



SANTA CLARA UNIVERSITY

## INTERNATIONAL HUMAN RIGHTS CLINIC

June 7, 2024

UN Special Rapporteur on climate change  
Thematic Engagement, Special Procedures and Right to Development Division  
UNOG-Office of the UN High Commissioner for Human Rights  
CH-1211 Geneva 10, Switzerland  
*Submitted via email to [hrc-sr-climatechange@un.org](mailto:hrc-sr-climatechange@un.org)*

Dear Professor Morgera,


On behalf of the International Human Rights Clinic at Santa Clara University School of Law (SCU IHRC) and the International Human Rights Clinic of the University of Illinois at Chicago School of Law, please find a joint response to your [request for input](#) regarding access to information on climate change and human rights. This response focuses primarily on questions 1, 2, and 3.

Last year, our clinics collaborated to develop a [toolkit](#) aimed at analyzing the complementarity between the Inter-American Human Rights System's existing approach to environmental access rights, including the right to access information, and the more specialized normative framework provided by the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean [the Escazú Agreement]. We subsequently updated this analysis to evaluate the application of these norms to climate change in a [written submission](#) to the Inter-American Court of Human Rights to support its elaboration of an advisory opinion on climate change. This submission provides an updated summary of the key points raised in these resources.

As the enclosed indicates, we believe strongly in the importance of the right to access information for the fulfillment of the human right to a clean, healthy, and sustainable environment and to ensure the safety of vulnerable groups including environmental human rights defenders, particularly in the face of the climate emergency. We appreciate the opportunity to share our research and analysis in this regard with you and your team.

In solidarity,



  
Francisco J. Rivera Juaristi  
Director, International Human Rights Clinic  
Clinical Professor of Law  
Santa Clara University School of Law

Sarah Dávila  
Director, International Human Rights Clinic  
Assistant Professor of Law  
School of Law, University of Illinois Chicago



**Question 1<sup>1</sup>: States Must Guarantee the Right to Access Information Relevant to the Climate Emergency by Affirmatively Producing and Providing Access to Such Information, Whether by Public or Private Entities**

1. Environmental procedural rights are essential tools against the climate emergency by ensuring that climate-related decisions are transparent, inclusive, and responsive to the needs and concerns of those most affected by and vulnerable to climate change.<sup>2</sup>
2. Under the Inter-American Human Rights System<sup>3</sup> [IAHRS] and the Escazú Agreement<sup>4</sup> [EA], States have an affirmative duty to guarantee access to and produce environmental information, pursuant to the principle of maximum disclosure. This standard applies with heightened force to information relevant to the climate emergency.<sup>5</sup>
3. Such information should include but not be limited to accessible data about greenhouse gas emissions, air pollution, deforestation, short-lived climate forcers; an analysis of activities and sectors that are particularly likely to contribute to the climate emergency; efforts at climate mitigation and adaptation, and any other factors that will enable the public to understand the climate situation and related human rights impacts.
4. States must produce and disseminate information that facilitates public ability to assess whether climate-related conditions are improving or worsening, as well as differentiated effects on particular groups, including those in situations of vulnerability. Climate impacts should be

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<sup>1</sup> Question 1: “What kind of information should be collected and shared to identify and prevent negative impacts on human rights arising from climate change and climate change response measures? What kind of information can be particularly challenging to access and why?”

<sup>2</sup> Economic Commission for Latin America and the Caribbean/United Nations High Commissioner for Human Rights (ECLAC/OHCHR) *Climate change and human rights: contributions by and for Latin America and the Caribbean* (LC/TS.2019/94), p. 7, Santiago, 2019 [hereinafter Economic Commission for Latin America and the Caribbean/United Nations High Commissioner for Human Rights (ECLAC/OHCHR)].

<sup>3</sup> In its Advisory Opinion on *The Environment and Human Rights* (hereinafter AO/23), the Inter-American Court of Human Rights (hereinafter, “IACtHR” or “the I/A Court”) declared that “States have the obligation to respect and ensure access to information concerning possible environmental impacts.” *The Environment and Human Rights (State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity: Interpretation and Scope of Arts. 4(1) and 5(1) in relation to Arts. 1(1) and 2 of the American Convention on Human Rights)*; Advisory Opinion OC-23/17, Inter-Am. Ct. H.R. (ser. A) No. 23, ¶ 225 (Nov. 15, 2017) [hereinafter Advisory Opinion OC-23/17].

