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AUGUST 2025

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In a historic step toward accountability in the climate crisis, the International Court of Justice (ICJ) issued an Advisory Opinion (AO) on 23 July 2025, clarifying the legal obligations of States with respect to climate change.

While neither legally binding nor judicially enforceable, the ICJ AO on the Obligations of States in Respect of Climate Change holds great weight as a moral and persuasive authority under international law. The Opinion—which ultimately answered the question of what the legal obligations of states are in addressing climate change—was a 140-page document rife with pronouncements not only on environmental law, but on fossil fuels, corporate responsibility, reparations, intergenerational equity, and the need to promote and protect the rights of historically vulnerable populations such as indigenous peoples.

From the Pacific Islands to the World, From the World to The Hague

The road from Vanuatu to The Hague began not in courts but in classrooms. This milestone traces its roots to 27 law students from the University of the South Pacific (USP) in Vanuatu who, in 2019, campaigned for the environment, believing that climate change needs to be viewed from a human rights perspective (Pacific Islands Students Fighting Climate Change, n.d.). The group, eventually forming an organization called the Pacific Islands Students Fighting Climate Change (PISFCC), framed global inaction as a direct threat to their existential survival.

These student-activists launched the #ClimateICJAO campaign in order to petition the courts to clarify legal obligations on climate change through the ICJ system and ultimately hold the international community responsible for their role in the climate crisis (Pacific Islands Students Fighting Climate Change, n.d.). This grassroots movement resonated powerfully with Small Island Developing States (SIDS), where climate-induced sea-level rise jeopardizes the states' land, culture, and sovereignty.

Urged by this youth-led activist movement, the government of Vanuatu formally embraced the initiative in September 2021, and announced its plan to request an advisory opinion from the ICJ on climate obligations. The government similarly expressed that the request would be aimed at protecting particularly vulnerable states and communities who endure the greatest toll of the climate crisis (UN News, 2024).

Vanuatu worked closely with civil society, legal scholars, and indigenous representatives to shape its legal framing where human rights, environmental law, and the principle of due diligence under the United Nations Framework Convention on Climate Change (UNFCCC), the Paris Agreement, and generally accepted principles of international law intertwine (UNGA, 2023).

Between late 2022 and early 2023, Vanuatu convened a Core Group of over 130 states, including the Philippines, Antigua, Barbuda, Bangladesh, Costa Rica, Micronesia, Morocco, New Zealand, Samoa, and Uganda, among others. On 29 March 2023, the UN General Assembly (UNGA) adopted Resolution 77/276 without a vote—an unprecedented example of consensual adoption for an ICJ advisory request—calling on the ICJ to provide clarity on two questions:

1. *What are the legal obligations of States under international law to ensure the protection of the climate system and other parts of the environment for present and future generations?* And
2. *What are the legal consequences for states that, by their acts or omissions, have caused significant harm to the climate system and environment that particularly affect vulnerable States, peoples, and individuals?* (Oral, 2025).

Following the UNGA's referral, the ICJ issued procedural orders in August 2023, setting deadlines for written submissions in January 2024 and written replies in April 2024. Oral hearings commenced in December 2024 with record participation in ICJ history as 96 States and 11 international organizations presented their submissions (World's Youth for Climate Justice, 2025).

With over 70 written and oral statements from Governments, NGOs, and experts, the Court reviewed scientific evidence from the Intergovernmental Panel on Climate Change (IPCC), interpretations of treaty obligations, human rights law, and evolving customary norms. Among these submissions, States like Vanuatu, the Philippines, Tuvalu, and Chile emphasized loss and damage, indigenous peoples' rights, and intergenerational equity, while some major emitters urged restraint, insisting that obligations were circumscribed by the Paris regime (Sefeti, 2025).

The global legal and diplomatic context for this opinion includes previous landmark Advisory Opinions, such as ICJ's *Chagos Archipelago* opinion (2019), the recent International Tribunal for the Law of the Sea (ITLOS) request on climate obligations under UNCLOS (2023), and the UNGA Resolution 76/300 (July 2022), recognizing the right to a healthy environment (van den Berg and Withers, 2025). Set against this evolving legal landscape, the scope of and consensus behind Resolution 77/276

distinguish it as a landmark moment in the evolution of international environmental and human rights law.

