

Un derecho efectivo al cuidado

Estudios iusfilosóficos y sociojurídicos
sobre vulneraciones de los derechos
de quienes reciben y prestan cuidados
en situaciones de dependencia
y discapacidad

Edición a cargo de:
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The “Right to Climate” as a Precondition for the “Right to Care”? A Legal-Philosophical Perspective*

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This contribution has also benefited from the reflections developed within the CRID - Interdepartmental Centre on Discriminations and vulnerabilities of the University of Modena and Reggio Emilia (Director: Professor Thomas Casadei), which, since its establishment, has been committed to critically examining the various forms of discrimination and conditions of vulnerability, including those that are emerging and/or “invisible”. In particular, a significant contribution to the reflections addressed in this volume stems from the seminar “El derecho al cuidado en la sociedad digital. Análisis de la efectividad de los derechos relacionados con los cuidados de larga

1. INTRODUCTION

In a society that is increasingly confronted with the negative effects of climate change, it appears appropriate to reflect on the role of rights and, in particular, of human rights.

In fact, although the issue of the climate crisis is by now widely acknowledged, the risks it entails, the countermeasures that would be required, as well as the elements that define it as a unique and, to some extent, unprecedented phenomenon, are not always clear. For this reason, it becomes essential to introduce any discussion — whether relating to causes, effects, or political and normative solutions — with appropriate preliminary considerations (Pisanò, 2025a, 115-116).

In such a discussion, it seems appropriate to introduce some observations on human rights, including rights that have not yet been enshrined in any formal declaration. It does not seem inappropriate, indeed, to envisage that new rights may one day be recognized on the basis of the needs and claims emerging from individuals themselves.

duración, en el contexto de su creciente digitalización (e-CARE)", held on 29 April 2025 and promoted by the CRID, in collaboration with and within the framework of the E-CARE project.

Furthermore, of particular relevance was the work carried out within the project "D.I.R.E. F.A.RE GLOBALE - Definire itinerari, ripensare e facilitare azioni e relazioni per la cittadinanza globale", promoted by the Municipality of Modena and the CRID, and co-funded by the Emilia-Romagna Region under the R-EDUC Call - Education for Global Citizenship (2024). The present contribution has also drawn upon insights emerging from the projects "I bisogni emergenti delle persone anziane sul territorio modenese" (July 2025 - ongoing) and "Le persone anziane e l'uso delle tecnologie: azioni per l'alfabetizzazione informatica e l'acquisizione di competenze digitali" (June 2025 - ongoing), promoted within the framework of the agreement established between the CRID, SPI-CGIL, CGIL Modena, and AUSER.

For these reasons, I am deeply grateful to the CRID and, in particular, to its founders, Professor Thomas Casadei and Professor Gianfrancesco Zanetti, for the constant opportunities for reflection and critical inquiry into issues that are both fundamentally important and persistently relevant.

This appears to be the case with the right to climate — understood as the right to a stable and safe climate — and the right to care — understood as the right of every person to make available the resources necessary to receive or secure conditions that ensure their well-being and enable the free development of their life project — both of which have recently been acknowledged by the Inter-American Court of Human Rights through Advisory Opinions No. 32/2025 and No. 31/2025, respectively.

These two rights — the right to climate and the right to care — thus come to be connected, with one constituting the precondition for the other. Following the position adopted by the Inter-American Court of Human Rights, it may indeed be argued that the right to climate can be configured as a “foundational right”, that is, a right which operates as a precondition for the exercise of other rights, including the right to care. This does not mean that care cannot be exercised in times of climate crisis, but rather that a genuine right to care cannot be guaranteed unless the right to live in a healthy and safe climate is first ensured.

This applies to everyone; however, the analysis focuses here on the paradigmatic case of persons with disabilities, for whom this perspective becomes particularly significant: already situated in a specific condition of vulnerability, persons with disabilities experience a “double level” of vulnerability, arising both from disability itself and from ecosystem vulnerability resulting from climate change.

A growing body of studies recognizes, indeed, that persons with disabilities are more severely affected by climate change than others and that, for them — given that care often represents a fundamental element of their lives — the recognition and effective protection of a right to climate becomes essential. This awareness has also emerged within the

European context: a significant example is represented by the Final Report *Rights of Persons with Disabilities and Climate Action* (European Disability Forum, 2024), which explicitly highlights how climate change exacerbates pre-existing conditions of vulnerability, due to physical, infrastructural and social barriers, as well as to unequal access to emergency responses and adaptive measures. The particular relevance of this document lies in its ability to underline that the relationship between climate change, disability and care is no longer marginal, but on the contrary, it must be a central element in both reflection and policy-making concerning persons with disabilities.

Accordingly, this contribution aims, first, to present the right to climate as a possible “foundational right” for all other rights and, more specifically for the purposes of this analysis, for the right to care (§1). Secondly, it seeks to examine the relationship between the right to climate and the right to care, drawing on the interpretative framework offered by the Inter-American Court of Human Rights (§2). Finally, it focuses on persons with disabilities as an exemplary paradigm of this connection (§3).

2. THE RIGHT TO CLIMATE: A FOUNDATIONAL RIGHT?

The so-called “right to climate”, as is well known, is not a right recognised in positive international law: in other words, it does not yet fall within the set of universally recognised human rights (Atapattu, 2018).

It is true, in fact, that at the time when the Universal Declaration of Human Rights was drafted, climate was certainly not at the centre of international concerns.

Yet, one of the most interesting features of human rights lies in their “*norm-generative potential*” (Pisanò, 2022, 26), that is, in their capacity to evolve and regenerate, giving rise to new

rights on the basis of the demands and emerging needs that society is called upon to address. These rights cannot, therefore, be reduced either to a purely legal dimension or, conversely, to an exclusively moral one, since human rights are not fully such until they are incorporated into positive law, even though their origin is somehow located at the moral level.

For this reason, human rights cannot be conceived as a closed list; rather, they may be understood as a category destined to be continually enriched, also thanks to judicial power which, by embracing the claims of applicants, ensures the vitality of the law.

