The indivisibility and interdependence of human rights: a key perspective for climate justice

Soledad García Muñoz, Erin Daly
The Heinrich-Böll-Stiftung is a German political foundation affiliated with the German Green Party (Alliance 90/The Greens). Its primary task is political education and advocacy in Germany and abroad. Our main topics are ecology and sustainability, democracy and human rights, non-violence and justice. In our work, we place particular emphasis on gender democracy, equal rights for minorities and the political and social participation of migrants. We stand for defence of freedom and human dignity, civic courage, open debate and the acknowledgement of art and culture as independent spheres of thought and action. As a think tank for green visions and ideas, we are part of an international network with 34 offices worldwide and with partner projects in more than 60 countries.

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As the second issue in the Green Ideas series, it is our pleasure to present the article “The Indivisibility and Interdependence of Human Rights: A Key Perspective for Climate Justice” by Soledad Garcia Muñoz and Erin Daly. Their reflections on the indivisibility and interdependence of human rights facing the climate crisis are one of a series of amici curiae submissions presented by different governmental, international, social, and academic actors in the context of a request for an advisory opinion submitted by Chile and Colombia to the Inter-American Court of Human Rights (IACHR) on the interpretation of the American Convention concerning the relation between states obligations regarding human rights and the fight against climate change.

With the advisory opinion, the Court will have the opportunity to provide interpretative guidelines from an inter-American human rights perspective in response to the following questions posed, which will be highly relevant for the design of public policies on climate change mitigation and adaptation, access to justice, and international cooperation on climate financing. The Court will have to respond to the questions formulated with respect to the following:

A. States obligations arising from the duties of prevention and guarantee of human rights related to the climate emergency

B. States obligations to preserve the right to life and survival under climate emergency in light of science and human rights

C. Differential obligations of States regarding the rights of children and future generations confronting the climate emergency

D. State obligations emerging from consultation and judicial procedures given the climate emergency

A. Conventional obligations of protection and prevention for environmental and territorial defenders, as well as women, indigenous peoples, and Afro-descendant communities within the framework of the climate emergency

Human rights’ indivisibility, interrelatedness, interdependence, and universality have been widely recognized. This approach will be particularly significant for interpreting Inter-American standards and developing new perspectives to address the challenges posed by the climate crisis. This article, in its pursuit of an innovative vision, aims to provide a better understanding of the concept of climate rights.

Finally, I would like to thank Betharram Peña for the translation.

Florian Huber
Director Mexico City Office, Mexico and the Caribbean, Heinrich Böll Foundation
Fundación Heinrich Böll
1. Introduction

This article aims to expand recognition that “the human right to a healthy environment” is closely related “to a series of substantive and procedural rights that impact the life, survival, and development of present and future generations, which are protected by the American Convention on Human Rights (from now on, the “American Convention” or “ACHR”) and numerous Inter-American and universal human rights and environmental treaties”.

The Inter-American Court of Human Rights (hereinafter, IACHR), through its Advisory Opinion number 23 of 2017, recognized the right to a healthy environment as an individual and autonomous right, referring to the adverse effects of climate change and mentioning the obligation of States to prevent transboundary environmental harm that may violate the human rights of individuals outside their territory. Likewise, in said Advisory Opinion, the Court stated that there are a series of rights particularly vulnerable to environmental impacts, establishing that:

66. The Court considers that the rights particularly vulnerable to environmental impacts are the rights to life, personal integrity, privacy, health, water, food, housing, participation in cultural life, property, and the right not to be forcibly displaced. Notwithstanding those mentioned, according to Article 29 of the Convention, other rights are also vulnerable, whose violation also affects the rights to life, liberty, and security of persons and infringes the duty to behave fraternally among human beings, such as the right to peace, since displacements caused by environmental deterioration frequently unleash violent conflicts between the displaced population and those settled in the territory to which they are displaced, some of which, due to their massiveness, assume maximum seriousness.