<sup>4</sup> Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Article 5, Sept. 27, 2018, [https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428\\_en.pdf](https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf). [hereinafter Escazú Agreement].

<sup>5</sup> In *La Oroya Community v. Peru*, the I/A Court held that States’ due diligence obligations to prevent environmental harm intensify in proportion to the degree of risk posed by the activity in question. *I/A Court. Case of La Oroya Community v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 27, 2023. Series C No. 511, paras. 126, 167.



continuously monitored, and the relevant information should be regularly updated.<sup>6</sup> States must assist vulnerable groups to access such information and allow them to share their own environmental knowledge. States must require private actors, including business enterprises, to provide such data and ensure its accessibility.

5. The IAHRs obligates States to provide access to environmental information<sup>7</sup> as a means to protect the right to public participation and promote States' transparency and accountability, thereby strengthening democracy.<sup>8</sup> This rationale applies with even greater force to the context of the climate emergency, where extending this obligation would empower individuals and communities to access the information necessary to hold States accountable to their obligation to protect against human rights violations generated by climate change.

6. In the IAHRs, States must provide accurate, updated, understandable information in a timely and proactive manner to build public trust and allow the public to use such information to exercise other rights.<sup>9</sup> In environmental matters, this obligation requires States to produce, compile, and provide "relevant and necessary information on the environment ... includ[ing] information on environmental quality, environmental impact on health and the factors that influence this, and also information on legislation and policies, as well as assistance on how to obtain such information."<sup>10</sup> Additionally, "access to environmental information should be affordable, effective and timely[]"<sup>11</sup> and "[s]uch information must be complete, understandable, provided in accessible language, updated, and provided in an effectively accessible manner for different sectors of the population."<sup>12</sup> These obligations apply with heightened force in cases of environmental emergency<sup>13</sup> and should be extended to the climate crisis.

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<sup>6</sup> Advisory Opinion OC-23/17, at ¶ 153 (citing ICJ, *Case of Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment of April 20, 2010, ¶ 205, and ICJ, *Certain activities carried out by Nicaragua in the border area (Costa Rica v. Nicaragua)* and *Construction of a road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*, Judgment of December 16, 2015, ¶ 161).

<sup>7</sup> I/A Court H.R. *Case of Claude Reyes v. Chile, Merits, Reparations, and Costs*, Judgment of Sept. 19, 2006. Series C No. 151, ¶ 76-81 [hereinafter *Reyes v. Chile*]; Advisory Opinion OC-23/17 at ¶ 225.

<sup>8</sup> *Reyes v. Chile*, at ¶ 76-81; Advisory Opinion OC-23/17, at ¶¶ 86, 213. In two recent judgments, the Court reaffirmed this interpretation when it noted that the right to consultation also implicates this aspect of the right to information and found violations where the States in question failed to guarantee adequate access to information necessary to facilitate meaningful participation in environmental decision-making and to meet Inter-American standards for free, prior, and informed consultation. I/A Court H.R. *Triunfo de la Cruz Garifuna Community and its members v. Honduras, Merits, Reparations and Costs*, Judgment of October 8, 2015. Series C No. 305, at ¶¶ 123, 129, 131, 136; I/A Court H.R., *Case of the Maya Q'eqchi' Indigenous Community of Agua Caliente v. Guatemala, Merits, Reparations and Costs*, Judgment of May 16, 2023. Series C No. 488, ¶¶ 252, 261, 266, 269.

<sup>9</sup> Advisory Opinion OC-23/17, at ¶ 221. See also I/A Court H.R. *Case of La Oroya Community v. Peru, Preliminary Objections, Merits, Reparations and Costs*, Judgment of November 27, 2023. Series C No. 511, ¶¶ 144, 146 [hereinafter *La Oroya v. Peru*].

<sup>10</sup> Advisory Opinion OC-23/17, at ¶ 223.

<sup>11</sup> Advisory Opinion OC-23/17, at ¶ 220; I/A Court. *Case of La Oroya Community v. Peru, Preliminary Objections, Merits, Reparations and Costs*, Judgment of November 27, 2023. Series C No. 511, para. 145.

<sup>12</sup> *La Oroya v. Peru*, at ¶ 146 [unofficial translation].

<sup>13</sup> Advisory Opinion OC-23/17, at ¶ 223.



