Contribution to the Special Rapporteur on Climate Change - Technologies related to climate change and their impacts on human rights

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About us

Derechos Digitales[1] is an independent civil society organization based in Latin American, founded in 2005, whose mission is the defense, promotion, and development of fundamental rights in digital environments in Latin America.

Brief context

There are more than 450 data centers across Latin America. Countries such as Argentina, Colombia, Chile, Brazil, Mexico, Peru, and Paraguay are major hubs for data center development. Their expansion is currently taking place in a context marked by intense corporate lobby that has led to the weakening of environmental regulations, tax exemptions, and the erosion of rights to prior consultation, as well as access to public information, among others. REDESCA's press release from February, 2026, affirms that States should implement a moratorium on the implementation of data centers until regulation respecting rights is fully adopted and implemented.

Questions

What are the human rights concerns arising climate-related technologies, and specifically from the following technologies? Focus on AI

- Right to previous consultation

Anacé Indigenous community in Brazil takes TikTok to court to stop a planned TikTok data center they say is being built on their land. In August 2025, this indigenous group in the Brazilian state of Ceará brought a formal complaint before federal authorities, asking them to halt the development of a TikTok data center they said was being built on their land. The Anacé have long claimed the area where TikTok and Casa dos Ventos (a wind energy company that will power the data center) are to be built. Their leaders say their right to consultation was violated, and their concerns about the project's water consumption are being ignored. The process requires Indigenous communities to be consulted before construction on their land, but authorities did not discuss the data center

[1] Site: www.derechosdigitales.org/en/home/ Submission prepared by Laura Mantilla and Lucía Camacho, researcher and public policy coordinator at Derechos Digitales. Revised by Paloma Lara-Castro, Director of Public Policy. For more information please contact: paloma.lara.castro@derechosdigitales.org

with the Anacé because they do not have official ownership of the land, plus the developers have received the necessary authorizations from the local water department.

The Anacé are now demanding the immediate suspension of the environmental permit process for the TikTok data center and the annulment of permits already granted. They say the full impact of the project was not properly assessed. One concern is that the daily water consumption estimate of 30,000 liters disclosed by the developer is too low compared to similar projects. TikTok did not respond to questions about whether it initiated a consultation with the Anacé. Casa dos Ventos told Rest of World that the land allocated for the data center does not overlap with any titled Indigenous lands and that the company has followed environmental licensing rules. Fundação Nacional dos Povos Indígenas (FUNAI) has requested that the Ceará State Environmental Superintendency (Semace) suspend the installation license for the data center that will host TikTok operations.

- Right to access public information

Various reports produced in 2025 by the Centro Latinoamericano de Investigación Periodística (CLIP) describe serious obstacles to accessing public information on the status of data center installation projects and their environmental impact in countries such as Mexico, Brazil, Chile, and Paraguay. Their reports describe how rights are at risk mainly as a result of corporate lobby that undermine efforts that are intended to protect citizens rights'.

The report, "Water and Electricity for Data Centers or for Latin Americans?", explains how CLIP sought information from public authorities and technology companies regarding the impact of data centers on water resources and electricity consumption. It highlights widespread opacity in this area, stemming from: (i) confidentiality agreements signed between companies and governments; (ii) the incomplete and partial disclosure of public information; (iii) the provision of information on the environmental impact of data centers that is neither verifiable nor auditable; and (iv) resistance to disclosure on the grounds of protecting trade secrets.

The case of Mexico is an example of the aforementioned reality. Since 2020, large technology companies (Microsoft, Amazon, Google, Ascenty, Equinix) have established themselves in the state of Querétaro, specifically in the municipalities of Colón and El Marqués. There they found stable land without seismic risk, good connectivity, and above all, a government that rolled out the "red carpet" for them: laws tailored to the companies' needs, land given away at almost no cost, and easy access to natural resources such as water and energy, which are scarce for local residents.