Even before its release, the AO was long anticipated to reshape the legal architecture of climate accountability. NGOs, youth movements, and legal experts viewed it as a means to clarify State obligations under existing treaties and amplify the call for climate justice, reparations, and intergenerational equity.

Finally, on 23 July 2025, the ICJ delivered its Advisory Opinion with the justices unanimously concluding that States have a binding obligation under international law, including human rights law and customary international law, to prevent environmental harm by limiting greenhouse gas emissions. The court further affirmed the duty to cooperate, especially where transboundary harm is imminent, and emphasized that inaction may be considered an "internationally wrongful act" that would give rise to legal responsibility, which may include a duty to compensate or provide other forms of reparation in favor of affected populations (ICJ 23 July 2025 Advisory Opinion, pp. 130-132).

The Court emphasized that a clean, healthy, and sustainable environment is a fundamental human right. It further clarified that State obligations extend to regulating private actor emissions, fossil fuel licensing, subsidies, production and consumption—all of which are at the core of modern climate governance. The ICJ, standing on the foundation of the youth-driven push and Vanuatu's legal strategy, reinforced emerging norms on intergenerational equity, climate justice, and SIDS sovereignty. These long-contested principles are now part of the international legal fabric, enforceable in spirit, and perhaps soon, in legal fora.

Rejecting a Narrow Framing of Obligations

Ninety-one (91) written statements and 107 oral statements were received by the ICJ, demonstrating the high level of participation by States in the proceedings. There was broad agreement within these statements among nations that climate change is a threat to the international community and the objectives under the Paris Agreement, particularly for the cutting of greenhouse gas emissions, must be met.

However, States diverged on the breadth and nature of the obligations arising under international law to act in response to anthropogenic climate change. Further, for these obligations, what consequences, if any, should there be for breaches? Mainly, these divergences emerged between high-emitting and low-emitting yet specially climate-vulnerable States – the former group submitting reasons for their obligations to be construed in a limited manner defined solely through reference to the UN climate framework and the latter pushing for a broader construction of obligations where breach would carry strict accountability.

Vulnerable nations submitted that this should include additional obligations to act which are found in other treaties and sources of international law beyond just the

climate treaties. On the other hand, high-emitting nations argued that the climate treaties formed a "*lex specialis*", where a specific area of law would preclude the application of broader principles of general international law.

The ICJ unanimously rejected the narrowly framed argument of high-emitting States that the legal obligations to act in response to climate change can only be drawn from the climate treaties. For this, the ICJ relied on the submission of the International Law Commission, stating that mere overlap in the subject matter between more specific and more general rules would not trigger *lex specialis*.

A real inconsistency must exist between the rules or there must be clear evidence that one was intended to exclude the other. The ICJ found no such cases existed between the climate treaties and principles of international law, including customary international law and treaties governing other legal frameworks, such as human rights. Climate treaties are meant to operate within the broader international legal system and make reference to other legal frameworks, indicating the intention to integrate rather than isolate climate change from other sources and principles of international law.

If the court had not rejected the argument, the legal framework to draw the obligations with respect to climate change would be siloed to just the climate change treaties and other rules of international law would be inapplicable.

Since the climate treaties, most prominently the 1992 UN Climate Convention and subsequently the Kyoto Protocol and Paris Agreement, are not the end all and be all of the relevant laws for climate change, the door remains open for other principles and rules of general international law to also apply. From customary international law, the ICJ stated that two intrinsically connected obligations arise in the context of climate change: the *duty to prevent significant harm to the environment and the duty to cooperate for environmental protection*.

Customary Law and Climate Change

Under Article 38 of the ICJ Statute, "international custom, as evidence of a general practice accepted as law" is a primary source of international law. Customary international law arises when there is a general practice by States of some rule that the States accept to be part of international law. The generalization of the practice by States must therefore create some legal obligation.

