

INTERNATIONAL COURT OF JUSTICE'S ADVISORY OPINION ON THE OBLIGATIONS OF STATES IN RESPECT OF CLIMATE CHANGE

23 September 2025

"[T]he questions posed by the General Assembly represent more than a legal problem: they concern an existential problem of planetary proportions that imperils all forms of life and the very health of our planet."

Those were amongst the concluding remarks from the International Court of Justice ("ICJ"), the highest judicial organ of the United Nations, in its Advisory Opinion on the Obligations of States in respect of Climate Change delivered on 23rd July 2025 ("**Advisory Opinion**").¹

The ICJ concluded that all States have legal obligations to ensure the protection of the climate system and other parts of the environment from anthropogenic² greenhouse gas ("**GHG**") emissions, and that a breach of such obligations constitute internationally wrongful acts entailing the legal responsibility of the States in question.

These conclusions were reached unanimously, after the ICJ received hundreds of written statements and written comments and after having heard extensive oral statements from the various States and international organisations that participated in the proceedings before the ICJ.³ The scale and depth of the statements received by the ICJ undoubtedly represents the international community's shared commitment to finding a lasting and satisfactory solution to the climate crisis.

Scope of the Advisory Opinion

The ICJ was asked⁴ by the United Nations' General Assembly ("**UNGA**") to render an advisory opinion on 2 questions:

Question 1: What are the obligations of States under international law to ensure the protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases for States and for present and future generations?

Question 2: What are the legal consequences under these obligations for States where they, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment, with respect to:

¹ The ICJ's Advisory Opinion is the third advisory opinion on climate change by an international court, following on from the advisory opinions delivered by the International Tribunal for The Law of The Sea (ITLOS) on 21st May 2024 and the Inter-American Court of Human Rights (IACtHR) on 29th May 2025. On 2nd May 2025, the African Court of Human and Peoples' Rights received a petition requesting the court to deliver an advisory opinion on the human rights obligations of African States in the context of climate change.

² Caused by humans or their activities.

³ The ICJ's Advisory Opinion can be read [here](#). The ICJ's summary of the Advisory Opinion can be read [here](#). The participating parties' written statements and written comments filed with the ICJ's Registry can be accessed [here](#). The video recordings of the oral proceedings before the ICJ can be viewed [here](#).

⁴ See United Nations General Assembly resolution 77/276 adopted on 29 March 2023. Resolution 77/276 was adopted in accordance with Article 96 of the Charter of the United Nations which states that the United Nations General Assembly may request the ICJ to give an advisory opinion on any legal question, and Article 65 of the Statute of the Court which provides that the ICJ may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

- (i) States, including, in particular, small island developing States, which due to their geographical circumstances and level of development, are injured or specially affected by or are particularly vulnerable to the adverse effects of climate change?
- (ii) Peoples and individuals of the present and future generations affected by the adverse effects of climate change?

The ICJ found the two questions to be necessarily connected. The scope of the obligations identified under Question 1 determined the consequences of breaching those obligations and the remedies available in response to those breaches under Question 2.⁵

Obligations of States under International Law in respect of Climate Change

The vast majority of the Advisory Opinion is dedicated to the ICJ's analysis in response to Question 1. The analysis is presented methodically and sequentially for each of the sources of law identified by the ICJ. There are three categories of legal obligations which merit discussion in this article.⁶

First, the obligations drawn from the triumvirate of climate change treaties: the United Nations Framework Convention on Climate Change (“UNFCCC”), the Kyoto Protocol, and the Paris Agreement.⁷ The ICJ had regard to the rules, principles, mechanisms and institutions established under this climate treaty framework to arrive at a conjoined interpretation of these treaties. The ICJ observed that the ultimate objective of the UNFCCC is to stabilise GHG concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. To this end, the ICJ concluded that States have legally binding obligations of mitigation, adaptation, and co-operation and assistance under Article 4 of the UNFCCC. The ICJ noted that the Kyoto Protocol and Paris Agreement were legal instruments that concretised the overarching obligations under the UNFCCC.⁸



⁵ See paragraphs 102 – 103, Advisory Opinion.