However, communities are resisting and demanding transparency. Along with the Movimiento Antorchista they are demanding that the government end the water shortage and provide information on industrial consumption. But they face strong official support: President Claudia Sheinbaum is promoting these data centers, and Querétaro has received $12 billion in investments since 2022. The state government exempts data centers built within industrial parks from submitting environmental impact statements, which typically include the amount of water needed for their operations, thereby hiding their water consumption.

In response, small groups such as Voceras de la Madre Tierra have filed information access requests and organized public forums to pressure the local government to reveal how much water is allocated to data centers. Their requests have not been answered. Other ways of resistance consist in learning more about data centers, that is the case of eight communities of the so-called "data center valley" of Querétaro, who are meeting informally to learn about the use of public resources. Additionally, academics are building networks with environmental and digital rights groups to demand information from the government about the potentially harmful impact of data centers.

Another case in Uruguay demonstrates the impact of state's deliberate opacity. A researcher from Universidad de la República requested access to information from Uruguay's Ministry of Environment to obtain specific data on the amount of water resources and the energy consumption of the data center owned by Eleanor Applications SRL (a Google subsidiary) in the department of Canelones. The state agency denied the request, claiming the information was declared an "industrial secret". The researcher, together with an environmental lawyer, filed a lawsuit before the Administrative Litigation Court. The judge ruled in their favor, ordering the ministry to provide the information within 15 consecutive business days.

However, the Ministry of Environment appealed, arguing that the right of access to information, despite being enshrined nationally and internationally, is not an absolute right, and that merely referencing water-related information does not entitle anyone to obtain it. The legal reference to the Escazú Agreement (ratified by Uruguay in 2021) was key; this agreement obligates states to guarantee justice, transparency, and participation in environmental matters, and Uruguay currently holds its presidency. The Court of Appeals established a binding precedent by ruling that the right of access to environmental information, especially when linked to water resources, constitutes a fundamental human right that overrides commercial or industrial secrecy. As a result, it became known that Google's data center could use up to 7,600,000 liters of drinking water per day. After this controversy, the big tech company redefined its project and modified the data center's cooling system.

- Right to a healthy environment and access to water

In February 2026, the Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights of the Inter-American Commission on Human Rights warned about the risks that technological infrastructure enabling AI -such as data centers- poses to scarce natural resources in countries across the region.

Specifically, it cautioned that the expansion of such infrastructure in Latin America could drive up the costs of water and energy services while also reducing their availability for human consumption. This scenario would have an immediate impact on the enjoyment of fundamental rights, including access to water, health, a healthy environment, and dignified living conditions.

These concerns are particularly significant in a region for which the Inter-American Court of Human Rights, in Advisory Opinion OC-32/25, recognized the existence of a climate emergency.

In its press release, the Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights (REDESCA) introduced the idea that States should consider a temporary moratorium on data center deployment until regulations respecting and protecting DESCA rights are adopted:

> "the deployment of new digital infrastructure that is intensive in water and energy use must be conditioned on strict legal safeguards, and States should consider temporary moratorium on the granting of new authorizations or approvals, with full respect for due process, where there are serious and foreseeable risks to the rights to water, a healthy environment, health, and dignified living conditions."

This recommendation is consistent with that made independently by the United Nations Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation in Resolution A/HRC/60/30, which stated that "States and international institutions should promote a moratorium on the commissioning of data centers and provide clear information about their water and energy consumption, as well as the risks they pose to climate change".

In this regard, we call upon this Rapporteurship to recognize the need for enhanced environmental licensing procedures for the installation of data centers. The environmental impact assessment for such projects should transparently address issues related to the demand placed on existing resource infrastructure -such as local energy grids and potable water systems- as well as the impact of their operations on the cost and availability of these essential services for residents and other users.

We also urge this Rapporteurship to draw attention to States that, in ways incompatible with the protection of human rights, are weakening environmental licensing regulations -as is the case in Chile and Argentina- or granting tax incentives, as in Brazil, to attract this type of investment. These incentives are often justified by promises of job creation, despite the lack of evidence-based support for such claims and despite numerous investigative reports showing that the jobs generated are frequently neither sustainable nor highly skilled.