7. Likewise, EA requires States to guarantee access to environmental information in accordance with the principle of maximum disclosure,<sup>14</sup> including by affirmatively producing and disseminating such information, and taking steps to ensure access for the most vulnerable persons and communities.<sup>15</sup> EA defines “environmental information” broadly to encompass “any information [...] regarding the environment and its elements and natural resources, including information related to environmental risks, and any possible adverse impacts affecting or likely to affect the environment and health, as well as to environmental protection and management.”<sup>16</sup>

8. Article 6(1) EA requires States to “generate, collect, publicize and disseminate environmental information [. . .] in a systematic, proactive, timely, regular, accessible and comprehensible manner[.]”<sup>17</sup> States must also “periodically update this information”<sup>18</sup> and “encourage the disaggregation and decentralization of environmental information at the subnational and local levels.”<sup>19</sup>

9. According to the EA, States must guarantee the systematic, proactive, and comprehensible provision of publicly held environmental information.<sup>20</sup> This obligation encompasses creating independent oversight bodies to ensure transparency and compliance with access to information rules.<sup>21</sup> States must also actively generate, organize, and disseminate environmental information, including through environmental information systems,<sup>22</sup> ensuring the information provided is comprehensible and regularly updated.<sup>23</sup> Article 6 provides specific guidance on how States must fulfill their obligations to produce and publicize environmental information, including through independent environmental reviews<sup>24</sup> and “a national report on the state of the environment[.]”<sup>25</sup> Furthermore, States must establish early warning systems for imminent threats to public health or the environment, promptly disclosing pertinent information to enable preventive measures.<sup>26</sup>

10. With regard to private actors, States must promote access to privately-held environmental information.<sup>27</sup> These provisions reinforce States’ obligations of due diligence regarding the impact of business activities on climate and should be combined with the framework outlined by the UN Special Rapporteur on human rights and the environment, which applies the UN Guiding

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<sup>14</sup> Escazú Agreement, at Art. 5(1).

<sup>15</sup> Escazú Agreement, at Arts. 2(e), 5, 6. *See also* Escazú Toolkit, pp. 32-35.

<sup>16</sup> Escazú Agreement, at Art. 2(c).

<sup>17</sup> Escazú Agreement, at Art. 6(1).

<sup>18</sup> Escazú Agreement, at Art. 6(1).

<sup>19</sup> Escazú Agreement, at Art. 6(1).

<sup>20</sup> Escazú Agreement, Art. 6(1), 6(3)(h).

<sup>21</sup> Escazú Agreement, at Art. 5(18).

<sup>22</sup> Escazú Agreement, at Art. 6(3).

<sup>23</sup> Escazú Toolkit, p. 23.

<sup>24</sup> Escazú Agreement, at Art. 6, 6(8).

<sup>25</sup> Escazú Agreement, at Art. 6(7).

<sup>26</sup> Escazú Agreement, at Art. 6(5).

<sup>27</sup> Escazú Agreement, at Art. 6(12-13).



Principles on Business and Human Rights to call on businesses to adopt human rights policies, conduct human rights due diligence, and disclose their emissions.<sup>28</sup>

11. EA provides that States must ensure that vulnerable persons and groups have access to environmental information by “establishing procedures for the provision of assistance, from the formulation of requests through the delivery of the information, taking into account their conditions and specificities, for the purpose of promoting access and participation under equal conditions.”<sup>29</sup> States must provide information at no cost when “the applicant is deemed to be in a vulnerable situation or to have special circumstances warranting such a waiver,” except for reasonable “reproduction and delivery costs.”<sup>30</sup> States must also make their best efforts “to ensure that the competent authorities disseminate environmental information in the various languages used in the country[.]”<sup>31</sup>

12. Under Article 6 EA, States must establish long-term environmental monitoring mechanisms to show changes in environmental quality over time and demonstrate the results of State environmental decision-making.<sup>32</sup> Because the climate emergency implicates many human rights, States need to create these kinds of environmental information systems so the public can understand how climate change may be affecting their other rights and to allow them to take preventive or protective action.

13. In accordance with the EA, States must not only make environmental information accessible, but also actively produce and disseminate such information.<sup>33</sup> The EA’s inclusion of this proactive duty recognizes that in a technically complex area like the environment, the right to access information has no meaning unless comprehensible, accessible, and accurate information exists and is made publicly available in an organized, usable, updated format.<sup>34</sup> Accordingly, the Agreement provides detailed guidelines as to the types of environmental information that States must produce, how it should be organized, and the means States must implement to ensure that this information is properly disseminated and updated.<sup>35</sup>

14. All of these obligations apply to information relevant to the climate emergency. The Economic Commission for Latin America [ECLAC] has recognized the importance of the EA’s human rights protections for the climate emergency.<sup>36</sup> ECLAC has noted that “[t]he Escazú

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<sup>28</sup> David R. Boyd. (2019). Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/74/161 (15 July 2019), ¶¶ 71-72 [hereinafter Boyd].