It is true that continuously adding new rights, conceiving them as a kind of "list" destined to remain a dead letter, is not the solution: in 1990 Norberto Bobbio warned that the international community was faced not only with the obligation to continually refine the content of the Universal Declaration of Human Rights, but also with the duty to guarantee existing rights, so as to prevent the formulas it contains from being emptied of meaning (Bobbio, 1990, 16). Moreover, as has been aptly noted, the more rights proliferate, the more difficult it becomes to ensure their protection (Pisanò, 2021, 22).

However, the recognition of a human right is the first step towards enabling that right to be asserted not only in political arenas, but also before judicial bodies.

It follows that, from recognised rights, new ones may in turn emerge.

In the specific case, the right to climate arises from the bottom-up, that is, from applicants who ask the courts to hold their States accountable not through monetary compensation or retributive sanctions, but through a *facere*, consisting in the adoption of effective measures to counter climate change (Peel, Osofsky, 2015; UNEP, 2017; UNEP, 2020; UNEP 2023).

The legal bases of this claim consist in the many treaties, conventions, protocols, and international climate agreements that States have signed in order to commit themselves to combating climate change. In particular, these include the 1992 United Nations Framework Convention on Climate Change, the 1997 Kyoto Protocol, and, most recently, the 2015 Paris Agreement.

More precisely, the 1992 United Nations Framework Convention on Climate Change emerged within the framework of the United Nations Conference on Environment and Development (also known as the 1992 Rio de Janeiro Conference) and is particularly significant for several reasons. First, it defines a number of terms relating to the climate issue, devoting the entirety of Article 1 to definitions, which explain what is meant by “adverse effects of climate change”, “climate change”, “climate system”, “emissions”, “greenhouse gases”, “regional economic integration organization”, “reservoir”, “sink”, and “source”.

Of particular relevance is the reference to the definition of “climate change”, which, according to the Convention, consists of “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods” (art. 1 Definitions). This is of special importance because, starting from this Convention, the human capacity to influence the climate is acknowledged, an assumption from which the main objective of the Convention arises, as set out in Article 2 (Objective), namely “in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system”. Furthermore, the Convention is also credited with

having established the Conference of the Parties (COP), which is already referred to in Article 4 (Commitments)¹.

The 1997 Kyoto Protocol, adopted within the framework of COP3, held in 1997, and entering into force only in 2005, marked a turning point insofar as, for the first time, strict and specific, legally binding targets were established for the States listed in Annex I to the Protocol, with the primary objective of reducing greenhouse gas emissions.

Particularly significant was the introduction of an articulated system for monitoring and verifying States' obligations, as set out in Article 12, paragraph 4, which provides that: "[t]he clean development mechanism shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Protocol and be supervised by an executive board of the clean development mechanism".

With a view to implementing and fostering international cooperation, and starting from the assumption that air pollution is a transboundary phenomenon, various flexibility mechanisms were established, including emissions trading (ET). Taking advantage of inequalities among countries and the differing costs they would have had to bear, the European scheme (EU ETS) was created in 2003 as an environmental policy instrument based on criteria of economic efficiency, namely aimed at achieving specific environmental objectives at the lowest possible investment cost, in addition to the principle of common but differentiated responsibility. In practice, in simplified terms, an overall emissions cap was set for each

¹ This provision affirms the obligation to develop, periodically update, publish, and make available to the Conference of the Parties national inventories of anthropogenic greenhouse gas emissions. A more comprehensive indication of the tasks and objectives of the Conference — which may be understood as a forum for socialization among States — is found in Article 7, which defines it as the "supreme body of this Convention" (c. 2), within which the achievement of the objectives and their implementation through further conventions adopted by the Parties themselves are assessed.

sector involved, assigning each participant its own specific target. If, during the reference period, a country accumulated a quantity of emission reductions exceeding its predetermined target, it could sell its surplus to another country that had failed to meet its own.

Two legal regimes were also envisaged: a general one applicable to all States Parties and a second, specific one applicable only to Annex I countries. As regards the first group, an obligation of cooperation was provided for, within a clean development perspective, as well as in the field of observation and research on climate change. For Annex I countries, by contrast, more stringent duties were established, requiring them to implement the obligations undertaken under the Protocol not only through domestic measures aimed, as always, at reducing emissions and enhancing sinks, but also by striving to avoid any negative impact on developing countries and by making financial resources available to the latter in order to achieve mitigation objectives².

Finally, the 2015 Paris Agreement has the merit of highlighting the link between climate change and human rights, insofar as in the Preamble climate change is defined as “a common concern of humankind”, thereby acknowledging “the need for an effective and progressive response to the urgent threat of climate change on the basis of the best available scientific knowledge” (Preamble), and also recognizing that the Parties “should, when taking action to address climate change, respect, promote and consider their respective obligations

2 However, through this clear separation of duties, emerging countries such as China and India were exempted from the obligations imposed on Annex I countries, despite the fact that even at that time they already played a significant role in greenhouse gas emissions. This exemption proved to be one of the critical weaknesses of the Kyoto Protocol, together with the fact that it did not take into account the impact of mitigation actions on employment-related aspects. It may therefore be concluded that, notwithstanding its unquestionable importance, the Protocol's model did not function exactly as had been hoped.

on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity" (Preamble).

The main merit of the Paris Agreement lies in having taken the recommendations of the scientific community seriously, by setting the objective of holding the increase in global average temperature to 1.5°C above pre-industrial levels, or at least well below 2°C. To this end, it provides that the objectives of the signatory States, the so-called Nationally Determined Contributions (NDCs), must be communicated every five years, while at the same time leaving them the discretion to decide which measures to implement and how to implement them, by weighing their costs and benefits and the impact they may have on productive development and the social fabric. The Paris Agreement established several mechanisms for monitoring States' objectives and results, including a global stocktake, based primarily on the NDCs; a new Conference of the Parties in addition to the COP; and further supporting bodies, such as the Subsidiary Body for Implementation (SBI).