The request for an Advisory Opinion on climate emergency and human rights represents an extraordinary opportunity for the Inter-American Court to reaffirm and deepen this standard in specific relation to the climate emergency, expressly identifying how it affects the principle of indivisibility, interdependence, and interrelation of human rights, including the human right to a healthy environment.
2. The Principle of Indivisibility, Interdependence, and Interrelation of Human Rights

By now, it is well established that “All human rights are universal, indivisible, and interdependent and interrelated”. iii This is clear in positive human rights law, which has frequently reiterated the principle since its first explicit articulation at the Tehran Conference in 1968. At this conference, it was affirmed that “human rights and fundamental freedoms are indivisible; the full realization of civil and political rights is impossible without the enjoyment of economic, social, and cultural rights”. iv

Similarly, the two International Conventions are explicit on this point, recognizing in both of their preambles that “in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political liberties and freedom from fear and want can only be achieved if conditions are created under which everyone may enjoy their civil and political rights, as well as their economic, social and cultural rights” v. A more recent manifestation of this principle can be found in the 2022 United Nations General Assembly Resolution on the human right to a clean, healthy, and sustainable environment, which reaffirms “that all human rights are universal, indivisible, interdependent, and interrelated”. vi

But this is not just a matter of positive law. The indivisibility of human rights is equally self-evident in the nature of the human rights instruments that have their source of inspiration in the “inherent dignity and the equal and inalienable rights of all members of the human family”, as stated in the Universal Declaration of Human Rights, “is the foundation of freedom, justice and peace in the world”. vii Both International Conventions recognize that the rights enunciated in them “derive from the inherent dignity of the human person”. viii This arises not only from the relationship between the two sets of rights, but also from the relationship between the rights guaranteed in each Convention. Additionally, environmental rights are increasingly recognized as part of the family of fundamental rights that are indivisible, interdependent, and interrelated with other civil, political, social, economic, and cultural rights. ix

On the other hand, the United Nations Committee on Economic, Social and Cultural Rights (hereinafter, the CESCR) has also reaffirmed the principles of interdependence and indivisibility in relation to ESCR, stating that:

the rights recognized in the Covenant can be effectively exercised in the context of a wide variety of economic and political systems, on the sole condition that the interdependence and indivisibility of human rights are the principles used in their implementation. x

The recognition of the indivisibility of human rights is equally present in Inter-American Human Rights law. The Protocol of San Salvador states in its Preamble:

Considering the tight relation that exists between the enforcement of economic, social and cultural rights and civil and political rights, since the different categories of rights constitute an indissoluble whole that finds
The REDESCA report on “Businesses and Human Rights: Inter-American Standards” also highlights the inter-American criteria applicable in the field, including the so-called Universality, Indivisibility, Interdependence, and Interrelation of Human Rights. Regarding this, the report establishes that:

The recognition of the universal, indivisible, interdependent, and interrelated nature of human rights through the adoption and application of various instruments and treaties on the subject implies the requirement to close the existing protection gaps of economic, social, cultural, and environmental rights compared to civil and political rights from the various fields that affect them. Given the interconnectedness and close relationship between them, as well as their universal nature and Inter-American roots, these principles must be reaffirmed by paying special attention to the realization of human rights, considering the multiple impacts that may arise within the framework of business activities and operations.

We believe that the Inter-American Court also has an unprecedented opportunity to affirm the obligations of American states to respect and guarantee human rights in the face of business activities that put them at risk in the context of the climate emergency, expressly applying the Universality, Indivisibility, Interdependence, and Interrelation of human rights criterion when responding to the issues addressed in the request received.
3. The Indivisibility of “Climate Rights”

While there may be differences in opinion regarding whether all rights are necessarily intertwined and in what manner, the general proposition that rights mutually reinforce each other and that individuals rely on the protection and fulfillment of certain rights to enjoy others is incontrovertible, both logically and legally. This concept is often referred to simply as the principle of indivisibility. However, rights impacted by climate change are also interdependent and interconnected.

The interrelation among rights suggests that they are relevant to each other, connected in some way, even if only to the extent that they all stem from recognizing the inherent dignity of all individuals within the human family. Interdependence implies a closer relationship between rights, such that protecting one right is necessary for the enjoyment of another, as is the case with rights related to education, language, and culture. These rights are interdependent in the sense that the effectiveness of one strengthens the other.