What are the obligations of businesses in connection to climate technologies? To what extent is climate-technologies businesses, preventing and minimizing climate harm and negative impacts on human rights, in line with UNGPs?

Under the United Nations Guiding Principles on Business and Human Rights (UNGPs), companies developing, financing, operating, or procuring AI-related infrastructure, including hyperscale data centers, have an independent responsibility to respect human rights, separate from and complementary to States' duties.

This responsibility exists regardless of whether domestic regulation is weak, absent, or actively permissive. It requires businesses to avoid infringing on human rights, to prevent or mitigate adverse impacts directly linked to their operations, products, or business relationships, and to provide for or cooperate in remediation where they have caused or contributed to harm.

For climate-related technologies such as AI infrastructure, this responsibility must be interpreted in light of the environmental dimensions of human rights and the specific standards established under the Escazú Agreement. Businesses should therefore conduct heightened human rights and

environmental due diligence that is ongoing, meaningful participation involving not only indigenous populations but also local communities and users affected, and serious analysis about the cumulative and long-term impacts of their operations. This includes assessing not only direct operational impacts, but also foreseeable downstream effects on water availability, energy access, greenhouse gas emissions, biodiversity, and community well-being.

In practice, alignment with the UNGPs and the Escazú Agreement requires climate-technology companies to:

- Respect Indigenous Peoples' rights, including the right to free, prior, and informed consent where applicable, and at a minimum to robust, culturally appropriate consultation consistent with international human rights standards. Proceeding with projects where affected Indigenous communities, such as the Anacé in Brazil, have not been meaningfully consulted is incompatible with the corporate responsibility to respect human rights;
- Disclose timely, accurate, full and comprehensible information regarding environmental and human rights impacts, including projected and actual water consumption, electricity demand, emissions, and cumulative local impacts. Invoking trade secrecy to withhold information essential to the protection of human rights is inconsistent with both the UNGPs and the transparency obligations reflected in the Escazú Agreement;
- Identify and address disproportionate impacts on vulnerable or marginalized communities, particularly where projects may exacerbate water scarcity, energy insecurity, or environmental degradation;
- Refrain from seeking or benefiting from regulatory rollbacks, opaque permitting processes, tax incentives, or exemptions that weaken environmental safeguards, public participation, or access to information;
- Establish and participate in effective reparation mechanisms that are legitimate, accessible, predictable, rights-compatible, and capable of delivering remedyto affected users.

Where there is a credible risk of severe or irreversible harm, particularly to the rights to water, air quality, health, a healthy environment, and Indigenous self-determination, the UNGPs require enhanced due diligence and precautionary action. In such circumstances, businesses should suspend, defer, or refrain from proceeding with projects until adequate safeguards are in place. Continuing development in the absence of reliable and auditable environmental data, meaningful consultation, or effective mitigation measures would be inconsistent with the responsibility to respect human rights.

More broadly, climate-technology companies must ensure that the transition to a digital and low-carbon economy is itself rights-respecting. Technologies promoted as essential to innovation or decarbonization cannot be deployed in ways that externalize environmental costs onto local communities or undermine access to essential resources. A "just digital transition" requires that AI infrastructure be developed in a manner consistent with substantive equality, environmental sustainability, procedural rights, and intergenerational equity.

Accordingly, businesses involved in AI infrastructure should, at a minimum: i) adopt human rights and environmental due diligence processes consistent with the UNGPs and the OECD Guidelines; ii) align disclosure and engagement practices with the Escazú Agreement's principles of transparency, participation, and environmental justice; iii) refrain from operating where consultation rights or environmental safeguards have been compromised; and iv) provide effective remedy where adverse impacts occur. Failure to do so may amount not only to poor corporate practice, but to a breach of their responsibility to respect internationally recognized human rights.