However, it should be clarified that none of this entails a sanctioning mechanism for States that fail to achieve the expected results; on the contrary, the Agreement allows for withdrawal after three years from its entry into force, thus risking remaining overly flexible, with the danger (now almost a certainty) of delaying the adoption of measures capable of reversing the current situation. Binding within the Paris Agreement are a set of rules — the so-called "rulebook" — concerning transparency, provided for in Article 13, and State accountability, relating to procedures for measuring and verifying emissions inventories, which allow the monitoring of each State's progress towards the Agreement's objectives.

As a form of assistance to facilitate this task, a Committee on Implementation and Compliance has also been established, which may, among its various functions, offer advice and recommendations regarding the implementation of plans. Developed countries are required to provide information on financial and technological transfers to developing countries, while the latter, in turn, are required to report on what they have received or what they would need in order to implement adaptation and mitigation measures³.

These three international instruments therefore constitute the primary climate-related obligations of States when they are brought before courts in the context of climate litigation.

In the same context, the rights most commonly considered to be violated are the right to life and the right to respect for private and family life. This is particularly true with regard to European cases, which allege violations of Articles 2 and 8 of the ECHR (namely, respectively, the right to life and the right to respect for private and family life).

As regards extra-EU litigation, the outcome instead depends on the court seized, as well as on the origin and age of the applicants. By way of example, a particularly significant case is the one known as *Sacchi et al. v. Argentina*⁴. It concerns

³ It is worth asking whether this detailed mechanism of targets, guidance, and monitoring is leading to the desired outcome. Unfortunately, for a number of reasons — including the (twofold) withdrawal of a country such as the United States from the Agreement — States' targets are not even aligned with the 2°C goal, signaling a strong need for their implementation and revision towards more ambitious aims. This outlook is confirmed by data collected by the Climate Action Tracker (an independent scientific project that monitors government climate actions and assesses them against the globally agreed goals of the Paris Agreement), which is based on declarations and commitments undertaken. According to its projections, global temperatures by the end of the century will exceed 2.6°C, or, in the most optimistic scenario, if all long-term binding targets were fully pursued, warming is estimated at 2.1°C, well above the 1.5°C threshold advocated by the scientific community and the Paris Agreement: <https://climateactiontracker.org/global/cat-thermometer/> [last accessed: 6 November 2025].

⁴ CRC/C/88/D/104/2019, *Sacchi et al. c. Argentina*. 22.09.2021.

a complaint brought before the UN Committee on the Rights of the Child by sixteen minors (from twelve different countries⁵) against five States⁶, in which the applicants claimed to have suffered violations of the rights protected under Articles 3⁷, 6⁸, 24⁹ and 30¹⁰ of the 1989 Convention on the Rights of the Child,

5 More precisely, Argentina, Brazil, France, Germany, India, Marshall Islands, Nigeria, Palau, South Africa, Sweden, Tunisia, USA.

6 Argentina, Brazil, France, Germany e Turkey.

7 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. 2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures. 3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

8 1. States Parties recognize that every child has the inherent right to life. 2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

9 1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. 2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (a) To diminish infant and child mortality; (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; (d) To ensure appropriate pre-natal and post-natal health care for mothers; (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; (f) To develop preventive health care, guidance for parents and family planning education and services. 3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children. 4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

10 In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous

arguing that the States had prioritised economic development interests at the expense of their rights to health and life, in clear violation of the principle of the *best interests of the child*¹¹.

This thus outlines a bottom-up process of rights creation, which begins with a harm suffered, followed by a claim for recognition of the injustice, insofar as it infringes a right already acknowledged at the ethical-normative level.

In this regard, a distinction has been proposed between *prima facie* rights and final rights: the former correspond to the institutional phase, while the latter pertain to the application phase; both are rights, but the former exist only in potential, whereas the latter exist in actuality (Viola, Trujillo, 2014, 27-28).

The institutional phase is useful for defining and ideally allocating the fundamental values and freedoms necessary for respect for the human person; this first moment corresponds to what we have termed *prima facie* rights, namely those abstract rights enshrined in catalogues of rights such as Constitutions, Conventions, and Treaties. These may be understood as “macro-rights”, already protected by sources of particularly high hierarchical rank and endowed with the potential to give rise to new “micro-rights”, that is, those claims which subsequently become recognised.

The application phase, by contrast, serves to specify the concrete implementation of the right in the individual case. This is not a mere application of a fully formed right, since the right interacts with a plurality of factors, such as the conception of the person involved or the particular living conditions of

shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

¹¹ Although it was declared inadmissible due to the failure to exhaust domestic remedies, the Sacchi case has been described by many as extremely significant: cf. V. Lorubbio, 2023, 371.

society; accordingly, this second moment gives rise to final rights, which represent the concretisation of abstract (*prima facie*) rights through judicial proceedings, bearing in mind the impossibility of typifying claims and harms, as these depend on the specificities of the individual case.

Clearly, within such a process, a fundamental role is played by the courts, which have the power to confer legitimacy upon a claim, thereby transforming it from a mere assertion into a subjective right, by assessing whether the arguments brought before them are sufficiently substantiated to convert a potential violation into a judgment that gives official recognition to the injustice of the specific harm¹².

In the specific case, the *prima facie* right is first and foremost the right to life, which constitutes the legal basis for a final right, namely the "right to climate".

It is precisely in one such piece of litigation, and more specifically in the statement of claim, that it is asserted that "the right to a stable and safe climate [...] is something more than the right to life alone: it is its precondition"¹³, as well as constituting a "fundamental right of the person and the prerequisite for every other human right"¹⁴ (Statement of Claim, "A Sud et al. v. Italian State", Civil Court of Rome, 2021, 59, V.8).

The reference is to the case A Sud et al. v. Italy (the so-called "*Giudizio Universale*" ["Universal Judgment"]), namely the action brought by more than two hundred applicants involved

¹² For an overview of the relationship between climate change and justice, and thus of the notion of "climate justice", see: Grear (2014); Shue (2014); Kanbur, Shue (2019); Hickey (2021); Bartmann, Halsband, Schapper (2023); Pörtner et al., 2023; furthermore, reference may be made to Severi (2025).

¹³ The translation in English is mine. The originale text reads as follow: "il diritto alla clima stabile e sicuro [...] è qualcosa di più del solo diritto alla vita: ne è il presupposto".