In the proceedings, a large number of states gave opinio juris statements relevant to how the principle of avoiding transboundary harm can be applied to man-made greenhouse gas emissions. The number of States which gave legal convictions on the matter indicated the emergence of a custom which gives a global obligation to reduce emissions completely outside of the climate treaties.

Critically, for obligations arising from customary international law, States which are not party to the UN climate treaties, such as the Paris Agreement, are still bound to take

appropriate measures to act to mitigate and adapt to climate change. This is a key aspect of the AO.

The ICJ opined that the duty to prevent significant harm to the environment is fully applicable to the climate system, which the Court called a vital part of the global environment. States are obliged to protect the climate system for present and future generations and the risk of significant environmental damage through actions or inactions has to be assessed based on the likelihood and magnitude of potential harm. Additionally, the ICJ stated that cumulative impact from activities from both State and non-State actors can lead to significant harm to the climate system and thus the global environment.

The duty to prevent significant harm to the environment obliges States to act with due diligence. The ICJ has extensively discussed this duty in its Advisory Opinion on the *Legality of the Threat of Use of Nuclear Weapons*, where it was expansively construed to apply to "global environmental concerns". As the climate system is included in the global environment, the duty is therefore extended to it.

Several key elements were also identified by the ICJ to further define how due diligence in the context of climate is to be understood. These include the adoption of appropriate legal and regulatory measures to achieve rapid and sustained reductions in greenhouse gas emissions, the active analysis of available scientific and technological information, and the relevant of binding and non-binding norms, including decisions by the climate treaties' Conference of the Parties (COPs).

The obligation to exercise due diligence under this duty means that States must make assessments of their actions or inactions – the reasonableness of measures are weighed against the particular circumstances of a State but these still must adhere to general conduct standards, which must be understood in relation to proportionality and the character of the risk.

The second identified obligation under customary law is duty to cooperate, which is the core and essence of the UN Charter. The ICJ further expounded on this, stating that this duty is reflected as well in the climate change and environmental treaties. For the duty to cooperate, the ICJ stressed that the climate system is a global commons to which States owe an obligation to internationally collaborate to address threats against.

In addition to the relevant treaties and these obligations under customary international law, the ICJ also cited additional principles under international law which are relevant to climate change, including the common but differentiated responsibilities and respective capabilities (CBDR-RC) principle, the requirement for States to undertake risk impact assessments for activities within their jurisdiction but may harm the climate, the obligation to notify and consult other states if activities may lead to a risk of significant transboundary harm, and the necessity of preventative action amid scientific uncertainty.

Further obligations were also stated to arise from other treaties besides those on climate, such as the Law of the Seas and Biodiversity, and under international human rights law as well.

Rooted Resistance: The Indigenous Peoples

While the ICJ's Opinion made mention of indigenous peoples only five times in the entire document, such acknowledgment marked a significant advancement in the recognition of indigenous peoples' rights in international climate governance, policy, and law.

By affirming that all States have binding obligations to prevent environmental harm and protect the rights of vulnerable populations, the Court reinforced the existing human rights frameworks it found to be legally relevant to the directly applicable laws, such as the UNFCCC, the Kyoto Protocol, and the Paris Agreement.

Historically, indigenous peoples have disproportionately borne the brunt of the impacts of environmental degradation and climate change despite contributing the least to greenhouse gas emissions. Land and other resources also remain central to their lives. In the AO, the Court emphasized the responsibility of the states to reduce greenhouse gas emission throughout the value chain. It further highlighted the responsibility to protect those especially vulnerable to, but least responsible for, climate-related harm (ICJ 23 July 2025 Advisory Opinion, pp. 107-110). This includes safeguarding indigenous peoples' access to land, water, culture, and traditional livelihoods, which are elements that are intimately linked to a stable climate.

Significantly, the Court gave weight and credence to the principle of intergenerational equity: a legal notion long upheld in indigenous practice and cosmologies, but is now formally recognized as part of customary international law. This strengthens indigenous spatio-temporal demands for climate justice and legitimizes the inclusion of traditional knowledge and ecological understanding in global climate policy.