<sup>29</sup> Escazú Agreement, at Art. 5(3).

<sup>30</sup> Escazú Agreement, at Art. 5(17).

<sup>31</sup> Escazú Agreement, at Art. 6(6).

<sup>32</sup> Escazú Agreement, at Art. 6.

<sup>33</sup> Escazú Agreement, at Art. 6.

<sup>34</sup> Escazú Agreement, at Art. 6.

<sup>35</sup> Escazú Agreement, at Art. 6.

<sup>36</sup> Economic Commission for Latin America and the Caribbean/United Nations High Commissioner for Human Rights (ECLAC/OHCHR), at p. 48.



Agreement means that the public shall have access to data and information on emissions, climate vulnerabilities and other information related to climate observations and the risks associated with climate change, among other things.”<sup>37</sup> ECLAC further observed that “the Escazú Agreement also promotes the generation and proactive dissemination of climate information, such as sources related to CO2 emissions.”<sup>38</sup>

15. Accordingly, States have an affirmative, proactive duty to produce information and guarantee access to information relating to the climate emergency, in keeping with the principle of maximum disclosure. Such information should include data about relevant pollutants and activities, climate mitigation and adaptation efforts, the progress of climate effects, the differentiated impacts experienced by vulnerable groups, and privately held information. Public authorities must oversee the generation and dissemination of the broadest possible range of information relevant to the climate emergency and ensure that vulnerable persons and groups have access to such information.

**Question 2<sup>39</sup>: States Must Request and Adopt Adequate Environmental and Social Impact Assessments that Include an Assessment of Climate Impacts, Whether Proposed Activities are Carried Out by Public or Private Actors.**

16. One essential way for States to partially fulfill their obligation to produce and disseminate environmental information relevant to the climate emergency is by requiring, supervising, and reviewing environmental and social impact assessments [ESIAs] that incorporate analysis of a proposed activity’s climate impacts. As a component of State monitoring and supervision, ESIAs are also a widely adopted, core mechanism to prevent environmental harm.<sup>40</sup> Specifically, States must exercise their due diligence obligations to supervise and monitor activities that may cause environmental harm by requiring ESIAs that include an analysis of climate impacts, whether such activities are carried out by public or private actors. Both the IAHRs and EA provide detailed guidance in this regard.

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<sup>37</sup> Economic Commission for Latin America and the Caribbean/United Nations High Commissioner for Human Rights (ECLAC/OHCHR) at p. 49.

<sup>38</sup> Economic Commission for Latin America and the Caribbean/United Nations High Commissioner for Human Rights (ECLAC/OHCHR) at p. 49.

<sup>39</sup> Are existing approaches to collect, share and monitor information on climate change and human rights sufficient for the public to assess the magnitude of actual and potential negative impacts on their human rights, and the adequacy of States’ responses to these risks? How can these approaches be improved?

<sup>40</sup> Advisory Opinion OC-23/17, at ¶ 153 (citing ICJ, Case of Pulp Mills on the River Uruguay (Argentina v. Uruguay). Judgment of April 20, 2010, ¶ 205, and ICJ, Certain activities carried out by Nicaragua in the border area (Costa Rica v. Nicaragua) and Construction of a road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica). Judgment of December 16, 2015, ¶ 161).



17. IAHRs requires States to approve and conduct ESIA<sup>41</sup> that “include an evaluation of the potential social impact of the project”<sup>42</sup> when there is a risk of significant damage to the environment. The obligation to conduct an ESIA “is independent of whether a project is being implemented directly by the State or by private individuals.”<sup>43</sup>