¹⁴ The translation in English is mine. The original text reads as follow: "diritto fondamentale della persona e presupposto di ogni altro diritto umano".

in the association A Sud, which sued the Italian State, through the Presidency of the Council of Ministers, before the Civil Court of Rome, seeking a declaration of the State's non-contractual civil liability and, consequently, its condemnation to reduce carbon dioxide emissions by 92% by 2030 compared to 1990 levels.

First of all, it is necessary to set out the reasons why such a claim may (or should) be taken seriously.

In this sense, the IPCC – Intergovernmental Panel on Climate Change, the body bringing together the world's leading experts on climate change, provides valuable support. In this regard, one of its most recent reports, the Summary for Policymakers of the Sixth Assessment Report (2021), specifies that even if human beings were to immediately cease all polluting activities, temperatures would continue to rise. Consequently, all that could be done (and still can or must be done) is to keep the increase in global temperatures within 1.5°C¹⁵, or at most 2°C. The report warns that this objective is impossible to achieve if humanity continues to pursue its activities in a traditional manner, continuing to emit greenhouse gases as it has always done, and it outlines possible future scenarios, also specifying the consequences of “only” an additional 0.5°C of warming, together with the degree of probability. At point B.2.2, it states: “Every additional 0.5°C of global warming causes clearly discernible increases in the intensity and frequency of hot extremes, including heatwaves (very likely), and heavy precipitation (high confidence), as well as agricultural and ecological droughts in some regions (high confidence)” (IPCC, 2021, 59)¹⁶.

15 As we have had occasion to clarify earlier, this objective is no longer attainable.

16 Literally, in the summary of the report published by the IPCC, entitled “Climate change widespread, rapid, and intensifying - IPCC”, available at: https://www.ipcc.ch/site/assets/uploads/2021/08/IPCC_WGI-AR6-PressRelease_en.pdf, it reads: “The report shows that emissions of greenhouse gases from human activities are responsible for

Thus, every 0.5°C increase in temperature entails a higher probability of more frequent heatwaves, heavy precipitation, and severe droughts. It is precisely these projections that provide the basis for claimants to justify their claims in the context of climate litigation, while at the same time reinforcing a sense of injustice suffered by them. This reflects an approach to rights production that is not only bottom-up, but also science-based (Farano, 2024).

Therefore, if we assume that it is true that the right to climate is more than the right to life and that it constitutes the foundation of every human being, what opens up before us is an unprecedented perspective: the possibility of a legal-philosophical reflection that allows the right to climate to be conceived not as an additional right to be added to the list of already recognised human rights, but rather as a "foundational right", which constitutes the precondition for protecting and guaranteeing an effective right to life and, together with it, all other rights (Pisanò, 2022; Committee of Ministers, Council of Europe 2022; Inter-American Court of Human Rights, 2025a, art. 303).

Indeed, it is stated in a 2022 Recommendation of the Committee of Ministers of the Council of Europe: "Recognising that measures to address the triple planetary crisis of climate change, loss of biodiversity and pollution are *essential to the better enjoyment of human rights*" (Committee of Ministers of the Council of Europe, 2022, 1, italics mine); furthermore, "[c]onvinced that everyone has the fundamental right to freedom,

approximately 1.1°C of warming since 1850-1900, and finds that averaged over the next 20 years, global temperature is expected to reach or exceed 1.5°C of warming. This assessment is based on improved observational datasets to assess historical warming, as well progress in scientific understanding of the response of the climate system to human-caused greenhouse gas emissions. "This report is a reality check," said IPCC Working Group I Co-Chair Valérie Masson-Delmotte. "We now have a much clearer picture of the past, present and future climate, which is essential for understanding where we are headed, what can be done, and how we can prepare".

equality and adequate conditions of life, and to an environment that is of sufficient quality to permit a life of dignity and well-being in which those rights and freedoms can be fully realized” (ivi, p. 2).

Proceeding in an orderly manner, therefore, if the right to climate is considered the precondition for the right to life, as well as the foundation of every other right, it may reasonably be argued that it also constitutes the precondition for the “right to care”, to which it is moreover closely and inseparably linked.

Indeed if, on the one hand, there can be no right to care without a right to climate, on the other hand the right to climate undoubtedly relates to what may fully be understood as care not only towards human beings, but also towards the planet.

In order to better grasp this interconnection, it is first necessary to define what is meant here by the concept of “care” and of the “right to care”, in order to put it, then, in relation with the “right to climate”.

3. THE RIGHT TO CARE AND THE RIGHT TO CLIMATE: AN INITIAL FRAMEWORK, FROM THE PERSPECTIVE OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

The “right to care” is, according to certain approaches (ECLAC – Economic Commission for Latin America and the Caribbean 2025), implicitly enshrined in international instruments that recognise and protect human rights.

In particular, it may be derived from Article 25 of the 1948 Universal Declaration of Human Rights¹⁷; from Article 10 of the

¹⁷ Universal Declaration of Human Rights, 1948, art. 25, c. 2: “Motherhood and childhood are entitled to special care and assistance” (italics mine).

1966 International Covenant on Economic, Social and Cultural Rights¹⁸; and, moreover, from Article 28 of the 2006 United Nations Convention on the Rights of Persons with Disabilities¹⁹.

Beyond these implicit forms of recognition, one can observe a flourishing of (new) human rights in the Inter-American context. A good example of this process, regarding the right to care, is the *Compromiso de Buenos Aires*, approved by CEPAL - Comisión Económica para América Latina y el Caribe in 2022²⁰. This document refers to the right to care in many of its articles, as a right that must be recognized, protected and guaranteed²¹.

Going deeper into this perspective, a great contribution to the debate has been given by the recent Advisory Opinion No. 31/2025 of the Inter-American Court of Human Rights.

18 International Covenant on Economic, Social and Cultural Rights, 1966, art. 10, c.1: "The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children." (*italics mine*).

19 United Nations Convention on the Rights of Persons with Disabilities, 2006, art. 28, c. 1: "States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability"; *ivi*, c. 2: "States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right".