The most compelling aspect is the recognition of the indivisibility of rights, such that one right simply cannot exist without another. As will be demonstrated later, environmental rights are indivisible, along with many civil, political, social, economic, and cultural rights, because none of them can be enjoyed in a climate that is unstable and unhealthy for human life. Thus, rights operate jointly, and courts must adopt a holistic view of how rights are exercised and enjoyed in individuals’ lived experiences.

Furthermore, some rights are specific and intersectional, particularly insofar as they protect the rights of specific populations—such as women, indigenous peoples, or children—not only from discrimination itself but from discrimination in the exercise of rights. For example, the right to potable water must be guaranteed in a non-discriminatory manner, regardless of where people live or how much they can afford to pay. Moreover, all individuals, including girls and boys, must have adequate opportunities to participate in environmental decision-making processes and other significant social issues.

The Request identifies various rights that are being and will increasingly be affected by the impacts of climate change. While it highlights the variations in different regions of Chile and Colombia, it demonstrates how the rights at risk are interrelated, interdependent, and, in some cases, indivisible. As the Request notes regarding the Andean region states:

There would be a 100-200% increase in the population affected by flooding; a rise in the incidence of diseases such as malaria, dengue, and chikungunya; a negative impact on up to...
In particular, the Human Rights Committee explains that:

Environmental degradation, climate change, and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life. (...) Fulfillment of the obligation to respect and ensure the right to life, and particularly to a life with dignity, depends, among other things, on the measures taken by State Parties to preserve the environment and protect it from harm, pollution, and climate change caused by public and private actors.

Likewise, Question C, concerning the rights of children and future generations, involves a broad range of interconnected rights, including procedural rights protected under the Convention on the Rights of the Child and various rights guaranteed in the American Convention, including the right to life, the right to personal integrity, and the right to privacy, all of which are threatened by the impacts of climate change.

Question D inquires how consultation procedures and judicial remedies can be ensured in light of the multiple impacts of climate change, while Question E addresses populations in greater vulnerability to climate change, such as women, environmental defenders, indigenous communities, and Afro-descendant communities, particularly in terms of intersectional factors. Such populations also experience rights that are affected in an indivisible and interdependent manner, encompassing civil, political, economic, social, cultural, and environmental rights.

Similarly, Question F addresses, among other things, the particular challenges faced by individuals forcibly displaced or forced to migrate within a country or internationally. The indivisibility of these individuals’ civil, political, social, economic, cultural, and environmental rights must also be recognized.

In this regard, as with the other issues raised by the request, the Inter-American Court should consider the standards set by the IACHR and REDESCA in Resolution 3/2021 on Climate Emergency: Scope and Inter-American Human Rights Obligations.
In particular, we call for attention to be given to what is stated in this document:

9. States must fulfill their international obligations to protect and guarantee the enjoyment and exercise of human rights for all individuals who, due to environmental impacts, including those attributable to climate change, are significantly affected individually and collectively. In this regard, when fulfilling their obligations, they should strive to do so, taking into account the interdependence and indivisibility among all rights, understood comprehensively and collectively, without hierarchy among them, and enforceable in all cases before the competent authorities.
4. Conclusions

The Advisory Opinion of the Inter-American Court on the climate emergency and human rights is called to be a fundamental tool for States and actors within the Inter-American sphere in their efforts to ensure the respect and guarantee of human rights facing the climate emergency. Therefore, when addressing the different aspects of the Request and defining the human rights obligations of States in the context of the climate emergency, it will be crucial that the Inter-American Court seeks to reaffirm and make explicit the “perspective of indivisibility and interdependence” that should guide States, both individually and jointly, in fulfilling their obligations for the realization of the human rights of all persons and populations significantly affected by the climate emergency. This also involves developing standards applying the Inter-American criterion on the universality, interdependence, indivisibility, and interrelation of human rights concerning business and economic activities, especially those that adversely contribute to the causes of the climate emergency and its negative consequences on human rights.
The indivisibility and interdependence of human rights: a key perspective for climate justice

VID in the Introduction of the Request.