The ICJ also cited treaties like the Convention of Biological Diversity (CBD) as similarly relevant to the directly applicable laws. The aforementioned treaty reinforced the notion that indigenous peoples are not merely victims of the climate crisis, but are active participants, even leaders, in issues of biodiversity and climate policy.

Corporate Culpability by Proxy

In another unprecedented move, the ICJ Opinion reshaped the legal landscape for corporate actors. While the Court has no jurisdiction over private companies themselves, it highlighted that States are responsible for regulating emissions from all entities under their jurisdiction, including the private sector in general and fossil fuel emitters in particular.

This ruling opens the door to potential climate litigation against both States and corporations and increases the risk of consequences should they fail to transition away from fossil fuels.

The ruling, though unprecedented, aligns with emerging trends in domestic and regional courts worldwide, with plaintiffs now increasingly targeting private sector actors for the climate-related harms caused by the latter. In such cases, the plaintiffs would often cite the State's Nationally Determined Contributions (NDCs) as a cause of action.

Pronouncedly, the ICJ established that continued subsidies in favor of fossil fuel industries and failure to enact regulations to reduce reliance on said fossil fuels may be considered an "internationally wrongful act" committed by States. This ruling increases pressure upon government to hold corporations accountable as these States would have to face international legal consequences themselves. Moreover, the Court declared that, aside from subsidies and emissions, activities related to the production, consumption, and licensing of fossil fuels may also be considered internationally wrongful acts.

The Elephant in the UNFCCC Negotiation Room

While the UNGA and the ICJ are two bodies at the center of the Advisory Opinion, the UNFCCC remains at the heart of climate negotiations. The UNFCCC, however, has dynamics of its own, leaving observers wondering how said AO would find application within the UN climate body.

The ICJ AO pronouncements, while presenting valuable guidelines on climate accountability, are not easily applied in practice. Those who have long participated in the climate negotiations space know that the integration of said guidelines would be an uphill battle, perhaps even a mere aspiration for climate vulnerable developing countries.

There have been warning signs that the rulings by the ICJ would be difficult to apply. Despite the expected monumental impact of the request for such AO on the international climate change regime, little to no serious talks have emerged within the UNFCCC on how it would shape or shake the process. Perhaps, this lack of discourse within the negotiations is a symptom of the Parties' discomfort with the idea that the country-driven climate negotiation process, which they have closely guarded for decades, will suddenly be driven by an international court.

It is precisely because of this discomfort that the AO is a positive development for climate negotiations. Since the Paris Agreement, trust in the multilateral process that has underdelivered has continued to erode. This is best seen in the two most recent climate meetings, COP29 and SB62, where even talks on meaningful climate finance have become largely evasive. Thus, a breather, an external shock like the AO would

hopefully nudge the trajectory of climate negotiations for the better—for increased ambition and action, no less.

A zoom into the obligations of States Parties to the Paris Agreement, as explored in the AO, is necessary in order to determine which key areas may be discussed in the various negotiation workstreams ahead, especially the upcoming COP30 summit in Belém:

On the Paris temperature goal: The ICJ AO finds "the 1.5°C threshold to be the parties' agreed primary temperature goal" as it is "based on the "best available science" (ICJ 23 July 2025 Advisory Opinion, para. 224). This crucial finding establishes a firm resistance against the recent push of some Parties to abandon the 1.5°C goal and drop language referencing the same, arguing that such goal is now unattainable.

On the concept of CBDR-RC: The addition of "in light of different national circumstances" to the formulation of the CBDR-RC in the Paris Agreement "does not change the core of the principle of [CBDR-RC]; rather, it adds nuance to the principle by recognizing that the status of a State as developed or developing is not static. (ICJ 23 July 2025 Advisory Opinion, para. 226)" This can serve as an opening for developed countries to further argue that now-considered developing countries can be differently categorized in the future, which is especially crucial in finance.