20 More precisely, this document was approved in the *XV Conferencia Regional sobre la Mujer de América Latina y el Caribe*, organized by the Comisión Económica para América Latina y el Caribe (CEPAL), the Oficina Regional de las Américas y el Caribe de la Entidad de las Naciones Unidas para la Igualdad de Género y el Empoderamiento de las Mujeres (ONU-Mujeres) y el Gobierno de la Argentina, and celebrated in Buenos Aires from november 7 to 11, 2022. Therefore, the information included in the publication comes from the draft report of the *XV Conferencia Regional sobre la Mujer de América Latina y el Caribe*.

21 E. g. art. 9 "Adoptar marcos normativos que garanticen el derecho al cuidado a través de la implementación de políticas y sistemas integrales de cuidado desde las perspectivas de género, interseccionalidad, interculturalidad y derechos humanos, y que incluyan políticas articuladas sobre el tiempo, los recursos, las prestaciones y los servicios públicos universales y de calidad en el territorio".

The Court, recognises care as

una necesidad básica, ineludible y universal, de la cual depende tanto la existencia de la vida humana como el funcionamiento de la vida en sociedad, en tanto permite asegurar condiciones de atención mínimas para una existencia digna, especialmente respecto de personas en situación de vulnerabilidad, dependencia o limitación (Inter-American Court of Human Rights, 2025b, 19, art. 48).

In this sense, therefore, it is argued that an autonomous sphere should be recognised for the protection of the right to care, in particular because

el cuidado constituye un medio indispensable para el goce del derecho a una vida digna [], en tanto permite a las personas desarrollarse integralmente y sostener su proyecto de vida, particularmente en contextos de vulnerabilidad física, psíquica o social. Además, el cuidado es fundamental para la protección de la integridad personal [], ya que su omisión puede traducirse en situaciones de abandono o negligencia que comprometen la dignidad, integridad física o psicológica de las personas según su etapa vital y sus capacidades diferenciadas" (Ivi, 40, art. 108).

Thus, the right to care takes shape as

el derecho de toda persona de contar con el tiempo, espacios y recursos necesarios para brindar, recibir o procurarse condiciones que aseguren su bienestar integral y le permitan desarrollar libremente su proyecto de vida, de acuerdo con sus capacidades y etapa vital. En esta lógica, el cuidado tiene como propósito no solo la subsistencia de las personas cuidadas y aquellas que cuidan, sino su realización y consecución de su proyecto de vida, reforzar la autonomía personal e inclusión en la comunidad a través de las labores de cuidado (Inter-American Court of Human Rights, 2025b, art.113).

A right to care, therefore, necessary for personal development, which must indeed be understood as an

autonomous right, yet never separated from other human rights²²: it is, in fact, closely connected to the right to health, the right to work, and family protection, a linkage that is affirmed very clearly by the Court:

este Tribunal considera pertinente señalar que si bien el derecho al cuidado se encuentra estrechamente vinculado con otros derechos —como la salud, el trabajo, la seguridad social o la protección de la familia—, como fue mencionado previamente [], su contenido no se agota en ninguno de ellos. El reconocimiento del derecho al cuidado presupone su autonomía normativa y funcional, en tanto protege un conjunto específico de condiciones materiales y relacionales que resultan esenciales para el bienestar y la dignidad humana, y cuya omisión o desatención puede comprometer el ejercicio efectivo de múltiples derechos interdependientes (Ivi: art. 114; italics mine).

In this sense, care cannot be understood only as a private practice, but also as a parameter for evaluating how institutions and public policies are capable to respond to situations of vulnerability, (Tronto, 2013)²³. Accordingly, the Inter-American Court has very recently affirmed a genuine "right to care", recognising its normative autonomy insofar as it protects essential conditions for human dignity and for the full enjoyment of human rights.

In this context, the already mentioned *Compromiso de Buenos Aires* (ECLAC, 2022) links the right to care not only to the

22 By virtue of the principle of the indivisibility of human rights, enshrined in the 1993 Vienna Declaration and, in particular, in its article 5, which provides that: "[a]ll human rights are universal, *indivisible* and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms". On this fundamental principle, please refer to Pariotti, 2013, 28, 61-62, italics mine.

23 For a more in-depth discussion of Joan Tronto's ethics of care perspective, please see Casadei, 2007; Zanetti, 2004.

relationship between those who provide care and those who receive it, but also to the external environment and to so-called “sustainable development”, recognising the need to

transitar hacia un nuevo estilo de desarrollo que priorice la sostenibilidad de la vida y del planeta, reconozca que los cuidados son parte de los derechos humanos fundamentales para el bienestar de la población en su conjunto, garantice los derechos de las personas que necesitan cuidados, así como los derechos de las personas que proporcionan dichos cuidados, y visibilice los efectos multiplicadores de la economía del cuidado en términos de bienestar y como un sector dinamizador para una recuperación inclusiva y transformadora con igualdad y sostenibilidad (CEPAL, 2022, 2, art. 1).

After all, Joan Tronto and Berenice Fisher, in their effort to provide a definition of “care”, had already stated that

[o]n the most general level, we suggest that caring be viewed as a species activity that includes everything that we do to maintain, continue, and repair our “world” so that we can live in it as well as possible. That world includes our bodies, our selves, and our environment, all of which we seek to interweave in a complex, life-sustaining web (Fisher, Tronto, 1990, 40).

Along the same lines, the Inter-American Court of Human Rights has also taken a similar position in a second, and likewise very recent, Advisory Opinion, No. 32/2025, in which it attributes to another right — the right to a stable and safe climate — an enabling function, as a precondition for the enjoyment of all rights: “[e]l derecho a un clima sano protege la posibilidad de cada persona de desarrollarse en un sistema climático libre de interferencias antropogénicas peligrosas. Su protección actúa como precondition para el ejercicio de otros derechos humanos” (Inter-American Court of Human Rights, 2025a: art. 303).

Not only that, but it is also further stated that

la protección del derecho a un clima sano reafirma la necesidad de una comprensión sistémica de las múltiples interacciones que sostienen la vida en el planeta y exige reconocer a la humanidad como una expresión más de la red interdependiente de la Naturaleza (Ivi, art. 314).