Proclamation of Tehran, Final Act of the International Conference on Human Rights, Tehran, April 22 to May 13, 1968, U.N. Doc. A/CONF. 32/41 at 3 (1968), para. 13. See, generally, Lanse Minkler and Shawna Sweeney, On the Indivisibility and Interdependence of Developing Countries with Basic Rights. 31 HRQ 351, 352 (2011) noting that ‘The notion that all human rights are indivisible and interdependent originated in UN circles in the 1950s. Since the 1950s, the indivisibility and interdependence of human rights have been the subject of various human rights conferences, declarations, and debates among academics, activists, and legal scholars. The idea has some conceptual grounding in the works of scholars who argue that all human rights, or a specific subset thereof, are essential for ensuring the dignity of the individual.

International Covenant on Economic, Social and Cultural Rights, Preamble para. 3; see also the International Covenant on Civil and Political Rights, Preamble, paragraph 3 (with virtually identical text).

UDHR, Preamble, para. 1.

Preambles to the Covenants, para. 2.

UNGA Resolution 2022.

Also, in the case Acevedo Buendia et al. (“Former Employees of the Comptroller”) v Peru, supra, para. 101, and Case Lagos del Campo v Peru, supra, para. 141. VID also footnote 189 (corresponding to paragraph 141) of the case Lagos del Campo v Peru of August 31, 2017, where the Court identifies Inter-American and universal precedents on the indivisibility and interdependence.

See REDESCA-IACHR, Sixth Annual Report, 2022 Working for the Indivisibility, Interdependence, and Effective Protection of All Human Rights for All People in the Americas. “5 years of promotion and protection of ESCR. For the dignity of the people and for the care of nature of the Americas.” Para. 1931.
xiii REDESCA-IACHR, Report on Business and Human Rights: Inter-American Standards, November 1, 2019, para. 43.
xiv See, for example, United Nations General Assembly Resolution 76/153 on human rights to safe drinking water and sanitation, A/RES/76/153, dated December 16, 2021, establishing “the importance of continuously improving the availability of high-quality, accessible, timely, and reliable disaggregated data on progress related to safe drinking water and sanitation services in households, educational settings, healthcare centers, workplaces, and other settings, including public places, as an indispensable means for States to plan, implement, and monitor the progressive realization of the human rights to safe drinking water and sanitation for all without discrimination.”
xv General Comment No. 26 (2023) on children’s rights and the environment, with special attention to climate change, CRC/C/GC/26 (August 22, 2023), paras. 8 and 11.
xvii ECLAC, Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), 2018.
xviii Request, pages 4 and 5.
xix VID, Request when it says: “the adverse effects of climate change are felt more intensely in segments of the population that are already in a situation of vulnerability due to factors such as geography -rural and coastal areas-, poverty, gender, age, indigenous or minority status, national or social origin, birth or any other condition, and disability,” p. 5.
x x Request, page 8.
xxi Human Rights Committee, General Comment, 36, para. 2.
xii Ibid., para. 62.
xixi Convention on the Rights of the Child, art. 12.1
xxiv Request 10, invoking Article 12 of the CRC and Articles 1, 4, 5, 11, and 19 of the American Convention.
xv Request, pp. 11 and 12.
xxvi On the subject, it is worth noting the thematic report, REDESCA-IACHR, Poverty, Climate Change, and ESCR in Central America and Mexico, in the context of Human Mobility, 2023.
The indivisibility and interdependence of human rights: a key perspective for climate justice
La Fundación Heinrich Böll es una fundación política alemana cercana al partido Alianza 90/Los Verdes. Tiene su sede central en Berlín y actualmente cuenta con 33 oficinas repartidas por todo el mundo. En América Latina la fundación se siente especialmente comprometida, junto con muchas organizaciones contrapartes, con la política climática, la promoción de la democracia y de la justicia de género, así como con la realización de los derechos humanos.

Para nosotros es muy importante fortalecer y apoyar organizaciones locales de la sociedad civil. Hacemos hincapié en la transmisión de conocimientos y la comprensión entre los y las actoras en Europa y América Latina, para lo cual promovemos también el diálogo internacional, ya que es esencial para la acción política constructiva.
ANÁLISIS POLÍTICO

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