On NDCs: The ICJ makes space for the Paris mitigation mechanisms, such as the NDCs. "[T]he failure to prepare, communicate and maintain successive NDCs, to account for them and to register them would constitute a breach of the [...] obligations" (ICJ 23 July 2025 Advisory Opinion, para. 236). The Court further declares that "the discretion of parties in the preparation of their NDCs is limited. [...] [P]arties are obliged to exercise due diligence and ensure that their NDCs fulfil their obligations under the Paris Agreement (ICJ 23 July 2025 Advisory Opinion, para. 245)", specifically their obligation to achieve the 1.5°C temperature goal. While not absolutely a negotiation matter, this pronouncement is particularly relevant to the increasingly alarming practice of non-submission of NDCs and eroding transparency in NDC content by the Parties.

On Finance: there is a clear obligation for "developed States to provide financial resources to developing States, for both mitigation and adaptation" (ICJ 23 July 2025 Advisory Opinion, para. 264). The AO concludes that, while the Paris Agreement does not specify the quantum of finance, the obligation of developed country Parties in delivering finance must be conceived "in a manner and at a level that allows for the achievement of the [Paris Agreement] objectives" (ICJ 23 July 2025 Advisory Opinion, para. 265). Thus, climate negotiations on reports indicating finance needs and gaps of developing countries will be a crucial gateway for enabling such an obligation.

Overall, what can be gleaned from the ICJ's interpretation of the Paris Agreement is its resort to the application of basic rules of interpretation, particularly its masterful references to mandatory and prescriptive language in ruling that "shall" stood as an indicator of legal bindingness. While the decision may be a win for today in terms of attaching State responsibility, the use of mandatory language will definitely be a key consideration in the word by word negotiations of any future climate agreement.

Regardless of whether these interpretations in the AO are indeed reflected in negotiation texts or not, the question that now remains is whether the Parties would obtain a consensus to, in a fundamental sense, collectively recognize the Advisory Opinion as an instrument informing the UNFCCC. If and when this happens, a step from diplomacy to accountability—specifically State responsibility—would finally be achieved.

The era of climate justice and accountability

The authors of this article represent several generations of climate justice advocates. One among us has been engaged in this work since the adoption of the United Nations Framework Convention on Climate Change (UNFCCC) in 1992, having negotiated on behalf of the Philippines in landmark processes such as the Kyoto Protocol and the Paris Agreement. Many of us are more recent participants in this struggle, with experience ranging from several months to five years. Yet across generations, we are united in one conclusion: the world is entering a new era of climate law and governance, even as the climate crisis accelerates at an unprecedented pace.

In the 1990s, the international community's priority was clear: developed countries were expected to take the lead in reducing greenhouse gas emissions. By the early 2000s, the agenda had broadened significantly to encompass adaptation, the protection of forests and ecosystems, and the need for all countries to adopt response measures, irrespective of their historical responsibility for emissions. After 2010, and most notably with the adoption of the Paris Agreement, the principles of climate justice and human rights began to occupy their rightful place at the core of climate action. Now, in the 2020s, the imperative is unmistakable: people and the planet cannot wait any longer. Justice and accountability must stand at the centre of international climate action — not as ancillary considerations, but as the foundation for how we govern our collective future.

The recent Advisory Opinion of the International Court of Justice has opened the gates to this new era. What was once merely aspirational is now framed as a legal and moral obligation. Although the Opinion is not enforceable through formal sanctions, it is nonetheless binding in its influence. It reshapes expectations, legitimises demands for reparations, and strengthens the position of advocates — from climate-vulnerable states to civil society worldwide. Crucially, this Opinion will support the advancement of international and domestic climate legislation, encourage states to adopt clearer laws on climate liability and reparations, and provide renewed momentum for progress in the ongoing UNFCCC negotiations.

More than a verdict, it is a vision: a vision in which climate justice is anchored in law, where vulnerable communities are empowered by legal precedent, and where states are reminded that inaction is no longer a refuge from responsibility. For a world in crisis, the Court has struck a match — not to consume, but to illuminate the path forward.

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