One of the first characteristics of care identified by Tronto and Fisher is, in fact, *relationality*. This relationship, however, is not limited to human beings in a dyadic and individualistic sense, but rather extends to relationships among different human beings, as well as between human beings and objects, and further between human beings and the environment. It is a relationship that endures over time, that may encompass a single activity or describe an ongoing process, and that may take the form either of a practice or of a disposition (Tronto, 1993).

It is at this crucial juncture, and in continuity with what Joan Tronto had already suggested several years ago, that the concept of care is situated as it is intended to be presented here. A care, and a *right to care*, that open onto a dual yet inseparable dimension: care for the planet and care for other human beings, the former constituting a precondition for the latter.

As has been underlined in other contexts, indeed,

Ecological problems are also, if not above all, inherent to social relationship between humans and other humans, to their specific historical dimension and to the way in which they shape interactions with non-humans as well — both at the material level and at the level of our beliefs about them (Nuti, 2021, 90)²⁴.

24 The translation in english is mine. The original text reads as follow “i problemi ecologici sono anche, se non soprattutto, inerenti ai rapporti sociali tra umani e altri umani, alla loro specifica dimensione storica e al modo in cui essi danno forma anche

In effect, on the one hand, global capitalism, its systems of trade, and the exploitation of people and resources that characterise it, constitute the primary causes of climate change (Avallone, 2023; Imperatore, 2023; Porciello, 2022); on the other hand, climate change itself produces fractures in social relations, increasing inequalities and exacerbating already existing conditions of vulnerability.

Indeed, if it is true that all people are subject to a specific condition of vulnerability that may be defined as ecosystemic vulnerability (Longo, 2023; Lorubbio, 2023), due to our exposure to the risks and harms caused by climate change, it is equally true that certain “categories” of people who are already in a particular condition of vulnerability (Zanetti, 2020) are more exposed than others to its effects, such as persons with disabilities.

4. THE RIGHT TO CLIMATE AS A PRECONDITION FOR THE RIGHT TO CARE: A FOCUS ON PEOPLE WITH DISABILITIES

The concept of ecosystem vulnerability can be understood as a vulnerability “that is such not *despite*, but *because of* the human capacity to impact the ecosystem, to modify it, and ultimately to render it inhospitable for many species, including our own” (Longo, 2023, 345)²⁵.

The vulnerable subject, therefore, is not defined solely through its relationship with other subjects, but also in relation

alle interazioni con i non umani — sia sul piano materiale sia su quello delle nostre credenze a riguardo”.

25 The translation and the italics are mine. The original text reads as follow: “fragilità che è tale non nonostante, ma a causa della capacità umana di incidere sull’ecosistema, di modificarlo, di renderlo in ultimo inospitale per molte specie, tra cui la nostra”.

to the bio-physical context (and thus the natural environment) within which it is embedded. The concept of vulnerability makes it possible to grasp the bio-existential dimension of risk, rendering intelligible what would otherwise remain an abstract notion at the concrete level of its consequences for subjects, both human and non-human.

It is precisely at this juncture that a significant shift emerges towards a renewed legal model of the relationship between humans and nature.

From this perspective, vulnerability contributes to a de-subjectivization of subjective rights, insofar as it may extend to the entirety of living organisms (Morondo Taramundi, 2018, 193) or even to the ecosystem as a whole (Grompi, 2017, 29).

Within this interpretative horizon, all human beings are equally "victims" of a shared ecosystem vulnerability; nevertheless, these considerations take on particular relevance for certain individuals who already find themselves in a specific condition of vulnerability (which "intertwines" with ecosystem vulnerability, giving rise to at least a double layer of vulnerability), such as, by way of example, migrants, homeless, older persons and, finally, persons with disabilities, for whom care often plays a central role in shaping their quality of life. In this sense, ecosystem vulnerability does not affect all individuals in the same way, contributing to the reproduction and exacerbation of existing social inequalities (Trujillo, 2021; Chancel, Bothe, Voituriez, 2023).

It is not a case that also the *Convention on the Rights of Persons with Disabilities* (2006) recognizes in the preamble that "disability is an evolving concept and that disability results from the interaction between persons with, impairments and attitudinal and *environmental barriers* that hinders their full and effective participation in society on an equal basis with others" (UN, 2006, preamble, [e], italics mine).

To date, it appears possible to affirm that environmental barriers also include climate-related issues in a broad sense. The World Health Organization, in the *ICF — International Classification of Functioning, Disability and Health*, in fact, includes “environmental factors” among the “contextual factors” (WHO, 2001, par. 4.3) that contribute to defining a person’s profile of “functioning”, thereby confirming that the climate issue is not only ecological, but also social and legal. In other words, a person’s abilities in everyday life (so-called “functioning”) depend not only on their psycho-physical conditions, but also on the state of the environment in which they live.

Even the OHCHR — the Office of the High Commissioner for Human Rights (2019, 2) — expressed concern for the effects of climate change on persons with disabilities because they “are among the most adversely affected in an emergency, sustaining disproportionately higher rates of morbidity and mortality, and at the same time being among those least able to have access to emergency support”.

On the same line of thoughts is the *European Strategy for the rights of persons with disabilities 2021-2030* (2021), which recognizes that “climate change can also have a more significant impact on persons with disabilities who may be at risk when key services and infrastructure are affected” (European Union, 2021, 22).

In this regard, as highlighted by the European Disability Forum, in the Final Report Rights of Persons with Disabilities and Climate Action (2024), people with disabilities are disproportionately affected by environmental degradation due to physical, technological, and infrastructural barriers, as well as more limited access to emergency assistance in situations of climate-related emergencies.

The report further emphasises that, while climate change poses challenges across multiple spheres of everyday life for all individuals, its impact is even more severe for socially disadvantaged groups, such as persons with disabilities, and in particular for those who experience forms of intersectional discrimination. Reference is made, in this regard, to girls and women with disabilities, children and older persons with disabilities, as well as to persons with disabilities who do not conform to gender norms, indigenous persons, and black persons with disabilities.