18. The UN Special Rapporteur on the human right to a healthy environment has recognized that ESIA<sup>44</sup> must directly consider the present and potential climate impacts of the proposed activity, including projects, plans, and policies.<sup>44</sup> ESIA<sup>45</sup> should include not only the proposed activity’s impact on the climate emergency but also the environmental and social dimensions of those impacts - in other words, the impact of intensified climate change on related human rights and vulnerable groups.<sup>45</sup> For example, climate impact analysis should assess not only whether the proposed activity would exacerbate the climate emergency or disrupt mitigation efforts, but also whether it would affect the climate change resilience or adaptive capacity of affected communities.<sup>46</sup> States should also apply this approach to the evaluation of proposed responses to climate change, including adaptation and mitigation activities.<sup>47</sup> In fulfilling this requirement, States should assess “both the upstream and downstream effects”<sup>48</sup> and, in keeping with the I/A Court’s recognition that States have a particular obligation to regulate “activities that involve significant risks to [] health[,]”<sup>49</sup> give particular attention to proposals that strongly implicate the climate emergency, such as oil drilling, coal mining, or energy generation that involves combustion of fuel or otherwise results in the release of large amounts of greenhouse gases.<sup>50</sup>

19. Because climate change acts as a threat multiplier that interacts with existing conditions in complex ways that can exacerbate underlying vulnerabilities, States must take an integrated approach to climate change analysis in ESIA<sup>45</sup>, accounting for cumulative, indirect, and

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<sup>41</sup> Advisory Opinion OC-23/17, at ¶ 164 (citing to I/A Court H.R. Case of Saramaka People v. Suriname, Preliminary Objections, Merits, Reparations, and Costs, Judgment of Nov. 28, 2007. Series C No. 172, ¶ 129 (Nov. 28, 2007) [hereinafter “Saramaka People”], and I/A Court H.R. Case of the Kaliña and Lokono Peoples v. Suriname. Merits, reparations and costs. Judgment of November 25, 2015. Series C No. 309, ¶¶ 213-226.

<sup>42</sup> Advisory Opinion OC-23/17, at ¶ 164 (citing to Saramaka People, at ¶ 129, and Kaliña and Lokono Peoples, at ¶¶ 213-226).

<sup>43</sup> Advisory Opinion OC-23/17, at ¶ 160.

<sup>44</sup> Boyd, at ¶ 64(d).

<sup>45</sup> United Nations Environment Programme, Climate Change and Human Rights, 2015, p. 17, at [https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/-Climate\\_Change\\_and\\_Human\\_Rights-human-rights-climate-change.pdf.pdf?sequence=2&amp%3BisAllowed=](https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/-Climate_Change_and_Human_Rights-human-rights-climate-change.pdf.pdf?sequence=2&amp%3BisAllowed=) [hereinafter United Nations Environment Programme, Climate Change and Human Rights].

<sup>46</sup> International Institute for Environment and Development. Climate change in impact assessments: towards an integrated approach (October 2023), p. 3, at <https://www.iied.org/sites/default/files/pdfs/2023-10/21636iied.pdf>.

<sup>47</sup> United Nations Environment Programme, Climate Change and Human Rights, *supra* note 39, p. 34; Office of the United Nations High Commissioner for Human Rights, Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, Focus report on human rights and climate change (2014).

<sup>48</sup> Boyd, at ¶ 64(d).

<sup>49</sup> Advisory Opinion OC-23/17, at ¶ 141.

<sup>50</sup> Diaz Albar, Magdalena, et al. Cambio Climático y los Derechos de Mujeres, Pueblos Indígenas y Comunidades Rurales en las Américas (abril 2020) p. 66 (citing United Nations Environment Programme, Climate Change and Human Rights, at p. 16).



interconnected impacts at all levels and over time.<sup>51</sup> ESIA's should also include an intersectional analysis that assesses the differentiated impacts of a proposed project on vulnerable groups.

20. States must adopt legislative or administrative provisions that define climate change as an environmental impact that all ESIA's must address and thereby require the consideration of climate impacts in their domestic ESIA regime.<sup>52</sup>

21. All information produced through the ESIA process should be publicly accessible. EA Article 6(3)(h) suggests that States should include "information on environmental impact assessment processes and on other environmental management instruments" in their environmental information systems.<sup>53</sup> Article 7(9) requires that States publicly share the decision made after consideration of an ESIA and related public input "in an effective and prompt manner[.]"<sup>54</sup>

22. Likewise, Article 7(17) requires States to share multiple information categories associated with ESIA's to ensure that the public can effectively participate in the environmental decision-making processes informed by these assessments.<sup>55</sup> The listed types of information should also be considered as the minimum requirements for an ESIA that comports with the rights to access environmental information and to participate in environmental decision-making.<sup>56</sup> By requiring States to publish the results of ESIA measures, the Agreement indicates that States may not abandon their supervision and monitoring function once an ESIA has been approved; rather, they must continue to monitor the environmental impacts of the proposed activity, including its social and climate impacts.<sup>57</sup>