⁶ Apart from the three categories of law discussed in this article, the ICJ also makes observations on the obligations of States under other environmental treaties (such as the Ozone Layer Convention, Montreal Protocol, Convention on Biological Diversity, United Nations Convention to Combat Desertification) and obligations of States under the law of the sea, including the United Nations Convention on the Law of the Sea. See paragraphs 316 – 367, Advisory Opinion.

⁷ See paragraphs 196 – 218, Advisory Opinion. See also Article 2, UNFCCC.

⁸ See paragraphs 219 & 223, Advisory Opinion. See also paragraph 221 of the Advisory Opinion where the ICJ rejected the argument that the Kyoto Protocol is no longer relevant and concluded that whilst the commitment periods of the Kyoto Protocol (i.e. 2008 – 2012, and 2013 – 2020) had not been extended after the adoption of the Paris Agreement, the Kyoto Protocol remains in force and may serve as an interpretive aid for States' obligations and to assess a State's historic compliance with the Kyoto Protocol, i.e. whether a State has complied with its emission reduction commitment during the relevant commitment period.

On the Paris Agreement in particular, the ICJ made a series of general observations about its salient features including the obligations pertaining to adaptation, loss and damage, and co-operation.⁹ But it is the ICJ's statements on the mitigation obligations under the Paris Agreement that are its most consequential. The Advisory Opinion is likely to cause a major shift in how States are expected to comply with their obligations to prepare, communicate, and implement successive nationally determined contributions ("NDCs") to mitigate GHG emissions. The ICJ held that each State's NDCs must become more demanding over time, that they must reflect the State's highest possible ambition to achieve the 1.5°C temperature goal, and that States must make their best efforts to achieve their NDCs.¹⁰ Whilst States have a discretion in the preparation of their NDCs, the ICJ indicated that such a discretion is limited. A State's compliance with the obligation to prepare NDCs and to implement domestic measures to achieve those NDCs will be assessed against a stringent standard of due diligence, that is, requiring a heightened degree of vigilance and prevention from the State.¹¹ The ICJ held that this heightened standard of due diligence was justified in view of the seriousness of the threat posed by climate change, as indicated by the best available science recorded in the Intergovernmental Panel on Climate Change's reports.



The second source of obligations in respect of climate change that were interpreted by the ICJ are those arising from customary international law.¹² The ICJ gave a detailed account of the content of the customary duty to prevent significant harm to the environment. The duty, in essence, dictates that a State must use all the means at its disposal to avoid activities which take place in its territory or jurisdiction that causes significant damage to the environment of another State. The ICJ also elaborated on the customary duty to co-operate for the protection of the environment, which is a duty fundamental to meaningful international efforts for the protection of our shared environment and climate system. The scope and content of these customary duties include obligations placed upon States to implement mechanisms that regulate the conduct of both public and private operators within the States' jurisdiction or control, and to undertake certain procedural steps such as conducting environmental impact assessments.

The ICJ's exposition of the content of the customary duties in the context of climate change – together with their parallel interpretation against the climate change treaties¹³ – is a significant milestone for the climate justice movement because it provides a legal basis to hold all States accountable in the common effort against climate change, including major emitting States who dip in and out of the climate treaty framework. That is reinforced by the ICJ's conclusion that the obligations arising out of customary rules are owed towards the international community as a whole. Since all States have a legal interest in the upholding of these obligations, it is thus open to any State – and not only injured States or specially affected States – to invoke the breaches of the obligations by a particular State.¹⁴

⁹ See paragraphs 255 – 267, *Advisory Opinion*.

¹⁰ See paragraphs 241 – 245, 253, *Advisory Opinion*.

¹¹ See paragraphs 246 & 254 (read together with paragraph 138), *Advisory Opinion*.

¹² See paragraphs 272 – 308, *Advisory Opinion*.

¹³ See paragraphs 309 – 315, *Advisory Opinion*.

¹⁴ See paragraphs 439 – 443, *Advisory Opinion*. However, a non-injured State may not claim reparation for itself; see paragraph 443, *Advisory Opinion*.