For persons with disabilities and their communities, addressing global warming is no longer merely an environmental necessity, but also constitutes a call for collective and genuinely inclusive action, one capable of involving every human being, including persons with disabilities. The report indeed underlines that, by ensuring accessible climate solutions, not only is the planet protected, but the rights of all communities are also safeguarded, including those most affected by climate change, such as persons with disabilities.

Finally, according to the report, integrating the disability dimension into climate action strengthens the response to global warming and benefits society as a whole, since when disability inclusion assumes a priority role within climate governance processes, systems and decision-making frameworks become more efficient and effective for everyone, not only for persons with disabilities (European Disability Forum, 2024, 14-15).

All these considerations taken together, a framework emerges in which the right to a stable climate and the right to care cannot be conceived separately: the former constitutes an indispensable precondition for the latter, and only by recognising this nexus is it possible to guarantee all individuals — especially those in a particular condition of vulnerability,

such as persons with disabilities — a genuine right to care, capable of taking into account their specific circumstances within an unstable and unsafe climatic context, which risks further aggravating such vulnerability²⁶.

5. CONCLUSIONS

It seems useful to clarify, once again, that the discourse on the “double level” of vulnerability affecting persons with disabilities can also be extended to older persons, children (intended as “future generations”: Pisanò, 2025b), migrants, and homeless people that is, to all those “categories” of individuals who find themselves in a particular condition of vulnerability. Nevertheless, persons with disabilities may be regarded as an exemplary paradigm of how the right to care is inextricably linked to the right to a stable climate, insofar as this nexus is essential to living a dignified life in accordance with the standards established by human rights.

In this regard, the right to care emerges as a further fundamental right, as articulated by Advisory Opinion No. 31/2025 of the Inter-American Court of Human Rights, and is essential to ensuring access to adequate time, spaces, and resources in order to provide, receive, or secure conditions that guarantee overall well-being and enable the free development of one’s life project, in accordance with one’s abilities and stage of life.

Within this interpretative framework, the right to care can be understood as intrinsically grounded in a relationship that is, so to speak, “dual” in nature: on the one hand, a relationship of care towards the environment, understood as a fundamental

²⁶ Moreover, the issue seems to be intrinsically linked to the question of equality and, more precisely, to the path leading from a condition of inequality shaped by social structures to equality as a goal. See, on this point, Zanetti, 2023.

condition for ensuring human and non-human life on Earth; on the other hand, a relationship of care towards other human beings, particularly those who find themselves in conditions of greater vulnerability, such as persons with disabilities.

The negative effects of climate change may be understood as a privileged testing ground for holding together these two dimensions, which, upon closer examination, are not separable: the deterioration of ecosystem conditions directly affects the possibilities of care, while the absence of adequate care practices exacerbates the inequalities produced by environmental degradation. In this sense, the protection of the climate and the promotion of care emerge as spheres that mutually influence one another, within which the law is called upon to rethink its instruments of protection and promotion in light of a shared responsibility towards the environment, the climate, and other human beings.

From this perspective, the right to a stable climate is no longer merely an additional principle within the catalogue of human rights, but rather an indispensable precondition for the effective protection and fulfilment of rights, including the right to care.

6. BIBLIOGRAPHY

Books, articles, essays:

- Atapattu, S. (2018). *Human rights approaches to climate change: Challenges and opportunities*. Routledge.
- Avallone, G. (2023). Introduzione. La prospettiva dell'ecologia-mondo e la crisi del capitalismo. Per una critica dell'ecologia necropolitica. In J. W. Moore (Ed.), *Ecologia-mondo e crisi del capitalismo. La fine della natura a buon mercato* (pp. 7-24). Ombre Corte.
- Bartmann, M., Halsband, A., & Schapper, A. (Eds.). (2023). *Climate justice: Ethical aspects and policy aspects*. Verlag Karl Alber.

- Bobbio, N. (1990). *L'età dei diritti*. Einaudi.
- Casadei, Th. (2007). Etica della cura come etica pubblica: Le tesi di Joan Tronto. *Notizie di Politeia*, 87, 181-188.
- Chancel, L., Bothe, P., & Voituriez, T. (2023). *Climate inequality report 2023*. World Inequality Lab Study, 1, 1-149.
- Farano, A. (2024). *Il giudice e la buona scienza. L'istituzione del fatto scientifico in giudizio*. Giappichelli.
- Fisher, B. M., & Tronto, J. C. (1990). Towards a feminist theory of care. In E. K. Abel & M. K. Nelson (Eds.), *Circles of care: Work and identity in women's lives* (pp. 35-62). State University of New York Press.
- Grear, A. (2014). Towards 'climate justice'? A critical reflection on legal subjectivity and climate injustice: Warning signals, patterned hierarchies, directions for future law and policy. *Journal of Human Rights and the Environment*, 5, 103-133.
- Grompi, A. (2017). *V come vulnerabilità*. Cittadella.
- Hickey, C. (2021). Climate change, distributive justice, and "pre-institutional" limits on resource appropriation. *European Journal of Philosophy*, 29(1), 215-235.
- Imperatore, P. (2023). *Territori in lotta. Capitalismo globale e giustizia ambientale nell'era della crisi climatica*. Meltemi.
- Kanbur, R., & Shue, H. (Eds.). (2019). *Climate justice: Integrating economics and philosophy*. Oxford University Press.
- Longo, M. (2023). Vulnerabilità ecosistemica, rischio, diritto. Per un nuovo senso del limite. In V. Lorubbio & M. G. Bernardini (Eds.), *Diritti umani e condizioni di vulnerabilità* (pp. 337-352). Erickson.
- Lorubbio, V. (2023). Vulnerabilità ecosistemica: Potenzialità, limiti e prospettive del diritto internazionale. In V. Lorubbio & M. G. Bernardini (Eds.), *Diritti umani e condizioni di vulnerabilità* (pp. 353-377). Erickson.
- Lorubbio, V., & Bernardini, M. G. (Eds.). (2023). *Diritti umani e condizioni di vulnerabilità*. Erickson.
- Morondo Taramundi, D. (2018). Un nuovo paradigma per l'eguaglianza? La vulnerabilità tra condizione umana e mancanza di protezione. In M. G. Bernardini, B. Casalini, O. Giolo, & L. Re (Eds.), *Vulnerabilità: Etica, politica, diritto* (pp. 179-200). IF Press.
- Morton, T. (2017). *Humankind: Solidarity with non-human people*. Verso.
- Nuti, R. (2021). Ecologia senza natura o ontologia senza storia? Soggetto, ambiente e storicità in Timothy Morton. *Nòema. Filosofia dell'ecologia: eco-poietica ed eco-paidetica*, 12, 88-105.