23. For States to meet their due diligence obligation to prevent environmental harm, including harm related to the climate emergency, as well as the right to access information, they must request and adopt adequate environmental and social impact assessments that include an assessment of climate impacts and serve as an effective vehicle for regulation, monitoring, and oversight of

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<sup>51</sup> International Institute for Environment and Development. Climate change in impact assessments: towards an integrated approach (October 2023), p. 3, at <https://www.iied.org/sites/default/files/pdfs/2023-10/21636iied.pdf>.

<sup>52</sup> Advisory Opinion OC-23/17, at ¶ 150.

<sup>53</sup> Escazú Agreement, at Art. 6(3)(h).

<sup>54</sup> Escazú Agreement, at Art. 7(9).

<sup>55</sup> Escazú Agreement, at Art. 7(17).

<sup>56</sup> Escazú Agreement, at Art. 7(17). Article 7(17) provides that at a minimum the following type of information should be made available to the public: description of physical and technical characteristics of proposed project or activity; main environmental impacts, as appropriate, and including cumulative environmental impact; foreseen measures in relation to the environmental impacts; summary of the information in comprehensible and accessible manner (non-technical), public authority relating to project or activities; available information relating to technologies for executing projects or activities subject to the assessments, and actions taken monitoring the implementation and results of EIA measures.

<sup>57</sup> Advisory Opinion OC-23/17, at ¶ 153; John Knox. (2018). Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/37/59, ¶ 20.





activities with the potential to cause significant damage to the environment, whether such activities are carried out directly by the State or by private actors.

**Question 3<sup>58</sup>: States May Only Restrict Access to Environmental Information under Specific, Limited Circumstances; Information Relevant to Climate Change Should be Presumptively Accessible.**

24. Both the IAHRs and EA require States to treat environmental information as presumptively accessible, with restrictions on access permitted only under a narrow set of specifically enumerated circumstances. Given the critical public interest in information relevant to the climate emergency, the principle of maximum disclosure should apply to such information.

25. The I/A Court has held that States have a duty to “protect the right of all individuals to request access to State-held information,” and are prohibited from requiring the person requesting the information “to prove direct interest or personal involvement in order to obtain it, except in cases in which a legitimate restriction is applied.”<sup>59</sup> States must “be governed by a principle of maximum disclosure, which establishes the presumption that all information is accessible, subject to [a] restricted system of exceptions.”<sup>60</sup> States may only restrict the right under the narrow grounds enumerated in Article 13(2) of the American Convention on Human Rights, and all environmental information is presumptively of public interest.<sup>61</sup>

26. Pursuant to EA, States must “ensure the public’s right of access to environmental information in its possession, control or custody, in accordance with the principle of maximum disclosure[.]”<sup>62</sup> which requires States to treat all environmental information as presumptively accessible. States may only limit access to environmental information if one of a limited set of exceptions is clearly met.<sup>63</sup> Even when a restriction on access to information meets one of the listed exceptions, States may only impose the restriction if previously established by law,<sup>64</sup> justified in light of the public interest, and interpreted restrictively.<sup>65</sup> Conversely, States may not require the public to provide any explanation or special interest to request information.<sup>66</sup>

27. Given strong public interest in the climate emergency, these standards should limit the ability of States to restrict access to climate information.

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<sup>58</sup> Question 3: “Are there undue barriers to obtain access to information on human rights and climate change that is up to date? (eg, language and technical accessibility, use of technology, grounds for non-disclosure, others?)”

<sup>59</sup> *Reyes v. Chile*, at ¶ 77.

<sup>60</sup> I/A Court H.R. *Case of Gomes Lund et al v. Brazil*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of Nov. 24, 2010. Series C No. 219, ¶¶ 199, 230.

<sup>61</sup> *La Oroya v. Peru*, at ¶¶ 144-45.

<sup>62</sup> Escazú Agreement, at Art. 5(1).

<sup>63</sup> Escazú Agreement, at Art. 5(5-6). *See also* Escazú Toolkit at p. 20.

<sup>64</sup> Escazú Agreement, at Art. 5(8).

<sup>65</sup> Escazú Agreement, at Art. 5(5), 5(8).

<sup>66</sup> Escazú Agreement, Art. 5(2).