Conference on Women, at paras. 246 – 252, (27 Oct. 1995) <https://www.refworld.org/docid/3dde04324.html>.

<sup>202</sup> Report of the World Summit on Sustainable Development, Johannesburg, South Africa, at pp. 12-14, (26 Aug. – 4 Sept. 2002).

<sup>203</sup> *Commission on the Status of Women, Sixty-sixth session*, UN Women, (14 – 25 Mar. 2022) <https://www.unwomen.org/en/csw/csw66-2022>.

<sup>204</sup> *Maria Khan et al v Federation of Pakistan et al*, Writ Petition 8960/2019, Lahore High Court.

<sup>205</sup> *Association of Swiss Senior Women for Climate Protection v. Federal Department of the Environment Transport, Energy and Communications (DETEC) and Others*, “*Verein KlimaSeniorinnen Schweiz v. Bundesrat*,” 53600/20, ECHR, 2020.

especially true for the effects on women, who experience gender-specific harms that are often under-reported or ignored by governments. Their request gives the Court an opportunity to assess the justiciability and merits of climate-related claims pertaining to human rights and obligations. With this brief, the International Human Rights Center of Loyola Law School, Los Angeles, has sought to assist the Court by providing examples of a variety of harms felt by women, specifically in the Caribbean, that are caused by climate change, and how those harms connect with international human rights standards. We urge the Court to state, clearly and unambiguously, that States of the OAS must adopt and implement climate adaptation and mitigation strategies that are gender-sensitive and take into account the unique position women have.