The third source of climate change obligations to highlight in this article were those derived by the ICJ from international human rights law. The ICJ's starting point here is elegant and powerful: "*the environment is the foundation of human life, upon which the health and well-being of both present and future generations depend*".¹⁵ It naturally follows, in the ICJ's view, that the protection of the environment is a precondition for the enjoyment of human rights and that the adverse effects of climate change may significantly impair the enjoyment of certain human rights.¹⁶ These rights include the right to life, the right to health, the right to an adequate standard of living, the right to privacy, family and home, and the right to a clean, healthy and sustainable environment. The ICJ concluded on this point by stating that States must take their obligations under international human rights law into account when implementing their climate change obligations and that the same is true vice versa, in that, States must take into account their climate change obligations when implementing their international human rights obligations.¹⁷ This symbiotic relationship between climate change obligations and international human rights obligations as presented by the ICJ is likely to provide more heft to rights-based climate litigation, especially in cases where litigants seek to use human rights and fundamental liberties enshrined in national and regional legal systems for the broader protection of the environment and climate system.¹⁸

Consequences Arising from Internationally Wrongful Acts of States that Cause Significant Harm to the Climate System and the Environment

It was not within the ambit of the ICJ's task for purposes of the Advisory Opinion to establish the individual responsibility of a State or a group of States for the damage caused to the climate system, which can only be done on a case-by-case basis.¹⁹ The ICJ was also of the view that it could not specify the exact consequences that would entail from a breach of the obligations, since that would depend on the breach in question and the nature of the harm caused by the State.²⁰ The ICJ's discussion of the consequences that flow from a State's breach of the climate change obligations under international law is therefore mostly framed in abstract and general terms. This section of the Advisory Opinion nonetheless provides clarity on a number of legal issues.

First, the ICJ concluded that a State's responsibility for breaches of obligations with respect to climate change is to be determined by applying the established rules on State responsibility under international law and are not solely or primarily governed by the climate treaty framework.²¹

¹⁵ See paragraph 373, Advisory Opinion.

¹⁶ See paragraphs 373 – 381, and paragraph 393, Advisory Opinion.

¹⁷ See paragraph 404, Advisory Opinion.

¹⁸ See paragraph 385, Advisory Opinion.

¹⁹ See paragraph 406 (read together with paragraphs 107 – 110), Advisory Opinion.

²⁰ See paragraph 445, Advisory Opinion.

²¹ See paragraphs 418 – 420, Advisory Opinion.

Next, when considering the issue of attribution,²² the ICJ reiterated that the conduct of any organ of a State must be regarded as an act of the State. Whilst the conduct of private actors resulting in the emission of GHGs is not attributable to the State, a State may yet be responsible if it has failed to exercise due diligence by not taking the necessary regulatory and legislative measures to limit the quantity of emissions caused by private actors under its jurisdiction. In this context, it is notable that the ICJ referred to acts such as fossil fuel production, fossil fuel consumption, and the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies as examples of acts that may constitute internationally wrongful acts attributable to the State in question.

On the issue of causation of damage,²³ the ICJ held that the existing and established legal standard of causation under international law applies equally in the climate context, that is, it requires a sufficiently direct and certain causal nexus between the wrongful act and the injury. The ICJ rejected the notion that the temporal and historical complexities underlying climate change make it impossible to scientifically and legally determine a State's (or a group of States') responsibility under international law for causing harm to the climate system. In doing so, the ICJ determined that any State can be held accountable for its breaches of obligations, and that climate change obligations take on an *erga omnes* character (i.e. owed towards all).²⁴

Finally, the ICJ held that a State breaching its climate obligations may give rise to the entire panoply of legal consequences provided for under the law of State responsibility,²⁵ including the duty to make reparation to the injured State. Importantly, a breach does not extinguish the underlying duty; States remain bound to fulfil their primary climate commitments and obligations.

Concluding Remarks

The ICJ's expansive interpretation of international law affirms what the proponents of the climate justice movement have been advocating for, which is to say that States have common and legally enforceable obligations to protect the climate system. The Advisory Opinion will serve as an authoritative statement of international law for States, international organisations, and domestic or regional courts when assessing the acts and omissions of States and private actors with respect to their duties and responsibilities in the context of climate change. Whilst the Advisory Opinion is not binding upon States, these findings bear important implications for States and private actors in determining whether their strategies and plans are adequate to discharge such duties and responsibilities, and will require an in-depth review and analysis from a legal perspective.

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²² See paragraphs 427 – 428, Advisory Opinion.

²³ See paragraphs 429 – 436, Advisory Opinion.

²⁴ See paragraphs 439 – 443, Advisory Opinion.

²⁵ See paragraphs 445 – 455, Advisory Opinion.



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