- Papa, A. (2025). Il clima nelle argomentazioni dei giudici italiani: Un primo passo. *Diritto e Clima*, 1, 317-332.
- Pariotti, E. (2013). *I diritti umani: Concetto, teoria, evoluzione*. CEDAM.
- Peel, J., & Osofsky, H. M. (2015). *Climate change litigation*. Cambridge University Press.
- Pisanò, A. (2021). Diritti umani in crisi? Una riflessione sull'incompiutezza dei diritti. In G. Gioffredi, V. Lorubbio, & A. Pisanò (Eds.), *Diritti umani in crisi? Emergenze, disuguaglianze, esclusioni* (pp. 15-28). Pacini Giuridica.
- Pisanò, A. (2022). Il diritto al clima. *Il ruolo dei diritti nei contenziosi climatici europei*. ESI.
- Pisanò, A. (2025a). L'impatto della crisi climatica sulla comune identità umana. In F. Rinelli & E. Marra (Eds.), *Identità/Meticciati. Giornate di studio sul razzismo. Atti della VI edizione UniSalento / I edizione nazionale* (pp. 115-126). SIBA-ESE, UniSalento.
- Pisanò, A. (2025b). Tra generazioni presenti e generazioni future. La prospettiva intergenerazionale attraverso la youth climate litigation. In T. Andina & G. Sacco (Eds.), *La sfida del domani. Filosofia e generazioni future* (pp. 189-205). Castelvechi.
- Porciello, A. (2022). (In)giustizie ambientali: La maschera verde del capitalismo ecologista. *Ordines. Per un sapere interdisciplinare sulle istituzioni europee*, 1, 603-628.
- Pörtner, H.-O., Roberts, D. C., Tignor, M., Poloczanska, E. S., Mintenbeck, K., Alegría, A., Craig, M., Langsdorf, S., Löschke, S., Möller, V., Okem, A., & Rama, B. (Eds.). (2022). *Climate change 2022: Impacts, adaptation and vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press.
- Severi, C. (2025). *Visioni di giustizia. Clima, cibo, ambienti digitali*. Mucchi editore.
- Shue, H. (2014). *Climate justice: Vulnerability and protection*. Oxford University Press.
- Tronto, J. C. (1993). *Moral boundaries: A political argument for an ethic of care*. Routledge.
- Tronto, J. C. (2013). *Caring democracy: Markets, equality, and justice*. New York University Press.
- Trujillo, I. (2021). Vulnerability, human rights and climate change. In N. Gullo (Ed.), *Human rights and the environment: Legal, economic and ethical perspectives* (pp. 459-471). Editoriale Scientifica.

- Viola, F., & Trujillo, I. (2014). *What human rights are not (or not only): A negative path to human rights practice*. Nova Science.
- Zanetti, Gf. (2004). *L'etica della cura e i diritti*. *Ragion pratica*, 23, 523-529.
- Zanetti, Gf. (2020). *Filosofía de la vulnerabilidad. Percepción, discriminación, derecho*. Editorial Dykinson.
- Zanetti, Gf. (2023). *Equality and Vulnerability in the Context of Italian Political Philosophy: Italian Efficacy*. Springer.

Sentences, decisions, observations

- CEPAL - Comisión Económica para América Latina y el Caribe. (2025). *Acción para la igualdad, el desarrollo y la paz en América Latina y el Caribe: Informe regional sobre el examen de la Declaración y Plataforma de Acción de Beijing a 30 años de su aprobación en sinergia con la implementación de la Agenda Regional de Género* (LC/MDM.66/5).
- Committee of Ministers, Council of Europe. (2022). *Recommendation CM/Rec(2022)20 of the Committee of Ministers to member States on human rights and the protection of the environment* (Adopted on 27 September 2022, at the 1444th meeting of the Ministers' Deputies).
- Corte Interamericana de Derechos Humanos. (2025a). *Opinión Consultiva OC-32/25, de 29 de mayo de 2025, solicitada por la República de Chile y la República de Colombia. Emergencia climática y derechos humanos*.
- Corte Interamericana de Derechos Humanos. (2025b). *Opinión Consultiva OC-31/25, de 12 de junio de 2025, solicitada por la República Argentina. El contenido y el alcance del derecho al cuidado y su interrelación con otros derechos*.
- Tribunale Civile di Roma. (2024). *Sentenza n. 3552/2024*. https://admin.climatcasechart.com/wp-content/uploads/non-us-case-documents/2024/20240226_14016_judgment.pdf

Report:

- European Disability Forum. (2024). *Rights of persons with disabilities and climate action: Final report*.
- Intergovernmental Panel on Climate Change. (2021). *Summary for policymakers*. In *Climate change 2021: The physical science basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press.

- Observatorio de Igualdad de Género de América Latina y el Caribe. (2025). El derecho al cuidado en América Latina y el Caribe: Avances normativos. CEPAL.
- UNEP – United Nations Environment Programme. (2017). The status of climate litigation: A global review. United Nations Environment Programme.
- Id. (2020). Global climate litigation report: 2020 status review. United Nations Environment Programme.
- Id. (2023). Global climate litigation report: 2023 status review. United Nations Environment Programme.
- World Health Organization. (2001). International classification of functioning, disability and health (ICF). World Health Organization.

Declarations, Conventions

- United Nations. (1948). Universal Declaration of Human Rights. Paris.
- United Nations. (1966). International Covenant on Economic, Social and Cultural Rights. New York.
- United Nations. (2006). Convention on the Rights of Persons with Disabilities. New York.